

SCHEDULE 2 THE SCOTTISH TAX TRIBUNALS

PART 3

CONDUCT AND DISCIPLINE

Application of this Part

- 20 (1) This Part of this schedule applies in relation to the positions of ordinary member and legal member of the Tax Tribunals (but not the position of judicial member of the tribunals).
- (2) Paragraphs 21 to 23 also apply to the position of the President of the Tax Tribunals.

Conduct Rules

- 21 The Scottish Ministers are responsible for making and maintaining appropriate arrangements for the things for which rules under paragraph 22(1) may make provision.
- 22 (1) The Scottish Ministers may make rules for the purposes of or in connection with—
- (a) the investigation and determination of any matter concerning the conduct of members of the Tax Tribunals,
 - (b) the review of any such determination.
- (2) Rules under sub-paragraph (1) may include provision about (in particular)—
- (a) the circumstances in which an investigation must or may be undertaken,
 - (b) the making of a complaint by any person,
 - (c) the steps that are to be taken by a person making a complaint before it is to be investigated,
 - (d) the carrying out of an investigation (including any steps to be taken by the member whom it concerns or by any other person),
 - (e) the time limits for taking steps and procedures for extending such time limits,
 - (f) the person by whom an investigation (or part of an investigation) is to be carried out,
 - (g) the matters to be determined by the person carrying out an investigation (or part of an investigation), the President of the Tax Tribunals or any other person,
 - (h) the making of recommendations by the person carrying out an investigation (or part of one),
 - (i) the obtaining of information relating to a complaint,
 - (j) the keeping of a record of an investigation,
 - (k) the confidentiality of communications or proceedings,
 - (l) the publication of information or its supply to any person.
- 23 Rules under paragraph 22(1)—
- (a) may make different provision for different purposes,
 - (b) are to be published in such manner as the Scottish Ministers may determine.

Status: This is the original version (as it was originally enacted).

Reprimand etc.

- 24 (1) Where the condition in sub-paragraph (2) is met in relation to a member of the Tax Tribunals, the President of the Tax Tribunals may, for disciplinary purposes, give the member—
- (a) formal advice,
 - (b) a formal warning, or
 - (c) a reprimand.
- (2) The condition is that—
- (a) an investigation has been carried out with respect to the member in accordance with rules made under paragraph 22(1), and
 - (b) the person carrying out the investigation has recommended that the President exercise the power conferred by sub-paragraph (1).
- 25 Paragraph 24 does not limit what the President of the Tax Tribunals may do—
- (a) informally,
 - (b) for other purposes, or
 - (c) where no advice or warning is given in a particular case.

Suspension of membership

- 26 (1) If the President of the Tax Tribunals considers that it is necessary for the purpose of maintaining public confidence in the Tax Tribunals, the President may suspend a member of the tribunals.
- (2) Suspension under sub-paragraph (1)—
- (a) is for such period as the President may specify when suspending the member,
 - (b) may be revoked or extended subsequently by the President.
- 27 Suspension under paragraph 26(1) does not affect any remuneration payable to, or in respect of, the member concerned during the period of suspension.

Judicial Complaints Reviewer

- 28 (1) The Judicial Complaints Reviewer has the functions mentioned in sub-paragraph (2).
- (2) The functions are—
- (a) on the request of a relevant person, to review the handling of an investigation carried out in accordance with rules made under paragraph 22(1) to consider whether the investigation has been carried out in accordance with the rules,
 - (b) in any case where the Reviewer considers that such an investigation has not been carried out in accordance with such rules, to refer the case to the Scottish Ministers,
 - (c) as directed by the Scottish Ministers, to prepare and publish reports on the investigations carried out in pursuance of such rules, and
 - (d) to make written representations to the Scottish Ministers about procedures for handling the investigation of matters concerning the conduct of members of the Tax Tribunals.
- (3) The Scottish Ministers are to have regard to any written representations made under sub-paragraph (2)(d).
- (4) In sub-paragraph (2)(a) “relevant person” means—

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- (a) the person whose complaint led to the carrying out of the investigation, or
 - (b) the member of the Tax Tribunals with respect to whom the investigation has been carried out.
- 29 (1) Sub-paragraph (2) applies where a case is referred to the Scottish Ministers by the Judicial Complaints Reviewer under paragraph 28(2)(b).
- (2) The Scottish Ministers may—
- (a) vary or revoke wholly or partly the determination made in the case to which the investigation relates,
 - (b) cause a fresh investigation to be carried out,
 - (c) confirm the determination in the case, or
 - (d) deal with the referral in such other way as the Scottish Ministers consider appropriate.