

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Decision-Making and Composition

Decisions in First-tier Tribunal

Decisions in Upper Tribunal

Section 39– Decisions in the Tribunal

163. *Section 39* makes provision as to the exercise of the Upper Tribunal’s function of deciding any matter in a case falling within its jurisdiction. This function is to be exercised by one or two or more members of the division to which the case is allocated. It is for regulations made under section 23(2)(b) (Divisions of the Tribunal) to make provision for the allocation of the Upper Tribunal’s functions among the divisions.
164. The Vice-President has the responsibility for selecting the members but, in so doing, the Vice-President must comply with any relevant provision made by regulations under section 40(1) (composition of the Tribunal).
165. The Vice-President must also comply with subsection (4) which enables the Lord President and the Tribunals President to exercise a right to be selected (provided that this complies with the provisions of any regulations made under section 40(1) (composition of the Tribunal)).
166. If the Upper Tribunal is exercising a function in a case which has been remitted to it by the Court of Session under section 49(2)(b) (disposal of an appeal by the Court of Session), the Vice-President must also comply with any directions given by the Court of Session under section 49(5)(b) as to the members to be chosen to reconsider the case.