POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND GENERAL REGULATORY CHAMBER CHARITY APPEALS CASES AND UPPER TRIBUNAL FOR SCOTLAND (COMPOSITION) REGULATIONS 2018

SSI 2018/xxx

1. The above instrument was made in exercise of the powers conferred by sections 38(1) and 40(1) of the Tribunals (Scotland) Act 2014 (the 2014 Act). In accordance with section 11(2) of the 2014 Act the President of Tribunals has been consulted.

Policy Objectives

2. The 2014 Act allows the Scottish Ministers to determine the composition of the First-tier Tribunal or Upper Tribunal when convened to decide any matter in a case before it.

3. These regulations set out the composition of the First-tier Tribunal for Scotland General Regulatory Chamber (First-tier Tribunal) when hearing Charity Appeals cases. The policy intent is to replicate the existing composition for cases when they are heard in the Scottish Charity Appeals Panel (SCAP). This means that cases will be heard by three members, one of whom will be a chairing (legal) member. The other two members will either be two legal members, two ordinary members or a legal and an ordinary member.

4. These regulations also set out the composition of the Upper Tribunal for Scotland (Upper Tribunal) hearing appeals or referrals from the First-tier Tribunal for Charity Appeals cases. The policy intent is to replicate the existing procedure of cases when heard in the Court of Session.

5. Although there will not be a Chamber President of the First–tier Tribunal General Regulatory Chamber in post when the Chamber is established, the regulations allow a person holding that position in future to hear appeals in the Upper Tribunal provided they have had no involvement with the case prior to the appeal. The Lord President and the President of Tribunals being members of the Upper Tribunal may also hear appeals or referrals from the First-tier Tribunal.

6. Fuller details of the policy objectives relating to the 2014 Act are described in the Policy Memorandum which accompanied the Tribunals Bill. The link below shows the passage of the Bill through Parliament and includes the Policy Memorandum. http://www.scottish.parliament.uk/parliamentarybusiness/Bills/62938.aspx

Consultation

7. A consultation with interested parties took place between May and August 2017. There were 2 responses to this consultation. The responses are available on the Scottish Government website:
https://consult.scotland.gov.uk/tribunals-administrative-justice-policy/transferring-scap-to-scottish-tribunals/

Impact Assessments

8. An Equality Impact Assessment has already been completed for the Tribunals (Scotland) Bill – see link below:
http://www.scotland.gov.uk/Resource/0042/00421637.pdf

9. An Equality Impact Assessment was not required for these regulations.

10. A Business and Regulatory Impact Assessment is not required as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Education, Communities and Justice Directorate
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