

## EQUALITY IMPACT ASSESSMENT - RESULTS

<b>Title of Policy</b>	Regulations prescribing rules of procedure for the Upper Tribunal for Scotland, creating offences in proceedings before the Scottish Tribunals, setting time limits for seeking permission to appeal and creating the First-tier Tribunal for Scotland chamber structure
<b>Summary of aims and desired outcomes of Policy</b>	The policy aim of these regulations is to create a unified structure into which tribunals can transfer in a phased process.
<b>Directorate: Division: team</b>	Justice Directorate, Civil Law and Legal System, Tribunals & Administrative Justice.

### Executive summary

This EQIA covers four sets of regulations which:

- (a) prescribe rules of procedure for the Upper Tribunal for Scotland (Upper Tribunal)
- (b) provide for offences in proceedings before the Scottish Tribunals,
- (c) set time limits for seeking permission to appeal decisions and
- (d) create the chamber structure for the First-tier Tribunal for Scotland (First-tier Tribunal)

## Background

The Tribunals (Scotland) Act 2014 (the 2014 Act) creates two new tribunals, the First-tier Tribunal for Scotland (generally speaking hearing cases at first instance) and the Upper Tribunal for Scotland (primarily for appeals) known collectively as the Scottish Tribunals. Existing tribunals will transfer into the Scottish Tribunals in a phased process commencing in December 2016.

These regulations make rules of procedure for the Upper Tribunal, create offences in proceedings, set time limits for seeking permission to appeal and establish the First-tier Tribunal chamber structure.

The policy aim of these regulations is to create a unified tribunals structure into which tribunals can transfer in a phased process.

The regulations contribute to the Scottish Government's Safer and Stronger objective, through the following national outcome:

- Our public services are high quality, continually improving, efficient and responsive to local people's needs.

### 1) Upper Tribunal Rules

These regulations set out the rules of procedure for the Upper Tribunal. They are intended to strike a balance between conferring on the Upper Tribunal broad powers to regulate its own procedure and providing a reasonable level of detail in key areas such as the procedure for cases and how to appeal a decision of the Upper Tribunal.

## 2) Offences in Proceedings

These regulations provide a standardised definition of what constitutes an offence and the level of fine/imprisonment that can be imposed. They also specify circumstances in which a person cannot be compelled to give evidence or produce something.

## 3) Time Limits for Seeking Permission to Appeal

These regulations specify a 30 day time limit for seeking permission from the First-tier Tribunal or Upper Tribunal to appeal a decision. They also contain provisions on seeking permission from the Upper Tribunal to appeal a decision of the First-tier Tribunal if the First-tier Tribunal refuses permission to appeal. These timescales are intended to strike an appropriate balance between access to justice (giving parties adequate time to consider the merits or otherwise of appealing a decision) and certainty for parties.

## 4) Chamber Structure

These regulations create five chambers into which the functions and members of tribunals will be transferred in a phased process.

## **The Scope of the EQIA**

The Scottish Government carried out a full consultation with relevant external stakeholders on the draft Regulations. Responses were received from a range of organisations including the Law Society of Scotland, Faculty of Advocates and relevant stakeholder groups.

## **Key Findings**

The Equalities and Human Rights Commission raised that people who are not represented and/or who because they share a protected characteristic under the Equality Act 2010 may find it difficult to deal with rules of procedure. This impact is mitigated by the fact that a person may be accompanied by a legal or lay representative and a supporter who can advise on points of law.

The Equalities and Human Rights Commission also noted the 30 day time limit may put people with protected characteristics at a particular disadvantage. This impact is mitigated as the Upper Tribunal may on cause shown extend the 30 day time limit.

## **Recommendations and Conclusion**

Our assessment is that the Regulations do not give rise to any equality issues.