

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

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

TRIBUNALS AND INQUIRIES

The First-tier Tribunal for Scotland (Transfer of Functions of the First-tier Tax Tribunal for Scotland) Regulations 2017

Made - - - - 2017
Coming into force - - 24th April 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20(2), 28(2) and 79(1)(b) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 11(1)(a) and (b) of that Act, the Scottish Ministers have obtained the Lord President's approval and have consulted such other persons as they considered appropriate.

In accordance with section 79(2)(a) and (b) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland (Transfer of Functions of the First-tier Tax Tribunal for Scotland) Regulations 2017 and come into force on 24th April 2017.

(2) In these Regulations—

the “2014 Act” means the Tribunals (Scotland) Act 2014; and

the “functions of the First-tier Tax Tribunal for Scotland” means the functions exercised by the First-tier Tax Tribunal for Scotland by virtue of section 21(2) of the Revenue Scotland and Tax Powers Act 2014⁽²⁾.

Transfer of functions of the First-tier Tax Tribunal for Scotland to the First-tier Tribunal and abolition of First-tier Tax Tribunal for Scotland

2.—(1) The functions of the First-tier Tax Tribunal for Scotland are transferred to the First-tier Tribunal with allocation to the First-tier Tribunal Tax Chamber.

(1) 2014 asp 10.
(2) 2014 asp 16.

- (2) The First-tier Tax Tribunal for Scotland is abolished.

Transfer of members of the First-tier Tax Tribunal for Scotland to the First-tier Tribunal

3.—(1) Subject to paragraphs (2) and (3), the members of the First-tier Tax Tribunal for Scotland on the coming into force of these Regulations are transferred to and become members of the First-tier Tribunal, with—

- (a) legal members of the First-tier Tax Tribunal for Scotland becoming legal members of the First-tier Tribunal; and
- (b) ordinary members of the First-tier Tax Tribunal for Scotland becoming ordinary members of the First-tier Tribunal.

(2) Members of the First-tier Tax Tribunal transferred to the First-tier Tribunal under paragraph (1) shall (subject to the provisions of the 2014 Act) be members of the First-tier Tribunal in accordance with terms and conditions to be offered by the Scottish Ministers on transfer, which will supersede any existing terms and conditions of appointment.

(3) Paragraph (1) does not apply to any member of the First-tier Tax Tribunal for Scotland if the member has already been transferred to and is a member of the First-tier Tribunal by virtue of regulations made under section 28(2) of the Act which were in force prior to these Regulations coming into force.

Transitional provisions

4. The schedule of these Regulations contains transitional provisions.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 4

Transitional provisions

Appeals, applications, referrals and proceedings in progress before the First-tier Tax Tribunal for Scotland immediately before 24th April 2017 to transfer to the First-tier Tribunal

5. Any appeal, application and referral to the First-tier Tax Tribunal for Scotland in progress immediately before 24th April 2017 but not yet determined and any proceedings of the First-tier Tax Tribunal for Scotland in progress immediately before that date shall be transferred to and be completed by the First-tier Tribunal but with so far as possible the same persons hearing and determining the case before the First-tier Tribunal as members of that tribunal as were prior to 24th April 2017 hearing the case as members of the First-tier Tax Tribunal for Scotland.

Decisions, directions and orders of the First-tier Tax Tribunal for Scotland to continue in force

6. Any decision (whether or not called a decision), direction or order given or made in appeals, applications and referrals to, and proceedings before, the First-tier Tax Tribunal for Scotland which is in force immediately before 24th April 2017 remains in force on and after that date as if it were a decision, direction or order of the First-tier Tribunal.

Time limits in respect of appeals, applications, referrals to, and proceedings before, the First-tier Tax Tribunal for Scotland to carry over to the First-tier Tribunal

7. Any time limit which has started to run before 24th April 2017 in respect of appeals, applications and referrals to, and proceedings before, the First-tier Tax Tribunal for Scotland (and which has not expired) shall continue to apply where appeals, applications, referrals and proceedings are transferred to the First-tier Tribunal.

Unexercised right of appeal to Upper Tax Tribunal for Scotland, if exercised, is an appeal to the Upper Tribunal

8. Where in respect of a decision of the First-tier Tax Tribunal for Scotland before 24th April 2017, there lies a right of appeal to the Upper Tax Tribunal for Scotland, which has not been exercised before that date but is still exercisable, any appeal on or after 24th April 2017 shall be to the Upper Tribunal as if the decision had been made by the First-tier Tribunal and the appeal shall be an appeal from the First-tier Tribunal for the purposes of section 46(1) of the 2014 Act.

Exercised right of appeal to the Upper Tax Tribunal for Scotland shall be completed by the Upper Tribunal

9. Where in respect of a decision of the First-tier Tax Tribunal for Scotland before 24th April 2017, there lies a right of appeal to the Upper Tax Tribunal for Scotland which has been exercised before that date, the appeal shall transfer to and be completed by the Upper Tribunal in accordance with paragraph 1 of the schedule of the Upper Tribunal for Scotland (Transfer of Functions of the Upper Tax Tribunal for Scotland) Regulations 2017(3).

EXPLANATORY NOTE

(This note is not part of the Regulations)

The First-tier Tax Tribunal for Scotland was set up by the Revenue Scotland and Tax Powers Act 2014 to deal with disputes in respect of devolved taxes with appeals to the Upper Tax Tribunal for Scotland.

These Regulations follow the subsequent establishment by the Tribunals (Scotland) Act 2014 of a single, but chambered, First-tier Tribunal for Scotland, with an appeal to a single Upper Tribunal for Scotland.

The functions of the various current tribunals will be integrated into the First-tier Tribunal for Scotland according to the subject-matter of the chambers.

These Regulations make provision for the transfer into the First-tier Tribunal for Scotland of the functions and members of the First-tier Tax Tribunal for Scotland.