

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

EXPLANATORY NOTES

PART 1: TRIBUNALS AND INQUIRIES

Commentary on Sections: Part 1

Schedule 7: Administrative Justice and Tribunals Council

210. [Schedule 7](#) makes provision for the AJTC. It is divided into 4 parts.
211. [Part 1](#) (paragraphs 1 to 11) deals with the membership of the AJTC and for the Committees of the AJTC.
212. [Paragraph 1](#) provides that the AJTC is to consist of a minimum of 10 and a maximum of 15 members and the Parliamentary Commissioner for Administration. Those members, other than the Parliamentary Commissioner for Administration (who is appointed on an ex-officio basis), are to be appointed by the Scottish Ministers, the Welsh Ministers and the Lord Chancellor, each with the concurrence of the others.
213. [Paragraph 2](#) makes provision for the nomination of the Chairman of the AJTC. The nomination is of a member of the AJTC and is made by the Lord Chancellor after consulting the Scottish and Welsh Ministers. Paragraph 2 also provides for the terms of office of the Chairman.
214. [Paragraph 3](#) makes provision for the terms of office for members appointed under paragraph 1. Such members are to hold and leave their office in accordance with the terms on which they have been appointed. The Lord Chancellor may remove an appointed member on the grounds of inability or misbehaviour but this power can only be exercised with the concurrence of the Scottish or Welsh Ministers where the power is being exercised in relation to a person appointed by one of them. Members may resign by writing to the Lord Chancellor or in the case of persons appointed by the Scottish or Welsh Ministers, by writing to those Ministers.
215. [Paragraphs 4 and 7](#) establish the Scottish and Welsh Committees of the AJTC. Paragraphs 4(2) and 7(2) provide that each Committee is to consist of the Parliamentary Commissioner for Administration, the Public Services Ombudsman for each jurisdiction, the members of the AJTC appointed under paragraph 1(2) by the Scottish or Welsh Ministers as the case may be and a specified number of other persons who are not members of the AJTC appointed by the Scottish or Welsh Ministers under paragraphs 4 and 7 as appropriate.
216. [Paragraphs 6 and 9](#) provide for the term of office for those members of the Scottish or Welsh Committees who are not members of the AJTC and have been appointed by the Scottish or Welsh Ministers to their respective Committees as described above. Such members are to hold and leave their office in accordance with the terms on which they were appointed and can be removed by the Scottish or Welsh Ministers as appropriate

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on the ground of inability or misbehaviour. Resignation can be effected by writing to the Scottish or Welsh Ministers as appropriate.

217. [Paragraphs 5 and 8](#) provide for the nomination of the Chairman of the Scottish and Welsh Committees. The relevant Ministers are responsible for nominating a member of the AJTC who is appointed by them to become the Chairman. The terms of office of those Chairmen are provided in paragraphs 5 and 8.
218. [Paragraph 10](#) makes the Lord Chancellor responsible for the remuneration of the members of the AJTC and the Scottish and Welsh Committees.
219. [Part 2](#) of Schedule 7 explains the functions of the AJTC. In summary, the AJTC has functions in relation to the administrative justice system, tribunals and statutory inquiries.
220. [Paragraph 13](#) makes it clear that the AJTC is responsible for keeping the administrative justice system under review. This function extends to the overall system by which decisions of an administrative or executive nature are made in respect of a particular person. The AJTC can advise the Lord Chancellor, the Scottish and Welsh Ministers and the Senior President on the development of the administrative justice system and make such reports as it thinks are necessary in relation to its areas of responsibility under paragraph 13(1).
221. [Paragraph 14](#) explains the AJTC's general functions with respect to tribunals. The AJTC's responsibility is in relation to "listed tribunals" as defined in Part 4 of Schedule 7. Listed tribunals include the First-tier Tribunal, the Upper Tribunal and also any other tribunal that an authority who has responsibility for a tribunal provides is to be a listed tribunal for the purpose of Schedule 7. So the AJTC's responsibility for tribunals may extend to tribunals other than the First-tier and Upper Tribunals. By virtue of paragraph 14 the AJTC is to keep listed tribunals under review and report on those tribunals and also on any matter that the AJTC thinks is of special importance. The AJTC is also to consider and report on any matter referred to it jointly by the Lord Chancellor, Scottish Ministers and Welsh Ministers under paragraph 16. The AJTC may also scrutinise and comment on legislation that is extant or proposed, including procedural rules, relating to tribunals.
222. [Paragraph 15](#) documents the AJTC's duties in respect of statutory inquiries. The AJTC's duties involve keeping statutory inquiries under review, reporting on them and reporting on other matters it determines to be of particular importance. As with tribunals it must also consider and report on any matter referred to it by the Lord Chancellor, the Welsh Ministers and the Scottish Ministers jointly under paragraph 16.
223. [Paragraph 17](#) makes provision for the procedure to be followed when the AJTC makes a report in relation to its functions in respect of tribunals under paragraph 14 and statutory inquiries under paragraph 15.
224. [Paragraphs 18 and 19](#) ensure that the Scottish and Welsh Committees are consulted on any matter that relates solely to their jurisdiction before the Council is authorised to report on it. These paragraphs also provide that the Scottish and Welsh Committees can make reports to the AJTC on their own motion in relation to matters specified in paragraphs 18 and 19. If the AJTC does not make a report on a matter dealt with in a report made to it by the Scottish or Welsh Committee or in making a report the AJTC does not adopt the Committee's reports without modification, the Committee can submit its report to the Scottish or Welsh Ministers as the case may be. The Scottish and Welsh Ministers must lay reports submitted to them in these circumstances before the Scottish Parliament or the National Assembly for Wales as appropriate.
225. [Paragraph 21](#) sets out the AJTC's duty to make an annual report on its proceedings and the corresponding duty on the Scottish Committee and Welsh Committee. The AJTC's report must be laid before Parliament and also before the Scottish Parliament and National Assembly for Wales. The reports of the Scottish and Welsh Committees

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under this paragraph must be laid before the Scottish Parliament and National Assembly for Wales respectively.

226. [Paragraph 22](#) makes provision for members of the AJTC, the Scottish Committee and the Welsh Committee to attend proceedings of a listed tribunal (as defined in Part 4 of Schedule 7) or statutory inquiry as observers even when those proceedings are held in private or do not take the form of a hearing. This right is subject to any statutory provision that expressly excludes these members from proceedings.
227. [Paragraph 23](#) provides for the application of certain provisions in Schedule 7 to Northern Ireland.
228. [Part 3](#) of Schedule 7 provides for the AJTC to be consulted on procedural rules for a listed tribunal (as defined in Part 4 of Schedule 7).
229. [Paragraph 24\(2\)](#) excludes rules made or to be made by the Tribunal Procedural Committee in relation to a listed tribunal from the general duty in paragraph 24(1). The duty in paragraph 24(1) is for a Minister of the Crown, a Scottish Minister or a Welsh Minister to consult the AJTC before it takes any action outlined in that paragraph in relation to procedural rules for a listed tribunal (as defined in Part 4 of Schedule 7). This is not necessary in the excluded cases since a member of the AJTC will sit on the Tribunal Procedural Committee.
230. [Part 4](#) contains definitions of terms that apply to Schedule 7, including the definition of “listed tribunal” which means the First-tier Tribunal, the Upper Tribunal or any tribunal that the Lord Chancellor, Scottish Ministers or Welsh ministers requests to be listed for the purpose of Schedule 7 in accordance with paragraph 25(2) of Schedule 7.
231. The power in paragraph 25(2) will enable the oversight responsibilities of the Council to cover tribunals inside and outside the new tribunal system.