

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Tribunals (Scotland) Act 2014, PART 1. (See end of Document for details)*

## SCHEDULE 8 CONDUCT AND FITNESS ETC.

### PART 1

#### CONDUCT AND DISCIPLINE

##### *Application of Part*

- 1 (1) This schedule Part applies in relation to the ordinary members and legal members of the Scottish Tribunals (but not the judicial members of the Tribunals).
- (2) The references in this schedule Part to a member of the Scottish Tribunals are to be read accordingly.

##### **Commencement Information**

**I1** Sch. 8 para. 1 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

##### *Conduct rules*

- 2 The Lord President is responsible for making and maintaining appropriate arrangements for the things for which rules under paragraph 3(1) may make provision.

##### **Commencement Information**

**I2** Sch. 8 para. 2 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 3 (1) The Lord President may make rules for the purposes of or in connection with—
  - (a) the investigation and determination of any matter concerning the conduct of members of the Scottish Tribunals,
  - (b) the review of any such determination.
- (2) Rules under sub-paragraph (1) may include provision about (in particular)—
  - (a) the circumstances in which an investigation must or may be undertaken,
  - (b) the making of a complaint by any person,
  - (c) the steps that are to be taken by a person making a complaint before it is to be investigated,
  - (d) the carrying out of an investigation (including any steps to be taken by the member whom it concerns or by any other person),
  - (e) the time limits for taking steps and procedures for extending such time limits,
  - (f) the person by whom an investigation (or part of an investigation) is to be carried out,
  - (g) the matters to be determined by the person carrying out an investigation (or part of an investigation), the Lord President or any other person,
  - (h) the making of recommendations by the person carrying out an investigation (or part of one),
  - (i) the obtaining of information relating to a complaint,

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- (j) the keeping of a record of an investigation,
- (k) the confidentiality of communications or proceedings,
- (l) the publication of information or its supply to any person.

**Commencement Information**

**I3** Sch. 8 para. 3 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 4 Rules under paragraph 3(1)—
- (a) may make different provision for different purposes,
  - (b) are to be published in such manner as the Lord President may determine.

**Commencement Information**

**I4** Sch. 8 para. 4 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Reprimand etc.*

- 5 (1) Where the condition in sub-paragraph (2) is met in relation to a member of the Scottish Tribunals, the Lord President may, for disciplinary purposes, give the member—
- (a) formal advice,
  - (b) a formal warning, or
  - (c) a reprimand.
- (2) The condition is that—
- (a) an investigation has been carried out with respect to the member in accordance with rules made under paragraph 3(1), and
  - (b) the person carrying out the investigation has recommended that the Lord President exercise the power conferred by sub-paragraph (1).

**Commencement Information**

**I5** Sch. 8 para. 5 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 6 Paragraph 5 does not limit what the Lord President may do—
- (a) informally,
  - (b) for other purposes, or
  - (c) where no advice or warning is given in a particular case.

**Commencement Information**

**I6** Sch. 8 para. 6 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Suspension of membership*

- 7 (1) If the Lord President considers that it is necessary for the purpose of maintaining public confidence in the Scottish Tribunals, the Lord President may suspend a member of the Tribunals.

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- (2) Suspension under sub-paragraph (1)—
- (a) is for such period as the Lord President may specify when suspending the member,
  - (b) may be revoked or extended subsequently by the Lord President.

**Commencement Information**

**I7** Sch. 8 para. 7 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 8 Suspension under paragraph 7(1) does not affect any remuneration payable to, or in respect of, the member concerned during the period of suspension.

**Commencement Information**

**I8** Sch. 8 para. 8 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Judicial Complaints Reviewer*

- 9 (1) The Judicial Complaints Reviewer has the functions mentioned in sub-paragraph (2).
- (2) The functions are—
- (a) on the request of a relevant person, to review the handling of an investigation carried out in accordance with rules made under paragraph 3(1) to consider whether the investigation has been carried out in accordance with the rules,
  - (b) in any case where the Reviewer considers that such an investigation has not been carried out in accordance with such rules, to refer the case to the Lord President,
  - (c) as directed by the Scottish Ministers, to prepare and publish reports on the investigations carried out in pursuance of such rules,
  - (d) to make written representations to the Lord President about procedures for handling the investigation of matters concerning the conduct of members of the Scottish Tribunals.
- (3) The Lord President is to have regard to any written representations made under sub-paragraph (2)(d).
- (4) In sub-paragraph (2)(a), “relevant person” means—
- (a) person whose complaint led to the carrying out of the investigation, or
  - (b) member of the Scottish Tribunals with respect to whom the investigation has been carried out.

**Commencement Information**

**I9** Sch. 8 para. 9 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 10 (1) Sub-paragraph (2) applies where a case is referred to the Lord President by virtue of paragraph 9(2)(b).
- (2) The Lord President may—

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- (a) vary or revoke (wholly or partly) the determination made in the case to which the investigation relates,
- (b) cause a fresh investigation to be carried out,
- (c) confirm the determination in the case, or
- (d) deal with the referral in such other way as the Lord President considers appropriate.

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**Commencement Information**

**I10** Sch. 8 para. 10 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

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