

TRIBUNALS (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 – Review or Appeal of Decisions

Special jurisdiction

Section 57 – Judicial review cases

203. *Section 57* makes provision so that the Court of Session may, by order of the Court, remit a petition for judicial review to the Upper Tribunal for determination. The Court may only remit a petition for judicial review to the Upper Tribunal where the petition does not seek anything other than the exercise of the Court's judicial review function (section 57(3)) and it falls within a category specified by an act of sederunt made by the Court for the purposes of section 57(4). The effect of subsection (4) is that no petition for judicial review will be able to be transferred unless an act of sederunt has been made specifying the categories of petitions which may be transferred and the petition falls within one of those categories.
204. In addition, the Court may only remit a petition to the Upper Tribunal if it considers it appropriate to do so having regard to the functions and expertise of the Tribunal in relation to the subject-matter of the petition (subsection (2)(b)).

Section 58 – Decision on remittal

205. *Section 58* provides that the Upper Tribunal has the same powers and should apply the same principles as the Court of Session when determining a petition for judicial review. Subsection (4) makes it clear that a determination of a petition for judicial review remitted to the Upper Tribunal under section 57 is not an excluded decision and can be appealed to the Court of Session in accordance with section 48.

Section 59 – Additional matters

206. *Section 59* makes further provision so that where a petition for judicial review is remitted to the Upper Tribunal, any order made or steps taken by the Court of Session are to be treated as if made or taken by the Tribunal. Subsection (2) enables the procedural rules of the Upper Tribunal to make further provision as to the exercise of the Upper Tribunal's functions in relation to a petition for judicial review.

Section 60 – Meaning of judicial review

207. *Section 60* provides that references in sections 57 to 59 to judicial review are to the supervisory jurisdiction of the Court of Session.