

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

TRIBUNALS AND INQUIRIES

The First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2022

Made

Coming into force

1st January 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20(2), 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 First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2022 and come into force on 1st January 2023.

Interpretation

2. In these Regulations—

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

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

“the council tax reduction review panel” means the panel specified in paragraph 95 of the 2021 Regulations appointed to conduct a further review of determination 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 a member of the council tax reduction review panel by virtue of paragraph 96 of the 2021 Regulations.

(a) 2014 asp 10.

(b) 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(a).

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.

[Name]

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh

(a) The Local Taxation Chamber of the First-tier Tribunal for Scotland was brought into being by S.S.I. 2021/**.

SCHEDULE 1

Transitional and saving provisions

Regulation 5

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

1. Any review of a determination on an application for council tax reduction by the council tax reduction review panel in progress immediately before 1st January 2023 but not yet determined and any proceedings of the council tax reduction review panel in progress immediately before that date shall be transferred to and must be completed by the First-tier Tribunal [but with so far as possible the same person hearing and determining the case before the First-tier Tribunal as a member of that tribunal as was prior to 1st January 2023 hearing the case as a member of the council tax reduction review panel].

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 review, a review by, and proceedings before, the council tax reduction review panel 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 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 1st January 2023 in respect of a request for review, a review by, or proceedings before the council tax reduction review panel (and which has not expired) continues to apply where requests for review, reviews, or proceedings are transferred to the First-tier Tribunal.

SCHEDULE 2

Regulation 6

Consequential amendments and revocations of secondary legislation

The Council Tax Reduction (Scotland) Regulations 2021

- 1.—(1) The Council Tax Reduction (Scotland) Regulations 2021 are amended as follows.
- (2) The title to Part 9 becomes “Review and appeal”.
- (3) In regulation 93 (review of determination on an application) for paragraph (4)(c) substitute—

“(c) notify the applicant in writing of its decision and that if the applicant remains aggrieved then an appeal may be made to the First-tier Tribunal within 42 days of the notification, with the address to which any notice of appeal may be sent.”
- (4) For regulation 94 substitute—

“94.— Appeal against a determination on an application

- (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.
- (3) An appeal to the First-tier Tribunal prevents the relevant authority from notifying a decision on the request for review under regulation 93(2).
- (4) The relevant authority must implement the decision of the First-tier Tribunal in respect of an appeal under (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.”
- (5) Regulations 95 and 96 are revoked.

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

- 2.—(1) The Council Tax Reduction (Scotland) Regulations 2012 are amended as follows.
- (2) The title to Part 10A becomes “Review and appeal”.
- (3) In regulation 70A (review of determination on an application) for paragraph (4)(c) substitute—

“(c) notify the applicant in writing of its decision and that if the applicant remains aggrieved then an appeal may be made to the First-tier Tribunal within 42 days of the notification, with the address to which any notice of appeal may be sent.”
- (4) For regulation 70B substitute—

“70B.— Appeal against a determination on an application

- (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.
- (3) An appeal to the First-tier Tribunal prevents the relevant authority from notifying a decision on the request for review under regulation 70A(2).
- (4) The relevant authority must implement the decision of the First-tier Tribunal in respect of an appeal under (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.”
- (5) Regulation 70C is revoked.

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 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 First-tier Tribunal Local Taxation Chamber 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.