POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND GENERAL REGULATORY CHAMBER (POLICE APPEALS) (PROCEDURE) REGULATIONS 2025

SSI 2025/XXX

1. The above instrument was made in exercise of the powers conferred by section 41(1) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014 ("the 2014 Act"). The instrument is subject to affirmative procedure.

2. In accordance with paragraph 4(3) of schedule 9 of the 2014 Act, the President of the Scottish Tribunals and other persons considered appropriate have been consulted.

Summary Box

The purpose of the instrument is to make provision for rules regarding the practice and procedure to be followed in the First-tier Tribunal for Scotland General Regulatory Chamber when hearing Police Appeals Cases.

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

Policy Objectives

3. The First-tier Tribunal for Scotland ("the First-tier Tribunal) 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. Police Appeals Cases are to be transferred from the existing Police Appeals Tribunal and heard at first instance in the General Regulatory Chamber of the First-tier Tribunal.

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 make provision for rules of procedure which are to apply in the General Regulatory Chamber when hearing Police Appeals Cases. The functions of the Police Appeals Tribunal have been transferred in the First-Tier Tribunal for Scotland (Transfer of Functions and Members of The Police Appeals Tribunal) Regulations 2025.

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 heard by the Police Appeals Tribunal. For example, provision around notice of appeals, statements of case and a reply to the notice of appeal by the respondent is maintained. There has been an awareness during the development of the regulations of the impact of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025.

7. There are a number of areas in which the new rules of procedure differ from the existing Police Appeals Tribunal rules. For example, rule 2 describes the overriding

objective of the First-tier Tribunal. Provision is also made at rules 13 and 14 for electronic signature of documents and electronic sending of documents. Provision is made for the publication of decisions at draft rule 26. The policy intent behind these additional rules is to aid consistency within procedure rules in the Scottish Tribunals.

8. In addition, provision is made for an onward right of appeal to the Upper Tribunal. The policy intent of this is that upon transfer, the provisions of the 2014 Act will apply and an appeal to the Upper Tribunal will be available to appellants.

9. The Upper Tribunal has an existing set of generic procedure rules, and these are to be used for any Police Appeals Cases heard in the Upper Tribunal.

10. 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:
https://www.parliament.scot/bills-and-laws/bills/s4/tribunals-scotland-bill

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

11. The Scottish Ministers have made the following statement regarding children's rights.

12. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the First-tier Tribunal for Scotland General Regulatory Chamber (Police Appeals) (Procedure) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

13. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

14. A public consultation regarding these regulations took place from 30 October 2024 to 22 January 2025. There were seven responses to the consultation and five respondents gave permission to publish their responses. These are available on the Scottish Government website:
https://consult.gov.scot/tribunals-and-administrative-justice/draft-regulations-police-first-tier-tribunals/consultation/published_select_respondent

15. There was strong support in the responses for allowing publication of decisions, so long as suitable safeguards and exceptions to full publication were provided for. There was also strong support for retaining the steps for a notice of appeal to be followed by a reply or statement of case from the respondent. Responses were also supportive of the proposals for an onward right of appeal to the Upper Tribunal in certain circumstances. The full consultation response and analysis is available on the Scottish Government website:
https://www.gov.scot/publications/consultation-analysis-response-draft-regulations-transfer-police-appeals-tribunal-first-tier-tribunal-scotland/

Impact Assessments

16. An Equality Impact Assessments ("EQIA") has been completed for the suite of instruments regarding the transfer of the Police Appeals Tribunal. The EQIA found that transfer of the Police Appeals Tribunal will have a neutral impact on all service users of the tribunal. The impact is not expected to differ for different equality groups or for those with protected characteristics.

17. An impact assessment regarding Child Rights and Wellbeing has been completed.

Financial Effects

18. A Business and Regulatory Impact Assessment ("BRIA") has been completed for the suite of instruments regarding the transfer of the Police Appeals Tribunal. This highlighted no impact on businesses. The published BRIA can be found on the Scottish Government website.

Scottish Government
Justice Directorate

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