

## EQUALITY IMPACT ASSESSMENT - RESULTS

<p><b>Title of Policy</b></p>	<p>Regulations: 1) prescribing the composition of the Housing &amp; Property Chamber and Upper Tribunal, 2) transferring the Functions and Members of the Private Rented Housing Panel, Homeowner Housing Panel and their relevant committees and 3) creating the Housing and Property Chamber Rules of Procedure</p>
<p><b>Summary of aims and desired outcomes of Policy</b></p>	<p>The policy aim of these regulations is for tribunals to transfer into the Scottish Tribunals with the same members, composition and rules of procedure where possible.</p>
<p><b>Directorate: Division: team</b></p>	<p>Justice Directorate, Civil Law and Legal System, Tribunals &amp; Administrative Justice.</p>

### Executive summary

This EQIA relates to six sets of regulations which set out the composition of the Housing and Property Chamber of the First-tier Tribunal for Scotland (First-tier Tribunal) and the Upper Tribunal for Scotland (Upper Tribunal); transfer the functions and members of the private rented housing panel (prhp) and homeowner housing panel (ho hp) and their respective committees, and create rules of procedure for the Housing and Property Chamber.

## 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 transfer two housing jurisdictions into the Scottish Tribunals structure and determine composition and rules of procedure for the Housing and Property Chamber of the First-tier Tribunal.

The policy aim of these regulations is to transfer the private rented housing panel (prhp) and homeowner housing panel (hohp) and their respective committees into the Scottish Tribunals.

These 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) Composition Regulations

These regulations set out the composition of the First-tier Tribunal for Scotland (First-tier Tribunal) when hearing cases in the Housing and Property Chamber.

For appeals from the First-tier Tribunal Housing and Property Chamber the regulations maintain the current status quo in that appeals will be heard in the majority of cases by a full-time Sheriff sitting in the Upper Tribunal. The regulations also allow the Chamber President of the Housing and Property Chamber,

the Lord President and the President of Tribunals to hear appeals in the Upper Tribunal.

2) Regulations transferring the functions and members of the prhp, hohp and their respective committees.

These regulations transfer the functions and members of the prhp and the hohp and their respective committees to the First-tier Tribunal. Once functions and members are transferred, the hohp and prhp and their committees will be abolished.

The regulations include provisions allowing existing members of the prhp/hohp to transfer into the Scottish Tribunals. Members who are over 70 will only be able to transfer into the Scottish Tribunals if the Scottish Ministers in consultation with the President of Tribunals consider it desirable in the public interest that the member shall be in office. Any member over 70 will be reappointed on an annual basis until they reach the age 75 when they must resign.

The regulations also contain transitional and savings provisions for applications and proceedings in progress or pending on the date the hohp transfers into the Scottish Tribunals. The aim is that any applications or proceedings which are pending or in progress on the date of transfer will continue in the Scottish Tribunals with the same members where ever possible. In relation to appeals the regulations transfer any unexercised right of appeal from the Sheriff Court to the Upper Tribunal.

3) Housing and Property Chamber Rules

These regulations set the rules of procedure for the First-tier Tribunal Housing and Property Chamber. The rules of procedure for the most part replicate the procedure in the prhp and hohp. In addition, the rules include a new provision allowing a party to be accompanied by a legal or lay representative and a supporter.

They also set out the procedure for seeking permission to appeal a decision of the First-tier Tribunal.

### **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 housing stakeholders.

### **Key Findings**

One organisation raised the concern during the public consultation on the draft regulations that the compulsory retirement age of 75 may breach the Equality Act 2010. The issue of the retirement age was raised during the Tribunals Bill and the EQIA for the Bill found that the differential effect on the basis of age is proportionate as the policy introduces a standard retirement age for tribunal members in line with that of members of the court judiciary.

### **Recommendations and Conclusion**

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