EXPLANATORY MEMORANDUM TO

THE FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL (CHAMBERS) (AMENDMENT) ORDER 2015

2015 No. 1563

1. This explanatory memorandum has been prepared by the Ministry of Justice (MoJ) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This order amends the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 (S.I. 2010/2655), which organises the First-tier and Upper Tribunal into chambers to add to the functions of the Social Entitlement Chamber and Property Chamber of the First-tier Tribunal.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 3 of the Tribunals, Courts, and Enforcement Act 2007 establishes the First-tier Tribunal and the Upper Tribunal.

4.2 Section 7 of the Act provides that the Lord Chancellor may, with the concurrence of the Senior President of Tribunals, organise the two Tribunals into Chambers and specify the allocation of functions within each Chamber. The Chambers Order puts in place the legislation necessary to support the transfer of new jurisdictions into the First-tier Tribunal.

4.3 The Chambers Order requires the concurrence of the Senior President of Tribunals. The provision for this is in section 7(9) of the Tribunals, Courts, and Enforcement Act 2007.

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 This Order amends the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 to reflect legislative changes for childcare payments cases and the exercise of statutory powers of entry by Listing Officers and Valuation Officers over which the First-tier Tribunal has jurisdiction.

Tax-Free Childcare Scheme

7.2 HM Revenues & Customs (HMRC) is intending to introduce the Tax-Free Childcare Scheme, which is due to replace the existing Childcare Voucher Scheme in early 2017. The scheme will provide eligible working parents the right to government financial support with their childcare costs. Parents who disagree with the HMRC's decision to reject an individual's application to join the scheme will be able to appeal to the First-tier Tribunal.

Council Tax & Business Rates Powers of Entry

7.3 The Valuation Office Agency (VOA) has a duty to maintain accurate local valuation lists which may necessitate, on a case by case basis, an internal inspection. The VOA has statutory powers of entry to property for the purpose of carrying out non-domestic rating valuations under paragraph 6B of Schedule 9 to the Local Government Finance Act 1988 and for the purpose of carrying out their functions relating to council tax under section 25A of the Local Government Finance Act 1992. Provisions were inserted by the Council Tax and Non-Domestic (Powers of Entry: Safeguards) (England) Order 2015 (S.I. 2015/982) to require the approval of the First-tier Tribunal before the VOA could exercise these statutory powers of entry. Where consent to enter is not given, the VOA's Listing Officers and Valuation Officers will be required to seek the authority of the First-tier Tribunal to exercise their statutory powers of entry, under which the occupier of the property can be fined if successfully prosecuted for obstructing a VOA Officer in the exercise of the power.

8. Consultation outcome

8.1 No public consultation has been undertaken in relation to deciding that the most appropriate chambers to exercise these functions were the Social Entitlement Chamber and the Property Chamber of the First-tier Tribunal respectively.

8.2 In relation to appeals regarding childcare payments, HM Revenue & Customs consulted on the introduction of the Tax Free Childcare Scheme between the 14th July to the 03rd October 2014, the link to the consultation can be found here: https://www.gov.uk/government/publications/draft-legislation-tax-free-childcare-childcare-payments-eligibility-regulations-and-draft-childcare-payments-regulations-2015

8.3 In relation to the functions conferred on the Property Chamber of the First-tier Tribunal, the Department for Communities and Local Government conducted a four-week public consultation to seek views on its proposal between the 23 January and the 20 February 2015, the link to the consultation can be found here:

https://www.gov.uk/government/consultations/council-tax-and-business-rates-powers-of-entry

9. Guidance

9.1 This Order does not attract the need for guidance but general information about tribunals can be found on the Ministry of Justice website at:

https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about

10. Impact

10.1 The impact on business, charities, or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument. A Regulatory Impact Assessment (RIA) was prepared for the Tribunals, Courts, and Enforcement Act 2007. This can be found at: http://www.legislation.gov.uk/ukpga/2007/15/contents

10.4 The RIA confirmed that the legislation would create a new flexible overarching statutory framework for tribunals, bringing tribunals together in one organisation.

11. Regulating small business

11.1 The Order does not impact upon small businesses.

12. Monitoring & review

12.1 The Ministry of Justice will keep the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 under review.

13. Contact

13.1 Vijay Parkash at the Ministry of Justice can answer any queries regarding the instrument. Tel: 020 3334 4471 or email: Vijay.Parkash@hmcts.gsi.gov.uk.