



STATUTORY INSTRUMENTS.

S.I. No. 474 of 2018



TRUST OR COMPANY SERVICE PROVIDER AUTHORISATION
(APPEAL TRIBUNAL) (ESTABLISHMENT) ORDER 2018

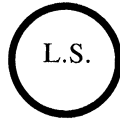
S.I. No. 474 of 2018

TRUST OR COMPANY SERVICE PROVIDER AUTHORISATION
(APPEAL TRIBUNAL) (ESTABLISHMENT) ORDER 2018

I, CHARLES FLANAGAN, Minister for Justice and Equality, in exercise of the powers conferred on me by section 101(1) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010) (as adapted by the Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 138 of 2011)), hereby order as follows:

1. This Order may be cited as the Trust or Company Service Provider Authorisation (Appeal Tribunal) (Establishment) Order 2018.

2. An Appeal Tribunal is hereby established pursuant to section 101(1) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010) for the period commencing on 19 day of November 2018 and ending on 18 day of November 2023 to adjudicate on appeals under section 100 of that Act.



GIVEN under my Official Seal,
16 November 2018.

CHARLES FLANAGAN,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 20th November, 2018.*

EXPLANATORY MEMORANDUM

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

Each SI establishes a Trust or Company Service Provider Authorisation Appeal Tribunal under Section 101 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended. The Appeal Tribunal considers appeals of decisions made by the Minister (delegated to the Anti-Money Laundering Compliance Unit (AMLCU)) in relation to applications for, and renewals of, authorisation of Trust or Company Service Providers, as well as appeals to Directions issued under section 98 of the 2010 Act.

The previous Tribunal was in place from 2013 to 2018. To avoid a situation where an appeal is delayed or cannot be heard if the member constituting the Appeal Tribunal is unavailable, two members are to be appointed on this occasion, each constituting a separate Appeal Tribunal. The current wording of section 101 (3) of the Act provides that the individual barrister or solicitor appointed by the AMLCU by means of delegated sanction from the Minister constitutes the Appeal Tribunal, hence the AGO has advised that a separate SI is required to constitute each Appeal Tribunal.

Section 101 of the 2010 Act which allows for the establishment of an Appeal Tribunal is currently under review and will be amended with the transposition of the 5th Anti-Money Laundering Directive with a view to providing for, inter alia, one SI to permit the establishment of more than one Appeal Tribunal. It is also envisaged that the appointment process of the persons constituting the Appeal Tribunals will be removed from the AMLCU to ensure that they are seen to have the appropriate independence from the decision maker, the AMLCU, whose decisions they are reviewing.

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