



The Scottish Parliament
Pàrlamaid na h-Alba

Published 31 January 2023
SP Paper 312
1st Report, 2023 (Session 6)

Equalities, Human Rights and Civil Justice Committee

Subordinate Legislation considered by the Equalities, Human Rights and Civil Justice Committee, 17 and 31 January 2023



Published in Scotland by the Scottish Parliamentary Corporate Body.

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Equalities, Human Rights and Civil Justice Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- a. matters relating to equal opportunities, and upon the observance of equal opportunities within the Parliament; and
- b. matters relating to human rights.
- c. matters relating to civil justice within the responsibility of the Cabinet Secretary for Justice and Veterans.

2. In these Rules

(a) “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions; and

(b) “human rights” includes Convention rights (within the meaning of section 1 of the Human Rights Act 1998) and other human rights as for example contained in any international convention, treaty or other international instrument ratified by the United Kingdom.



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Introduction

1. At its meetings on 17 January and 31 January 2023, the Equalities, Human Rights and Civil Justice Committee considered the following instruments:
 - [First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland \(Composition\) Regulations 2023 \(SSI 2022/Draft\)](#)
 - [Upper Tribunal for Scotland \(Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland\) Regulations 2023 \(SSI 2022/Draft\)](#)
 - [First-tier Tribunal for Scotland \(Transfer of Functions of Valuation Appeals Committees\) Regulations 2023 \(SSI 2022/Draft\)](#)
 - [First-tier Tribunal for Scotland \(Transfer of Functions of the Council Tax Reduction Review Panel\) Regulations 2023 \(SSI 2022/Draft\)](#)
2. The instruments are subject to the affirmative procedure (Rule 10.6).

The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023 (SSI 2022/Draft)

3. The draft SSI was laid before the Scottish Parliament on 12 December 2022 and referred to the Equalities, Human Rights and Civil Justice Committee.
4. The purpose of the instrument is to make provision as to the composition of the Local Taxation Chamber of the First-tier Tribunal for Scotland when convened to decide any matter in a case.
5. The First-tier Tribunal was established by section 1 of the 2014 Act. It is organised into chambers according to, among other things, the different subject matters falling within the Tribunal's jurisdiction.
6. The Local Taxation Chamber deals with a range of matters relating to local taxation including property valuation for non-domestic rates purposes, council tax banding and council tax reduction appeals. Members of the tribunals can be ordinary members, legal members or judicial members according to criteria set out in the 2014 Act and regulations made thereunder.
7. This instrument also makes provision as to the composition of the Upper Tribunal for Scotland when dealing with non-domestic rates cases referred from the Local Taxation Chamber, and in respect of any appeal against a decision not to refer such a case.

The Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023 (SSI 2022/Draft)

8. The draft SSI was laid before the Scottish Parliament on 13 December 2022 and referred to the Equalities, Human Rights and Civil Justice Committee.
9. The purpose of the instrument is to make provision for the transfer to the Upper Tribunal for Scotland (“the Upper Tribunal”) of certain functions and members of the Lands Tribunal for Scotland (“the LTS”).
10. The functions of the LTS that relate to appeals and complaints arising from the valuation of property for rating purposes (“the valuation appeal functions”) are to transfer to the Upper Tribunal. The functions transferred are only those conferred on the LTS by section 1(3A) to (3BA) of the Lands Tribunal Act 1949 (“the 1949 Act”); the LTS’s remaining functions are unaffected.
11. The members of the LTS appointed by virtue of experience in the valuation of land in accordance with section 2(2A)(b) of the 1949 Act are to transfer in to the Upper Tribunal.
12. The Upper Tribunal was established by section 1 of the 2014 Act, along with the First-tier Tribunal for Scotland (“the First-tier Tribunal”). The Upper Tribunal hears appeals from the First-tier Tribunal for Scotland but may also hear cases as an initial appellate tribunal. The valuation appeal functions will be exercised in relation to matters which are more appropriate for a higher tribunal, including where the facts or evidence are complex or highly technical, or where the law is uncertain or difficult to apply.
13. This instrument makes provisions to manage the transfer of on-going casework. This instrument also makes consequential amendments to legislation.

First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023 (SSI 2022/ Draft)

14. The draft SSI was laid before the Scottish Parliament on 13 December 2022 and referred to the Equalities, Human Rights and Civil Justice Committee.
15. The purpose of the instrument is to make provision for the transfer to the Local Taxation Chamber of the First-tier Tribunal of the functions of the valuation appeals committees.
16. The First-tier Tribunal was established by section 1 of the 2014 Act. It is organised into chambers according to, among other things, the different subject matters falling within the Tribunal's jurisdiction. The First-tier Tribunal Local Taxation Chamber will hear cases previously dealt with by valuation appeals committees and the council tax reduction review panel.
17. The instrument also sets out transitional provisions to manage the transfer of ongoing casework. This instrument also makes consequential amendments to relevant local government legislation.

First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2023 (SSI 2022/Draft)

18. The draft SSI was laid before the Scottish Parliament on 13 December 2022 and referred to the Equalities, Human Rights and Civil Justice Committee.
19. The purpose of the instrument is to make provision for the transfer to the Local Taxation Chamber of the First-tier Tribunal for Scotland (“the First-tier Tribunal”) of the functions of the council tax reduction review panel.
20. The First-tier Tribunal was established by section 1 of the 2014 Act. It is divided into chambers, with the chambers hearing cases according to their subject-matter. The Local Taxation Chamber of the First-tier Tribunal will hear cases previously dealt with by valuation appeals committees and the council tax reduction review panel.
21. The instrument sets out transitional provisions to manage the transfer of on-going casework. The instrument also makes consequential amendments to existing legislation.

Delegated Powers and Law Reform Committee consideration

22. The Delegated Powers and Law Reform Committee (DPLR) considered the following instruments at its meeting on [20 December 2022](#):

- First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023 (SSI 2022/Draft)
- Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023 (SSI 2022/Draft)
- First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023 (SSI 2022/Draft)

The DPLR Committee agreed that it did not need to draw the Parliament's attention to the instruments on any grounds within its remit.

23. The Delegated Powers and Law Reform Committee (DPLR) considered the following instrument at its meeting on [10 January 2023](#):

- First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2023 (SSI 2022/Draft)

The DPLR Committee agreed to draw the instrument to the attention of the Parliament on general reporting grounds in respect of a cross-referencing error.

Equalities, Human Rights and Civil Justice Committee consideration

24. It is for the Equalities, Human Rights and Civil Justice Committee to recommend to the Parliament whether the Regulations should be approved.

25. The Minister for Community Safety ("the Minister"), Elena Whitham MSP, has, by motions [S6M-07211](#), [S6M-07225](#), [S6M-07223](#) and [S6M-07224](#) proposed that the Committee recommends the approval of the Regulations.

26. The Committee took evidence from the Minister at its meetings on 17 and 31 January 2023.

27. Following the evidence session on 17 January 2023, the Minister moved motions:

S6M-07211— That the Equalities, Human Rights and Civil Justice Committee recommends that the First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023 (SSI 2022/Draft) be approved.

S6M-07225— That the Equalities, Human Rights and Civil Justice Committee recommends that the Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023 (SSI 2022/Draft) be approved.

S6M-07223— That the Equalities, Human Rights and Civil Justice Committee recommends that the First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023 (SSI 2022/Draft) be approved.

28. The motions were agreed to without division or dissent.

29. Following the evidence session on 31 January 2023 the Minister moved the motion:

S6M-07224— That the Equalities, Human Rights and Civil Justice Committee recommends that the First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2023 (SSI 2022/Draft) be approved.

30. The motion was agreed to without division or dissent.

31. The Equalities, Human Rights and Civil Justice Committee recommends to the Scottish Parliament that the—

First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023 (SSI 2022/Draft);

Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023 (SSI 2022/Draft);

First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals

Committees) Regulations 2023 (SSI 2022/Draft); and

First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax
Reduction Review Panel) Regulations 2023 (SSI 2022/Draft)

be approved.

