

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 – Review or Appeal of Decisions

Appeal from First-tier Tribunal

Section 46 – Appeal from the Tribunal

180. *Section 46* makes provision for a general right to appeal a decision of the First-tier Tribunal to the Upper Tribunal. Such an appeal can only be made by a party in the case on a point of law and with the permission of the First-tier Tribunal or (if refused by the First-tier Tribunal) the Upper Tribunal.
181. The general right to appeal a decision of the First-tier Tribunal to the Upper Tribunal under section 46 is not universal and does not apply to excluded decisions (see sections 51 to 54) or a decision of the First-tier Tribunal to review or not to review one of its own decisions (see section 43(4)). Section 55 (process for permission) also prevents a decision of the First-tier Tribunal to refuse permission to appeal to the Upper Tribunal from being appealed to the Upper Tribunal (a separate application can, however, be made to the Upper Tribunal under section 41(3)(b) should the First-tier Tribunal refuse permission to appeal).
182. Permission to appeal to the Upper Tribunal under section 46 is only to be granted if the Tribunal whose permission is sought is satisfied that there are arguable grounds for the appeal (section 46(4)).