

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Powers, Procedure and Administration

Practice and procedure

Tribunal Rules

Section 68 – Tribunal rules

217. [Sections 68 to 73](#) make provision for the making of rules to regulate the practice and procedures to be adopted by the Scottish Tribunals which are to be known as Scottish Tribunal Rules (but are referred to in the Act as Tribunal Rules).
218. Subsections (3) and (4) of section 68 set out the process for making Tribunal Rules. Tribunal Rules are to be made by the Court of Session by act of sederunt and in accordance with Part 1 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013.
219. [Paragraph 13](#) of schedule 9 amends Part 1 of the 2013 Act so that the SCJC has the function of reviewing the practice and procedure used in the Scottish Tribunals (section 2(1)(ba) of the 2013 Act) and the function of preparing and submitting draft Tribunal Rules to the Court of Session (section 2(1)(c)(ii) of the 2013 Act). Section 4(1) and (2) of the 2013 Act also sets out the role of the Court of Session in approving, approving with modification, or rejecting the rules proposed by the SCJC.
220. Sub-paragraphs (6) to (10) of paragraph 13 of schedule 9 amend the 2013 Act with the effect of increasing the membership of the SCJC so as to include members representing the Scottish Tribunals and providing for the SCJC to establish a committee in pursuance of its functions in relation to the Scottish Tribunals under section 13A of the 2013 Act. The Committee is to be chaired by one of the members of the SCJC representing the Scottish Tribunals, and its members are to be selected by the President of Tribunals.

Section 69 – Exercise of functions

221. [Section 69](#) allows Tribunal Rules to make provision about how a function of the Tribunals is to be exercised and by whom, or allow a specified person to make a decision about those matters. It also allows Tribunal Rules to confer functions on the persons named in subsection (4). Such Rules may provide for something to require further authorisation, allow something to be done on a person's behalf, or allow a specified person to make a decision about those matters. They may rely on the effect of practice directions issued under section 74.

Section 70 – Extent of rule-making

222. The extent of the provision which may be made by Tribunal Rules is set out in section 70. In particular, the generality of the power to make provision regulating

*These notes relate to the Tribunals (Scotland) Act 2014
(asp 10) which received Royal Assent on 15 April 2014*

the practice and procedure followed in the Scottish Tribunals is not limited by any other more specific provisions in the Act regarding the content of Tribunal Rules (subsection (4)). Tribunal Rules may also make equal or different provision in respect of the First-tier Tribunal and the Upper Tribunal (subsection (1)), particular provision for different chambers or divisions or different types of proceedings (subsection (2)) and, more generally, different provision for different purposes (subsection (3)).