



# Tribunals (Scotland) Act 2014

## 2014 asp 10

### PART 7

#### POWERS, PROCEDURE AND ADMINISTRATION

### CHAPTER 2

#### PRACTICE AND PROCEDURE

##### *Tribunal Rules*

#### **68 Tribunal Rules**

- (1) There are to be rules—
  - (a) regulating the practice and procedure to be followed in proceedings at—
    - (i) the First-tier Tribunal,
    - (ii) the Upper Tribunal, and
  - (b) containing provision of other sorts appropriate with respect to the Scottish Tribunals (including in relation to the exercise by them of their functions).
- (2) Rules of the kind mentioned in subsection (1) are to be known as Scottish Tribunal Rules (and in this Act they are referred to as Tribunal Rules).
- (3) Tribunal Rules are to be made by the Court of Session by act of sederunt.
- (4) Part 1 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 includes further provision about the making of Tribunal Rules.

#### **69 Exercise of functions**

- (1) Tribunal Rules may confer functions on the persons mentioned in subsection (5) or the other members of the Scottish Tribunals.
- (2) Tribunal Rules may, in relation to any functions exercisable by the persons mentioned in subsection (5) or the other members of the Scottish Tribunals—
  - (a) state—

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- (i) how a function is to be exercised,
  - (ii) who is to exercise a function,
  - (b) cause something to require further authorisation,
  - (c) permit something to be done on a person's behalf,
  - (d) allow a specified person to make a decision about any of those matters.
- (3) Tribunal Rules may make provision relying on the effect of directions issued, or to be issued, under section 74.
- (4) Neither Tribunal Rules nor directions under section 74 may make provision altering the operation of section 37(1) or 39(1).
- (5) For the purposes of subsections (1) and (2), the persons are—
- (a) the Lord President,
  - (b) the President of Tribunals,
  - (c) in the First-tier Tribunal—
    - (i) a Chamber President,
    - (ii) a Deputy Chamber President,
  - (d) a Vice-President of the Upper Tribunal.

## **70      Extent of rule-making**

- (1) Tribunal Rules may make—
- (a) provision applying—
    - (i) equally to both of the First-tier Tribunal and the Upper Tribunal, or
    - (ii) specifically to one of them,
  - (b) particular provision for each of them about the same matter.
- (2) Tribunal Rules may make particular provision for different—
- (a) chambers or divisions,
  - (b) types of proceedings.
- (3) Tribunal Rules may make different provision for different purposes in any other respects.
- (4) The generality of section 68(1) is not limited by—
- (a) sections 71 to 73, or
  - (b) any other provisions of this Act about the content of Tribunal Rules.
- (5) As well as Chapter 1, see (for example) sections 28(5), 42(1), 43(3)(b) and 59(2).

### *Particular matters*

## **71      Proceedings and steps**

- (1) Tribunal Rules may make provision about proceedings in a case before the Scottish Tribunals.
- (2) Rules making provision as described in subsection (1) may (in particular)—
- (a) provide for the form and manner in which a case is to be brought,

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- (b) allow for the withdrawal of a case (with or without restrictions on subsequent proceedings as respects the same matter),
- (c) set time limits for—
  - (i) making applications,
  - (ii) taking particular steps,
- (d) enable two or more applications to be conjoined in certain circumstances,
- (e) specify circumstances in which the Tribunals may take particular steps of their own initiative.

## **72 Hearings in cases**

- (1) Tribunal Rules may make provision about hearings in a case before the Scottish Tribunals.
- (2) Rules making provision as described in subsection (1) may (in particular)—
  - (a) provide for certain matters to be dealt with—
    - (i) without a hearing,
    - (ii) at a private hearing,
    - (iii) at a public hearing,
  - (b) require notice to be given of a hearing (and for the timing of such notice),
  - (c) specify persons who may—
    - (i) appear on behalf of a party in a case,
    - (ii) attend a hearing in order to provide support to a party or witness in a case,
  - (d) specify circumstances in which particular persons may appear or be represented at a hearing,
  - (e) specify circumstances in which a hearing may go ahead—
    - (i) at the request of a party in a case despite no notice of it having been given to another party in the case,
    - (ii) in the absence of a particular member chosen to exercise the function of deciding any matter in a case,
  - (f) enable two or more sets of proceedings to be taken concurrently at a hearing in certain circumstances,
  - (g) allow for an adjournment of a hearing for the purpose of giving the parties in a case an opportunity to use a process of negotiation, mediation, arbitration or adjudication for resolving a dispute to which the case relates,
  - (h) allow for the imposition of reporting restrictions for particular reasons arising in a case.

## **73 Evidence and decisions**

- (1) Tribunal Rules may, in connection with proceedings before the Scottish Tribunals—
  - (a) make provision about the giving of evidence and the administering of oaths,
  - (b) modify the application of any other rules relating to either of those matters so far as they would otherwise apply to such proceedings.
- (2) Tribunal Rules may, in connection with proceedings before the Scottish Tribunals, provide for the payment of expenses and allowances to a person who—
  - (a) gives evidence,

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- (b) produces a document, or
  - (c) attends such proceedings (or is required to do so).
- (3) Tribunal Rules may, in connection with proceedings before the Scottish Tribunals, make provision by way of presumption (for example, as to the serving of something on somebody).
- (4) Tribunal Rules may make provision about decisions of the Scottish Tribunals, including as to—
- (a) the manner in which such decisions are to be made,
  - (b) the incorporation in such decisions of findings in fact,
  - (c) the recording, issuing and publication of such decisions.

#### *Issuing directions*

### **74 Practice directions**

- (1) The President of Tribunals may issue directions as to the practice and procedure to be followed in proceedings at—
- (a) the First-tier Tribunal,
  - (b) the Upper Tribunal.
- (2) A Chamber President in the First-tier Tribunal may issue directions as to the practice and procedure to be followed in proceedings in the chamber over which the Chamber President presides.
- (3) A Vice-President of the Upper Tribunal may issue directions as to the practice and procedure to be followed in proceedings in the division over which the Vice-President presides.
- (4) Directions under subsection (2) or (3) may not be issued without the approval of the President of Tribunals.

### **75 Publication and effect**

- (1) The President of Tribunals must arrange for directions under section 74(1), (2) or (3) to be published in such manner as the President of Tribunals considers appropriate.
- (2) Directions under section 74(1), (2) or (3) may—
- (a) vary or revoke earlier such directions,
  - (b) make different provision for different purposes (in the same respects as Tribunal Rules).
- (3) If (and to the extent that) any conflict arises between—
- (a) directions issued under section 74(1), and
  - (b) directions issued under section 74(2) or (3),
- those issued under section 74(1) are to prevail.