

Draft Regulations laid before the Scottish Parliament under section 79(2)(d) of the Tribunals (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

TRIBUNALS AND INQUIRIES

**The Scottish Tribunals (Offences in
Relation to Proceedings) Regulations 2016**

Made - - - - 2016
Coming into force - - 1st December 2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 67(1) of the Tribunals (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 67(3) of that Act, the Scottish Ministers have obtained the Lord President's approval for the making of these Regulations.

In accordance with section 79(2)(d) 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 Scottish Tribunals (Offences in Relation to Proceedings) Regulations 2016 and come into force on 1st December 2016.

Offences in relation to proceedings before the Scottish Tribunals

2.—(1) In any proceedings before the First-tier Tribunal or the Upper Tribunal it is an offence for any person to—

- (a) make a false statement in an application in a case;
- (b) alter, conceal or destroy, or fail to produce, something that is required to be produced in accordance with Tribunal Rules; or
- (c) fail to attend or give evidence, when required to do so in accordance with Tribunal Rules.

(2) It is a defence for a person charged with an offence—

- (a) under paragraph (1)(a), to prove that the false statement was not knowingly made;
- (b) under paragraph (1)(b), to prove that a thing was not knowingly altered, concealed or destroyed;

(1) 2014 asp 10.

- (c) under paragraph (1)(b) or (c), to prove that there was a reasonable excuse for having acted in the way charged.
- (3) A person who commits an offence under paragraph (1) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine not exceeding £5,000 (or both).

Circumstances in which a person need not give evidence or produce something to the Scottish Tribunals

3. In any proceedings before the First-tier Tribunal or the Upper Tribunal a person need not give evidence or produce something which the person would be entitled to refuse to give or produce in proceedings in a court in Scotland.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Tribunals (Scotland) Act 2014 created a new structure for tribunals dealing with devolved matters under the judicial leadership of the Lord President of the Court of Session as head of the Scottish Tribunals. It created a First-tier Tribunal and an Upper Tribunal.

Generally, the First-tier Tribunal will deal with cases in the first instance to which a general right of appeal will lie to the Upper Tribunal.

These Regulations create offences in proceedings before the Scottish Tribunals.

Regulation 2 provides for offences in relation to proceedings before the Scottish Tribunals, grounds of defence and the associated maximum penalties.

Regulation 3 provides for the circumstances in which a person need not give evidence or produce something to the Scottish Tribunals. The circumstances include when evidence or material is privileged.