

POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND (TRANSFER OF FUNCTIONS OF THE SCOTTISH CHARITY APPEALS PANEL) REGULATIONS 2018

SSI 2018/1

1. The above instrument was made in exercise of the powers conferred by sections 20(2), 28(2) and (6) and 79(1) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014 (the 2014 Act).

Policy Objectives

2. The 2014 Act allows the Scottish Ministers to transfer the functions of tribunals listed in schedule 1 of the Act to the Scottish Tribunals.

3. These regulations transfer into the Scottish Tribunals the existing functions of the Scottish Charity Appeals Panel (SCAP) in so far as practicable. Upon transfer the SCAP will be abolished and first decisions will be heard in the First-tier Tribunal for Scotland, General Regulatory Chamber (First-tier Tribunal) with onward appeals to the Upper Tribunal for Scotland (Upper Tribunal).

4. These regulations also set out transitional arrangements for the handling of cases during transfer. Cases in progress on the day of transfer will be continued in the First-tier Tribunal with the same members dealing with the case, wherever possible. Unexercised rights of appeal will be to the Upper Tribunal, in place of the Court of Session. If a party has already exercised its right of appeal to the Court of Session prior to the transfer day then the appeal will continue in the Court of Session.

5. Existing members of the SCAP will transfer to the First-tier Tribunal General Regulatory Chamber as long as they meet the relevant eligibility criteria as set out in regulations ((SSI 2015/381 and SSI 2017/274).

6. Upon reaching the age of 70, legal and ordinary members will only be eligible to remain in office by virtue of section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993. This allows members to continue in office on an annual rolling basis up until reaching the age of 75 if the Scottish Ministers, following consultation with the President of Tribunals, consider it is in the public interest.

7. 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

8. 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

9. 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>

10. An Equality Impact Assessment is not required for these regulations.

11. 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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