



# Tribunals (Scotland) Act 2014

## 2014 asp 10

### PART 6

#### REVIEW OR APPEAL OF DECISIONS

#### CHAPTER 1

#### TRIBUNAL DECISIONS

#### *Appeal from Upper Tribunal*

#### **48 Appeal from the Tribunal**

- (1) A decision of the Upper Tribunal in any matter in a case before the Tribunal may be appealed to the Court of Session.
- (2) An appeal under this section is to be made—
  - (a) by a party in the case,
  - (b) on a point of law only.
- (3) An appeal under this section requires the permission of—
  - (a) the Upper Tribunal, or
  - (b) if the Upper Tribunal refuses its permission, the Court of Session.
- (4) Such permission may be given in relation to an appeal under this section only if the Upper Tribunal or (as the case may be) the Court of Session is satisfied that there are arguable grounds for the appeal.
- (5) This section—
  - (a) is subject to sections 43(4) and 55(2),
  - (b) does not apply in relation to an excluded decision.

#### **49 Disposal of an appeal**

- (1) In an appeal under section 48, the Court of Session may uphold or quash the decision on the point of law in question.
- (2) If the Court quashes the decision, it may—
  - (a) re-make the decision,
  - (b) remit the case to the Upper Tribunal, or
  - (c) make such other order as the Court considers appropriate.
- (3) In re-making the decision, the Court may—
  - (a) do anything that the Upper Tribunal could do if re-making the decision,
  - (b) reach such findings in fact as the Court considers appropriate.
- (4) In remitting the case, the Court may give directions for the Upper Tribunal’s reconsideration of the case.
- (5) Such directions may relate to—
  - (a) issues of law or fact (including the Court’s opinion on any relevant point),
  - (b) procedural issues (including as to the members to be chosen to reconsider the case).

#### **50 Procedure on second appeal**

- (1) Section 48(4) is subject to subsections (3) and (4) as regards a second appeal.
- (2) Section 49 is subject to subsections (5) and (6) as regards a second appeal.
- (3) For the purpose of subsection (1), the Upper Tribunal or (as the case may be) the Court of Session may not give its permission to the making of a second appeal unless also satisfied that subsection (4) applies.
- (4) This subsection applies where, in relation to the matter in question—
  - (a) a second appeal would raise an important point of principle or practice, or
  - (b) there is some other compelling reason for allowing a second appeal to proceed.
- (5) For the purpose of subsection (2), subsections (2)(b) and (3)(a) of section 49 have effect in relation to a second appeal as if the references in them to the Upper Tribunal include (as alternatives) references to the First-tier Tribunal.
- (6) Where, in exercising the choice arising by virtue of subsection (5) (and instead of re-making the decision in question), the Court of Session remits the case to the Upper Tribunal rather than the First-tier Tribunal—
  - (a) the Upper Tribunal, instead of reconsidering the case itself, may remit the case to the First-tier Tribunal,
  - (b) if the Upper Tribunal does so, it must send to the First-tier Tribunal any directions accompanying the Court’s remittal of the case to the Upper Tribunal.
- (7) In this section, “second appeal” means appeal under section 48 against a decision in an appeal under section 46.