

MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2 (Introduced by Section 21): the Mental Health Tribunal for Scotland

Part 1: members of the Tribunal

668. **Paragraph 1** provides that the membership of the Tribunal shall be drawn from three panels. The Scottish Ministers will appoint these members to the Tribunal. The three panels of members will consist of legal, medical and general members respectively. Regulations may specify the qualifications, training and experience required for each panel.
669. Categories of persons who are disqualified from appointment as, and being, members of the Tribunal are set out in sub-paragraph (2).
670. In addition to the three panels mentioned above, paragraph 2 establishes a panel consisting of all those holding office as sheriffs principal, sheriffs or part-time sheriffs to serve as sheriff conveners of the Tribunal.
671. **Paragraph 3** requires the Scottish Ministers to appoint a President of the Tribunal. The President is to preside over the discharge of the Tribunal's functions, and can also serve as a convener of the Tribunal. The President must have such qualifications, training and experience as may be prescribed in regulations.
672. The President is subject to the same provisions as Tribunal members as regards disqualification, terms of office, remuneration and pensions (paragraphs 1(2), 4, 5 and 6). A legal member of the Tribunal appointed for the purpose by the Scottish Ministers can discharge the functions of the President if the President is absent or unable to act. Further regulations may provide for the President's functions to be delegated to Tribunal members or Tribunal staff. These regulations may contain provision for different functions to be delegated to different people for different regional areas.
673. **Paragraph 4** sets out the terms of office for Tribunal members. Tribunal members will generally serve for 5 years but will normally be entitled to be re-appointed for a further period, unless the circumstances set out in sub-paragraph (6) apply.
674. Each member holds office in accordance with the terms of the member's instrument of appointment (which may, for example, provide that the member is appointed on a part-time or a full-time basis).
675. **Paragraph 5** sets out the procedure for removing a Tribunal member from office. This can only be done by a disciplinary committee constituted under sub-paragraph (3), chaired by a Court of Session judge or a sheriff principal. Regulations may make provision on suspension and otherwise on the committee's procedure.

*These notes relate to the Mental Health (Care and Treatment) (Scotland)
Act 2003 (asp 13) which received Royal Assent on 25 April 2003*

676. [Paragraph 6](#) allows the Scottish Ministers to make remuneration and pension arrangements for Tribunal members.