

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Organisational Arrangements

Judiciary eligible to sit

Section 18 – Authorisation of others

40. **Section 18** enables the Scottish Ministers, on receiving a request from the President of Tribunals, to authorise a former judge of the Court of Session, Chairman of the Land Court, sheriff (excluding part-time sheriff) or a judge of a court or tribunal in a country or territory outwith Scotland to assist in the disposal of the business of the Upper Tribunal by temporarily acting as a judicial member of the Upper Tribunal. It does not enable such a person to act as a member of the First-tier Tribunal.
41. The President of Tribunals cannot make a request for such an authorisation without the approval of the Lord President and the agreement of the person concerned (subsection (3)). Subsection (7) enables the Scottish Ministers to make payments in respect of any person authorised to act under section 18.
42. Subsection (8) provides that former judicial office holders cannot be authorised if they have reached the age of 75 or if they have been removed from judicial office. The relevant grounds for removal from office are listed in the provision.
43. Subsection (9) enables the Scottish Ministers to make further provision as necessary when authorising judges of a court or tribunal in a country or territory outwith Scotland to sit in the Upper Tribunal. It also places a duty such judges to take the judicial oath if they have not already done so.
44. Subsection (10) provides that the requirement to uphold the independence of the Scottish Tribunals in section 3 applies to any persons authorised to act under section 17 as it does in relation to the other members of the Scottish Tribunals. It also makes provision so that any previous oath taken by such a person will continue to apply in the person's role in the Scottish Tribunals.