
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 381

TRIBUNALS AND INQUIRIES

**The Scottish Tribunals (Eligibility
for Appointment) Regulations 2015**

Made - - - - *5th November 2015*
Laid before the Scottish
Parliament - - - - *9th November 2015*
Coming into force - - *1st January 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 32(1) and (3) of, paragraphs 1(2), 5(2), 6 and 7(1) of schedule 3 to, and paragraphs 5(2), 6 and 7(1) of schedule 5 to, the Tribunals (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Scottish Tribunals (Eligibility for Appointment) Regulations 2015 and come into force on 1st January 2016.

(2) In these Regulations, “the Act” means the Tribunals (Scotland) Act 2014.

Eligibility for appointment as an ordinary member of the First-tier Tribunal for Scotland (tax experience)

2.—(1) A person is eligible for appointment as an ordinary member of the First-tier Tribunal for Scotland if paragraph (2), (3) or (4) applies to the person.

(2) This paragraph applies to a person who is a member of the Chartered Institute of Taxation.

(3) This paragraph applies to a person who is a member of—

- (a) the Institute of Chartered Accountants of Scotland;
- (b) the Institute of Chartered Accountants in England and Wales;
- (c) the Institute of Chartered Accountants in Ireland;
- (d) the Institute of Certified Public Accountants in Ireland;
- (e) the Association of Chartered Certified Accountants;
- (f) the Chartered Institute of Management Accountants; or

(1) 2014 asp 10.

(g) the Chartered Institute of Public Finance and Accountancy.

(4) Subject to paragraph (5), this paragraph applies to a person who has substantial experience in tax matters and related tax procedures (whether obtained in a business, trade, charity or not-for-profit organisation, or in a profession or in academia).

(5) Paragraph (4) does not apply where a person is a former member of any of the professional bodies listed in paragraphs (2) and (3), if the person has been debarred from the person's professional body or if the person has been subject to any sanction that would have led to such debarment had the person not ceased to belong to the professional body.

Eligibility for appointment as an ordinary member of the First-tier Tribunal for Scotland (housing, property or surveying experience)

3.—(1) A person is eligible for appointment as an ordinary member of the First-tier Tribunal for Scotland if paragraph (2) or (3) applies to the person.

(2) This paragraph applies to a person who has substantial relevant housing or property experience.

(3) This paragraph applies to a person who has substantial relevant surveying experience.

(4) Paragraph (2) or (3) applies to a person, whether the person has obtained the substantial relevant housing, property or surveying experience in a business, trade, charity or not-for-profit organisation, or in a profession or in academia.

(5) In this regulation—

“relevant housing or property experience” means experience in—

- (a) matters relating to landlord and tenant relationships;
- (b) housing matters (including as regards private rented sector, letting agency and factoring matters); or
- (c) land and property management matters; and

“relevant surveying experience” means experience in surveying related to housing and building conditions as a member or fellow (or former member or fellow) of the Royal Institution of Chartered Surveyors (“RICS”), but such experience does not count as relevant experience where a person is a former member or fellow of RICS, if the person has been debarred from RICS or if the person has been subject to any sanction that would have led to such debarment had the person not ceased to belong to RICS.

Eligibility for appointment as a legal member of the First-tier Tribunal for Scotland

4.—(1) A person is eligible for appointment as a legal member of the First-tier Tribunal for Scotland under paragraph 5(2) of schedule 3 to the Act if the person qualifies under paragraph (2).

(2) Subject to paragraph (5), a person qualifies under this paragraph, if the person has had—

- (a) previous engagement in practice for a period of not less than 5 years as a solicitor or advocate in Scotland; and
- (b) subsequent engagement in any of the activities listed in paragraph (3).

(3) The activities are—

- (a) exercising judicial functions in any court or tribunal;
- (b) practice or employment as a lawyer of any kind;
- (c) teaching or researching law at or for an educational institution.

(4) The 5 year period referred to in paragraph (2)(a) (and the 5 year period referred to in paragraph 5(1) of schedule 3 to the Act) may be calculated on a cumulative or a continuous basis.

(5) A person is not to be treated as having satisfied paragraph (2)(a), if the person has been debarred from the person's professional body or if the person has been subject to any sanction that would have led to such debarment had the person not ceased to belong to the professional body.

Eligibility for appointment as a legal member of the Upper Tribunal for Scotland

5.—(1) A person is eligible for appointment as a legal member of the Upper Tribunal for Scotland under paragraph under paragraph 5(2) of schedule 5 to the Act if the person qualifies under paragraph (2).

(2) Subject to paragraph (5), a person qualifies under this paragraph, if the person has had—

(a) previous engagement in practice for a period of not less than 7 years as a solicitor or advocate in Scotland; and

(b) subsequent engagement in any of the activities listed in paragraph (3).

(3) The activities are—

(a) exercising judicial functions in any court or tribunal;

(b) practice or employment as a lawyer of any kind.

(4) The 7 year period referred to in paragraph (2)(a) (and the 7 year period referred to in paragraph 5(1) of schedule 5 to the Act) may be calculated on a cumulative or a continuous basis.

(5) A person is not to be treated as having satisfied paragraph (2)(a), if the person has been debarred from the person's professional body or if the person has been subject to any sanction that would have led to such debarment had the person not ceased to belong to the professional body.

St Andrew's House, Edinburgh
5th November 2015

PAUL WHEELHOUSE
Authorised to sign by the Scottish Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set eligibility criteria for appointments as legal members of the First-tier Tribunal for Scotland and Upper Tribunal for Scotland. They also provide eligibility criteria for appointment of ordinary members of the First-tier Tribunal. In the case of the ordinary members the criteria cover experience in tax matters (regulation 2) and experience in housing, property or surveying matters (regulation 3).