POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND (TRANSFER OF FUNCTIONS AND MEMBERS OF THE POLICE APPEALS TRIBUNAL) REGULATIONS 2025

SSI 2025/XXX

1. The above instrument was made in exercise of the powers conferred by sections 20(2)(b), 28(2) and 79(1)(b) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014 ("the 2014 Act"). The instrument is subject to affirmative procedure.

2. In accordance with section 11(1)(a) and (b) of the 2014 Act, the Scottish Ministers have obtained the Lord President's approval and have consulted such other persons as they considered appropriate.

Summary Box

The purpose of the instrument is to make provision for the transfer of the functions and members of the Police Appeals Tribunal to the General Regulatory Chamber of the First-tier Tribunal for Scotland.

The First-tier Tribunal was established by section 1 of the 2014 Act. It is organised into chambers according to the different subject-matters falling within the Tribunal's jurisdiction. The First-tier Tribunal General Regulatory Chamber will hear cases previously dealt with by the Police Appeals Tribunal.

The instrument sets out transitional provisions to manage the transfer of ongoing casework. The instrument also makes consequential amendments to relevant policing legislation.

Policy Objectives

3. The 2014 Act allows Scottish Ministers to transfer the functions and members of tribunals listed in schedule 1 of that Act into the Scottish Tribunals. The Police Appeals Tribunal is listed at schedule 1 of the 2014 Act.

4. These regulations make provision for the transfer of the functions and members of the Police Appeals Tribunal. The functions of the Police Appeals Tribunal are to be transferred to the First-tier Tribunal for Scotland General Regulatory Chamber. Appeals on a point of law can be made from the First-tier Tribunal to the Upper Tribunal. There has been an awareness during the development of the regulations of the impact of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025.

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

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

6. 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 (Transfer of Functions and Members of the Police Appeals Tribunal) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

8. 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

9. There was broad support in the responses for transferring current members of the Police Appeals Tribunal unto the Scottish Tribunals structure, with some respondents feeling that there would be benefit in maintaining the experience of existing members. Responses were also supportive of the proposals for an onward right of appeal to the Upper Tribunal in certain circumstances.

Impact Assessments

10. 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.

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

Financial Effects

12. 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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