POLICY NOTE

**The Rent Regulation and Assured Tenancies (Forms) (Scotland)
Regulations 2017**

SSI 2017/349

1.   The above instrument is made in exercise of the powers conferred by section 53(1) and (3) and paragraph 8(1)(a) of schedule 5 of the Rent (Scotland) Act 1984(1) and sections 17(2), and (3), 19(3), 24(1) and (3), 34(1), 48(2), 53(3) and 55(1) of the Housing (Scotland) Act 1988(2). The instrument is subject to negative procedure.

Policy Objectives

2.   The First-tier Tribunal of Scotland (Housing and Property Chamber) was established in December 2016 and aims to deliver benefits of specialism, consistency, and improved access to justice for both tenants and landlords in the private rented sector.

3.   The former functions and members of the Private Rented Housing Panel and Homeowner Housing Panel and associated committees transferred to the First-tier Tribunal of Scotland (Housing and Property Chamber) on 1 December 2016. Decisions at first instance in relation to these jurisdictions are now heard in the Housing and Property Chamber with a general onward appeal to the Upper Tribunal for Scotland.

4.   Part 3, section 16, of the 2014 Act transfers sheriff's jurisdiction in civil matters in relation to regulated and assured tenancies and Part VII contracts in the private rented housing sector to the First-tier Tribunal of Scotland (Housing and Property Chamber). These actions include repossession cases and various non-repossession cases.

5.   The forms set out in the schedule of the Rent Regulation and Assured Tenancies (Forms) (Scotland) Regulations 2017 (the schedule) are mainly used for notifications between landlords and tenants on tenancy related matters prior to an application to the First-tier Tribunal or previously to the Sheriff Court.

6.   The forms have been changed slightly only to reflect the fact that disputes in relation to certain older tenancies will be heard in the First-tier Tribunal Housing and Property Chamber from 1 December 2017 instead of the Sheriff Court and to make

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(1)   1984 c.58. Paragraph 8(1) was amended by paragraph 5 of schedule 6 of the Housing (Scotland) Act 2006 (asp 1) ("the 2006 Act"). The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46).
(2)   1988 c.43. Section 17(3) was amended by paragraph 16 of schedule 6 of the 2006 Act. Section 19(3) was amended by paragraph 85(b) of schedule 17 of the Housing Act 1988 (c.50). Section 24(1) was amended by paragraph 100(a) of scheduled 11 of the Local Government and Housing Act 1989 (c.42). Sections 24(3), 34(1) and 48(2) were amended by paragraph 16 of schedule 6 of the 2006 Act. Section 55(1) contains a definition of "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made.

some of the terms more user-friendly. There are no changes to the process in terms of notifications and communications between tenants and landlords.

7.   It is important to note that as the Private Housing (Tenancies) (Scotland) Act 2016 enables new private residential tenancies to come into force on 1 December 2017, tenants and landlords will no longer be able to set up a new assured or short assured tenancy after that date. However, the forms in the schedule are required to be used for continuing tenancies. Therefore, Forms AT5 and AT7 are no longer required as they relate to new assured tenancies.

8.   These regulations will largely replace the forms currently contained in schedule 2 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016 which will be revoked.

9.   The forms in the schedule contain minor consequential amendments in order to meet the policy intention set out in the 2014 Act to transfer civil jurisdiction from the sheriff court to the First-tier Tribunal in respect of private rented tenancies.

10.   A Business and Regulatory Impact Assessment is not required as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government

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