



# 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,

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*Status: This is the original version (as it was originally enacted).*

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- (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.

### *Conferral of functions by another Act*

## **30 Accommodation of functions**

- (1) Subsections (2) and (3) apply where any functions are conferred on either or both of the Scottish Tribunals by or under an Act other than this Act.
- (2) The Scottish Ministers may by regulations modify this Act so that this Act specifies the relevant provisions of the other Act (whether in existing or new provisions of this Act).
- (3) The Scottish Ministers may by regulations modify this Act or the other Act so as to make the functions exercisable in accordance with or subject to (as far as not already so exercisable)—
  - (a) the whole of this Act, or
  - (b) particular provisions of this Act.

## **31 Redistribution of functions**

- (1) Where any functions are conferred on either or both of the Scottish Tribunals by or under an Act other than this Act, 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 (2).
- (2) 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).
- (3) Regulations under subsection (1) may include provision for the purposes of or in connection with, or for giving full effect to, a redistribution of any functions to which the regulations apply.
- (4) Provision included in such regulations by virtue of subsection (3) may modify any enactment relating to the functions being redistributed by the regulations.
- (5) Subsection (1) is subject to any express provision in the other Act prohibiting or limiting the making of regulations under that subsection.