

REVENUE SCOTLAND AND TAX POWERS ACT 2014

EXPLANATORY NOTES

THE ACT

Part 4 – the Scottish Tax Tribunals

Chapter 6 — Special Jurisdiction

Section 40 – Judicial review cases

54. This section provides for judicial review. The Court of Session may remit such a petition for judicial review to the Upper Tribunal if the Court of Session is content that the petition does not seek anything other than the exercise of the Court's judicial review function and the petition falls within a category specified by an act of sederunt made by the Court for the purposes of this subsection. The Court of Session also has to be satisfied that the matter in question falls within the functions and expertise of the tribunal.

Section 41 – Procedural steps where petition remitted

55. This section brings the Act into line with the corresponding provisions of the Courts Reform (Scotland) Act 2014 in respect of circumstances where the Court of Session remits a petition for judicial review to the Upper Tribunal. The effect in such cases is that the Upper Tribunal will have the same powers as the Court of Session would have had.

Section 42 – Decision on remittal

56. This section sets out that, when considering a petition remitted from the Court of Session, the Upper Tribunal, in determining the issues raised, has the same powers as the Court of Session and will apply the same principles that the Court of Session would when considering a petition for judicial review. An order made by the Upper Tribunal in these circumstances will have the same effect as if it was made by the Court of Session. This section does not limit the right of appeal from the Upper Tribunal to the Court of Session.

Section 43 – Additional matters

57. This section sets out that any step or order made by the Court of Session in a remitted case is to be treated as if it was made by the Upper Tribunal, further provisions on cases remitted from the Court of Session to the Upper Tribunal may be made in the tribunal rules.

*These notes relate to the Revenue Scotland and Tax Powers Act
2014 (asp 16) which received Royal Assent on 24 September 2014*

Section 44 – Meaning of judicial review

58. This section defines what is meant by references to a petition to the Court of Session for a judicial review and to references to the exercise of the Court of Session's judicial review function.