

# Equalities, Human Rights and Civil Justice Committee

7th Meeting, 2021 (Session 6), Tuesday, 2 November 2021

## Subordinate legislation

### Note by the clerk

#### Purpose of the paper

1. This paper invites the Committee to consider the following draft affirmative instrument:
  - [2021/Draft: The First-tier Tribunal for Scotland \(Chambers\) Amendment Regulations 2021](#)

### 2021/Draft: The First-tier Tribunal for Scotland (Chambers) Amendment Regulations 2021

2. The draft SSI is being laid before the Scottish Parliament under section 79(2)(a) of the Tribunals (Scotland) Act 2014. The affirmative instrument is subject to approval by resolution and due to come into force on 7 December 2021.
3. The Tribunals (Scotland) Act 2014 (the “2014 Act”) creates a new two-tier structure for tribunals in Scotland – a First-tier Tribunal (FTT) for initial appeal decisions and an Upper Tribunal (UT) primarily for appeals from the FTT. These tribunals are to be known collectively as the Scottish Tribunals.
4. The purpose of this instrument is to amend the First-tier Tribunal for Scotland (Chambers) Regulations 2016, which provide for the division of the First-tier Tribunal for Scotland into chambers. A new chamber is created, to be known as the First-tier Tribunal for Scotland Local Taxation Chamber.

### Delegated Powers and Law Reform Committee Consideration

5. The Delegated Powers and Law Reform Committee (DPLR) considered the instrument at its meeting on [5 October 2021](#). The DPLR Committee agreed that it

did not need to draw the Parliament's attention to the instrument on any grounds within its remit.

6. A copy of the Scottish Government Policy Note is included at Annexe A together with links to any associated documents.

## Equalities, Human Rights and Civil Justice Committee Consideration

### Procedure for Affirmative instruments

7. The draft instrument was laid on 28 September 2021 and referred to the Equalities, Human Rights and Civil Justice Committee. The instrument is subject to affirmative procedure (Rule 10.6). It is for the Equalities, Human Rights and Civil Justice Committee to recommend to the Parliament whether the instrument should be approved.
8. The Minister for Community Safety has, by motion [S6M-01467](#), proposed that the Committee recommends the approval of the instrument. **The Committee is therefore required to report to the Parliament by 22 November 2021.**
9. The Minister for Community Safety is due to attend the meeting on 2 November to answer any questions on the instrument and to move the motion for approval.

### Recommendation

10. **It is for the Committee to decide whether or not to agree to the motion, and then to report to the Parliament. Thereafter, the Parliament will be invited to approve the instrument.**
11. **The Committee is asked to delegate to the Convener authority to approve a short, factual report on the instrument for publication.**

Clerks to the Committee  
28 October 2021

## Annexe A

# Scottish Government Policy Note

## The First-tier Tribunal for Scotland (Chambers) Amendment Regulations 2021

The above instrument was made in exercise of the powers conferred by section 20(2) of the Tribunals (Scotland) Act 2014. The instrument is subject to the affirmative procedure.

### Purpose of the instrument

The purpose of the Instrument is to amend the First-tier Tribunal for Scotland (Chambers) Regulations 2016, which provide for the division of the First-tier Tribunal for Scotland into chambers, to create a new chamber, to be known as the First-tier Tribunal for Scotland Local Taxation Chamber.

### Policy objectives

The Tribunals (Scotland) Act 2014 (the “2014 Act”) creates a new two-tier structure for tribunals in Scotland – a First-tier Tribunal (FTT) for initial appeal decisions and an Upper Tribunal (UT) primarily for appeals from the FTT. These tribunals are to be known collectively as the Scottish Tribunals.

Section 20(1) of the 2014 Act provides that the FTT is to be organised into a number of chambers, having regard amongst other things to subject matter. These regulations provide for the creation of a new Chamber of the FTT to be known as the Local Taxation Chamber, into which tribunals listed in Schedule 1 of the 2014 Act can be allocated upon transfer. Regulations will be brought at a later date to transfer the functions of Valuation Appeals Committees into the FTT, with allocation to the Local Taxation Chamber.

Fuller details of the policy objectives relating to the 2014 Act are described in the Policy Memorandum which accompanied the Tribunals (Scotland) Bill 2014. The link below shows the passage of the Bill through Parliament and includes the Policy Memorandum.

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/62938.aspx>

### Consultation

In accordance with section 11(1)(b) of the Tribunals (Scotland) Act 2014, the Scottish Ministers consulted such persons as they considered appropriate in relation to the proposed Regulations. A consultation took place in July 2021 with interested parties including members and secretaries of the Valuation Appeals Panels and the senior

convenor of the Council Tax Reduction Review Panel. Seven responses were received but none made any comment on these Regulations other than to agree that they were appropriate.

These regulations also require the approval of the Lord President (section 11(1)(a)). The Lord President, Lord Carloway, was consulted in August 2021 and has subsequently indicated that he is content with the proposed structure.

## Impact assessments

An equality impact assessment has already been completed covering the wider issues as part of the Tribunals (Scotland) Bill process – see link below for further information. [Tribunals \(Scotland\) Bill - Equality Impact Assessment - Results \(webarchive.org.uk\)](#)

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