POLICY NOTE

THE SCOTTISH TRIBUNALS (OFFENCES IN RELATION TO PROCEEDINGS) REGULATIONS 2016

SSI 2016/xxx

1. The above instrument was made in exercise of the powers conferred by section 67(1) of the Tribunals (Scotland) Act 2014 (the 2014 Act). In accordance with section 67(3) of the 2014 Act the Lord President has approved these regulations.

Policy Objectives

2. The 2014 Act creates a new two-tier structure for tribunals in Scotland – a First-tier Tribunal for first decisions and an Upper Tribunal primarily for appeals from the First-tier Tribunal. These tribunals are to be known collectively as the Scottish Tribunals.

3. The 2014 Act allows the Scottish Ministers to create certain types of offences in relation to proceedings. These regulations standardise the maximum level of fines and terms of imprisonment across the Scottish Tribunals so they are the same irrespective of the subject matter of the case in hand.

4. The policy intent is to deter parties from making a false statement, failing to attend or giving evidence in proceedings, altering, concealing or destroying something that is required to be produced. The regulations allow for a party accused of committing an offence to provide a reasonable excuse for acting in the way charged.

5. Fuller details of the policy objectives relating to the 2014 Act are described in the Policy Memorandum which accompanied the 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

6. A consultation with interested parties took place between September and December 2015. There were 24 responses to this consultation. The responses are available on the Scottish Government website:
https://consult.scotland.gov.uk/tribunals-administrative-justice-policy/first-consulatation-tribunals-scotland-act-2014/consultation/published_select_respondent

Impact Assessments

7. An equality impact assessment was completed for these regulations and showed that the regulations are intended to apply equally and appear to have no differential effect on the basis of the protected characteristics.
8. The Equality Impact Assessment is available at the link below: http://www.gov.scot/Topics/People/Equality/18507/EqualityImpactAssessmentSearch

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

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
Learning and Justice Directorate
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