

Draft Regulations laid before the Scottish Parliament under section 79(2)(a) and (b) of the Tribunals (Scotland) Act 2014 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

TRIBUNALS AND INQUIRIES

The First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2023

Made - - - - 2023
Coming into force - - 1st April 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20(2), 28(2) and 79(1) of the Tribunals (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 11(1)(a) and (b) of that Act, the Scottish Ministers have obtained the Lord President's approval and have consulted such other persons as they considered appropriate.

In accordance with section 79(2)(a) and (b) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2023 and come into force on 1 April 2023.

Interpretation

2. In these Regulations—

“the 2021 Regulations” means the Council Tax Reduction (Scotland) Regulations 2021⁽²⁾,

“the council tax reduction review panel” means the panel specified in regulation 95(1) of the 2021 Regulations appointed to conduct a further review of determinations on applications for council tax reduction,

“First-tier Tribunal” means the First-tier Tribunal for Scotland,

“functions of the council tax reduction review panel” means the functions exercisable by any member of the council tax reduction review panel.

(1) 2014 asp 10. Paragraph 11A of schedule 1, which is relevant to the statutory powers under which these Regulations are made, was inserted by S.S.I. 2022/287.

(2) S.S.I. 2021/249.

Transfer of functions of the council tax reduction review panel to the First-tier Tribunal

3. The functions of the council tax reduction review panel are transferred to the First-tier Tribunal with allocation to the Local Taxation Chamber⁽³⁾.

Abolition of the council tax reduction review panel

4. The council tax reduction review panel is abolished.

Transitional and saving provisions

5. Schedule 1 which contains transitional and saving provisions has effect.

Consequential amendments and revocations

6. Schedule 2 which contains consequential amendments and revocations has effect.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(3) The Local Taxation Chamber of the First-tier Tribunal for Scotland was brought into being by [S.S.I. 2021/448](#).

SCHEDULE 1

Regulation 5

Transitional and saving provisions

Reviews in progress before a council tax reduction review panel immediately prior to 1 April 2023 to transfer to the First-tier Tribunal

1. Any further review of a determination on an application for council tax reduction by the council tax reduction review panel (in this schedule, “a review”) in progress immediately before 1 April 2023 but not yet determined and any proceedings of the council tax reduction review panel in progress immediately before that date is transferred to, and must be completed by, the First-tier Tribunal.

Decisions, directions and orders of council tax reduction review panel to continue in force

2. Any decision (whether or not called a decision), direction or order given or made in, or in respect of a request for a review, a review by, or proceedings before, the council tax reduction review panel which is given or made immediately prior to 1 April 2023 remains in force on and after that date as if it were a decision, direction or order of the First-tier Tribunal.

Time limits in respect of reviews by, and proceedings before, the council tax reduction review panel to carry over to the First-tier Tribunal

3. Any time limit which has started to run prior to 1 April 2023 in respect of a request for a review, a review by, or proceedings before the council tax reduction review panel (and which has not expired) continues to apply where any request for a review, a review, or proceedings are transferred to the First-tier Tribunal.

SCHEDULE 2

Regulation 6

Consequential amendments and revocations of secondary legislation

The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012

1.—(1) The Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012⁽⁴⁾ are amended in accordance with subparagraphs (2) to (6).

(2) In regulation 2 (interpretation) after the definition of “first authority” insert—

“the First-tier Tribunal for Scotland” means the First-tier Tribunal for Scotland, established by section 1 of the Tribunals (Scotland) Act 2014;”.

(3) The title to Part 10A becomes “Review and appeal”.

(4) In regulation 70A (review of determination on an application)—

(a) omit paragraph (1),

(b) in paragraph (4)(c)—

(i) for “a request for further review may be made” substitute “an appeal may be made to the First-tier Tribunal”,

(ii) for “such a request is to” substitute “notice of appeal may”.

(5) For regulation 70B (request for further review) substitute—

⁽⁴⁾ [S.S.I. 2012/319](#). Part 10A was inserted by [S.S.I. 2013/218](#). Other relevant amending instruments are [S.S.I. 2015/46](#) and [S.S.I. 2021/249](#).

“Appeal against a determination on an application

70B.—(1) An applicant may appeal to the First-tier Tribunal where the relevant authority—

- (a) has notified the applicant of its decision on a request for review under regulation 70A(2) in accordance with paragraph (4)(c) of that regulation and the applicant wishes to dispute that decision, or
- (b) has not notified the applicant of a decision on a request for review under regulation 70A(2) and more than two months have elapsed since the notice requesting review was served.

(2) Notice of appeal to the First-tier Tribunal must be made in accordance with the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022(5).

(3) An appeal to the First-tier Tribunal prevents the relevant authority from notifying the applicant under regulation 70A(2) of its decision on the request for review to which the appeal relates.

(4) The relevant authority must implement the decision of the First-tier Tribunal in respect of an appeal under paragraph (1) as soon as is reasonably practicable, including any calculation of the amount of an applicant’s entitlement to a council tax reduction that is required.”

(6) Regulation 70C (conduct of further reviews) is revoked.

The 2021 Regulations

2.—(1) The 2021 Regulations are amended in accordance with paragraphs (2) to (6).

(2) In regulation 4 (interpretation) after the definition of “first authority” insert—

“the First-tier Tribunal for Scotland” means the First-tier Tribunal for Scotland, established by section 1 of the Tribunals (Scotland) Act 2014;”.

(3) The title to Part 9 becomes “Review and appeal”.

(4) In regulation 93 (review of determination on an application)—

- (a) omit paragraph (1),
- (b) in paragraph (4)(c)—
 - (i) for “a request for further review may be made” substitute “an appeal may be made to the First-tier Tribunal”,
 - (ii) for “such a request is to” substitute “notice of appeal may”.

(5) For regulation 94 (request for further review) substitute—

“Appeal against a determination on an application

94.—(1) An applicant may appeal to the First-tier Tribunal where the relevant authority—

- (a) has notified the applicant of its decision on a request for review under regulation 93(2) in accordance with paragraph (4)(c) of that regulation and the applicant wishes to dispute that decision, or
- (b) has not notified the applicant of a decision on a request for review under regulation 93(2) and more than two months have elapsed since the notice requesting review was served.

(2) Notice of appeal to the First-tier Tribunal must be made in accordance with the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022.

(5) [S.S.I. 2022/364](#).

- (3) An appeal to the First-tier Tribunal prevents the relevant authority from notifying the applicant under regulation 70A(2) of its decision on the request for review to which the appeal relates.
- (4) The relevant authority must implement the decision of the First-tier Tribunal in respect of an appeal under paragraph (1) as soon as is reasonably practicable, including any calculation of the amount of an applicant’s entitlement to a council tax reduction that is required.”
- (6) Regulations 95 and 96 are revoked.
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations 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.

The First-tier Tribunal was established by section 1 of the Tribunals (Scotland) Act 2014. 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.

Transitional provisions are made to manage the transfer of on-going casework. These Regulations also make consequential amendments to existing legislation.

A Business and Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrew’s House, Edinburgh EH1 3DG, and online at www.legislation.gov.uk.