Scotland Act 2016

2016 CHAPTER 11

PART 4

OTHER LEGISLATIVE COMPETENCE

39 Tribunals

(1) In Part 3 of Schedule 5 to the Scotland Act 1998 (reserved matters: general provisions) after paragraph 2 insert—

"Tribunals

2A (1) This Schedule does not reserve the transfer to a Scottish tribunal of functions of a tribunal that relate to reserved matters, so far as those functions are exercisable in relation to Scottish cases.

(2) "Scottish cases" has the meaning given by an Order in Council made by Her Majesty under this sub-paragraph.

(3) Sub-paragraph (1) does not apply where a function is excluded from transfer.

(4) Where a function is not excluded from transfer but is subject to qualified transfer, sub-paragraph (1) applies only if the transfer of the function is in accordance with provision made by Her Majesty by Order in Council.

(5) An Order in Council under sub-paragraph (4)—

(a) must specify the function to which it relates,

(b) must specify the Scottish tribunal to which the function may be transferred, and

(c) may make any other provision which Her Majesty considers necessary or expedient for the purposes of or in consequence of the transfer of the function and its exercise by the Scottish tribunal.

(6) The functions that are subject to qualified transfer are the functions of the following tribunals—

(a) the First-tier Tribunal or the Upper Tribunal that are established under section 3 of the Tribunals, Courts and Enforcement Act 2007;

(b) an employment tribunal or the Employment Appeal Tribunal;

(c) a tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992;

(d) a tribunal listed in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007.

(7) Sub-paragraph (6)(c) and (d) include a tribunal added to the Schedule concerned after this paragraph comes into force.

(8) Provision made by virtue of sub-paragraph (5)(c) may—

(a) include provision that—

(i) modifies the function;

(ii) imposes conditions or restrictions (including conditions or restrictions relating to the composition or rules of procedure of the Scottish tribunal, or to its staff or accommodation);

(b) be made with a view to purposes including—

(i) securing consistency in any respect in practice or procedure or otherwise between the Scottish tribunal and other tribunals;

(ii) promoting judicial co-operation in the interests of consistency.

(9) Sub-paragraph (8) does not limit the provision that may be made by virtue of sub-paragraph (5)(c).

(10) The following functions are excluded from transfer—

(a) functions of a national security tribunal;

(b) functions of a regulator, or of a person or body that exercises functions on behalf of a regulator;

(c) functions of the Comptroller-General of Patents, Designs and Trade Marks.

(11) In this paragraph—

a "national security tribunal" means—

(a) the Pathogens Access Appeal Commission;

(b) the Proscribed Organisations Appeal Commission;

(c) the Special Immigration Appeals Commission;

(d) the tribunal established by section 65(1) of the Regulation of Investigatory Powers Act 2000 (investigatory powers tribunal);

(e) any other tribunal that has functions relating to matters falling within Section B8 of Part 2 of this Schedule, except a tribunal mentioned in sub-paragraph (6);

a "regulator" means a person or body that has regulatory functions (within the meaning given by section 32 of the Legislative and Regulatory Reform Act 2006);

a "Scottish tribunal" means a tribunal in Scotland—

(a) that does not have functions in or as regards any other country or territory, except for purposes ancillary to its functions in or as regards Scotland, and

(b) that is not, and does not have as a member, a member of the Scottish Government.

(12) The powers conferred by this paragraph do not affect the powers conferred by section 30 or section 113."

(2) In paragraph 1(2) of Schedule 7 to that Act (procedure for subordinate legislation) at the appropriate place insert—

"Schedule 5, Part 3, paragraph 2A	Type A"

(3) Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals to which the Act applies) is amended as follows.

(4) Before paragraph 9A insert—

"Company names	9ZA. Company names adjudicators appointed under section 70(1) of the Companies Act 2006."

(5) In paragraph 34 (patents, designs and trademarks)—

(a) the words from "the Comptroller-General" to the end become sub-paragraph (a), and

(b) after that sub-paragraph insert—

"(b) a person appointed under section 27A(1)(a) of the Registered Designs Act 1949;

(c) a person appointed under section 77(1) of the Trade Marks Act 1994".

(6) In section 7(2) of the Tribunals and Inquiries Act 1992 (tribunals in relation to which section 7 does not apply) after "3," insert "9ZA,".

(7) In section 14(1)(a) of that Act (restricted application of Act in relation to certain tribunals) after "paragraph" insert "9ZA,".