EXPLANATORY MEMORANDUM TO

THE FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL (CHAMBERS) (AMENDMENT) ORDER 2017

2017 No. 722

1. Introduction

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

2. Purpose of the instruments

2.1 The First-tier Tribunal and Upper Tribunal (Chambers) Order ("Amendment 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. It allocates to the Tax and Chancery Chamber of the Upper Tribunal, the new right of appeal to the Upper Tribunal under the Policing and Crime Act 2017 against monetary penalties imposed for breach of financial sanctions legislation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Part 1 of the Tribunals, Courts and Enforcement Act 2007 ("the 2007 Act") created a two-tier tribunal system into which existing tribunals can be transferred, or new appeal rights directed. Section 3 of the 2007 Act establishes the First-tier Tribunal and the Upper Tribunal, which together make up this two-tier system. Both Tribunals are divided into Chambers which deal with different areas of jurisdiction e.g. health, immigration and asylum and education. In addition to statutory appeals, the Upper Tribunal also deals with certain kinds of judicial reviews.

4.2 Section 147(4) of the Policing and Crime Act 2017 introduced an appeal to the Upper Tribunal for appeals against monetary penalties for breach of financial sanctions legislation.

5. Extent and Territorial Application

5.1 The extent of these instruments is the United Kingdom.

5.2 The territorial application of this instrument is 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 Part 8 of the Policing and Crime Act 2017 creates new civil powers for HM Treasury, in practice through the Office of Financial Sanctions Implementation, to impose monetary penalties on companies and individuals for breaching U.K., EU and United Nations financial sanctions.

7.2 Under the Act, the person upon whom a penalty is imposed, may seek a review of the HM Treasury decision by a Minster of the Crown. If the Minister then upholds the decision to impose a monetary penalty, that person may bring a financial sanctions appeal to the Upper Tribunal.

7.3 The Order amends the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 to allocate to the Tax and Chancery Chamber of the Upper Tribunal, the Upper Tribunal functions in respect of this appeal.

Consolidation

An informally consolidated version of the "The First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 (S.I. 2010/2655)" which incorporates all of the amendment Statutory Instruments (SIs) into the original statutory instrument can be found on the GOV.UK website at:

https://www.gov.uk/government/publications?departments[]=tribunal-procedure-committee

8. Consultation outcome

8.1 No public consultation has been undertaken in relation to the amendments made in the Chambers Order as no, or no significant, impact on the private, voluntary or public sectors is foreseen. The Senior President of Tribunals has given his formal concurrence as required by section 7(9) of the 2007 Act.

8.2 In relation to appeals for financial sanctions, HMT Treasury and the Office of Financial Sanctions consulted on the approach and process for imposing monetary penalties for breaches of financial sanctions between the 01 December 2016 and 26 January 2017. The link to the consultation and further information can be found here: https://www.gov.uk/government/consultations/the-process-for-imposing-monetary-penalties-for-breaches-of-financial-sanctions

9. Guidance

9.1 HMCTS produces guidance for all tribunal jurisdictions which is issued to parties at key stages of the appeals process and is available on the website at: http://www.justice.gov.uk/tribunals.

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.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by 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 and will consult with the Senior President of Tribunal, senior judiciary and interested stakeholders to determine if any amendments in the future to the current Order are required.

13. Contact

13.1 Vijay Parkash at the Ministry of Justice Telephone: 0203 334 4471 or email: Vijay.Parkash@justice.gov.uk can answer any queries regarding the instrument.