

*These draft Regulations supersede the draft Regulations of the same title which were laid before the Scottish Parliament on 3rd February 2017 and published on 6th February 2017 (ISBN 978-0-11-103457-6). They are being issued free of charge to all known recipients of those draft Regulations.*

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

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2017 No.**

**TRIBUNALS AND INQUIRIES**

**The Upper Tribunal for Scotland (Transfer of Functions  
of the Upper 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 28(2) and 79(1)(b) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 79(2)(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 Upper Tribunal for Scotland (Transfer of Functions of the Upper 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 Upper Tax Tribunal for Scotland” means the functions exercised by the Upper Tax Tribunal for Scotland by virtue of section 21(4) of the Revenue Scotland and Tax Powers Act 2014<sup>(2)</sup>.

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(1) 2014 asp 10.

(2) 2014 asp 16.

**Transfer of functions of the Upper Tax Tribunal for Scotland to the Upper Tribunal and abolition of Upper Tax Tribunal for Scotland**

2.—(1) The functions of the Upper Tax Tribunal for Scotland are transferred to the Upper Tribunal.

(2) The Upper Tax Tribunal for Scotland is abolished.

**Transfer of members of the Upper Tax Tribunal for Scotland to the Upper Tribunal**

3.—(1) Subject to paragraph (2), the members of the Upper Tax Tribunal for Scotland on the coming into force of these Regulations are transferred to and become legal members of the Upper Tribunal.

(2) Members of the Upper Tax Tribunal for Scotland transferred to the Upper Tribunal under paragraph (1) shall (subject to the provisions of the 2014 Act) be legal members of the Upper 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.

**Transitional and savings provisions**

4. The schedule of these Regulations contains transitional and savings provisions.

St Andrew's House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## SCHEDULE

Regulation 4

### Transitional and savings provisions

#### **Appeals, applications, referrals and proceedings in progress before the Upper Tax Tribunal for Scotland immediately before 24th April 2017 to transfer to the Upper Tribunal**

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

#### **Decisions, directions and orders of the Upper Tax Tribunal for Scotland to continue in force**

2. Any decision (whether or not called a decision), direction or order given or made in appeals, applications and referrals to, and proceedings before, the Upper 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 Upper Tribunal.

#### **Time limits in respect of appeals, applications, referrals to, and proceedings before, the Upper Tax Tribunal for Scotland to carry over to the Upper Tribunal**

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

#### **Unexercised right of appeal to Court of Session, if exercised, remains as an appeal to the Court of Session**

4. Where in respect of a decision of the Upper Tax Tribunal for Scotland before 24th April 2017, there lies a right of appeal to the Court of Session, which has not been exercised before that date but is still exercisable, any appeal on or after 24th April 2017 shall continue to be to the Court of Session as if the decision had been made by the Upper Tribunal and the appeal shall be an appeal from the Upper Tribunal for the purposes of section 48(1) of the 2014 Act

#### **Savings provision**

5. Where in respect of a decision of the Upper Tax Tribunal for Scotland before 24th April 2017, there lies a right of appeal to the Court of Session which has been exercised before that date, the appeal shall continue as an appeal from the Upper Tribunal to the Court of Session.

## **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 Upper Tribunal for Scotland of the functions and members of the Upper Tax Tribunal for Scotland. Also any appeal, application and referral to the Upper Tax Tribunal for Scotland in progress immediately before 24th April 2017 but not yet determined and any proceedings of the Upper Tax Tribunal for Scotland in progress immediately before that date shall be transferred to and be completed by the Upper Tribunal as if they were appeals, applications and referrals to the Upper Tribunal or proceedings in the Upper Tribunal, which means that such proceedings shall be heard under the law applicable to the Upper Tribunal.