

## **POLICY NOTE**

### **THE FIRST-TIER TRIBUNAL FOR SCOTLAND HEALTH AND EDUCATION CHAMBER AND GENERAL REGULATORY CHAMBER CHARITY APPEALS (PROCEDURE) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2017**

#### **SSI 2017/398**

The above instrument was made in exercise of the powers conferred by paragraph 4(2) of Schedule 9 of the Tribunals (Scotland) Act 2014 (the 2014 Act). In accordance with paragraph 4(3) of Schedule 9 to the 2014 Act the President of Tribunals has been consulted on these regulations.

#### **Policy Objectives**

The 2014 Act allows rules to be made to regulate the practice and procedure of both the First-tier and Upper Tribunals. Paragraph 4(2) of Schedule 9 of the 2014 Act allows rules to be made by the Scottish Ministers until such time as responsibility for rule making passes to the Court of Session.

The First-tier Tribunal for Scotland Health and Education Chamber and the General Regulatory Chamber (Procedure) Regulations 2018 set out the rules of procedure that are to apply in the First-tier Tribunal Health and Education Chamber (referred to here as the Health and Education Chamber Rules).

In rules 32, 33, 78 and 79 of the Health and Education Chamber Rules, it states that a person guilty of an offence in proceedings is liable on summary conviction to a fine not exceeding level 5 on the standard scale. This is not accurate as the Scottish Tribunals (Offences in Relation to Proceedings) Regulations 2016<sup>1</sup> provide that a person who commits an offence is liable on summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 (or both), or on indictment to imprisonment for a term not exceeding 2 years or a fine not exceeding £5,000 (or both). These regulations correct this anomaly.

This instrument also corrects paragraph (7) of rule 84 of the Health and Education Chamber Rules which makes provision enabling the persons, as well as the parties and their representatives, to attend a private hearing of a disability claim under paragraph 8 of schedule 17 of the Equality Act 2010. This includes in subparagraph (a) of paragraph (7) "the person to whom the claim relates, where the person is the claimant". This reference is superfluous as rule 60 already defines a "party" as including the claimant.

These regulations correct rule 92 of the Health and Education Chamber Rules. The text of paragraphs (2) and (3) should all be in paragraph (2), there should not be a full stop at the end of paragraph (2), and as a result paragraphs (2) to (5) should be re-numbered (2) to (4). These regulations make those corrections.

These regulations also correct the citation at regulation 1(1) of the First-tier Tribunal for Scotland General Regulatory Chamber Charity Appeals (Procedure) Regulations 2017. This

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<sup>1</sup> <http://www.legislation.gov.uk/ssi/2016/342/made>

should read “the First-tier Tribunal for Scotland General Regulatory Chamber (Charity Appeals) Rules of Procedure 2018”.

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>

### **Impact Assessments**

As these regulations make technical amendments to the First-tier Tribunal Health and Education Chamber and General Regulatory Chamber Charity Appeals Procedural regulations we do not consider there is a requirement for any Impact Assessments on this occasion.

An Equality Impact Assessment was completed for the Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016 – see link below:

<http://www.gov.scot/Publications/2016/08/9309>

An Equality Impact Assessment was also completed for the Tribunals (Scotland) Bill – see link below:

<http://www.scotland.gov.uk/Resource/0042/00421637.pdf>

Scottish Government  
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