

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Organisational Arrangements

Membership types

Section 16 – Upper members

29. [Section 16](#) makes provision as to the membership of the Upper Tribunal.
30. Under subsection (1), persons will become ordinary members of the Upper Tribunal if they are transferred-in as ordinary members by virtue of section 29(b) or appointed as ordinary members by virtue of section 32(3). Similarly, subsection (2)(a) provides that persons will become legal members of the Upper Tribunal if they are transferred-in as legal members by virtue of section 29(b) or are appointed as legal members by virtue of section 32(3).
31. [Section 29\(b\)](#) gives effect to paragraph 1 of schedule 2 which enables the Scottish Ministers, by regulations, to provide for a transferable person of a listed tribunal to transfer-in to the Upper Tribunal as an ordinary or legal member. Further details are provided in the commentary on that section.
32. [Section 32\(3\)](#) gives effect to schedule 5 which enables the Scottish Ministers to appoint a person as an ordinary or legal member of the Upper Tribunal. Further details are provided in the commentary on that section.
33. The effect of subsection (2)(b) of section 16 is that a Chamber President of the First-tier Tribunal, by virtue of holding that position, will also be a legal member of the Upper Tribunal (without the requirement to be separately appointed as a legal member of the Upper Tribunal). This provision does not have the effect of making Deputy Chamber Presidents or Temporary Chamber Presidents of the First-tier Tribunal legal members of the Upper Tribunal.
34. Subsections (2)(c) and (3) of section 16 provide that a person is also a legal member of the Upper Tribunal if that person is transferred-in or appointed as a Vice-President of the Upper Tribunal. Where a member of the courts judiciary is assigned as a Vice-President or a Temporary Vice-President of the Upper Tribunal that person remains a judicial member of the Upper Tribunal rather than becoming a legal member.