Draft Regulations laid before the Scottish Parliament under sections 79(2)(a) and (b) and 80(2)(a) of the Tribunals (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

TRIBUNALS AND INQUIRIES

The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016

Made - - - -	*2016*
Coming into force - -	*1st December 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20(2), 28(2), 28(6), 79(1) and 80(1) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014(**a**) and all other powers enabling them to do so.

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

In accordance with section 79(2)(a) and (b) and 80(2)(a) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016.

(2) These Regulations come into force on 1st December 2016.

Interpretation

2. In these Regulations**—**

"the 2014 Act" means the Tribunals (Scotland) Act 2014;

"the prhp" means the panel constituted under schedule 4 of the Rent (Scotland) Act 1984(**b**), to be known as the private rented housing panel in terms of section 21(1) of the Housing (Scotland) Act 2006(**c**); and

"the prhp functions" means the functions exercised by the prhp (including those of the president of the panel and the members of the panel, but not the vice-president of the panel), by virtue of section 21(3) of the Housing (Scotland) Act 2006.

(**a**) 2014 asp 10.
(**b**) 1984 c.58.
(**c**) 2006 asp 1.

Transfer of prhp functions to the First-tier Tribunal and abolition of prhp

3.—(1) Subject to regulations 5 and 6, the prhp functions are transferred to the First-tier Tribunal with allocation to the First-tier Tribunal Housing and Property Chamber.

(2) The prhp is abolished.

Transfer of prhp members to the First-tier Tribunal

4.—(1) Subject to paragraphs (2) and (3), members of the prhp under the age of 75 on the coming into force of these Regulations are transferred to and become members of the First-tier Tribunal, with—

(a) legal members of the prhp becoming legal members of the First-tier Tribunal;

(b) other members of the prhp (including the vice-president) becoming ordinary members of the First-tier Tribunal; and

(c) the president of the prhp becoming Chamber President of the First-tier Tribunal Housing and Property Chamber.

(2) Members of the prhp transferred to the First-tier Tribunal under paragraph (1) shall (subject to the provisions of the 2014 Act) be members of the First-tier Tribunal in accordance with terms and conditions to be offered by the Scottish Ministers on transfer, which will supersede any existing terms and conditions of appointment.

(3) A member of the prhp who is aged 70 or over on the coming into force of these Regulations shall transfer only if the Scottish Ministers in consultation with the President of Tribunals consider it desirable in the public interest that the member should transfer.

Transitional and savings provisions

5. The transitional and savings provisions set out in schedule 1 of these Regulations have effect.

Consequential amendments and repeals

6.—(1) The consequential amendments and repeals to primary legislation set out in schedule 2 of these Regulations have effect.

(2) The consequential amendments and revocations to subordinate legislation set out in schedule 3 of these Regulations have effect.

(3) The consequential amendments to the Tenant Information Pack set out in Schedule 4 of these Regulations have effect.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

SCHEDULE 1

Regulation 5

Transitional and savings provisions

Applications and proceedings in progress before the prhp on 1st December 2016 to transfer to the First-tier Tribunal

1. Any applications to the prhp already in progress on 1st December 2016 but not yet determined and any proceedings already in progress before that date shall be transferred to and be completed by the First-tier Tribunal but with so far as possible the same persons hearing and determining the case before the First-tier Tribunal as members of that tribunal as were prior to 1st December 2016 hearing the case as members of the prhp.

Decisions, directions and orders of the prhp to continue in force

2. Any decision (whether or not called a decision), direction or order given or made in applications to or proceedings before the prhp which is in force immediately before 1st December 2016 remains in force on and after that date as if it were a decision, direction or order of the First-tier Tribunal.

Time limits in respect of applications to and proceedings before the prhp to carry over to the First-tier Tribunal

3. Any time limit which has started to run before 1st December 2016 in respect of applications to and proceedings before the prhp (and which has not expired) shall continue to apply where applications or proceedings are transferred to the First-tier Tribunal.

Unexercised right of appeal to sheriff, if exercised, to be appeal to the Upper Tribunal

4. Where in respect of a decision of the President of the prhp or under delegated powers of the President before 1st December 2016, there lies a right of appeal to the sheriff, which has not been exercised before that date but is still exercisable, any appeal on or after 1st December 2016 shall be to the Upper Tribunal for Scotland as if the decision had been made by the First-tier Tribunal and the appeal shall be an appeal from the First-tier Tribunal for the purposes of section 46(1) of the 2014 Act.

Savings provision

5. Where in respect of a decision of the President of the prhp or under delegated powers of the President before 1st December 2016, there lies a right of appeal to the sheriff, which has been exercised before that date, the appeal to the sheriff is not affected by these Regulations or the First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016(**a**).

(**a**) S.S.I. 2016/ .

SCHEDULE 2

Regulation 6(1)

Consequential amendments and repeals of primary legislation

Housing (Scotland) Act 1988

1.—(1) The Housing (Scotland) Act 1988(**a**) is amended as follows.

(2) In section 49 (information as to determination of rents)—

(a) in subsection (1), for "private rented housing panel" substitute "First-tier Tribunal"; and

(b) in subsection (2), for "private rented housing panel" substitute "First-tier Tribunal".

Housing (Scotland) Act 2006

2.—(1) The Housing (Scotland) Act 2006(**b**) is amended as follows.

(2) In section 22 (application in respect of the repairing standard)—

(a) in subsection (1), for "private rented housing panel" substitute "First-tier Tribunal"; and

(b) in subsection (1A), for "private rented housing panel" substitute "First-tier Tribunal".

(3) In section 22A (information to be given to local authority), in subsection (1), for "private rented housing panel" substitute "First-tier Tribunal".

(4) In section 23 (referral to private rented housing committee)—

(a) in subsection (1), in the opening words, for "The president of the private rented housing panel" substitute "The Chamber President";

(b) in subsection (2), in the opening words, for "president" in both places that it occurs substitute "Chamber President";

(c) in subsection (3)—

(i) in the opening words, for "president" substitute "Chamber President";

(ii) in paragraph (a), for "panel's" substitute "First-tier Tribunal's";

(iii) in paragraph (b), for "president" substitute "Chamber President"; and

(iv) in the closing words, for "president" substitute "Chamber President";

(d) in subsection (4), for "president" in both places that it occurs substitute "Chamber President";

(e) in subsection (4A), for "president" substitute "Chamber President".

(5) The title to section 23 becomes "**Consideration of applications**".

(6) After section 23 insert—

"**23A. Delegation of Chamber President's functions**

(1) The Chamber President may delegate the Chamber President's functions under this Act to any legal or ordinary member of the First-tier Tribunal.

(2) A delegation under this section does not affect the Chamber President's—

(a) responsibility for the carrying out of delegated functions, or

(b) ability to carry out delegated functions.".

(7) In section 28A (landlord application to private rented housing panel)—

(a) in subsection (1), for "private rented housing panel" substitute "First-tier Tribunal";

(**a**) 1988 c.43.
(**b**) 2006 asp 1.

(b) in subsection (2)—

(i) for "president of the panel" substitute "Chamber President";

(ii) for "panel" in each place that it subsequently occurs substitute "First-tier Tribunal";

(c) in subsection (3), in the opening words, for "panel" substitute "First-tier Tribunal";

(d) in subsection (4), for "panel" in both places that it occurs substitute "First-tier Tribunal";

(e) in subsection (5), for "panel" in each place that it occurs substitute "First-tier Tribunal";

(f) in subsection (6), for "panel" in both places that it occurs substitute "First-tier Tribunal";

(g) in subsection (7), for "panel" in both places that it occurs substitute "First-tier Tribunal"; and

(h) in subsection (8), for "panel" in both places that it occurs substitute "First-tier Tribunal".

(8) The title to section 28A becomes "**Landlord application to the First-tier Tribunal**".

(9) In section 28B (landlord application to private rented housing panel: further provision)—

(a) in subsection (2)(c), for "panel" substitute "First-tier Tribunal"; and

(b) in subsection (3)—

(i) for "panel" where it first occurs substitute "First-tier Tribunal"; and

(ii) for "private rented housing panel" substitute "First-tier Tribunal".

(10) The title to section 28B becomes "**Landlord application to the First-tier Tribunal: further provision**".

(11) In section 28C (panel member to arrange suitable time for access)—

(a) in subsection (1), for "panel" substitute "First-tier Tribunal";

(b) in subsection (2), for "panel" substitute "First-tier Tribunal";

(c) in subsection (3)(a), for "panel" substitute "First-tier Tribunal";

(d) in subsection (4), for "panel" substitute "First-tier Tribunal";

(e) in subsection (5), for "panel" substitute "First-tier Tribunal";

(f) in subsection (6), for "panel" substitute "First-tier Tribunal";

(g) in subsection (7), for "panel" in each place that it occurs substitute "First-tier Tribunal";

(h) in subsection (8), for "panel" substitute "First-tier Tribunal";

(i) in subsection (9), for "panel" in both places that it occurs substitute "First-tier Tribunal";

(j) in subsection (10)—

(i) in the opening words, for "panel" substitute "First-tier Tribunal";

(ii) paragraph (b) and the "or" immediately preceding are repealed;

(k) subsection (11) is repealed; and

(l) in subsection (12)—

(i) for "panel" where it first occurs substitute "First-Tier Tribunal"; and

(ii) for "private rented housing panel" substitute "First-tier Tribunal".

(12) The title to section 28C becomes "**First-tier Tribunal Member to arrange suitable time for access**".

(13) Section 29 (annual report) is repealed.

(14) In section 64 (Part 1 appeals), in subsection (5), for "president of the private rented housing panel" substitute "Chamber President".

(15) In section 65 (Part 1 appeals: determination) in subsection (2)(b) for "president" substitute "Chamber President".

(16) In section 181 (rights of entry: general), in subsection (2A) for "private rented housing panel" substitute "First-tier Tribunal".

(17) In section 194 (interpretation), in subsection (1)—

(a) after the definition of "building regulations" insert—

""Chamber President" means the President of the First-tier Tribunal Housing and Property Chamber;"; and

(b) the definition of "private rented housing panel" is repealed.

(18) In schedule 2 (private rented housing committees: procedure etc.)—

(a) in paragraph 1(1), for paragraph (b), substitute—

"(b) stating that the Chamber President has referred the application to be heard by the First-tier Tribunal, and";

(b) in paragraph 7(2), in the opening words—

(i) for "president of the private rented housing panel refers" substitute "Chamber President has referred"; and

(ii) for "president" where it subsequently occurs substitute "Chamber President".

(c) in paragraph 8(2), the words "the private rented housing panel or" are repealed.

Public Services Reform (Scotland) Act 2010

3.—(1) The Public Services Reform (Scotland) Act 2010(**a**) is amended as follows.

(2) In schedule 5 (improvement of public functions: listed bodies), the entry for the Private Rented Housing Panel is repealed.

(3) In schedule 8 (information on the exercise of public functions: listed public bodies), the entry for the Private Rented Housing Panel is repealed.

Public Records (Scotland) Act 2011

4.—(1) The Public Records (Scotland) Act 2011(**b**) is amended as follows.

(2) In schedule 1 (authorities to which Part 1 applies), the entry for the Private rented housing panel is repealed.

(**a**) 2010 asp 8.
(**b**) 2011 asp 12.

SCHEDULE 3

Regulation 6(2)

Consequential amendments and revocations of subordinate legislation

Assured Tenancies (Rent Information) (Scotland) Order 1989

1.—(1) The Assured Tenancies (Rent Information) (Scotland) Order 1989(**a**) is amended as follows.

(2) In articles 2, 3 and 4, for "private rented housing panel" substitute "First-tier Tribunal for Scotland Housing and Property Chamber".

(3) In article 3 for "panel" substitute "First-tier Tribunal for Scotland Housing and Property Chamber".

(4) The title of schedule 1 becomes "**Information with respect to rents under assured tenancies to be kept by First-tier Tribunal for Scotland Housing and Property Chamber**".

Scottish Parliament Disqualification Order 2015

2.—(1) The Scottish Parliament Disqualification Order 2015(**b**) is amended as follows.

(2) In the schedule—

(a) omit "President or vice-president of the panel of persons appointed under Schedule 4 to the Rent (Scotland) Act 1984 to act as chairmen and other members of private rented housing committees"; and

(b) after "Any member of the First-tier Tribunal" insert "Any member of the First-tier Tribunal for Scotland Housing and Property Chamber".

Public Contracts (Scotland) Regulations 2015

3.—(1) The Public Contracts (Scotland) Regulations 2015(**c**) are amended as follows.

(2) In schedule 1 under the heading of "The Scottish Ministers", omit "The Private Rented Housing Panel and".

Assured Tenancies (Forms) (Scotland) Regulations 1988

4. The Assured Tenancies (Forms) (Scotland) Regulations 1988(**d**) are revoked.

Assured Tenancies (Forms) (Scotland) Amendment Regulations 1993

5. The Assured Tenancies (Forms) (Scotland) Amendment Regulations 1993(**e**) are revoked.

(**a**) S.I. 1989/685, to which relevant amendments are made by S.S.I. 2007/475.
(**b**) S.S.I. 2015/350.
(**c**) S.S.I. 2015/446.
(**d**) S.I. 1988/2109 as amended by S.S.I. 1993/648 and S.S.I. 2007/475.
(**e**) S.I 1993/648.

SCHEDULE 4

Regulation 6(3)

Consequential amendments of statutory forms

Tenant Information Pack

1.—(1) The Tenant Information Pack, comprising part of the standard tenancy documents issued in terms of section 30A of the Housing (Scotland) Act 1988(**a**), and in the form specified in the schedule of the Tenant Information Packs (Assured Tenancies) (Scotland) Order 2013(**b**) is amended as follows.

(2) In section 2.6 for "Private Rented Housing Panel" in each place it occurs substitute "First-tier Tribunal for Scotland Housing and Property Chamber".

(3) In section 2.8 for "Private Rented Housing Panel" substitute "First-tier Tribunal for Scotland Housing and Property Chamber".

(4) In section 5 remove reference to the Private Rented Housing Panel including telephone number and website.

(**a**) Section 30A was inserted by section 33 of the Private Rented Housing (Scotland) Act 2011 (asp 14).
(**b**) S.S.I. 2013/20 as amended by S.S.I. 2013/90 and S.S.I. 2015/430.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the transfer to the First-tier Tribunal for Scotland of the functions and members of the private rented housing panel. The First-tier Tribunal was set up by section 1 of the Tribunals (Scotland) Act 2014. It is divided into chambers, with the chambers hearing cases according to the subject-matter of the case. The First-tier Tribunal Housing and Property Chamber hears cases previously dealt with by the Private Rented Housing Panel.

These Regulations also make consequential amendments to legislation, largely substituting references to the Private Rented Housing Panel with references to the First-tier Tribunal, with similar amendments made to documents issued in terms of section 30A of the Housing (Scotland) Act 1988, comprising the Tenant Information Pack. Transitional provisions are made to manage the transfer of on-going casework. When this instrument comes into force on 1st December 2016, all applications to the Private Rented Housing Panel not yet determined transfer to the First-tier Tribunal, including applications not yet accepted as validly made.

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