POLICY NOTE

THE PUBLIC RECORDS (SCOTLAND) ACT 2011 (AUTHORITIES) AMENDMENT ORDER 2018

SSI 2018/xxx

1. The above instrument was made in exercise of the powers conferred by section 2(2) of the Public Records (Scotland) Act 2011.

Policy Objectives

2. This Order amends the Public Records (Scotland) Act 2011 ("the 2011 Act") to add the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland ("the Scottish Tribunals") to its schedule as authorities that are listed for the purposes of the Act.

3. The 2011 Act requires listed authorities to prepare and submit a five year Records Management Plan ("RMP") to the Keeper for approval. The Act requires the authorities to implement and comply with the provisions of its RMP. The RMP is required to set out proper arrangements for the management of authorities records.
Where authorities fail to meet their obligations under the 2011 Act the Keeper has statutory powers to undertake records management reviews and issue action notices for improvement. The provisions of the 2011 Act applies to all authorities listed in its schedule.

4. Currently a number of tribunals are listed in the 2011 Act which are due to transfer to the Scottish Tribunals under provisions set out in the Tribunals (Scotland) Act 2014. As the tribunals are transferred their listing is deleted because the tribunal is abolished upon transfer. This means that the 2011 Act no longer applies to these jurisdictions. To rectify this an amendment requires to be made to add the Scottish Tribunals as listed authorities.

Impact Assessments

5. As the Order is a technical amendment to add references to the Scottish Tribunals we do not consider there is a requirement for any Impact Assessments on this occasion.

6. An Equality Impact Assessment was completed for the Tribunals (Scotland) Bill – see link below:
http://www.scotland.gov.uk/Resource/0042/00421637.pdf

Scottish Government
Education Communities and Justice Directorate
October 2017