

*These draft Regulations supersede the draft Regulations of the same title which were laid before the Scottish Parliament on 9th November 2017 and published on 10th November 2017 (ISBN 978-0-11-103727-0). 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)(c) 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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**2018 No.**

**TRIBUNALS AND INQUIRIES**

**The First-tier Tribunal for Scotland General Regulatory  
Chamber Charity Appeals Cases and Upper Tribunal  
for Scotland (Composition) Regulations 2018**

*Made - - - - 2018*  
*Coming into force - - 12th January 2018*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10(2) and (3), 38(1) and 40(1) of the Tribunals (Scotland) Act 2014<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 11(2) of that Act, they have consulted the President of Tribunals.

In accordance with section 79(2)(c) 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 General Regulatory Chamber Charity Appeals Cases and Upper Tribunal for Scotland (Composition) Regulations 2018 and come into force on 12th January 2018.

(2) In these Regulations—

“Chamber President” means the Chamber President of the First-tier Tribunal;

“Charity Appeals Case” means proceedings before the First-tier Tribunal for Scotland General Regulatory Chamber, when exercising the functions allocated to it by regulation 2(1) of the

First-tier Tribunal for Scotland (Transfer of Functions of the Scottish Charity Appeals Panel) Regulations 2018(2); and

“First-tier Tribunal” means the First-tier Tribunal for Scotland General Regulatory Chamber.

### **Composition of First-tier Tribunal**

2.—(1) The First-tier Tribunal, when convened at the start of proceedings to decide any matter in a Charity Appeals Case, must consist of three members, one of whom must be a legal member who is to act as chairing member.

(2) When convened in terms of paragraph (1), the two members other than the chairing member must be:—

- (a) two legal members;
- (b) a legal and an ordinary member; or
- (c) two ordinary members.

(3) The authority to determine the composition of the First-tier Tribunal in respect of the alternative compositions referred to in paragraph (2) is delegated to the President of Tribunals, who may sub-delegate the authority to the Chamber President.

### **Composition of Upper Tribunal hearing appeals from First-tier Tribunal**

3.—(1) The Upper Tribunal, when deciding an appeal to the Upper Tribunal in a Charity Appeals Case decided by the First-tier Tribunal, must consist of—

- (a) a Court of Session judge, acting either alone or with another judicial member of the Upper Tribunal;
- (b) the President of Tribunals, acting either alone or with another judicial member of the Upper Tribunal;
- (c) the Lord President, acting either alone or with another judicial member of the Upper Tribunal; or
- (d) the Chamber President (except a temporary Chamber President), acting either alone or with another judicial member of the Upper Tribunal.

(2) The Chamber President referred to in paragraph (1) must not have had any involvement in the case prior to the appeal of the case to the Upper Tribunal.

(3) In this regulation “judicial member of the Upper Tribunal” means a judge of the Court of Session.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision as to the composition of the First-tier Tribunal for Scotland when dealing with Charity Appeals cases in the General Regulatory Chamber. They also make provision as to the composition of the Upper Tribunal for Scotland when hearing Charity Appeals cases from the First-tier Tribunal for Scotland General Regulatory Chamber.

These two tribunals were established by the Tribunals (Scotland) Act 2014. The First-tier Tribunal is divided into chambers according to the subject matter of the case, with the General Regulatory Chamber projected to deal with a range of diverse matters including Charity Appeals. Members of the tribunals can be ordinary members, legal members or judicial members according to criteria set out in the Tribunals (Scotland) Act 2014 and regulations made under that Act. This instrument sets out which member or members may hear cases in the two tribunals.