

SCHEDULE 9  
TRANSITIONAL AND CONSEQUENTIAL

**PART 2**

CONSEQUENTIAL MODIFICATIONS

*Judicial Pensions and Retirement Act 1993*

- 11 (1) The Judicial Pensions and Retirement Act 1993 is amended as follows.
- (2) In section 26 (retirement date for certain judicial officers)—
- (a) in subsection (12), in the definition of “the appropriate person”, after paragraph (e) there is inserted—
- “ (f) the Scottish Ministers, in the case of a relevant member of the Scottish Tribunals;”,
- (b) after subsection (15) there is inserted—
- “(16) The Scottish Ministers must consult the President of Tribunals before exercising any function arising by virtue of subsection (12) (f) in relation to a relevant member of the Scottish Tribunals.
- (17) In paragraph (f) of the definition of “the appropriate person” in subsection (12), and in subsection (16), a reference to a relevant member of the Scottish Tribunals is to an ordinary or legal member of either or both of the Tribunals by virtue of section 15 or 16 of the Tribunals (Scotland) Act 2014.”.
- (3) In section 30 (interpretation), after subsection (1) there is inserted—
- “(1A) For the purposes of section 26(12)(f), (16) and (17), and the related entry in Schedule 5, “Scottish Tribunals” or “President of Tribunals” is to be construed in accordance with the Tribunals (Scotland) Act 2014.”.
- (4) In Schedule 5 (relevant offices in relation to retirement provisions), at the end there is inserted—
- “Ordinary or legal member of either or both of the Scottish Tribunals by virtue of section 15 or 16 of the Tribunals (Scotland) Act 2014.”.

*Judiciary and Courts (Scotland) Act 2008*

- 12 (1) The Judiciary and Courts (Scotland) Act 2008 is amended as follows.
- (2) In section 10 (judicial offices within the Board’s remit)—
- (a) in subsection (1), the word “and” immediately preceding paragraph (g) is repealed,
- (b) before paragraph (g) of that subsection there is inserted—
- “(fa) the positions within the Scottish Tribunals mentioned in subsection (2A), and”,
- (c) after subsection (2) there is inserted—
- “(2A) The positions within the Scottish Tribunals are—

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- (a) Vice-President of the Upper Tribunal, if to be appointed under section 26(1) of the Tribunals (Scotland) Act 2014,
- (b) Chamber President in the First-tier Tribunal, if to be appointed under section 22(1) of that Act,
- (c) Deputy Chamber President in the First-tier Tribunal, if to be appointed under the relevant provisions of schedule 4 to that Act,
- (d) ordinary member or legal member of the First-tier Tribunal or the Upper Tribunal, if to be appointed under the relevant provisions of schedule 3 or (as the case may be) schedule 5 to that Act.”.

(3) In section 30 (Judicial Complaints Reviewer), in subsection (5), after paragraph (h) there is inserted—

- “(i) an ordinary or legal member of either or both of the Scottish Tribunals by virtue of section 15 or 16 of the Tribunals (Scotland) Act 2014.”.

(4) In paragraph 3 of schedule 1—

- (a) in sub-paragraph (1), the word “and” immediately preceding paragraph (c) is repealed,
- (b) after paragraph (c) of sub-paragraph (1) there is inserted “, and
  - (d) one person holding the position of Chamber President or of Vice-President within the Scottish Tribunals.”,
- (c) after sub-paragraph (5) there is inserted—

“(6) For the purposes of sub-paragraph (1)(d)—  
 “Scottish Tribunals” is to be construed in accordance with the Tribunals (Scotland) Act 2014,  
 “Chamber President” means Chamber President in the First-tier Tribunal as referred to in that Act and “Vice-President” means Vice-President of the Upper Tribunal as referred to in that Act.”.

(5) After paragraph 16 of schedule 1 there is inserted—

*“Proceedings relating to the Scottish Tribunals*

- 16A (1) Sub-paragraph (2) applies where the Board is exercising any function under this Act in connection with a position mentioned in section 10(2A).
- (2) At least one member of the Scottish Tribunals is to take part in any proceedings relating to the function (whether or not also a member of the Board).
  - (3) It is for the President of Tribunals to select a member of the Scottish Tribunals to take part as mentioned in sub-paragraph (2).
  - (4) Before making a selection under sub-paragraph (3), the President of Tribunals must consult the Chairing Member.
  - (5) Sub-paragraph (6) applies where a person taking part as mentioned in sub-paragraph (2) is not a member of the Board.

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- (6) The person is to be treated as if a member of the Board for the purposes of—
  - (a) sections 11 to 15 and 17, and
  - (b) paragraphs 5, 12 and 13 of this schedule.
- (7) The Board may not make a determination under paragraph 15 which is inconsistent with this paragraph.
- (8) In this paragraph, “President of Tribunals” is to be construed in accordance with the Tribunals (Scotland) Act 2014 and the references to a member of the Scottish Tribunals are to be construed in accordance with section 13(3) of that Act.”.

*Scottish Civil Justice Council and Criminal Legal Assistance Act 2013*

- 13 (1) The Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 is amended as follows.
- (2) In subsection (1) of section 2 (functions of the Council)—
    - (a) after paragraph (b) there is inserted—
      - “(ba) to review the practice and procedure followed in proceedings in the Scottish Tribunals,”,
    - (b) in paragraph (c)—
      - (i) the words “draft civil procedure rules” become sub-paragraph (i),
      - (ii) after that sub-paragraph (as so numbered) there is inserted—
        - “(ii) draft tribunal procedure rules,”.
  - (3) In subsection (3) of section 2, after paragraph (c) there is inserted—
    - “(ca) practice and procedure should, where appropriate, be similar in both of the Scottish Tribunals (and in different chambers or divisions within them),”.
  - (4) After subsection (6) of section 2 there is inserted—
    - “(7) For the purposes of this Part, “draft tribunal procedure rules” are draft rules prepared with a view to the making by the Court of Session by act of sederunt of Tribunal Rules with respect to the Scottish Tribunals.”.
  - (5) In section 4 (Court of Session to consider rules)—
    - (a) in subsection (1), after the words “draft civil procedure rules” there is inserted “or draft tribunal procedure rules”,
    - (b) in subsection (2), after the words “draft civil procedure rules” there is inserted “or draft tribunal procedure rules”.
  - (6) In section 6 (composition of the Council), in subsection (1)—
    - (a) for the word “20” there is substituted “22”,
    - (b) after paragraph (a) there is inserted—
      - “(aa) the President of Tribunals,”,
    - (c) after paragraph (e) there is inserted—
      - “(ea) from the membership of the Scottish Tribunals, 1 Chamber President or 1 Vice-President (“Tribunal representative member”),”.

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- (7) In section 8 (tenure)—
- (a) in subsection (1), after the words “Lord President,” there is inserted “the President of Tribunals,”
  - (b) after subsection (3) there is inserted—
    - “(3A) A Tribunal representative member holds office for a period of 3 years unless, prior to the expiry of that period, the Lord President replaces the representative with another Tribunal representative member or requires the member to leave office.”.
- (8) The title of section 13 becomes “**Committees generally**”.
- (9) After section 13 there is inserted—

*“Tribunals*

**13A Tribunals committee**

- (1) The Council must establish a particular committee under section 13(1) in connection with the exercise by it of the functions arising by virtue of section 2(1)(ba) and (c)(ii).
  - (2) The committee is to be chaired by the President of Tribunals or the Tribunal representative member.
  - (3) The other members of the committee are to be selected by the President of Tribunals.
  - (4) In selecting those members of the committee, the President of Tribunals is to have particular regard to the need to ensure that its membership includes persons with knowledge of how the Scottish Tribunals exercise their functions.
  - (5) The Council may not make a determination under section 12(3)(b) which is inconsistent with subsections (2) to (4).”.
- (10) In section 16 (interpretation of Part 1)—
- (a) the existing text becomes subsection (1),
  - (b) in that subsection (as so numbered), after the entry relating to draft civil procedure rules there is inserted—
    - “draft tribunal procedure rules” has the meaning given in section 2(7),”,
  - (c) after that subsection (as so numbered) there is inserted—
    - “(2) In this Part—
      - “Scottish Tribunals”, “President of Tribunals” and “Tribunal Rules” are to be construed in accordance with the Tribunals (Scotland) Act 2014,
      - “Chamber President” means Chamber President in the First-tier Tribunal as referred to in that Act and “Vice-President” means Vice-President of the Upper Tribunal as referred to in that Act (with “chamber” and “division” in relation to the Scottish Tribunals to be construed in accordance with that Act).”.