POLICY NOTE

THE SCOTTISH TRIBUNALS (ELIGIBILITY FOR APPOINTMENT) AMENDMENT REGULATIONS 2021

SSI 2021/341

1. The above instrument was made in exercise of the powers conferred by Section 32(1) and (3), paragraph 1(2) of schedule 3 and paragraph 1(2) of schedule 5 of the Tribunals (Scotland) Act 2014 (the 2014 Act).

Purpose of the Instrument:
The purpose of the Instrument is to amend the First-tier Tribunal for Scotland (Eligibility for Appointment) Regulations 2015.
Those regulations, as amended, set the eligibility criteria for appointment of legal members of the First-tier Tribunal, legal members of the Upper Tribunal, and ordinary members of the First-tier Tribunal with tax experience, housing, property or surveying experience, health and education experience, or with charity regulatory experience.

Policy Objectives

2. The 2014 Act specifies that the First-tier Tribunal may comprise ordinary and legal members and specifies the eligibility requirements for legal members.

3. These regulations create eligibility criteria for ordinary members of the First-tier Tribunal Local Taxation Chamber with either valuation experience or surveyor rating experience and for ordinary members of the Upper Tribunal for Scotland with surveyor experience.

4. A person will be eligible for appointment as an ordinary member of the First-tier Tribunal for Scotland (valuation experience) if the person lives, works or runs a business in a valuation area, and has substantial experience of the valuation of domestic or non-domestic properties. This is to ensure ordinary members hearing appeals have local knowledge and appropriate expertise. The detailed meaning of 'substantial experience' is set out in the regulations.

5. A person will be eligible for appointment as an ordinary member of the First-tier Tribunal for Scotland (surveyor rating experience) if the person is, or has within the last 5 years been, a member or fellow of RICS and has substantial experience as a surveyor in rating matters. This is to ensure members have a recent unbroken track record of expertise in the relevant matters which will be the subject of appeals to the Tribunal. The detailed meaning of 'substantial experience' is set out in the regulations.

6. A person will be eligible for appointment as an ordinary member of the Upper Tribunal for Scotland (surveyor experience) if the person is a member or fellow of RICS and has at least 10 years' experience as such a member or fellow in matters relating to valuation for rating. We consider this level of expertise and experience necessary to discharge the functions of ordinary members of the Upper Tribunal.

7. 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

8. A consultation took place in July 2021 with stakeholders considered most likely to be affected or to have an interest in the measures, including members and secretaries of the Valuation Appeals Panels and the senior convenor of the Council Tax Reduction Review Panel. Seven responses were received.
As a result of the responses received the regulations were revised to –

(i) ensure that the eligibility criteria were wide enough to ensure that membership and past membership of the Institute of Revenues Rating and Valuation with experience of non-domestic rating and council tax administration were included, and
(ii) amend the qualifying criteria for fellows and members of The Royal Institution of Chartered Surveyors ("RICS") to ensure an appropriate level of experience for members.

Impact Assessments

9. An equality impact assessment has already been completed on 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
23 September 2021