



Tribunals (Scotland) Act 2014

2014 asp 10

PART 3

ACQUISITION OF FUNCTIONS

Transfer-in from listed tribunals

27 Listed tribunals

- (1) For the purposes of this Part, the listed tribunals are the tribunals for the time being included in the list in Part 1 of schedule 1 as read in conjunction with the further specification in Part 2 of that schedule.
- (2) The Scottish Ministers may by regulations modify—
 - (a) the list in Part 1 of schedule 1,
 - (b) the further specification in Part 2 of that schedule.
- (3) A tribunal may be added to the list in Part 1 of schedule 1 only if it is established by or under an enactment (whenever passed or made).
- (4) For the purposes of this section, a reference to a tribunal includes any body, office-holder or individual having decision-making functions that are exercisable as follows (but only as far as having such or other functions that are so exercisable)—
 - (a) as, or in the manner of, a tribunal, and
 - (b) with respect to the determination or resolution of legal, administrative or other disputes between parties of any kind.
- (5) Despite that generality, a reference to a tribunal does not for the purposes of this section include—
 - (a) any of the Scottish courts referred to in section 2 of the Judiciary and Courts (Scotland) Act 2008 (see subsection (6) of that section),
 - (b) the Scottish Land Court,
 - (c) a tribunal—
 - (i) constituted under section 35 of the Judiciary and Courts (Scotland) Act 2008,

Status: This is the original version (as it was originally enacted).

- (ii) constituted under section 12A of the Sheriff Courts (Scotland) Act 1971, or
- (iii) appointed under section 71(2) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, or
- (d) a fitness assessment tribunal constituted under paragraph 13 of schedule 8.

28 Transfer-in of functions

- (1) The functions of each of the listed tribunals are to become the functions of the Scottish Tribunals at such time and in so far as the Scottish Ministers consider appropriate.
- (2) Accordingly, the Scottish Ministers may by regulations provide for some or all of the functions of a listed tribunal to be transferred from it—
 - (a) to the First-tier Tribunal only,
 - (b) to the Upper Tribunal only, or
 - (c) to the First-tier Tribunal and the Upper Tribunal.
- (3) If regulations under subsection (2) provide for any functions of a listed tribunal to be transferred as mentioned in paragraph (c) of that subsection, the regulations may also—
 - (a) give particular functions to one of the Tribunals (but not the other), or
 - (b) make provision of the sort allowed by subsection (5).
- (4) Where by virtue of regulations made under subsection (2) any functions of a listed tribunal have been transferred as mentioned in paragraph (a), (b) or (c) of that subsection, the Scottish Ministers may by regulations—
 - (a) provide for the functions, or particular functions, to be redistributed between the Tribunals by—
 - (i) transferring them from either of the Tribunals to the other,
 - (ii) taking them away from one of the Tribunals (but not the other), or
 - (iii) causing them to be exercisable by both of the Tribunals (instead of one only),
 - (b) if they are so redistributed by causing them to be exercisable by both of the Tribunals, also make provision of the sort allowed by subsection (5).
- (5) This subsection allows provision enabling the question as to which of the Tribunals is to exercise particular functions in a specific case or in specified circumstances to be determined, including as against any prescribed criteria—
 - (a) in accordance with Tribunal Rules, or
 - (b) by the President of Tribunals (whether or not by reference to Tribunal Rules).
- (6) Regulations under subsection (2) or (4) may include provision for the purposes of or in connection with, or for giving full effect to, a transfer or redistribution of any functions to which the regulations apply.
- (7) Provision included in such regulations by virtue of subsection (6) may modify any enactment concerning a listed tribunal.
- (8) A particular instrument containing regulations under subsection (2) may not relate to the functions of more than one of the listed tribunals.

29 Transfer-in of members

Schedule 2 contains provision for the transfer of certain persons from the listed tribunals into the Scottish Tribunals to hold—

- (a) particular named positions,
- (b) ordinary or legal membership generally.