

SCHEDULE 4

(introduced by section 130(3))

THE SCOTTISH COURTS AND TRIBUNALS SERVICE

PART 1

CONFERRAL OF ADDITIONAL FUNCTIONS ETC. IN RELATION TO TRIBUNALS

Modification of the Judiciary and Courts (Scotland) Act 2008

- 1 (1) The Judiciary and Courts (Scotland) Act 2008 is amended in accordance with this paragraph.
 - (2) For “SCS” in each place where it occurs, substitute “SCTS”.
 - (3) In section 60 (the Scottish Court Service), in subsection (1), for “Court” substitute “Courts and Tribunals”.
 - (4) In section 62 (administrative support for persons other than the Scottish courts and judiciary)—
 - (a) after subsection (1)(a)(i) insert—

“(ia) functions conferred on the Lord President as Head of the Scottish Tribunals,”
 - (b) after subsection (1)(c) insert—

“(ca) the President of the Scottish Tribunals in the carrying out of—
 - (i) functions delegated to the President of the Scottish Tribunals by the Lord President as Head of the Scottish Tribunals, and
 - (ii) other non-judicial functions of the President of the Scottish Tribunals,”.
- (5) In section 70(1)(a)(i) (Scottish Ministers’ default power), after “courts” insert “or the Scottish Tribunals”.
- (6) Schedule 3 (the Scottish Court Service) is amended in accordance with sub-paragraphs (7) to (11).
- (7) Paragraph 1 is repealed.
- (8) In paragraph 2—
 - (a) for sub-paragraph (2)(c) substitute—

“(c) the President of the Scottish Tribunals,”
 - (b) the word “and” immediately preceding sub-paragraph (2)(f) is repealed,
 - (c) after sub-paragraph (2)(f) insert “, and
 - (g) one person holding the position of Chamber President in the First-tier Tribunal for Scotland.”,
 - (d) after sub-paragraph (6) insert—

“(7) In this schedule, references to the position of Chamber President in the First-tier Tribunal for Scotland are to be construed in accordance with the Tribunals (Scotland) Act 2014.”.

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- (9) In paragraph 3, in sub-paragraph (1) after “Clerk” insert “, the President of the Scottish Tribunals”.
- (10) In paragraph 13, after sub-paragraph (2)(a) insert—
 “(aa) the judicial member who holds the position of Chamber President in the First-tier Tribunal for Scotland (unless that member receives a salary in respect of that position),”.
- (11) In paragraph 20, after sub-paragraph (2)(a)(i) insert—
 “(ia) the purposes of tribunals or the members of tribunals,”.
- (12) The title of—
 (a) Part 4 becomes “THE SCOTTISH COURTS AND TRIBUNALS SERVICE”,
 (b) section 60 becomes “**The Scottish Courts and Tribunals Service**”,
 (c) schedule 3 becomes “THE SCOTTISH COURTS AND TRIBUNALS SERVICE”.

PART 2

TRANSITIONAL PROVISION

Transfer of staff

- 2 (1) Sub-paragraph (2) applies to persons who, on the coming into force of this paragraph, are members of the staff of the Scottish Ministers assigned to the part of the Scottish Administration known as the Scottish Tribunals Service (referred to in this paragraph as “the Service”), other than excepted staff.
- (2) On the coming into force of this paragraph, those members of staff transfer to, and become members of the staff of, the Scottish Courts and Tribunals Service (referred to in this paragraph as “the SCTS”).
- (3) The excepted staff are staff on secondment or loan to the Service from another part of the Scottish Administration.
- (4) The contract of employment of a person who becomes a member of the staff of the SCTS by virtue of sub-paragraph (2)—
 (a) is not terminated by the transfer, and
 (b) has effect from the date this paragraph comes into force as if originally made between the person and the SCTS.
- (5) Without prejudice to sub-paragraph (4)—
 (a) all the rights, powers, duties and liabilities of the Scottish Ministers under or in connection with the person’s contract of employment are by virtue of this sub-paragraph transferred to the SCTS on the date on which this paragraph comes into force, and
 (b) anything done before that date by or in relation to the Scottish Ministers in respect of that contract of employment or that person is to be treated from that date as having been done by or in relation to the SCTS.

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- (6) This paragraph does not prejudice any right of any person to terminate that person's contract of employment if the terms and conditions of employment are changed substantially to the detriment of the person; but such a change is not to be taken to have occurred by reason only that the identity of the person's employer changes by virtue of this paragraph.
- (7) A determination by the Scottish Ministers that any member of their staff is—
- (a) employed as mentioned in sub-paragraph (1), or
 - (b) excepted staff by virtue of sub-paragraph (3),
- is conclusive of that fact for the purposes of this paragraph.

Existing tribunals

- 3 (1) Until all of the functions of a tribunal listed in sub-paragraph (2) are transferred to the Scottish Tribunals by virtue of section 28 of the Tribunals (Scotland) Act 2014, sections 61A (administrative support for the Scottish Tribunals and their members) and 70 (default power of the Scottish Ministers) of the 2008 Act apply in relation to the tribunal, and to the members of the tribunal, as those sections apply in relation to the Scottish Tribunals and the members of those Tribunals.
- (2) The tribunals referred to in sub-paragraph (1) are—
- (a) the Lands Tribunal for Scotland, established by section 1 of the Lands Tribunal Act 1949,
 - (b) a private rented housing committee constituted in accordance with Schedule 4 to the Rent (Scotland) Act 1984,
 - (c) a homeowner housing committee constituted in accordance with that Schedule,
 - (d) the Mental Health Tribunal for Scotland, established by section 21 of the Mental Health (Care and Treatment) (Scotland) Act 2003,
 - (e) an Additional Support Needs Tribunal for Scotland constituted under section 17(1) of the Education (Additional Support for Learning) (Scotland) Act 2004,
 - (f) a Scottish Charity Appeals Panel constituted under section 75 of the Charities and Trustee Investment (Scotland) Act 2005,
 - (g) the First-tier Tax Tribunal for Scotland, established by section 21(1) of the Revenue Scotland and Tax Powers Act 2014,
 - (h) the Upper Tax Tribunal for Scotland, established by section 21(3) of the Revenue Scotland and Tax Powers Act 2014.
- (3) Paragraph 2(2)(g) of schedule 3 to the 2008 Act applies as if the reference to the position of Chamber President in the First-tier Tribunal for Scotland includes a reference to an office mentioned in sub-paragraph (4) in relation to a tribunal, for so long as section 61A of the 2008 Act applies, by virtue of sub-paragraph (1), to that tribunal (and paragraph 13(2)(aa) of schedule 3 to the 2008 Act is to be construed accordingly).
- (4) The offices and tribunals referred to in sub-paragraph (3) are—
- (a) President of the Lands Tribunal for Scotland, appointed under section 2(1) of the Lands Tribunal Act 1949, in relation to the Lands Tribunal for Scotland,
 - (b) President of the Private Rented Housing Panel, appointed under paragraph 4 of Schedule 4 to the Rent (Scotland) Act 1949, in relation to—

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- (i) a private rented housing committee,
 - (ii) a homeowner housing committee,
 - (c) President of the Mental Health Tribunal for Scotland, appointed under paragraph 3(1) of schedule 2 to the Mental Health (Care and Treatment) (Scotland) Act 2003, in relation to the Mental Health Tribunal for Scotland,
 - (d) President of the Additional Support Needs Tribunals for Scotland, appointed under section 17(2) of the Education (Additional Support for Learning) (Scotland) 2004, in relation to an Additional Support Needs Tribunal for Scotland,
 - (e) President of the Tax Tribunals, appointed under section 22(1) of the Revenue Scotland and Tax Powers Act 2014, in relation to the First-tier Tax Tribunal for Scotland and the Upper Tax Tribunal for Scotland.
- (5) The Scottish Ministers may by order—
- (a) add a reference to a tribunal which is, or is to be, listed in schedule 1 to the Tribunals (Scotland) Act 2014 to sub-paragraph (2),
 - (b) add a reference to an office in relation to the tribunal to sub-paragraph (4).
- (6) In this paragraph—
- “the 2008 Act” means the Judiciary and Courts (Scotland) Act 2008,
 - “the Scottish Tribunals” means the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland.

PART 3

CONSEQUENTIAL REPEALS, ETC.

Lands Tribunal Act 1949

- 4 Section 2(7) of the Lands Tribunal Act 1949 is repealed.

Mental Health (Care and Treatment) (Scotland) Act 2003

- 5 Paragraph 8(1) and (2) of schedule 2 to the Mental Health (Care and Treatment) (Scotland) Act 2003 is repealed.

Education (Additional Support for Learning) (Scotland) Act 2004

- 6 Paragraph 9 of schedule 1 to the Education (Additional Support for Learning) (Scotland) Act 2004 is repealed.

Charities and Trustee Investment (Scotland) Act 2005

- 7 Paragraph 3 of schedule 2 to the Charities and Trustee Investment (Scotland) Act 2005 is repealed.

Tribunals (Scotland) Act 2014

- 8 Section 77 (administrative support) of the Tribunals (Scotland) Act 2014 is repealed.

Revenue Scotland and Tax Powers Act 2014

- 9 (1) The Revenue Scotland and Tax Powers Act 2014 is amended in accordance with this paragraph.
- (2) Section 58 (administrative support) is repealed.
- (3) In section 59 (guidance), in subsection (2)—
- (a) in paragraph (b), for “tribunals” substitute “Scottish Courts and Tribunals Service”,
 - (b) paragraph (c) is repealed.