

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 – Review or Appeal of Decisions

Internal review

Section 43 – Review of decisions

174. [Section 43](#) provides powers for the First-tier and Upper Tribunals to review their own decisions without the need for a full onward appeal. The power is discretionary and it will be for each Tribunal to decide whether or not it should review one of its own decisions.
175. Under section 43(2), a decision may be reviewed at the Tribunal’s own instance or, with the Tribunal’s agreement, at the request of a party in the case.
176. Under section 43(3), no decision may be the subject of a review if it is an excluded decision (see sections 51 to 54 on excluded decisions). Tribunal Rules (see commentary on section 68) made under section 43(3)(b) may also make provision excluding other decisions from being reviewed or otherwise restricting the powers of the Scottish Tribunals to review their own decisions.
177. A decision to review or not to review a prior decision of the Tribunal may not, itself, be reviewed or appealed (section 43(4)) and the fact that a decision has been reviewed does not affect a party’s rights of appeal under the Act (section 43(5)).

Section 44 – Actions on review

178. [Section 44](#) sets out the courses of action which are available to the Tribunals in determining any review. These include taking no action, setting the decision aside, and correcting minor or accidental errors. If the First-tier Tribunal sets aside a decision of its own it must either re-decide the matter concerned or refer the matter to the Upper Tribunal to re-decide. Where the Upper Tribunal sets aside a decision of its own, it must re-decide the matter itself.

Section 45 – Review only once

179. [Section 45](#) provides that no decision of the First-tier or Upper Tribunal may be reviewed on more than one occasion. A decision on review to set aside an earlier decision and a re-made decision are, however, to be regarded as separate decisions from the earlier decision which was subjected to review and can, therefore, be the subject of a further review. Subsection (3) provides that the power of the Scottish Tribunals to review their own decisions does not affect their powers to correct minor or accidental errors in a decision administratively.