

*These notes relate to the Revenue Scotland and Tax Powers Act 2014 (asp 16) which received Royal Assent on 24 September 2014*

# REVENUE SCOTLAND AND TAX POWERS ACT 2014

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## EXPLANATORY NOTES

### THE ACT

#### **Part 4 – the Scottish Tax Tribunals**

#### *Chapter 8 — Practice and Procedure*

#### **Tribunal rules: general**

#### *Section 51 – Tribunal rules*

65. This section provides for rules regulating the practice and procedure for both tiers of the Scottish Tax Tribunals to be established (subsection (1)), to be known as Scottish Tax Tribunal Rules (subsection (2)). Tribunal rules are to be contained in negative regulations made by the Scottish Ministers, as prescribed in subsection (3). Before making regulations the Scottish Ministers must consult the President of the Scottish Tribunals referred to in section 4 of the Tribunals (Scotland) Act 2014 and such other persons as they consider appropriate.

#### *Section 52 – Exercise of functions*

66. This section provides that tribunal rules may state, in relation to functions exercised by members of the Tax Tribunals, how and by whom a function is to be exercised. They may provide for something to require further authorisation, permit something to be done on a person's behalf and allow specified persons to make certain decisions.

#### *Section 53 – Extent of rule-making*

67. This section provides that tribunal rules may apply to both tribunals or specifically to one or other tribunal. They may make particular provision for different types of proceedings or purposes.

#### **Particular matters**

#### *Section 54 – Proceedings and steps*

68. This section sets out that tribunal rules may make provision for proceedings of a case before the tax tribunal. In particular, they may detail how a case is to be brought, allow for the withdrawal of a case, set time limits for applications and taking particular steps, allow for two or more cases to be conjoined and specify when the tribunals may act on their own initiative.

***Section 55 – Hearings in cases***

69. This section sets out that tribunal rules may provide for when matters can be dealt with without a hearing, in a private hearing or at a public hearing. They will also detail when notice of a hearing has to be given, who may appear on behalf of a party in a case and who may attend to provide support to a party in a case or as a witness in a case. Tribunal rules will also detail when particular persons may appear or be represented at a hearing, and specify when a hearing may go ahead without notice in the absence of a particular member. Tribunal rules may also allow two or more sets of proceedings to be taken concurrently and may also cover when a case may be adjourned to allow the parties to try and resolve the dispute by alternative dispute resolution methods. The tribunal rules will also set out when reporting restrictions may be imposed.

***Section 56 – Evidence and decisions***

70. This section sets out that tribunal rules will cover giving evidence and administering oaths. Tribunal rules will also provide for the payment of expenses to persons giving evidence in certain circumstances. Rules might also, for example, state that a document which had been posted to a person would be presumed to have been duly served on that person, unless the contrary was proved. Tribunal rules may also make provisions relating to decisions of the Tax Tribunals, including how decisions are made, the incorporation of findings of fact, the recording of, issuing of and publication of such decisions.

**Issuing directions**

***Section 57 – Practice directions***

71. This section sets out that the President of the Tax Tribunals may issue directions relating to practice and procedure in both the First-tier and Upper Tribunal. Directions may include guidance and instruction on decision making, may revoke earlier directions and may make different provision for different purposes. Such directions may be published in a way the President thinks appropriate.