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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2022 No.**

**TRIBUNALS AND INQUIRIES**

**The Upper Tribunal for Scotland (Transfer of Valuation for  
Rating Appeal Functions of the Lands Tribunal for Scotland)  
Regulations 2022**

*Made* - - - - *\*\*\**  
*Coming into force* - - *1<sup>st</sup> January 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 28(2), 79(1) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014(a) 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 Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2022 and come into force on 1st January 2023.

**Interpretation**

2. In these Regulations—

“the 1949 Act” means the Lands Tribunal Act 1949(b),

“the 2014 Act” means the Tribunals (Scotland) Act 2014,

“the Lands Tribunal” means the Lands Tribunal for Scotland as established by section 1(1) of the 1949 Act,

“the valuation appeal functions of the Lands Tribunal” means the functions exercised by the Lands Tribunal by virtue of section 1(3A)-(3BA) of the 1949 Act,

“the Upper Tribunal” means the Upper Tribunal for Scotland

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(a) 2014 asp 10.  
(b) 1949 c. 42.

### **Transfer of the valuation appeal functions of the Lands Tribunal to the Upper Tribunal**

3.—(1) The valuation appeal functions of the Lands Tribunal are transferred to the Upper Tribunal.

(2) The functions transferred to the Upper Tribunal under paragraph (1) cease to be exercisable by the Lands Tribunal.

(3) The functions specified in section 1(3BA) of the 1949 Act are specified as falling within section 54 of the 2014 Act.

### **Transfer of members of the Lands Tribunal to the Upper Tribunal**

4.—(1) In respect of the valuation appeal functions of the Lands Tribunal only, members of the Lands Tribunal are transferred to and become members of the Upper Tribunal, with—

- (a) members who are eligible for appointment as such becoming legal members of the Upper Tribunal; and
- (b) other members becoming ordinary members of the Upper Tribunal.

(2) Persons who are transferred under paragraph (1) do not, as a consequence of that transfer, cease to be members of the Lands Tribunal in respect of the remaining functions of that tribunal.

(3) Persons transferred to the Upper Tribunal under paragraph (1) are (subject to the provisions of the 2014 Act) to be members of the Upper Tribunal in accordance with terms and conditions to be offered by the Scottish Ministers immediately before transfer, which are to supersede any existing terms and conditions of appointment.

(4) Paragraph (1) does not apply to any member of the Lands Tribunal if the member has already been transferred to and is a member of the Upper Tribunal by virtue of regulations made under section 28(2) of the 2014 Act which were in force prior to these Regulations coming into force.

(5) A member of the Lands Tribunal who is aged 70 or over on the coming into force of these Regulations shall transfer only if the Scottish Ministers in consultation with the President of Tribunals consider it desirable in the public interest that the member should transfer.

### **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 has effect.

*[Name]*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh

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**Transitional and saving provisions****Appeals, complaints, and proceedings in progress before the Lands Tribunal immediately prior to 1st January 2023 to transfer to the Upper Tribunal**

7. Any appeal or complaint to the Lands Tribunal to which these Regulations relate in progress immediately before 1st January 2023 but not yet determined and any proceedings of the Lands Tribunal in progress immediately before that date shall be transferred to and be completed by the Upper Tribunal as if they were appeals or complaints to the Upper Tribunal or proceedings in the Upper Tribunal[ but with so far as possible the same persons hearing and determining the case before the Upper Tribunal as members of that tribunal as were prior to 1st January 2023 hearing the case as members of the Lands Tribunal].

**Decisions, directions and orders of the Lands Tribunal to continue in force**

8. Any decision (whether or not called a decision), direction or order given or made in, or in respect of appeals or complaints to, and proceedings before, the Lands Tribunal to which these Regulations relate which is given or made immediately prior to 1st January 2023 remains in force on and after that date as if it were a decision, direction or order of the Upper Tribunal.

**Time limits in respect of appeals, complaints, referrals to, and proceedings before the Lands Tribunal to carry over to the Upper Tribunal**

9. Any time limit which has started to run before 1st January 2023 in respect of appeals or complaints to, and proceedings before, the Lands Tribunal to which these Regulations relate (and which has not expired) shall continue to apply where the appeals, complaints, and proceedings are transferred to the Upper Tribunal.

**Unexercised right of appeal to the Lands Valuation Appeal Court, if exercised, remains as an appeal to the Lands Valuation Appeal Court**

10. Where in respect of a decision of the Lands Tribunal to which these Regulations relate before 1st January 2023, there lies a right of appeal to the Lands Valuation Appeal Court, which has not been exercised before that date but is still exercisable, any appeal on or after 1st January 2023 shall continue to be to the Lands Valuation Appeal Court but shall be treated as if the decision had been made by the Upper Tribunal.

**Exercised right of appeal to the Lands Valuation Appeal Court**

11. Where in respect of a decision of the Lands Tribunal to which these Regulations relate before 1st January 2023, there lies a right of appeal to the Lands Valuation Appeal Court which has been exercised before that date, the appeal shall continue but shall be an appeal from the Upper Tribunal to the Lands Valuation Appeal Court.

## SCHEDULE 2

Regulation 6

### Consequential amendments of primary legislation

#### **Valuation of Lands (Scotland) Amendment Act 1879**

1. In section 7 of the Valuation of Lands (Scotland) Amendment Act 1879<sup>(a)</sup> for “Lands Tribunal for Scotland” substitute “Upper Tribunal for Scotland”.

#### **Lands Tribunal Act 1949**

2.—(1) Section 1 of the Lands Tribunal Act 1949<sup>(b)</sup> (establishment of the Lands Tribunal for Scotland and jurisdiction) is amended in accordance with paragraphs (2) to (5).

(2) For the heading substitute “Establishment of the Lands Tribunal for Scotland, jurisdiction and appeals to the Scottish Tribunals”.

(3) In paragraph (3A) for “The Lands Tribunal for Scotland may also” substitute “the Upper Tribunal for Scotland may”.

(4) In paragraph (3BA)—

(a) for “Lands” substitute “Upper”, and

(b) in all places where “the Tribunal” appears substitute “the Upper Tribunal for Scotland”.

(5) In paragraph (3C) for “Lands” substitute “Upper”.

#### **Local Government (Financial Provisions) (Scotland) Act 1963**

3.—(1) In section 15 of the Local Government (Financial Provisions) (Scotland) Act 1963<sup>(c)</sup> (proceedings in appeals), in paragraphs (1), (1A)(b) and (1C) for “Lands Tribunal for Scotland” substitute “Upper Tribunal for Scotland”.

#### **Local Government (Scotland) Act 1975**

4.—(1) The Local Government (Scotland) Act 1975<sup>(d)</sup> is amended with paragraphs (2) and (3).

(2) In section 2 (alterations to valuation roll which is in force) in paragraph (3) for “Lands” substitute “Upper”.

(3) In section 37(1) (general interpretation) in the entry for “material change of circumstances” in sub-paragraph (a) after “Scotland” insert “or the Upper Tribunal for Scotland”.

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(a) 1879 c. 42 (42 and 43 Vict)

(b) 1949 c. 42

(c) 1963 c. 12

(d) 1975 c. 30

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for the transfer to the Upper Tribunal of the functions of the Lands Tribunal for Scotland (“the Lands Tribunal”) that relate to appeals and complaints arising from the valuation of property for rating purposes (“the valuation appeal functions”). The functions transferred are only those conferred on the Lands Tribunal by section 1(3A) to (3BA) of the Lands Tribunal Act 1949; the Land Tribunal’s remaining functions are unaffected.

The Upper Tribunal for Scotland (“the Upper Tribunal”) was established by section 1 of the Tribunals (Scotland) Act 2014, along with the First-tier Tribunal for Scotland (“the First-tier Tribunal”). The Upper Tribunal hears appeals from the First-tier Tribunal but may also hear cases as an initial appellate tribunal. The valuation appeal functions are 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.

These Regulations make provision for the transfer into the Upper Tribunal of the valuation appeal functions and of the members of the Lands Tribunal in respect of their exercise of these functions.

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