# 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.
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)).
