

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Transfer-In From Listed Tribunals

Section 28 – Transfer-in of functions

70. [Section 28\(2\)](#) enables the Scottish Ministers, by regulations, to provide for some or all of the functions of a listed tribunal to be transferred to the Scottish Tribunals. The regulations may provide for the functions to be transferred to the First-tier Tribunal, the Upper Tribunal or both Tribunals.
71. Where regulations made under subsection (2) provide for the functions of a listed tribunal to be transferred to both of the Scottish Tribunals, the regulations may make provision transferring certain functions to one Tribunal and certain functions to the other. They can also provide for a particular function to be transferred to both Tribunals but, where they do so, subsections (3) and (5) require the regulations to make provision so that it can be ascertained when the function is exercisable by the First-tier Tribunal and when it is exercisable by the Upper Tribunal. In doing this, the regulations can provide for this to be determined in Tribunal Rules (see commentary on section 68) or by the President of Tribunals.
72. Subsection (4) enables the Scottish Ministers, by regulations, to provide for a redistribution of any functions which have been transferred-in to the Scottish Tribunals between those Tribunals.
73. Subsection (6) provides that any regulations made under subsection (2) or (4) may make further provision in order to give full effect to the transfer or redistribution of functions. This includes the modification of any enactment which makes provision in relation to a listed tribunal (subsection (7)).
74. Regulations made under subsection (2) may only relate to one of the listed tribunals (subsection (8)). This will require separate regulations to be made in respect of each listed tribunal.