POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND GENERAL REGULATORY CHAMBER PARKING AND BUS LANE CASES AND UPPER TRIBUNAL FOR SCOTLAND (COMPOSITION) REGULATIONS 2020

SSI 2020/XXX

1. The above instrument will, if approved by the Parliament, be made in exercise of the powers conferred by sections 10(2) and (3), 38(1) and (2) and 40(1) to (5) of the Tribunals (Scotland) Act 2014 ('the 2014 Act'). The instrument is subject to affirmative procedure

2. In accordance with section 11(2) of the 2014 Act, the President of the Scottish Tribunals has been consulted.

Purpose of the Instrument:

The purpose of the instrument is to make provision as to the composition of the General Regulatory Chamber of the First-tier Tribunal for Scotland when dealing with appeals, referrals or reviews of parking cases and bus lane cases.

This instrument also makes provision as to the composition of the Upper Tribunal for Scotland when hearing appeals or referrals from the First-tier Tribunal for Scotland General Regulatory Chamber on such cases.

Policy Objectives

3. The 2014 Act allows Scottish Ministers to determine the composition of the First-tier Tribunal for Scotland or the Upper Tribunal for Scotland when convened to decide any matter in a case before it.

4. These Regulations set out the composition of the General Regulatory Chamber of the First-tier Tribunal when dealing with appeals, referrals or reviews of parking cases and bus lane cases. The policy intent is to replicate the existing composition for cases when heard by Parking Adjudicators and Bus Lane Adjudicators. This means that cases will be heard by one member only.

5. These Regulations also set out the composition of the Upper Tribunal for Scotland when hearing appeals or referrals from the First-tier Tribunal for Scotland General Regulatory Chamber on such cases. There is no current onward right of appeal from decisions made by Parking Adjudicators and Bus Lane Adjudicators. Accordingly, the right of appeal to the Upper Tribunal on a point of law provided by the 2014 Act will be a new

mechanism for appellants. The policy intent is to provide for the composition of the new Upper Tribunal hearing parking and bus lane cases.

6. The First-tier Tribunal for Scotland and the Upper Tribunal for Scotland 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 dealing with appeals against parking and bus lane contraventions. This instrument sets out which member or members may deal with parking and bus lane cases before the two Tribunals.

7. Further details of the policy objectives relating to the 2014 Act are set out 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

8. A consultation with interested parties took place in 2018. There were no concerns raised in relation to the proposed composition of the First-tier Tribunal or Upper Tribunal.

19. 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

10. 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

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

12. 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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