

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Transfer-In From Listed Tribunals

Section 27 and schedule 1 – Listed tribunals

65. [Section 27\(1\)](#) gives effect to schedule 1 which sets out a list of tribunals from which the functions and members can be transferred-in to the Scottish Tribunals by virtue of regulations made under sections 28 and 29.
66. [Part 1](#) of schedule 1 contains the list of tribunals. Part 2 of that schedule contains further elaboration to assist in identifying the tribunal and the functions which may be the subject of transfer. For example, in relation to the entry for a Scottish Charity Appeals Panel, paragraph 12(2) of schedule 1 provides that it is only the functions exercisable by virtue of section 75(1) of the Charities and Trustee Investment (Scotland) Act 2005 which may be transferred-in to the Scottish Tribunals. Similarly, the Crofting Commission exercises a number of executive functions under the Crofters (Scotland) Act 1993 which it is not intended to transfer-in to the Scottish Tribunals. In relation to the entry for the Crofting Commission, paragraph 12(3) of schedule 1 provides that it is only the Commission's functions in relation to the resolution of disputes which are exercisable in the manner of a tribunal that may be transferred-in to the Scottish Tribunals.
67. Subsection (2) allows the Scottish Ministers to modify the listed tribunals and further details of those tribunals as set out in schedule 1.
68. Subsection (3) provides that regulations can only add a tribunal to the list in Part 1 of schedule 1 if it is established by or under an enactment. Subsection (4) makes provision in order to clarify what is meant by the term tribunal for this purpose and to clarify that a body may be listed if, and to the extent that, it has decision-making functions which are exercisable in the manner of a tribunal. The effect of this is that a body can only be added to the list in schedule 1 if, and to the extent that, it has functions for the independent resolution of disputes in a similar fashion to those traditionally exercised by tribunals.
69. Subsection (5)(a) and (b) makes express provision to make it clear that the Scottish Land Court or any other Scottish court cannot be added to the list in schedule 1. Accordingly, the Act does not enable any functions of the Scottish Land Court or the other Scottish courts to be transferred-in to the Scottish Tribunals. Subsection (5)(c) also prevents the functions of the tribunals mentioned in that subsection from being transferred-in to the Scottish Tribunals.