POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND GENERAL REGULATORY CHAMBER PARKING AND BUS LANE APPEALS (RULES OF PROCEDURE) REGULATIONS 2020

SSI 2020/XXX

1. The above instrument will, if approved by the Parliament, be made in exercise of the powers conferred by section 43(3)(b)(ii), section 67(1) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014 ('the 2014 Act'). The instrument is subject to the affirmative procedure.

2. In accordance with section 67(3) of the 2014 Act, the approval of the Lord President of the Court of Session has been obtained. In accordance with paragraph 4(3) of schedule 9 of the 2014 Act, the President of the Scottish Tribunals has been consulted.

Purpose of the Instrument:

The purpose of the instrument is to provide for the rules of procedure which are to apply in the First-Tier Tribunal for Scotland General Regulatory Chamber ('the First-tier Tribunal') when hearing cases against the decision of a local authority to issue a penalty charge notice or bus lane enforcement notice.

The rules of procedure are set out in the schedule of the regulations.

Policy Objectives

3. The First-tier Tribunal for Scotland and the Upper Tribunal for Scotland ('the Upper Tribunal') were established by the 2014 Act. The First-tier Tribunal is divided into chambers according to the subject matter of the case, with the General Regulatory Chamber allocated to deal with appeals against parking and bus lane contraventions once these regulations come into force.

4. The 2014 Act authorises rules to be made to regulate the practice and procedure of both the First-tier and Upper Tribunals. Paragraph 4(2) of Schedule 9 to the 2014 Act requires rules to be made by the Scottish Ministers until such time as responsibility for rule-making passes to the Scottish Civil Justice Council and the Court of Session.

5. These regulations establish rules of procedure for the First-tier Tribunal General Regulatory Chamber when hearing parking cases and bus lane cases. The functions of parking adjudicators and bus lane adjudicators, who previously heard these types of appeal, have been transferred to the First-tier Tribunal in regulations (SSI 2020/XXX and SSI 2020/XXX).

6. The rules of procedure for the First-tier Tribunal General Regulatory Chamber, insofar as possible, have been drawn from the existing rules of procedure for appeals heard by parking adjudicators and from the existing rules of procedure for appeals heard by bus lane adjudicators.

7. There are a number of areas in which the new rules of procedure differ from the existing parking adjudicator and bus lane adjudicator rules. The policy intent in doing so was to bring the various rules together into one document which would apply to both parking and bus lane cases. This is also intended to aid consistency within the Scottish Tribunals.

8. The main change from the existing rules lies in new draft rule 18, which makes provision for the First-tier Tribunal's consideration of an application for permission to appeal to the Upper Tribunal. This is because there is currently no onward right of appeal from the decisions of parking adjudicators and bus lane adjudicators, whereas upon transfer the provisions of the 2014 Act will apply and the Upper Tribunal will be available to appellants.

9. Other substantive changes from the existing rules involve incorporation throughout the Rules of the use of an online case management system as a means of limited communication between the parties and the First-tier Tribunal. In addition, specific provision for the signing of documents electronically.

10. Fuller details of the policy objectives relating to the 2014 Act are described in the Policy Memorandum which accompanied the Tribunals Bill. 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

11. A consultation with interested parties took place in 2018. There were no concerns raised in relation to the proposed rules of procedure for the First-tier Tribunal.

12. A full list of those consulted and who agreed to the release of their consultation responses are available on the Scottish Government website:

https://consult.gov.scot/tribunals-and-administrative-justice/parking-and-bus-lane-adjudicators/consultation/published_select_respondent

Impact Assessments and Financial Effects

13. An Equality Impact Assessment has already been completed for the Tribunals (Scotland) Bill – see link below:

http://www.scotland.gov.uk/Resource/0042/00421637.pdf

14. An Equality Impact Assessment is not required for these regulations.

15. A Business and Regulatory Impact Assessment has been completed and is attached. The impact of this policy on the Scottish Legal Aid Board is minimal. The impact on the Scottish Government is minimal.

Scottish Government
Justice Directorate

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