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Justice Committee

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Justice Committee

Remit: To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



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Douglas Ross
Scottish Conservative
and Unionist Party



Stewart Stevenson
Scottish National Party

Introduction

1. At its meeting on 14 March 2017 the Committee considered the following instruments—

[First-tier Tribunal for Scotland Tax Chamber and Upper Tribunal for Scotland \(Composition\) Regulations 2017 \[draft\]](#);

[Tribunals \(Scotland\) Act 2014 \(Ancillary Provisions\) Regulations 2017 \[draft\]](#);

[First-tier Tribunal for Scotland \(Transfer of Functions of the First-tier Tax Tribunal for Scotland\) Regulations 2017 \[draft\]](#);

[Upper Tribunal for Scotland \(Transfer of Functions of the Upper Tax Tribunal for Scotland\) Regulations 2017 \[draft\]](#).

2. The instruments were referred to the Justice Committee as lead committee and were subject to affirmative procedure. The Minister for Community Safety and Legal Affairs, Annabelle Ewing, attended the meeting to give evidence on the instruments and also to move the relevant motions recommending approval of the instruments¹.

First-tier Tribunal for Scotland Tax Chamber and Upper Tribunal for Scotland (Composition) Regulations 2017 [draft]

3. This instrument is made under sections 38(1) and 40(1) of the Tribunals (Scotland) Act 2014. The Regulations make provision as to the composition of the First-tier Tribunal for Scotland when dealing with a case in the Tax Chamber. They also make provision as to the composition of the Upper Tribunal for Scotland when hearing appeals or referrals from the First-tier Tribunal for Scotland Tax Chamber.

Tribunals (Scotland) Act 2014 (Ancillary Provisions) Regulations 2017 [draft]

4. This instrument is made under sections 80(1) and (2)(a) of the Tribunals (Scotland) Act 2014. The Regulations repeal Part 4 and schedule 2 of the Revenue Scotland and Tax Powers Act 2014 and revoke 4 instruments that relate to the Scottish Tax Tribunals and that were made under those provisions. The Regulations also amend section 249 of that Act to reflect the establishment of the Scottish Tribunals.

First-tier Tribunal for Scotland (Transfer of Functions of the First-tier Tax Tribunal for Scotland) Regulations 2017 [draft]

5. This instrument is made under sections 20(2), 28(2) and (6) and 79(1) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014. The Regulations make provision for the transfer into the First-tier Tribunal for Scotland of the functions and members of the First-tier Tax Tribunal for Scotland.

Upper Tribunal for Scotland (Transfer of Functions of the Upper Tax Tribunal for Scotland) Regulations 2017 [draft]

6. This instrument is made under sections 28(2) and (6) and 79(1), and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014. The Regulations make provision for the transfer into the Upper Tribunal for Scotland of the functions and members of the Upper Tax Tribunal for Scotland.

Delegated Powers and Law Reform Committee consideration

7. The Delegated Powers and Law Reform (DPLR) Committee considered the draft First-tier Tribunal for Scotland Tax Chamber and Upper Tribunal for Scotland (Composition) Regulations 2017 and the draft Tribunals (Scotland) Act 2014 (Ancillary Provisions) Regulations 2017 at its meeting on 21 February 2017 and agreed that it did not need to draw them to the attention of the Parliament on any grounds within its remit.
8. The DPLR Committee considered the draft First-tier Tribunal for Scotland (Transfer of Functions of the First-tier Tax Tribunal for Scotland) Regulations 2017 and the draft Upper Tribunal for Scotland (Transfer of Functions of the Upper Tax Tribunal for Scotland) Regulations 2017 at its meeting on 28 February 2017 and agreed that it did not need to draw them to the attention of the Parliament on any grounds within its remit.

Justice Committee consideration

9. The Justice Committee considered the draft instruments at its meeting on 14 March 2017 when Annabelle Ewing, Minister for Community Safety and Legal Affairs, attended to give evidence on the instruments.
10. The Minister told the Committee that the four instruments formed a suite of fairly technical regulations which will transfer the Scottish tax tribunals to the Scottish tribunals structure created by the Tribunals (Scotland) Act 2014.
11. Ms Ewing explained that provisions in the First-tier Tribunal for Scotland Tax Chamber and Upper Tribunal for Scotland (Composition) Regulations 2017 mirrored the existing composition of the First-tier Tax Tribunal and set out the composition of the Upper Tribunal when hearing appeals.
12. The Minister confirmed that the Tribunals (Scotland) Act 2014 (Ancillary Provisions) Regulations 2017 revoked a number of regulations, the provisions of which are now covered by provisions in the Tribunals (Scotland) Act 2014.

13. Finally, Ms Ewing confirmed that the First-tier Tribunal for Scotland (Transfer of Functions of the First-tier Tax Tribunal for Scotland) Regulations 2017 and the Upper Tribunal for Scotland (Transfer of Functions of the Upper Tax Tribunal for Scotland) Regulations 2017 simply transfer the functions and members of the First-tier Tax Tribunal to the First-tier Tribunal for Scotland Tax Chamber and the functions and members of the Upper Tax Tribunal to the Upper Tribunal for Scotland.
14. There being no questions for the Minister from members, Ms Ewing moved the motions lodged in her name—

S5M-04151—That the Justice Committee recommends that the First-tier Tribunal for Scotland Tax Chamber and Upper Tribunal for Scotland (Composition) Regulations 2017 [draft] be approved.

S5M-04153—That the Justice Committee recommends that the Tribunals (Scotland) Act 2014 (Ancillary Provisions) Regulations 2017 [draft] be approved.

S5M-04336—That the Justice Committee recommends that the First-tier Tribunal for Scotland (Transfer of Functions of the First-tier Tax Tribunal for Scotland) Regulations 2017 [draft] be approved.

S5M-04337—That the Justice Committee recommends that the Upper Tribunal for Scotland (Transfer of Functions of the Upper Tax Tribunal for Scotland) Regulations 2017 [draft] be approved.

15. The motions were agreed to without debate or dissent.

16. The Justice Committee recommends to the Parliament that it approve the draft instruments.

¹ Scottish Parliament Justice Committee. *Official Report 14 March 2017* Cols 4-6. Available at: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10839&mode=pdf>

