

*Status: Point in time view as at 07/11/2019.*

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

SCHEDULE 1  
(introduced by section 27)  
LISTED TRIBUNALS

PART 1

LIST OF TRIBUNALS

1 An Additional Support Needs Tribunal

**Commencement Information**

**I1** Sch. 1 para. 1 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

2 A Scottish Charity Appeals Panel

**Commencement Information**

**I2** Sch. 1 para. 2 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

<sup>F13</sup> .....

**Textual Amendments**

**F1** Sch. 1 para. 3 omitted (24.4.2017) by virtue of [The Scottish Tribunals \(Listed Tribunals\) Regulations 2017 \(S.S.I. 2017/109\)](#), regs. 1, **2(a)**

4 An Education Appeal Committee

**Commencement Information**

**I3** Sch. 1 para. 4 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

5 In relation to certain Housing and other Acts—

- (a) a private rented housing committee,
- (b) a homeowner housing committee

**Commencement Information**

**I4** Sch. 1 para. 5 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

6 The Lands Tribunal for Scotland

**Commencement Information**

**I5** Sch. 1 para. 6 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

7 The Mental Health Tribunal for Scotland

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**Commencement Information**

**I6** Sch. 1 para. 7 in force at 1.4.2015 by [S.S.I. 2015/116](#), [art. 2](#)

- 8 In relation to the National Health Service—
- (a) the NHS National Appeal Panel,
  - (b) the NHS Tribunal

**Commencement Information**

**I7** Sch. 1 para. 8 in force at 1.4.2015 by [S.S.I. 2015/116](#), [art. 2](#)

- 9 A Parking Adjudicator

**Commencement Information**

**I8** Sch. 1 para. 9 in force at 1.4.2015 by [S.S.I. 2015/116](#), [art. 2](#)

- [<sup>F2</sup>9A. A Bus Lane Adjudicator]

**Textual Amendments**

**F2** Sch. 1 para. 9A inserted (7.11.2019) by [The Scottish Tribunals \(Listed Tribunals\) Regulations 2019 \(S.S.I. 2019/348\)](#), [regs. 1, 2\(2\)](#)

- 10 A Police Appeals Tribunal

**Commencement Information**

**I9** Sch. 1 para. 10 in force at 1.4.2015 by [S.S.I. 2015/116](#), [art. 2](#)

- [<sup>F3</sup>10A The First-tier Tax Tribunal for Scotland]

**Textual Amendments**

**F3** Sch. 1 paras. 10A, 10B inserted (1.4.2015) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#), [s. 260\(2\)](#), [Sch. 4 para. 11\(2\)](#) (with [ss. 257-259](#)); [S.S.I. 2015/110](#), [art. 2\(1\)](#)

- [<sup>F3</sup>10B The Upper Tax Tribunal for Scotland]

**Textual Amendments**

**F3** Sch. 1 paras. 10A, 10B inserted (1.4.2015) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#), [s. 260\(2\)](#), [Sch. 4 para. 11\(2\)](#) (with [ss. 257-259](#)); [S.S.I. 2015/110](#), [art. 2\(1\)](#)

- 11 A Valuation Appeal Committee.

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**Commencement Information**

**I10** Sch. 1 para. 11 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

**PART 2**

FURTHER SPECIFICATION

- 12 The operation of section 28(1) and (2) is informed by and subject to the further specification in paragraph 13 (and the entries above are to be construed accordingly).

**Commencement Information**

**I11** Sch. 1 para. 12 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

- 13 (1) The entry in paragraph 1 relates to the functions exercisable by any of the Additional Support Needs Tribunals for Scotland by virtue of section 17(1A) of the Education (Additional Support for Learning) (Scotland) Act 2004.
- (2) The entry in paragraph 2 relates to the functions exercisable by a Scottish Charity Appeals Panel by virtue of section 75(1) of the Charities and Trustee Investment (Scotland) Act 2005.
- <sup>F4</sup>(3) .....
- (4) The entry in paragraph 4 relates to the functions exercisable by an education appeal committee set up under section 28D(1) of the Education (Scotland) Act 1980.
- (5) In the entry in paragraph 5—
- (a) paragraph (a) relates to the functions exercisable by a private rented housing committee by virtue of section 21(3) of the Housing (Scotland) Act 2006,
- (b) paragraph (b) relates to the functions exercisable by a homeowner housing committee by virtue of section 16(1) of the Property Factors (Scotland) Act 2011.
- (6) The entry in paragraph 6 relates to the functions exercisable by the Lands Tribunal for Scotland by virtue of the Lands Tribunal Act 1949 or any other enactment.
- (7) The entry in paragraph 7 relates to the functions exercisable by the Mental Health Tribunal for Scotland by virtue of section 21(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003.
- (8) In the entry in paragraph 8—
- (a) paragraph (a) relates to the functions exercisable by the NHS National Appeal Panel or its chair by virtue of paragraph 5(4) to (6) in Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 (S.S.I. 2009/183),
- (b) paragraph (b) relates to the functions exercisable by the NHS Tribunal by virtue of sections 29 to 32E of the National Health Service (Scotland) Act 1978.

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- (9) The entry in paragraph 9 relates to the functions exercisable by a parking adjudicator by virtue of sections 72(2) [<sup>F5</sup>, 73(3) and paragraph 5(2) of schedule 6] of the Road Traffic Act 1991.
- [<sup>F6</sup>(9A) The entry in paragraph 9A relates to the functions exercisable by a bus lane adjudicator by virtue of Parts 4 and 5 of the Bus Lane Contraventions (Charges, Adjudication and Enforcement) (Scotland) Regulations 2011.]
- (10) The entry in paragraph 10 relates to the functions exercisable by a police appeals tribunal by virtue of section 56(3) of the Police and Fire Reform (Scotland) Act 2012.
- [<sup>F7</sup>(10A) The entries in paragraphs 10A and 10B relate to the functions exercisable by the First-tier Tax Tribunal for Scotland and the Upper Tax Tribunal for Scotland by virtue of the Revenue Scotland and Tax Powers Act 2014 or any other enactment.]
- (11) The entry in paragraph 11 relates to the functions exercisable by a valuation appeal committee by virtue of section 29(1)(a) of the Local Government etc. (Scotland) Act 1994.

#### Textual Amendments

- F4** Sch. 1 para. 13(3) omitted (24.4.2017) by virtue of [The Scottish Tribunals \(Listed Tribunals\) Regulations 2017 \(S.S.I. 2017/109\)](#), regs. 1, **2(b)**
- F5** Words in sch. 1 para. 13(9) substituted (7.11.2019) by virtue of [The Scottish Tribunals \(Listed Tribunals\) Regulations 2019 \(S.S.I. 2019/348\)](#), regs. 1, **2(3)(b)**
- F6** Sch. 1 para. 13(9A) inserted (7.11.2019) by [The Scottish Tribunals \(Listed Tribunals\) Regulations 2019 \(S.S.I. 2019/348\)](#), regs. 1, **2(3)(a)**
- F7** Sch. 1 para. 13(10A) inserted (1.4.2015) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#), s. 260(2), **Sch. 4 para. 11(3)** (with ss. 257-259); S.S.I. 2015/110, art. 2(1)

#### Commencement Information

- I12** Sch. 1 para. 13 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

## SCHEDULE 2

*(introduced by section 29)*

### TRANSFER-IN OF MEMBERS

- 1 (1) The Scottish Ministers may by regulations provide for some or all of the transferable persons to become the holders of any of the particular or other positions within the Scottish Tribunals specified in paragraph 4(1) or (2).
- (2) In sub-paragraph (1), the transferable persons are the persons who—
- (a) are members—
    - (i) of any of the listed tribunals, or
    - (ii) of any panel or other body from which the members of any of the listed tribunals are drawn,
  - (b) are authorised decision-makers for any of the listed tribunals, or
  - (c) by reason of holding particular offices, constitute any of the listed tribunals.
- (3) But sub-paragraph (2) does not apply in relation to—

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- (a) any—
  - (i) judges of the Court of Session, or
  - (ii) sheriffs, or
- (b) if appointed by reason of holding judicial office, the President of the Lands Tribunal for Scotland.

**Commencement Information**

**I13** Sch. 2 para. 1 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 2 Subject to the relevant provisions of schedule 7, regulations under paragraph 1(1) may contain provision for the terms and conditions under which the persons concerned are to hold those positions, including by—
- (a) preserving or altering the terms and conditions under which they are members of a listed tribunal, or
  - (b) replacing those terms and conditions with new ones.

**Commencement Information**

**I14** Sch. 2 para. 2 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 3 (1) Regulations under paragraph 1(1) may be made only where some or all functions of the tribunal have been, or are to be, transferred by regulations under section 28(2) (whenever made).
- (2) Regulations under paragraph 1(1) must not cause any of the persons concerned to become the holder of any particular or other position to which the person would not be eligible for appointment under the relevant provisions of schedules 3 to 6.
- (3) A particular instrument containing regulations under paragraph 1(1) may not relate to the members of more than one of the listed tribunals.

**Commencement Information**

**I15** Sch. 2 para. 3 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 4 (1) In relation to the First-tier Tribunal—
- (a) the particular positions are—
    - (i) Chamber President in the Tribunal,
    - (ii) Deputy Chamber President in the Tribunal,
  - (b) the other positions are—
    - (i) ordinary member of the Tribunal,
    - (ii) legal member of the Tribunal (apart from Chamber President (or Deputy)).
- (2) In relation to the Upper Tribunal—
- (a) the particular position is Vice-President of the Tribunal,
  - (b) the other positions are—
    - (i) ordinary member of the Tribunal,
    - (ii) legal member of the Tribunal (apart from Vice-President).

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**Commencement Information**

**I16** Sch. 2 para. 4 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

**SCHEDULE 3**

*(introduced by section 32)*

**APPOINTMENT TO FIRST-TIER TRIBUNAL**

**PART 1**

**ORDINARY MEMBERS**

*Appointment and eligibility*

- 1 (1) It is for the Scottish Ministers to appoint a person as an ordinary member of the First-tier Tribunal.
- (2) A person is eligible for such appointment only if the person meets such relevant criteria as are prescribed by the Scottish Ministers in regulations.

**Commencement Information**

**I17** Sch. 3 para. 1 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 2 In paragraph 1(2), “relevant criteria” includes criteria as to qualifications, experience and training.

**Commencement Information**

**I18** Sch. 3 para. 2 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

**PART 2**

**LEGAL MEMBERS**

*Application of Part*

- 3 (1) This schedule Part applies in relation to appointment of the legal members of the First-tier Tribunal other than—
- (a) a Chamber President in the Tribunal, or
- (b) a Deputy Chamber President in the Tribunal.
- (2) The references in this schedule Part to a legal member of the First-tier Tribunal are to be read accordingly.

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**Commencement Information**

**I19** Sch. 3 para. 3 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Appointment and eligibility*

- 4 (1) It is for the Scottish Ministers to appoint a person as a legal member of the First-tier Tribunal.
- (2) A person is eligible for such appointment only if qualifying under paragraph 5(1) or (2).

**Commencement Information**

**I20** Sch. 3 para. 4 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 5 (1) A person qualifies under this sub-paragraph if the person is practising, and has practised for a period of not less than 5 years, as a solicitor or advocate in Scotland.
- (2) A person qualifies under this sub-paragraph if the person falls within a description specified by the Scottish Ministers by regulations.

**Commencement Information**

**I21** Sch. 3 para. 5 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Eligibility under regulations*

- 6 (1) Regulations under paragraph 5(2) may specify a description of a person by reference to the matters mentioned in sub-paragraph (2), (3) or (4).
- (2) That is—
- (a) current practice as a solicitor or barrister in England and Wales or Northern Ireland, and
  - (b) engagement in practice as such for a period of not less than 5 years.
- (3) That is—
- (a) previous engagement in practice for a period of not less than 5 years, as—
    - (i) a solicitor or advocate in Scotland, or
    - (ii) a solicitor or barrister in England and Wales or Northern Ireland, and
  - (b) subsequent engagement in any of the activities listed in sub-paragraph (5).
- (4) That is, suitability attributable to experience in law through current or previous engagement in—
- (a) any of the activities listed in sub-paragraph (5),
  - (b) an activity that is of a broadly similar nature to any of the activities listed in that sub-paragraph.
- (5) The activities are—
- (a) exercising judicial functions in any court or tribunal,
  - (b) practice or employment as a lawyer of any kind,

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- (c) whether or not in the course of practice or employment as a lawyer—
  - (i) advising on the application of the law,
  - (ii) drafting documents intended to affect rights or obligations under the law,
  - (iii) assisting persons involved in a legal or other process for the resolution of disputes as to the law,
  - (iv) acting as a mediator or arbitrator for the purpose of resolving disputes that are (or could be) the matter of legal proceedings,
- (d) teaching or researching law at or for an educational institution.

**Commencement Information**

**I22** Sch. 3 para. 6 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 7 (1) The Scottish Ministers may by regulations make provision—
- (a) as regards the calculation of the 5-year period mentioned in paragraph 5(1) or 6(2)(b) or (3)(a) (for example, by reference to recent or continuous time),
  - (b) to which paragraph 6(3)(a) is subject (for example, by reference to debarment from practice),
  - (c) for the purpose of paragraph 6(4), about—
    - (i) the criteria for suitability (for example, by reference to equivalence to past or present practice as a solicitor),
    - (ii) the nature of experience required (for example, by reference to engagement for a particular period of time (within the United Kingdom or elsewhere)).
- (2) The Scottish Ministers may by regulations modify the list in paragraph 6(5).

**Commencement Information**

**I23** Sch. 3 para. 7 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

**SCHEDULE 4**

*(introduced by section 32)*

**POSITIONS IN FIRST-TIER TRIBUNAL**

**PART 1**

**DEPUTY OR TEMPORARY PRESIDENT**

*Deputy President*

- 1 If requested to do so by the President of Tribunals, the Scottish Ministers may appoint a person as a Deputy Chamber President of a particular chamber in the First-tier Tribunal.



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**Commencement Information**

**I24** Sch. 4 para. 1 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 2 (1) A person is eligible for appointment as a Deputy Chamber President only if the person is—
- (a) a legal member of the First-tier Tribunal (other than a Chamber President), or
  - (b) if not falling within paragraph (a), eligible to be appointed as such a member (whether or not already any type of member of the First-tier or Upper Tribunal).
- (2) Before requesting that a person be appointed as a Deputy Chamber President, the President of Tribunals must consult the Chamber President of the chamber concerned.
- (3) If the Scottish Ministers decide not to make an appointment as a Deputy Chamber President, they must give the President of Tribunals written reasons.

**Commencement Information**

**I25** Sch. 4 para. 2 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 3 (1) The functions of a Chamber President are exercisable by a Deputy Chamber President to such extent and in such manner as the Chamber President may direct.
- (2) Except where the context otherwise requires, a reference in or under this Act to a Chamber President excludes a Deputy Chamber President.

**Commencement Information**

**I26** Sch. 4 para. 3 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Temporary President*

- 4 If there is a temporary vacancy in the presidency of a particular chamber, the President of Tribunals may assign a person as a Temporary Chamber President during the vacancy.

**Commencement Information**

**I27** Sch. 4 para. 4 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 5 (1) A person is eligible to be assigned as a Temporary Chamber President only if the person is a legal or judicial member of the First-tier Tribunal (other than a Chamber President).
- (2) The functions of a Chamber President are exercisable by a Temporary Chamber President.
- (3) Except where the context otherwise requires, a reference in or under this Act to a Chamber President includes a Temporary Chamber President.

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**Commencement Information**

**I28** Sch. 4 para. 5 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

**PART 2**

ASSIGNMENT INTERNALLY

*Assignment by the President of Tribunals*

- 6 (1) The President of Tribunals has the function of assigning the members of the First-tier Tribunal among the chambers (including re-assignment or ending assignment).
- (2) The President of Tribunals is to assign those members among the chambers in accordance with paragraphs 7 to 9.

**Commencement Information**

**I29** Sch. 4 para. 6 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Assignment of Chamber Presidents*

- 7 (1) A Chamber President of a chamber—
- (a) is to be assigned to that chamber,
  - (b) may be assigned to act as a legal member also in another chamber.
- (2) A Deputy Chamber President of a chamber—
- (a) is to be assigned to that chamber,
  - (b) may be assigned to act as a legal member also in another chamber,
  - (c) is to act as such under the direction of the Chamber President of any chamber to which assigned.
- (3) Assignment under sub-paragraph (1)(b) or (2)(b) is to act otherwise than as a Chamber President or Deputy Chamber President in the other chamber.
- (4) Assignment under sub-paragraph (1)(b) or (2)(b) requires—
- (a) the concurrence of the Chamber President of the other chamber, and
  - (b) the agreement of the member concerned.

**Commencement Information**

**I30** Sch. 4 para. 7 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Assignment of other members*

- 8 (1) This paragraph applies in relation to an ordinary member or legal member by virtue of—
- (a) appointment as such, or
  - (b) transfer-in as such.

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- (2) Each member to whom this paragraph applies—
  - (a) is to be assigned to at least one of the chambers,
  - (b) may be assigned to different chambers at different times.
- (3) Any such member may be assigned to a particular chamber only with—
  - (a) the concurrence of its Chamber President, and
  - (b) the agreement of the member concerned.
- (4) The assignment of any such member to a particular chamber may be ended only with the concurrence of its Chamber President.
- (5) This paragraph does not apply to a legal member to whom paragraph 7(1) or (2) relates.

**Commencement Information**

**I31** Sch. 4 para. 8 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Assignment of judicial members*

- 9
- (1) A judicial member is to be assigned to at least one of the chambers.
  - (2) A judicial member—
    - (a) may be assigned to different chambers at different times,
    - (b) may be assigned to a particular chamber only with—
      - (i) the concurrence of its Chamber President, and
      - (ii) the agreement of the assignee concerned.
  - (3) The assignment of such a member to a particular chamber may be ended only with the concurrence of its Chamber President.

**Commencement Information**

**I32** Sch. 4 para. 9 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

SCHEDULE 5

*(introduced by section 32)*

APPOINTMENT TO UPPER TRIBUNAL

**PART 1**

ORDINARY MEMBERS

*Appointment and eligibility*

- 1
- (1) It is for the Scottish Ministers to appoint a person as an ordinary member of the Upper Tribunal.

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- (2) A person is eligible for such appointment only if the person meets such relevant criteria as are prescribed by the Scottish Ministers in regulations.

**Commencement Information**

**I33** Sch. 5 para. 1 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 2 In paragraph 1(2), “relevant criteria” includes criteria as to qualifications, experience and training.

**Commencement Information**

**I34** Sch. 5 para. 2 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

## PART 2

### LEGAL MEMBERS

#### *Application of Part*

- 3 (1) This schedule Part applies in relation to appointment of the legal members of the Upper Tribunal other than—
- (a) a Vice-President of the Tribunal,
  - (b) a legal member of the Tribunal by reason of being a Chamber President in the First-tier Tribunal.
- (2) The references in this schedule Part to a legal member of the Upper Tribunal are to be read accordingly.

**Commencement Information**

**I35** Sch. 5 para. 3 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

#### *Appointment and eligibility*

- 4 (1) It is for the Scottish Ministers to appoint a person as a legal member of the Upper Tribunal.
- (2) A person is eligible for such appointment only if qualifying under paragraph 5(1) or (2).

**Commencement Information**

**I36** Sch. 5 para. 4 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 5 (1) A person qualifies under this sub-paragraph if the person is practising, and has practised for a period of not less than 7 years, as a solicitor or advocate in Scotland.

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- (2) A person qualifies under this sub-paragraph if the person falls within a description specified by the Scottish Ministers by regulations.

**Commencement Information**

**I37** Sch. 5 para. 5 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Eligibility under regulations*

- 6 (1) Regulations under paragraph 5(2) may specify a description of a person by reference to the matters mentioned in sub-paragraph (2), (3) or (4).
- (2) That is—
- (a) current practice as a solicitor or barrister in England and Wales or Northern Ireland, and
  - (b) engagement in practice as such for a period of not less than 7 years.
- (3) That is—
- (a) previous engagement in practice for a period of not less than 7 years, as—
    - (i) a solicitor or advocate in Scotland, or
    - (ii) a solicitor or barrister in England and Wales or Northern Ireland, and
  - (b) subsequent engagement in any of the activities listed in sub-paragraph (5).
- (4) That is, suitability attributable to experience in law through current or previous engagement in—
- (a) any of the activities listed in sub-paragraph (5),
  - (b) an activity that is of a broadly similar nature to any of the activities listed in that sub-paragraph.
- (5) The activities are—
- (a) exercising judicial functions in any court or tribunal,
  - (b) practice or employment as a lawyer of any kind,
  - (c) whether or not in the course of practice or employment as a lawyer—
    - (i) advising on the application of the law,
    - (ii) drafting documents intended to affect rights or obligations under the law,
    - (iii) assisting persons involved in a legal or other process for the resolution of disputes as to the law,
    - (iv) acting as a mediator or arbitrator for the purpose of resolving disputes that are (or could be) the matter of legal proceedings,
  - (d) teaching or researching law at or for an educational institution.

**Commencement Information**

**I38** Sch. 5 para. 6 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 7 (1) The Scottish Ministers may by regulations make provision—
- (a) as regards the calculation of the 7-year period mentioned in paragraph 5(1) or 6(2)(b) or (3)(a) (for example, by reference to recent or continuous time),

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- (b) to which paragraph 6(3)(a) is subject (for example, by reference to debarment from practice),
- (c) for the purpose of paragraph 6(4), about—
  - (i) the criteria for suitability (for example, by reference to equivalence to past or present practice as a solicitor),
  - (ii) the nature of experience required (for example, by reference to engagement for a particular period of time (within the United Kingdom or elsewhere)).

(2) The Scottish Ministers may by regulations modify the list in paragraph 6(5).

**Commencement Information**

**I39** Sch. 5 para. 7 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

**SCHEDULE 6**

*(introduced by section 32)*

**POSITIONS IN UPPER TRIBUNAL**

**PART 1**

**TEMPORARY VICE-PRESIDENT**

*Temporary Vice-President*

- 1 If there is a temporary shortage in the number of Vice-Presidents of the Upper Tribunal or a temporary vacancy in the position, the President of Tribunals may assign a person as a Temporary Vice-President of a particular division during the shortage or vacancy.

**Commencement Information**

**I40** Sch. 6 para. 1 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 2 (1) A person is eligible for assignment as a Temporary Vice-President only if the person is a legal member of the Upper Tribunal (other than a Vice-President).
- (2) The functions of a Vice-President are exercisable by a Temporary Vice-President.
- (3) Except where the context otherwise requires, a reference in or under this Act to a Vice-President includes a Temporary Vice-President.

**Commencement Information**

**I41** Sch. 6 para. 2 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Status: Point in time view as at 07/11/2019.*

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

## PART 2

### ASSIGNMENT INTERNALLY

#### *Assignment of and by the President of Tribunals*

- 3 (1) The President of Tribunals has the function of assigning the members of the Upper Tribunal among the divisions (including re-assignment or ending assignment).
- (2) The President of Tribunals is to assign those members among the divisions in accordance with paragraphs 4 to 7.

#### **Commencement Information**

**I42** Sch. 6 para. 3 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

#### *Assignment of Vice-Presidents etc.*

- 4 (1) A Vice-President of a division—
- (a) is to be assigned to that division,
  - (b) may be assigned to act—
    - (i) in the case of a judicial member assigned as a Vice-President, as a judicial member also in another division,
    - (ii) in any other case, as a legal member also in another division.
- (2) Assignment under sub-paragraph (1)(b) is to act otherwise than as a Vice-President of the other division.
- (3) Assignment under sub-paragraph (1)(b) requires—
- (a) the concurrence of the Vice-President of the other division, and
  - (b) the agreement of the member concerned.

#### **Commencement Information**

**I43** Sch. 6 para. 4 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 5 (1) This paragraph applies in relation to a legal member by reason of being a Chamber President in the First-tier Tribunal.
- (2) Each member to whom this paragraph applies may be assigned to—
- (a) one or more of the divisions, and
  - (b) different divisions at different times.
- (3) Any such member may be assigned to a particular division only with—
- (a) the concurrence of its Vice-President, and
  - (b) the agreement of the member concerned.
- (4) The assignment of any such member to a particular division may be ended only with the concurrence of its Vice-President.

*Status: Point in time view as at 07/11/2019.*

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

#### Commencement Information

**I44** Sch. 6 para. 5 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

#### *Assignment of other members*

- 6 (1) This paragraph applies in relation to an ordinary member or legal member by virtue of—
- (a) appointment as such, or
  - (b) transfer-in as such.
- (2) Each member to whom this paragraph applies—
- (a) is to be assigned to at least one of the divisions,
  - (b) may be assigned to different divisions at different times.
- (3) Any such member may be assigned to a particular division only with—
- (a) the concurrence of its Vice-President, and
  - (b) the agreement of the member concerned.
- (4) The assignment of any such member to a particular division may be ended only with the concurrence of its Vice-President.
- (5) This paragraph does not apply to a legal member to whom paragraph 4 or 5 relates.

#### Commencement Information

**I45** Sch. 6 para. 6 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

#### *Assignment of judicial members etc.*

- 7 (1) A judicial member is to be assigned to at least one of the divisions.
- (2) An extra judge who is authorised to act as mentioned in section 18(4) is to be assigned to at least one of the divisions.
- (3) A judicial member or such an extra judge—
- (a) may be assigned to different divisions at different times,
  - (b) may be assigned to a particular division only with—
    - (i) the concurrence of its Vice-President, and
    - (ii) the agreement of the assignee concerned.
- (4) The assignment of a judicial member to a particular division may be ended only with the concurrence of its Vice-President.
- (5) Concurrence under sub-paragraph (3)(b)(i) or (4) is not required in relation to the assignment of the Lord President or the President of Tribunals.
- (6) This paragraph does not apply to a judicial member to whom paragraph 4 relates.



*Status: Point in time view as at 07/11/2019.*

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

**Commencement Information**

**I46** Sch. 6 para. 7 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

SCHEDULE 7

*(introduced by section 35)*

CONDITIONS OF MEMBERSHIP ETC.

*Application of schedule*

- 1 (1) This schedule applies in relation to the positions of ordinary member and legal member of the Scottish Tribunals (but not the position of judicial member of the Tribunals).
- (2) The references in this schedule to—
- (a) a position in the Scottish Tribunals, or
  - (b) a member of the Scottish Tribunals,
- are to be read accordingly.

**Commencement Information**

**I47** Sch. 7 para. 1 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Initial period of office*

- 2 (1) A person who is appointed to a position in the Scottish Tribunals holds the position for the period of 5 years beginning with the date of the appointment.
- (2) A person who is transferred-in to a position in the Scottish Tribunals holds the position for the period mentioned in sub-paragraph (3).
- (3) That period is the first-ending of either—
- (a) the period for which the member would have continued to hold office in the listed tribunal in question if the transfer to the Scottish Tribunals had not taken place, or
  - (b) the period of 5 years beginning with the date on which the person becomes a member of the Scottish Tribunals.

**Commencement Information**

**I48** Sch. 7 para. 2 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 3 (1) Sub-paragraph (2) applies where a person—
- (a) holds a position in the Scottish Tribunals, and
  - (b) is appointed to hold another such position in addition.

*Status: Point in time view as at 07/11/2019.*

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

- (2) The person holds the position mentioned in sub-paragraph (1)(b) for a period which expires on the same date as does the period for which the person holds the position mentioned in sub-paragraph (1)(a).

**Commencement Information**

**I49** Sch. 7 para. 3 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Automatic reappointment*

- 4 (1) Unless sub-paragraph (3) applies, a member of the Scottish Tribunals is to be reappointed as such at the end of each period for which the position is held.
- (2) Reappointment under sub-paragraph (1) is to the position for the period of 5 years beginning with the date of the reappointment.
- (3) This sub-paragraph applies if—
- (a) the member has declined to be reappointed,
  - (b) the member is ineligible for reappointment,
  - (c) the President of Tribunals has recommended to the Scottish Ministers that the member should not be reappointed.
- (4) In sub-paragraph (1), the reference to the period for which a position is held is to—
- (a) the period for which the position is held in accordance with paragraph 2 or 3, or
  - (b) any further period for which the position is held by virtue of reappointment in accordance with sub-paragraphs (1) and (2).
- (5) A reference in this paragraph to reappointment includes appointment at the end of a period for which a position is held by virtue of paragraph 2(2) as well as reappointment at the end of a period for which a position is held by virtue of any relevant appointment (or reappointment).

**Commencement Information**

**I50** Sch. 7 para. 4 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 5 For the purpose of paragraph 4(3)(b), a member is ineligible for reappointment only if the member would not be eligible for appointment to the position in accordance with the relevant provisions of schedule 3 or (as the case may be) schedule 5 were the member being appointed to the position for the first time.

**Commencement Information**

**I51** Sch. 7 para. 5 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 6 For the purpose of paragraph 4(3)(c), the President of Tribunals may recommend to the Scottish Ministers that a member should not be reappointed only if satisfied that—
- (a) the member has failed to comply with—
    - (i) any of the relevant terms and conditions of membership, or

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- (ii) any other requirement imposed on the member by or under this Act,  
or
- (b) the Tribunal concerned no longer requires—
  - (i) a member with the qualifications, experience and training of that member, or
  - (ii) the same number of members for the efficient disposal of its business.

**Commencement Information**

**I52** Sch. 7 para. 6 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 7 Reappointment by virtue of paragraph 4 is not subject to any process of appointment arising in relation to a position within the Scottish Tribunals by virtue of section 10(2A) of the Judiciary and Courts (Scotland) Act 2008.

**Commencement Information**

**I53** Sch. 7 para. 7 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Extension in senior post*

- 8 (1) Sub-paragraphs (2) and (3) apply where—
  - (a) a legal member of the First-tier Tribunal becomes by appointment a Chamber President or Deputy Chamber President in the Tribunal, or
  - (b) a legal member of the Upper Tribunal becomes by appointment a Vice-President of the Tribunal.

(2) Despite paragraphs 2 and 3, the period for which the legal member holds that position does not end until the expiry of 5 years beginning with the date of the appointment mentioned in the relevant limb of sub-paragraph (1).

(3) In all other respects also, the appointment mentioned in the relevant limb of sub-paragraph (1) supersedes the earlier appointment or (as the case may be) transfer-in as a legal member.

**Commencement Information**

**I54** Sch. 7 para. 8 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Termination of appointment*

- 9 A member of the Scottish Tribunals ceases to hold the position of member of the Tribunals if the member—
  - (a) becomes disqualified from holding the position,
  - (b) is removed from the position under paragraph 23 of schedule 8,
  - (c) resigns the position by giving notice in writing to the Lord President, or
  - (d) vacates the position in accordance with section 26 of the Judicial Pensions and Retirement Act 1993.

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

#### Commencement Information

**I55** Sch. 7 para. 9 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 10 (1) Nothing in paragraphs 2 to 8 affects the operation of section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 in relation to a member of the Scottish Tribunals.
- (2) Accordingly, such a member's continuation in office by virtue of that section may have the effect of extending the period for which the member is appointed or (as the case may be) reappointed by virtue of those paragraphs.

#### Commencement Information

**I56** Sch. 7 para. 10 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

#### *Required oaths*

- 11 (1) Each of the members of the Scottish Tribunals must take the required oaths in accordance with this paragraph.
- (2) A Vice-President of the Upper Tribunal is to take them in the presence of the President of Tribunals.
- (3) A Chamber President in the First-tier Tribunal is to take them in the presence of the President of Tribunals.
- (4) A Deputy Chamber President in the First-tier Tribunal is to take them in the presence of either the President of Tribunals or a Chamber President in the First-tier Tribunal.
- (5) An ordinary or legal member of the Upper Tribunal by virtue of appointment or transfer-in as such is to take them in the presence of either the President of Tribunals or a Vice-President of the Upper Tribunal.
- (6) An ordinary or legal member of the First-tier Tribunal by virtue of appointment or transfer-in as such is to take them in the presence of either the President of Tribunals or a Chamber President in the First-tier Tribunal.
- (7) If a member of the Scottish Tribunals has previously taken the required oaths in the circumstances mentioned in sub-paragraph (8), the previous taking of the oaths counts as if it were the taking of them in accordance with this paragraph.
- (8) The circumstances are—
- (a) in the case of a member who is transferred-in as such, in connection with the office from which the person is transferred-in,
  - (b) in the case of a member whose position changes within the Scottish Tribunals, in connection with appointment or transfer-in to the previous position.
- (9) In this paragraph, “the required oaths” means the oath of allegiance and the judicial oath as set out in the Promissory Oaths Act 1868.

*Status: Point in time view as at 07/11/2019.*

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

#### Commencement Information

**I57** Sch. 7 para. 11 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

#### *Pensions etc.*

- 12 (1) The Scottish Ministers may make arrangements as to—
- (a) the payment of pensions, allowances and gratuities to or in respect of the members, or former members, of the Scottish Tribunals,
  - (b) contributions or other payments towards provision for such pensions, allowances and gratuities.
- (2) Under sub-paragraph (1), such arrangements may (in particular)—
- (a) include provision relating to payment of compensation for loss of office,
  - (b) make different provision for different types of member, different positions or other different purposes.

#### Commencement Information

**I58** Sch. 7 para. 12 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

#### *Other conditions*

- 13 (1) Other than as provided for elsewhere in this Act or under it, the Scottish Ministers may determine the terms and conditions on which the members of the Scottish Tribunals hold their positions.
- (2) Under sub-paragraph (1), a determination may (in particular)—
- (a) include provision for sums to be payable by way of remuneration, allowances and expenses,
  - (b) make different provision for different types of member, different positions or other different purposes.
- [<sup>F8</sup>(3) The Scottish Courts and Tribunals Service must make any payment to members arising by virtue of this paragraph.]

#### Textual Amendments

**F8** Sch. 7 para. 13(3) inserted (1.4.2018) by The Courts Reform (Scotland) Act 2014 (Consequential and Supplemental Provisions) Order 2018 (S.S.I. 2018/93), arts. 1, 4

#### Commencement Information

**I59** Sch. 7 para. 13 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Status: Point in time view as at 07/11/2019.*

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

## SCHEDULE 8

*(introduced by section 36)*

### 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**

**I60** 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**

**I61** 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),

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- (i) the obtaining of information relating to a complaint,
- (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**

**I62** 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**

**I63** 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**

**I64** 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**

**I65** Sch. 8 para. 6 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

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

### *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.
- (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**

**I66** 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**

**I67** 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**

**I68** Sch. 8 para. 9 in force at 1.4.2015 by S.S.I. 2015/116, art. 2



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

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—

- (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.

**Commencement Information**

**I69** Sch. 8 para. 10 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

**PART 2**

FITNESS AND REMOVAL

*Application of Part*

11 (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 or position in the Scottish Tribunals are to be read accordingly.

**Commencement Information**

**I70** Sch. 8 para. 11 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

12 In this schedule Part, the references to unfitness to hold the position of member of the Scottish Tribunals are to unfitness by reason of inability, neglect of duty or misbehaviour.

**Commencement Information**

**I71** Sch. 8 para. 12 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Constitution and procedure*

13 (1) The First Minister must constitute a fitness assessment tribunal when requested to do so by the Lord President.

(2) The First Minister may constitute a fitness assessment tribunal—

- (a) in such other circumstances as the First Minister thinks fit, and
- (b) following consultation with the Lord President.

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- (3) The function of a fitness assessment tribunal is to investigate and report on whether a member of the Scottish Tribunals is unfit to hold the position of member of the Tribunals.

**Commencement Information**

**I72** Sch. 8 para. 13 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 14 The Court of Session may by act of sederunt make provision as to the procedure to be followed in proceedings at a fitness assessment tribunal.

**Commencement Information**

**I73** Sch. 8 para. 14 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Composition and remuneration*

- 15 (1) A fitness assessment tribunal is to consist of—
- (a) one person who is, or has been—
    - (i) a judge of the Court of Session (except a temporary judge), or
    - (ii) a sheriff (except a part-time sheriff),
  - (b) one person who is—
    - (i) where the member under investigation is an ordinary member, another ordinary member, or
    - (ii) where the member under investigation is a legal member, another legal member, and
  - (c) one person who does not fall (and has never fallen) within a category of person who may be a member of the tribunal by virtue of sub-paragraph (a) or (b).
- (2) The selection of persons to be members of the tribunal is to be made by the First Minister with the agreement of the Lord President.

**Commencement Information**

**I74** Sch. 8 para. 15 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 16 (1) The Scottish Ministers—
- (a) must pay such expenses as they consider are reasonably required to be incurred to enable a fitness assessment tribunal to carry out its functions,
  - (b) may pay such remuneration to, and expenses of, any member of such a tribunal as they think fit.
- (2) Sub-paragraph (1)(b) does not apply in relation to such a member if the member is a sheriff or a judge of the Court of Session.

**Commencement Information**

**I75** Sch. 8 para. 16 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

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

### *Proceedings before tribunal*

- 17 (1) A fitness assessment tribunal may require any person—
- (a) to attend its proceedings for the purpose of giving evidence,
  - (b) to produce documents in the person's custody or under the person's control.
- (2) A person on whom such a requirement is imposed is not obliged to answer any question or produce any document which the person would be entitled to refuse to answer or produce in a court of law in Scotland.

#### **Commencement Information**

**I76** [Sch. 8 para. 17](#) in force at 1.4.2015 by [S.S.I. 2015/116](#), [art. 2](#)

- 18 (1) Sub-paragraph (2) applies where a person on whom a requirement has been imposed under paragraph 17(1)—
- (a) refuses or fails, without reasonable excuse—
    - (i) to comply with the requirement,
    - (ii) while attending the tribunal proceedings to give evidence, to answer any question,
  - (b) deliberately alters, conceals or destroys any document which the person is required to produce.
- (2) The Court of Session may, on an application made to it by the tribunal—
- (a) make such order for enforcing compliance or otherwise as it thinks fit, or
  - (b) deal with the matter as if it were a contempt of the Court.

#### **Commencement Information**

**I77** [Sch. 8 para. 18](#) in force at 1.4.2015 by [S.S.I. 2015/116](#), [art. 2](#)

### *Suspension during investigation*

- 19 (1) Sub-paragraph (2) applies if the Lord President requests the First Minister to constitute a fitness assessment tribunal to investigate whether a member of the Scottish Tribunals is unfit to hold the position of member of the Tribunals.
- (2) The Lord President may suspend the member from the position at any time before the tribunal submits its report as required by paragraph 22(2).
- (3) Suspension under sub-paragraph (2) lasts until (whichever is earlier)—
- (a) the Lord President revokes it, or
  - (b) the report is laid as required by paragraph 22(3).

#### **Commencement Information**

**I78** [Sch. 8 para. 19](#) in force at 1.4.2015 by [S.S.I. 2015/116](#), [art. 2](#)

- 20 (1) Sub-paragraph (2) applies if a fitness assessment tribunal—

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- (a) recommends that a member of the Scottish Tribunals who is subject to its investigation should be suspended from the position as member of the Tribunals, and
  - (b) does so in writing at any time before the tribunal submits its report as required by paragraph 22(2).
- (2) The First Minister may suspend the member from the position at any time before laying the report as required by paragraph 22(3).
- (3) Suspension under sub-paragraph (2) lasts until (whichever is earlier)—
- (a) the First Minister revokes it, or
  - (b) the report is laid as required by paragraph 22(3).

**Commencement Information**

**I79** Sch. 8 para. 20 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 21 Suspension under paragraph 19(2) or 20(2) does not affect any remuneration payable to, or in respect of, the member concerned during the period of suspension.

**Commencement Information**

**I80** Sch. 8 para. 21 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Report and removal*

- 22 (1) A report by a fitness assessment tribunal must—
- (a) be in writing, and
  - (b) contain reasons for its conclusions.
- (2) As soon as reasonably practicable after it is completed, such a report must be submitted by the tribunal to—
- (a) the First Minister, and
  - (b) the Lord President.
- (3) The First Minister must lay before the Scottish Parliament each report submitted under sub-paragraph (2).

**Commencement Information**

**I81** Sch. 8 para. 22 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 23 (1) If the relevant condition is met, the First Minister may remove a member of the Scottish Tribunals from the position of member of the Tribunals.
- (2) The relevant condition is that a fitness assessment tribunal has submitted a report under paragraph 22(2) concluding that the member is unfit to hold the position of member of the Scottish Tribunals.

*Status: Point in time view as at 07/11/2019.*

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

**Commencement Information**

**182** Sch. 8 para. 23 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

**SCHEDULE 9**

*(introduced by section 81)*

**TRANSITIONAL AND CONSEQUENTIAL**

**PART 1**

**TRANSITIONAL AND OTHER MATTERS**

*Exercise of functions*

- 1 (1) Sub-paragraph (2) applies for the purposes of—
- (a) the exercise of functions by a member of the Scottish Tribunals by virtue of this Act, and
  - (b) the operation of provisions in or under this Act to which such a member is subject.
- (2) Except where the context otherwise requires, it is immaterial whether a person who is, or who is acting as, such a member is in place by virtue of appointment, assignment, transfer-in or other means under this Act.

**Commencement Information**

**183** Sch. 9 para. 1 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Rules of listed tribunals*

- 2 (1) Sub-paragraph (2) applies where some or all of the functions of a listed tribunal have been, or are to be, transferred by regulations under section 28(2).
- (2) The Scottish Ministers may by regulations provide for the procedural rules of a listed tribunal that are in force immediately before the transfer to have effect for the purposes of either or both of the First-tier Tribunal and the Upper Tribunal.
- (3) Regulations under sub-paragraph (2) may provide for the procedural rules to which the regulations relate to have effect subject to such modifications as appear to the Scottish Ministers to be necessary or expedient with respect to the purposes mentioned in that sub-paragraph.
- (4) In this paragraph—  
“listed tribunal” is to be construed in accordance with Part 3 (see section 27(1)),  
“procedural rules” means provision for the purposes of a listed tribunal (whether or not contained in an enactment and irrespective of whether called rules)—

*Status: Point in time view as at 07/11/2019.*

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

- (a) regulating the practice or procedure to be followed in proceedings at a listed tribunal, or
- (b) otherwise applying in relation to the exercise by a listed tribunal of its functions.

**Commencement Information**

**I84** Sch. 9 para. 2 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 3 (1) Regulations under paragraph 2(2) may—
- (a) make different provision for different purposes,
  - (b) include supplemental, incidental, consequential, transitional, transitory or saving provision.
- (2) Regulations under paragraph 2(2) are subject to the negative procedure.

**Commencement Information**

**I85** Sch. 9 para. 3 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Pre-SCJC rule-making*

- 4 (1) Until the Scottish Civil Justice Council and the Court of Session are involved in the making of Tribunal Rules by virtue of the coming into force of paragraph 13(2) to (5)—
- (a) section 68(3) and (4) is of no effect,
  - (b) instead of that section, sub-paragraph (2) applies for the purpose of making rules—
    - (i) regulating the practice and procedure to be followed in proceedings at the Scottish Tribunals, or
    - (ii) containing provision of other sorts appropriate with respect to the Scottish Tribunals (including in relation to the exercise by them of their functions).
- (2) The function of making such rules is exercisable by the Scottish Ministers by setting them out in regulations.
- (3) Before making regulations under sub-paragraph (2), the Scottish Ministers must consult—
- (a) the President of Tribunals, and
  - (b) such other persons as they consider appropriate.

**Commencement Information**

**I86** Sch. 9 para. 4 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 5 (1) Regulations under paragraph 4(2) may—
- (a) modify rules having effect as mentioned in paragraph 2(2) (by virtue of regulations made under that paragraph),

*Status: Point in time view as at 07/11/2019.*

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

- (b) do anything that may be done by Tribunal Rules by virtue of Chapter 2 of Part 7 (including the making of different provision for different purposes).

(2) Regulations under paragraph 4(2) are subject to the negative procedure.

**Commencement Information**

**187** Sch. 9 para. 5 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Adoption of inherited rules*

- 6
- (1) Sub-paragraph (2) applies to—
    - (a) rules having effect as mentioned in paragraph 2(2) (by virtue of regulations made under that paragraph),
    - (b) rules set out in regulations made by virtue of paragraph 4(2).
  - (2) Once the Scottish Civil Justice Council and the Court of Session are involved in the making of Tribunal Rules by virtue of the coming into force of paragraph 13(2) to (5)—
    - (a) all rules to which this sub-paragraph applies are to be regarded as if made as Tribunal Rules under Chapter 2 of Part 7,
    - (b) all such rules have effect accordingly (and may therefore be revoked, amended or remade by Tribunal Rules under Chapter 2 of Part 7).

**Commencement Information**

**188** Sch. 9 para. 6 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

*Chambers and divisions*

- 7
- (1) For as long as it appears to the Scottish Ministers that the acquisition of functions by the First-Tier Tribunal for the time being is such that there is justification for not organising it into a number of chambers as required by section 20(1), regulations under section 20(2)—
    - (a) need not be made, or
    - (b) may provide for the Tribunal to have a single chamber only.
  - (2) For as long as it appears to the Scottish Ministers that the acquisition of functions by the Upper Tribunal for the time being is such that there is justification for not organising it into a number of divisions as required by section 23(1), regulations under section 23(2)—
    - (a) need not be made, or
    - (b) may provide for the Tribunal to have a single division only.

**Commencement Information**

**189** Sch. 9 para. 7 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 8
- (1) Sections 20(1) and (2) and 23(1) and (2) are subject to paragraph 7(1) and (2) (until it appears to the Scottish Ministers that the relevant justification no longer exists).

*Status: Point in time view as at 07/11/2019.*

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

- (2) Any provision of this Act (apart from this schedule Part) that mentions a chamber or more than one chamber of the First-tier Tribunal is, for as long as by virtue of paragraph 7(1) the First-tier Tribunal has no chambers or a single chamber, to be read with such modifications as are necessary for the effective operation of the provision while the Tribunal is not organised into a number of chambers.
- (3) Any provision of this Act (apart from this schedule Part) that mentions a division or more than one division of the Upper Tribunal is, for as long as by virtue of paragraph 7(2) the Upper Tribunal has no divisions or a single division, to be read with such modifications as are necessary for the effective operation of the provision while the Tribunal is not organised into a number of divisions.

#### Commencement Information

**I90** Sch. 9 para. 8 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

- 9 For the purposes of paragraph 7(1) and (2), the Scottish Ministers must have regard to the following matters so far as relevant for the time being—
- (a) the different subject-matters falling within the jurisdiction of the First-tier Tribunal or (as the case may be) the Upper Tribunal, and
  - (b) any other factors relevant in relation to the exercise of the functions of the First-tier Tribunal or (as the case may be) the Upper Tribunal.

#### Commencement Information

**I91** Sch. 9 para. 9 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

#### *Making appointments*

- 10 (1) Until all of the functions of a listed tribunal have been transferred to the Scottish Tribunals by regulations under section 28(2)—
- (a) paragraph 3(1)(d) of schedule 1 to the 2008 Act has effect in relation to that tribunal as if the reference in that paragraph to a person holding the position of Chamber President or of Vice-President within the Scottish Tribunals includes the President of, or the holder of an equivalent office in, any listed tribunal,
  - (b) paragraph 16A(2)<sup>F9</sup>, (3), (6A) and (6B) of schedule 1 to the 2008 Act has effect in relation to that tribunal as if the references in that paragraph to a member of the Scottish Tribunals includes a member of, or a person who exercises functions as, any listed tribunal.
- (2) In this paragraph—
- “the 2008 Act” means the Judiciary and Courts (Scotland) Act 2008 (see paragraph 12(4)(b) and (5)),
- “listed tribunal” is to be construed in accordance with Part 3 (see section 27(1)).

#### Textual Amendments

**F9** Words in Sch. 9 para. 10(1)(b) substituted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 131(2); S.S.I. 2015/77, art. 2(2)(3), Sch.



*Status: Point in time view as at 07/11/2019.*

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

#### Commencement Information

**I92** Sch. 9 para. 10 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

## 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. ”.

#### Commencement Information

**I93** Sch. 9 para. 11 in force at 1.4.2015 by [S.S.I. 2015/116](#), **art. 2**

#### *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—

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*Status: Point in time view as at 07/11/2019.*

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

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- “(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—
- (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).

*Status: Point in time view as at 07/11/2019.*

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

- (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.
- (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.”.

#### **Commencement Information**

**194** Sch. 9 para. 12 in force at 1.4.2015 by S.I. 2015/116, art. 2

#### *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—

[<sup>F10</sup>“(iza)] 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—

[<sup>F11</sup>“(6ZA)] 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 ”,

*Status: Point in time view as at 07/11/2019.*

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

- (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”),”.
- (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 [F12(c)(iza)].
- (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—

*Status: Point in time view as at 07/11/2019.*

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

“draft tribunal procedure rules” has the meaning given in section [F132(6ZA)],”

(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).”.

#### Textual Amendments

- F10** Word in Sch. 9 para. 13(2)(b)(ii) substituted (1.9.2016) by [Inquiries into Fatal Accidents and Sudden Deaths etc. \(Scotland\) Act 2016 \(asp 2\), s. 42\(2\)](#), [Sch. 2 para. 16\(2\)](#); S.S.I. 2016/196, reg. 2(h)
- F11** Word in Sch. 9 para. 13(4) substituted (1.9.2016) by [Inquiries into Fatal Accidents and Sudden Deaths etc. \(Scotland\) Act 2016 \(asp 2\), s. 42\(2\)](#), [Sch. 2 para. 16\(3\)](#); S.S.I. 2016/196, reg. 2(h)
- F12** Word in Sch. 9 para. 13(9) substituted (1.9.2016) by [Inquiries into Fatal Accidents and Sudden Deaths etc. \(Scotland\) Act 2016 \(asp 2\), s. 42\(2\)](#), [Sch. 2 para. 16\(4\)](#); S.S.I. 2016/196, reg. 2(h)
- F13** Word in Sch. 9 para. 13(10) substituted (1.9.2016) by [Inquiries into Fatal Accidents and Sudden Deaths etc. \(Scotland\) Act 2016 \(asp 2\), s. 42\(2\)](#), [Sch. 2 para. 16\(5\)](#); S.S.I. 2016/196, reg. 2(h)

#### Commencement Information

- I95** Sch. 9 para. 13(1)(2)(b)(i) in force at 8.1.2016 by [S.S.I. 2015/422](#), [art. 2](#)

## SCHEDULE 10

*(introduced by section 82)*

### INDEX OF EXPRESSIONS

#### Commencement Information

- I96** [Sch. 10](#) in force at 1.4.2015 by [S.S.I. 2015/116](#), [art. 2](#)

Expressions used	Relevant provisions
Lord President	Section 82(1)
Head of the Scottish Tribunals	Section 2(1)
President of Tribunals	Section 5(3)
First-tier Tribunal and Upper Tribunal	Section 1(1)
the Scottish Tribunals	Section 1(2)

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*Status: Point in time view as at 07/11/2019.*

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

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Chamber President of the First-tier Tribunal (including appointment to position)	Sections 21 and 22
Vice-President of the Upper Tribunal (including assignment or appointment to position)	Sections 24 to 26
chamber of a Tribunal (First-tier)	Section 20(1)
division of a Tribunal (Upper)	Section 23(1)
members of the Scottish Tribunals	Section 13(3)
ordinary member (First-tier)	Section 15(1)
ordinary member (Upper)	Section 16(1)
legal member (First-tier)	Section 15(2)
legal member (Upper)	Section 16(2)
judicial member (First-tier)	Section 19(1)
judicial member (Upper)	Section 19(2)
extra judge (Upper)	Section 19(4)
appointment and assignment (various positions)	Section 32(1) to (4)
transfer-in to membership (various positions)	Section 29(a) and (b)
listed tribunals	Section 27(1)
Tribunal rules	Section 68(2)

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**Status:**

Point in time view as at 07/11/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the Tribunals (Scotland) Act 2014.