

SCHEDULE 7

(introduced by section 35)

CONDITIONS OF MEMBERSHIP ETC.

Application of schedule

- 1 (1) This schedule applies in relation to the positions of ordinary member and legal member of the Scottish Tribunals (but not the position of judicial member of the Tribunals).
- (2) The references in this schedule to—
- (a) a position in the Scottish Tribunals, or
 - (b) a member of the Scottish Tribunals,
- are to be read accordingly.

Initial period of office

- 2 (1) A person who is appointed to a position in the Scottish Tribunals holds the position for the period of 5 years beginning with the date of the appointment.
- (2) A person who is transferred-in to a position in the Scottish Tribunals holds the position for the period mentioned in sub-paragraph (3).
- (3) That period is the first-ending of either—
- (a) the period for which the member would have continued to hold office in the listed tribunal in question if the transfer to the Scottish Tribunals had not taken place, or
 - (b) the period of 5 years beginning with the date on which the person becomes a member of the Scottish Tribunals.
- 3 (1) Sub-paragraph (2) applies where a person—
- (a) holds a position in the Scottish Tribunals, and
 - (b) is appointed to hold another such position in addition.
- (2) The person holds the position mentioned in sub-paragraph (1)(b) for a period which expires on the same date as does the period for which the person holds the position mentioned in sub-paragraph (1)(a).

Automatic reappointment

- 4 (1) Unless sub-paragraph (3) applies, a member of the Scottish Tribunals is to be reappointed as such at the end of each period for which the position is held.
- (2) Reappointment under sub-paragraph (1) is to the position for the period of 5 years beginning with the date of the reappointment.
- (3) This sub-paragraph applies if—
- (a) the member has declined to be reappointed,
 - (b) the member is ineligible for reappointment,
 - (c) the President of Tribunals has recommended to the Scottish Ministers that the member should not be reappointed.
- (4) In sub-paragraph (1), the reference to the period for which a position is held is to—

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- (a) the period for which the position is held in accordance with paragraph 2 or 3, or
 - (b) any further period for which the position is held by virtue of reappointment in accordance with sub-paragraphs (1) and (2).
- (5) A reference in this paragraph to reappointment includes appointment at the end of a period for which a position is held by virtue of paragraph 2(2) as well as reappointment at the end of a period for which a position is held by virtue of any relevant appointment (or reappointment).
- 5 For the purpose of paragraph 4(3)(b), a member is ineligible for reappointment only if the member would not be eligible for appointment to the position in accordance with the relevant provisions of schedule 3 or (as the case may be) schedule 5 were the member being appointed to the position for the first time.
- 6 For the purpose of paragraph 4(3)(c), the President of Tribunals may recommend to the Scottish Ministers that a member should not be reappointed only if satisfied that—
 - (a) the member has failed to comply with—
 - (i) any of the relevant terms and conditions of membership, or
 - (ii) any other requirement imposed on the member by or under this Act,
 or
 - (b) the Tribunal concerned no longer requires—
 - (i) a member with the qualifications, experience and training of that member, or
 - (ii) the same number of members for the efficient disposal of its business.
- 7 Reappointment by virtue of paragraph 4 is not subject to any process of appointment arising in relation to a position within the Scottish Tribunals by virtue of section 10(2A) of the Judiciary and Courts (Scotland) Act 2008.

Extension in senior post

- 8 (1) Sub-paragraphs (2) and (3) apply where—
 - (a) a legal member of the First-tier Tribunal becomes by appointment a Chamber President or Deputy Chamber President in the Tribunal, or
 - (b) a legal member of the Upper Tribunal becomes by appointment a Vice-President of the Tribunal.
- (2) Despite paragraphs 2 and 3, the period for which the legal member holds that position does not end until the expiry of 5 years beginning with the date of the appointment mentioned in the relevant limb of sub-paragraph (1).
- (3) In all other respects also, the appointment mentioned in the relevant limb of sub-paragraph (1) supersedes the earlier appointment or (as the case may be) transfer-in as a legal member.

Termination of appointment

- 9 A member of the Scottish Tribunals ceases to hold the position of member of the Tribunals if the member—
 - (a) becomes disqualified from holding the position,

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- (b) is removed from the position under paragraph 23 of schedule 8,
 - (c) resigns the position by giving notice in writing to the Lord President, or
 - (d) vacates the position in accordance with section 26 of the Judicial Pensions and Retirement Act 1993.
- 10 (1) Nothing in paragraphs 2 to 8 affects the operation of section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 in relation to a member of the Scottish Tribunals.
- (2) Accordingly, such a member's continuation in office by virtue of that section may have the effect of extending the period for which the member is appointed or (as the case may be) reappointed by virtue of those paragraphs.

Required oaths

- 11 (1) Each of the members of the Scottish Tribunals must take the required oaths in accordance with this paragraph.
- (2) A Vice-President of the Upper Tribunal is to take them in the presence of the President of Tribunals.
- (3) A Chamber President in the First-tier Tribunal is to take them in the presence of the President of Tribunals.
- (4) A Deputy Chamber President in the First-tier Tribunal is to take them in the presence of either the President of Tribunals or a Chamber President in the First-tier Tribunal.
- (5) An ordinary or legal member of the Upper Tribunal by virtue of appointment or transfer-in as such is to take them in the presence of either the President of Tribunals or a Vice-President of the Upper Tribunal.
- (6) An ordinary or legal member of the First-tier Tribunal by virtue of appointment or transfer-in as such is to take them in the presence of either the President of Tribunals or a Chamber President in the First-tier Tribunal.
- (7) If a member of the Scottish Tribunals has previously taken the required oaths in the circumstances mentioned in sub-paragraph (8), the previous taking of the oaths counts as if it were the taking of them in accordance with this paragraph.
- (8) The circumstances are—
 - (a) in the case of a member who is transferred-in as such, in connection with the office from which the person is transferred-in,
 - (b) in the case of a member whose position changes within the Scottish Tribunals, in connection with appointment or transfer-in to the previous position.
- (9) In this paragraph, “the required oaths” means the oath of allegiance and the judicial oath as set out in the Promissory Oaths Act 1868.

Pensions etc.

- 12 (1) The Scottish Ministers may make arrangements as to—
 - (a) the payment of pensions, allowances and gratuities to or in respect of the members, or former members, of the Scottish Tribunals,

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- (b) contributions or other payments towards provision for such pensions, allowances and gratuities.

(2) Under sub-paragraph (1), such arrangements may (in particular)—

- (a) include provision relating to payment of compensation for loss of office,
- (b) make different provision for different types of member, different positions or other different purposes.

Other conditions

- 13 (1) Other than as provided for elsewhere in this Act or under it, the Scottish Ministers may determine the terms and conditions on which the members of the Scottish Tribunals hold their positions.

(2) Under sub-paragraph (1), a determination may (in particular)—

- (a) include provision for sums to be payable by way of remuneration, allowances and expenses,
- (b) make different provision for different types of member, different positions or other different purposes.