# TRIBUNALS (SCOTLAND) ACT 2014

#### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

**Part 4 – More About Membership Etc.** 

### Appointment and assignment

#### Schedule 4 – Positions in the First-tier Tribunal

92. Section 32(2) introduces schedule 4 which makes provision as to the appointment and assignment of Deputy Chamber Presidents and Temporary Chamber Presidents as well as the assignment of the members among chambers.

## Schedule Part 1 – Deputy or Temporary President

### **Deputy President**

- 93. Paragraph 1 provides that the Scottish Ministers may appoint a person as a Deputy Chamber President of a particular chamber if they are requested to make such an appointment by the President of Tribunals.
- 94. A person is eligible for appointment as a Deputy Chamber President if the person is already a legal member of the First-tier Tribunal (other than a Chamber or Deputy Chamber President) or if the person is not already a legal member of the First-tier Tribunal but is eligible to be appointed as a legal member in accordance with paragraph 4(2) of schedule 3 (paragraph 2(1)).
- 95. The President of Tribunals may only request the Scottish Ministers to appoint a person as a Deputy Chamber President after consultation with the Chamber President of the chamber to which the appointment is to be made (paragraph 2(2)).
- 96. Paragraph 2(3) places a duty on the Scottish Ministers to give written reasons to the President of Tribunals where they do not make an appointment of a Deputy Chamber President following such a request.
- 97. Paragraph 3 makes provision so that a Deputy Chamber President can assist with the exercise of the functions of the Chamber President.

#### **Temporary President**

98. Paragraphs 4 and 5 enable the President of Tribunals to assign a legal or judicial member of the First-tier Tribunal as a Temporary Chamber President in the event of a temporary vacancy in the presidency of a chamber. A Chamber President cannot be assigned as a Temporary Chamber President of another chamber.

#### Schedule Part 2 – Assignment internally

99. Schedule Part 2 makes provision for assigning the various members of the First-tier Tribunal among the chambers.

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

- 100. The function of assigning the members of the First-tier Tribunal vests in the President of Tribunals (paragraph 6(1)) but is subject to the provision made in paragraphs 7 to 9 (paragraph 6(2)).
- 101. A Chamber President is to be assigned to the chamber to which he or she is appointed to preside over and may also be assigned to act as a legal member in another chamber (but cannot be assigned to another chamber to act as a Chamber President or Deputy Chamber President) (paragraph 7(1)). Any assignment of a Chamber President to act as a legal member of another chamber requires the concurrence of the Chamber President of that chamber as well as the agreement of the member being assigned.
- 102. A Deputy Chamber President is to be assigned to the chamber to which he or she is appointed and may also be assigned to act as a legal member in another chamber (but cannot be assigned to another chamber to act as a Chamber President or Deputy Chamber President) (paragraph 7(2)). Any assignment of a Deputy Chamber President to act as a legal member of another chamber requires the concurrence of the Chamber President of that chamber as well as the agreement of the member being assigned.
- 103. All other legal members of the First-tier Tribunal and its ordinary members are to be assigned to at least one chamber but may be assigned to more than one chamber (paragraph 8(2)). Any assignment to a chamber under paragraph 8 requires the concurrence of the Chamber President and the agreement of the member to be assigned (paragraph 8(3)).
- 104. Judicial members of the First-tier Tribunal are to be assigned to at least one chamber but may be assigned to more than one chamber (paragraph (9(1)). Any assignment to a chamber under paragraph 9 requires the concurrence of the Chamber President and the agreement of the member being assigned (paragraph 9(2)).