

*Changes to legislation:* There are currently no known outstanding effects for the  
Tribunals (Scotland) Act 2014, SCHEDULE 5. (See end of Document for details)

## 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.
- (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

**11** 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

**12** 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

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

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### *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**

**I4** [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.
- (2) A person qualifies under this sub-paragraph if the person falls within a description specified by the Scottish Ministers by regulations.

#### **Commencement Information**

**I5** [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,

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- (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**

**I6** 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),
  - (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**

**I7** Sch. 5 para. 7 in force at 1.4.2015 by S.S.I. 2015/116, art. 2

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