



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Equalities, Human Rights and Civil Justice Committee

**Tuesday 17 January 2023**

**Session 6**



The Scottish Parliament  
Pàrlamaid na h-Alba

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**EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE**

**1<sup>st</sup> Meeting 2023, Session 6**

**CONVENER**

\*Joe FitzPatrick (Dundee City West) (SNP)

**DEPUTY CONVENER**

\*Maggie Chapman (North East Scotland) (Green)

**COMMITTEE MEMBERS**

\*Karen Adam (Banffshire and Buchan Coast) (SNP)

\*Pam Duncan-Glancy (Glasgow) (Lab)

\*Pam Gosal (West Scotland) (Con)

\*Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con)

\*Fulton MacGregor (Coatbridge and Chryston) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Elena Whitham (Minister for Community Safety)

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Equalities, Human Rights and Civil Justice Committee

*Tuesday 17 January 2023*

*[The Convener opened the meeting at 10:01]*

### Subordinate Legislation

#### **First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023 [Draft]**

#### **Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023 [Draft]**

#### **First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023 [Draft]**

**The Convener (Joe FitzPatrick):** Welcome to the first meeting in 2023, in session 6, of the Equalities, Human Rights and Civil Justice Committee. We have received no apologies this morning.

Our first agenda item is consideration of three affirmative instruments: the draft First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023, the draft Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023 and the draft First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023.

I welcome to the meeting Elena Whitham, Minister for Community Safety, and her officials from the Scottish Government's legal directorate: Lisa Davidson, civil justice senior policy officer, and Martin Brown, a solicitor.

I refer members to paper 1 and invite the minister to speak to the draft instruments.

**The Minister for Community Safety (Elena Whitham):** Thank you, convener, and good morning, members.

This suite of three sets of regulations will transfer all the functions of the valuation appeals committee and certain functions of the Lands Tribunal for Scotland to the Scottish tribunals, and

will set out the composition of those tribunals when they are exercising the transferred functions.

The Tribunals (Scotland) Act 2014 created a new simplified statutory framework for tribunals in Scotland by establishing the Scottish tribunals, consisting of the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland. That framework brings the range of existing tribunal jurisdictions together into one system and provides a structure for new jurisdictions coming in.

The valuation appeals committee and some limited functions of the Lands Tribunal for Scotland are due to be transferred to the Scottish tribunals on 1 April 2023. The draft First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023 provide for the transfer of the existing functions of the valuation appeals committees to the First-tier Tribunal for Scotland local taxation chamber. Existing members of the valuation appeals committees will not transfer to the Scottish tribunals; instead, members have been appointed through a fair and open recruitment process that was undertaken by the Judicial Appointments Board for Scotland.

In addition, the regulations make provision for cases that are in progress on the date of transfer, and they make amendments to primary and secondary legislation that are necessary as a consequence of the transfer of the functions.

The second instrument is the draft Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023. Currently, appeals in relation to non-domestic rates cases can, in certain circumstances, be referred from a valuation appeals committee to the Lands Tribunal for Scotland. Such circumstances have included cases in which the facts were particularly complex, the law was particularly difficult to apply or the property in relation to the valuation that was being appealed straddled two valuation areas. A decision by a valuation appeals committee not to refer a case to the Lands Tribunal for Scotland can also be appealed to the Lands Tribunal for Scotland.

Upon transfer of those matters to the Scottish tribunals, a referral system similar to the current one will be retained, but with qualifying cases being referred to the Upper Tribunal. That will ensure that complex or significant cases can be considered by a body with additional expertise and that the matters are dealt with entirely within the Scottish tribunals system. Parties will also be able to pursue an appeal to the Upper Tribunal if they disagree with a decision of the First-tier Tribunal not to refer such a case.

Finally, the draft First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023 specify the number and types of members—for example, judicial, legal or ordinary—of the local taxation chamber of the First-tier Tribunal who are required in relation to the different appeals before that body. Likewise, the regulations set out the membership of the Upper Tribunal when it considers appeals or referrals from the First-tier Tribunal. I understand that the Delegated Powers and Law Reform Committee considered the regulations on 20 December 2022 and raised no points on them.

The functions of another body, the Council Tax Reduction Review Panel, are also due to be transferred to the First-tier Tribunal, to take effect at the same time. That transfer is provided for in a separate set of regulations, which I know will be considered by the committee at a later meeting.

I would be happy to answer any questions, and my officials are also here to help.

**The Convener:** Thank you, minister.

As no member has indicated that they want to ask a question, we will move straight to item 2, which is the formal business in relation to the instruments. I invite the minister to move motions S6M-07211, S6M-07225 and S6M-07223 en bloc.

*Motions moved,*

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 [draft] be approved.

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 [draft] be approved.

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 [draft] be approved.—  
[Elena Whitham]

*Motions agreed to.*

**The Convener:** I invite the committee to agree to delegate to me the publication of a short factual report on our deliberations on the affirmative Scottish statutory instruments that we have considered today. Do members agree to that?

**Members indicated agreement.**

**The Convener:** That completes consideration of the affirmative instruments. I thank the minister and her officials for attending.

That concludes our public business this morning.

10:07

*Meeting continued in private until 11:15.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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