POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND (TRANSFER OF FUNCTIONS OF BUS LANE ADJUDICATORS) 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 20(2), 28(2), 79(1) 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 approval of this instrument by the Lord President of the Court of Session has been obtained.

Purpose of the Instrument:

The purpose of the instrument is to make provision for the transfer to the First-tier Tribunal for Scotland of the functions of bus lane adjudicators.

The instrument also makes provision to transfer the bus lane adjudicators into the First-tier tribunal, manage the transfer of on-going casework and makes necessary consequential amendments to legislation.

Policy Objectives

3. The 2014 Act allows the Scottish Ministers to transfer the functions of tribunals listed in schedule 1 of the Act to the Scottish Tribunals.

4. These regulations transfer into the Scottish Tribunals the existing functions of bus lane adjudicators in so far as practicable. Upon transfer, the office of bus lane adjudicator will be abolished as applies in Scotland and first decisions will be heard in the First-tier Tribunal for Scotland, General Regulatory Chamber (First-tier Tribunal) with onward appeals to the Upper Tribunal for Scotland (Upper Tribunal).

5. These regulations also transfer the bus lane adjudicators into the First-tier Tribunal. Existing bus lane adjudicators will transfer to the First-tier Tribunal to become legal members as long as they meet the relevant eligibility criteria as set out in regulations (2015/381).

6. These Regulations also set out transitional arrangements for the handling of cases during transfer. Cases in progress on the day of transfer will be continued in the First-tier Tribunal with the same members dealing with the case, wherever possible. Unexercised

rights of review will be to the First-tier Tribunal. If a party has already exercised its right of review prior to the transfer day then the review will continue in the First-tier Tribunal under section 43 of the 2014 Act.

7. 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 bus lane contraventions after these regulations come into force.

8. 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

9. A consultation with interested parties took place in 2018. There were no concerns raised in relation to the proposed transfer of functions of bus lane adjudicators to the First-tier Tribunal or Upper Tribunal.

10`. 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/bus lane-and-bus-lane-adjudicators/consultation/published_select_respondent

Impact Assessments and Financial Effects

11. 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

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

13. 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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