
EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations set out the procedure for the selection and nomination for appointment of members of the Scottish Court and Tribunal Service (“the SCTS”; the name of the body was changed from the Scottish Courts Service by section 130(1) of the Courts Reform (Scotland) Act 2014 (“the 2014 Act”). In terms of paragraph 3 of schedule 3 to the Judiciary and Courts (Scotland) Act 2008 (“the 2008 Act”) it is for the Lord President to appoint the members of the SCTS and for the Scottish Ministers, by regulations, to prescribe the procedure for nomination or selection for appointment.

The Lord President, the Lord Justice Clerk, the President of the Scottish Tribunals and the Chief Executive are members by virtue of their office. Regulation 2(1) provides that the sheriff, justice of the peace, advocate, solicitor and lay members are to be selected for appointment by a panel appointed by the Lord President. Regulation 2(2) provides that the panel will be made up of three members of the SCTS, which must include at least one judicial member (see paragraph 2(2) of schedule 3 to the 2008 Act) and one lay member (see paragraph 2(3)(d) of that schedule).

Regulation 3 governs the nomination of the remaining members of the SCTS, namely one sheriff principal and one holder of the position of Chamber President of the First-tier Tribunal. Until all of the functions of each of the tribunals listed in paragraph 3(2) of schedule 4 to the 2014 Act are transferred to the Scottish Tribunals by virtue of section 28 of the Tribunals (Scotland) Act 2014, paragraph 2(2)(g) of the 2008 Act (which is inserted by paragraph 1(8)(c) of schedule 4 to the 2014 Act) has effect as if the reference to the position of Chamber President includes a reference to an office mentioned in paragraph 3(4) of schedule 4. These offices are President of the Lands Tribunal for Scotland, President of the Private Rented Housing Panel, President of the Mental Health Tribunal for Scotland and President of the Tax Tribunals appointed under section 22(1) of the Revenue Scotland and Tax Powers Act 2014. Regulation 3(1) provides that the Lord President shall notify those persons eligible for nomination of their respective vacancies in the SCTS. Regulation 3(2) and (3) provide for the eligible individuals to nominate themselves or their peers for appointment.