

# TRIBUNALS (SCOTLAND) ACT 2014

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 – Transfer-In From Listed Tribunals**

##### *Section 29 and schedule 2 – Transfer-in of members*

75. [Section 29](#) introduces schedule 2 which makes provision enabling the transfer of members of the listed tribunals to the Scottish Tribunals where some or all of their functions are, similarly, transferred.
76. [Paragraph 1](#) of schedule 2 enables the Scottish Ministers, by regulations, to make provision to transfer some or all of the transferable persons to a position or positions in the Scottish Tribunals.
77. In relation to a listed tribunal, a transferable person is a member (of the tribunal or any panel or other body from which the tribunal members are selected) or an authorised decision-maker of that tribunal, or a person who constitutes the tribunal ([paragraph 1\(2\)](#) of schedule 2).
78. [Paragraph 1\(3\)](#) of schedule 2 excludes from transfer, a sheriff or judge of the Court of Session or the President of the Lands Tribunal for Scotland (if he or she holds another judicial office) who may, otherwise, fall within the definition of transferable persons. Rather than transferring-in as a legal or ordinary member of the Scottish Tribunals, it is anticipated that such persons will be authorised to act as judicial members in accordance with sections 16 and 18.
79. [Paragraph 2](#) of schedule 2 enables regulations made under [paragraph 1\(1\)](#) of schedule 2 to make provision preserving, altering or replacing the terms and conditions on which a transferable person is transferred to the Scottish Tribunals.
80. [Paragraph 3](#) of schedule 2 sets out limitations on the regulation-making power contained in [paragraph 1\(1\)](#) of schedule 2. Such regulations may only be made where some or all of the functions of a listed tribunal have been or are to be transferred to the Scottish Tribunals ([paragraph 3\(1\)](#)). The regulations may not transfer a person to a position in the Scottish Tribunals for which he or she would not be eligible to be appointed ([paragraph 3\(2\)](#)). The regulations may also make provision in relation to members of only one listed tribunal at a time ([paragraph 3\(3\)](#)). [Paragraph 4](#) of schedule 2 sets out the positions in the Scottish Tribunals to which a transferable person may be transferred.