

POLICY NOTE

THE SCOTTISH TAX TRIBUNALS (ELIGIBILITY FOR APPOINTMENT) REGULATIONS 2014

SSI 2014/355

The above instrument was made in exercise of the powers conferred by paragraphs 2(3) and 9(1)(a) and (b) of schedule 2 to the Revenue Scotland and Tax Powers Act 2014 (“RSTPA 2014”). The instrument is subject to the negative procedure.

Policy Objectives

Firstly, the regulations set eligibility criteria for appointment as an ordinary member of the First-tier Tax Tribunal for Scotland. Regulation 2 provides that for a person to be eligible to be appointed as an ordinary member of the First-tier Tax Tribunal for Scotland they must be a member of Chartered Institute of Taxation; an accountant who is a member of one of the listed accountancy bodies; or have substantial experience in tax matters and related procedures obtained in one of the listed sectors.

Further, paragraphs 4(1) and 6(1) of schedule 2 to RSTPA 2014 require that for a person to be eligible for appointment as a legal member of the First-tier Tax Tribunal for Scotland or the Upper Tax Tribunal for Scotland they must be practising as a solicitor or advocate in Scotland and have practised for a period of not less than 5 or 10 years respectively. Regulations 3 and 4 provide that the qualifying period need not be continuous. So for example if a period of maternity or other leave fell during a period of 5 or 10 year practice, then the person would be eligible for appointment as a legal member of either the First-tier Tax Tribunal for Scotland or the Upper Tax Tribunal for Scotland.

Consultation

A public consultation opened on 6 October 2014 on the proposed subordinate legislation under RSTPA 2014, including draft SSIs with an early closing date of the 31 October in respect of this particular SSI. The consultation paper and draft SSI is available at <http://www.scotland.gov.uk/Publications/2014/10/4714>. A full list of those consulted and the responses of those who agreed to the release of this information and the Scottish Government response will be published after the consultation on the other draft SSIs has closed on the 9 January 2014. The Scottish Government has modified the eligibility criteria for appointment as an ordinary member of the First-tier Tax Tribunal for Scotland as a result of the consultation.

Impact Assessments

An equality impact assessment has been completed on the Revenue Scotland and Tax Powers Bill and is attached available at <http://www.scotland.gov.uk/Publications/2014/10/4242>. The instrument is consequential in nature and no further impact assessments are required.

Financial Effects

The costs associated with the establishment of the Scottish Tax Tribunals were detailed in the Financial Memorandum that accompanied the Bill for RSTPA 2014 and is available at <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/70929.aspx>

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Fiscal Responsibility Division
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