

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – The Scottish Tribunals

Establishment and Leadership

Section 1 – Establishment of the Tribunals

6. [Section 1](#) establishes two new tribunals, the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland.

Section 2 – Head of the Tribunals

7. [Section 2](#) designates the Lord President as the Head of the Scottish Tribunals. The Act confers a number of functions on the Lord President in this capacity. See, for example, [section 4\(2\)](#) (assigning a person to the office of the President of the Scottish Tribunals), [section 6](#) (representation of interests), [section 7](#) (business arrangements), [section 33](#)(assignment policy) and [section 34](#) (training and review).

Section 3 – Upholding independence

8. [Section 3](#) places a duty on the First Minister, the Lord Advocate, the Scottish Ministers, members of the Scottish Parliament and any other person having responsibility for matters relating to the Scottish Tribunals or the administration of justice to uphold the independence of the members of the Scottish Tribunals. It also imposes two particular duties on the First Minister, the Lord Advocate and the Scottish Ministers for the purpose of upholding that independence.
9. The first is a duty not to seek to influence the decisions of the Scottish Tribunals through special access to its members which would not be afforded to the general public.
10. The second is a duty to have regard to the need for members of the Scottish Tribunals to have the support necessary to enable them to carry out their functions.

Sections 4 and 5 – President of the Tribunals

11. [Section 4](#) establishes the office of the President of the Scottish Tribunals. It is the responsibility of the Lord President to assign a judge of the Court of Session (other than a temporary judge) to the office who will be the senior member of the Scottish Tribunals. Once assigned to office, the President of Tribunals continues in that office for such time as the Lord President considers appropriate.
12. Where no person is assigned to act or the person assigned to act as the President of Tribunals is unable to act in that capacity, the Lord President may nominate a Vice-President of the Upper Tribunal to act temporarily as the President of Tribunals provided that that person is also a judge of the Court of Session (other than a temporary judge).

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

13. The Act confers a number of functions directly on the President of Tribunals (see, for example, section 25(2) by which the President of Tribunals may assign a judicial member of the Upper Tribunal as a Vice-President of that Tribunal) and also enables the Lord President to delegate a number of his or her functions to the President of Tribunals (see sections 8 and 9).