National specialised courts

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Scotland

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This page describes some of the specialised courts in Scotland.

Administrative courts

The Tribunals and Courts Enforcement Act 2007 created a single unified structure for most tribunals reserved to the UK Government, divided into the First-tier Tribunal and Upper Tribunal. The First-tier Tribunal and Upper Tribunal each have separate chambers covering different subject matter, which bring together similar jurisdictions. Details of the tribunals can be found on on the website of Her Majesty's Courts and Tribunals Service.

The Tribunals (Scotland) Act 2014 creates a single First-tier and Upper Tribunal for Scotland. The first tribunals transferred into the new structure on 1 December 2016.

Section 39 of the Scotland Act 2016 allows the management and operation of a number of reserved tribunals to be devolved to Scotland.

UK First-tier UK Tribunal

The UK First-tier Tribunal is a generic tribunal, whose main function is to hear appeals against the decisions of the government in areas where the tribunal has been given jurisdiction. For some purposes, it has jurisdiction throughout the UK, including in Scotland. The First-tier Tribunal is currently divided into seven chambers:

- The Social Entitlement Chamber
- The Health, Education and Social Care Chamber
- The War Pensions and Armed Forces Compensation Chamber
- The Tax Chamber
- The General Regulatory Chamber
- The Immigration and Asylum Chamber
- The Property Chamber

UK Upper Tribunal

The UK Upper Tribunal mainly, but not exclusively, decides appeals resulting from decisions in the UK First-tier Tribunal. It is a superior Court of Record and also has the power to deal with judicial review cases in certain circumstances.

The UK Upper Tribunal consists of:

- The Administrative Appeals Chamber
- The Lands Chamber
- The Tax and Chancery Chamber
- The Immigration and Asylum Chamber

A feature of tribunals is their expertise in the subject matter of the appeals. The structure is such that judges are experts in the law of their jurisdiction and non-legal members are either professionally qualified or qualified by

experience in their field. Panels for individual types of appeals are varied depending on the subject of the appeal.

Employment and Employment Appeal Tribunals

The Employment Tribunal and the Employment Appeal Tribunal are outside the unified tribunals' structure but are supported by HMCTS. Their role is to carry out the administrative tasks necessary to enable claims to the Employment Tribunal and the subsequent appeals to the Employment Appeal Tribunal to be determined. There is a separate Employment Appeal Tribunal for Scotland.

Scottish Tribunals

There are a number of tribunals in Scotland. Most tribunal jurisdictions are led by a separate president or chairperson and each has different powers of enforcement. Jurisdictions range from appeals against parking fines to the compulsory treatment and restraint of patients with serious mental illness.

Appeals against the decisions of Scottish tribunals are heard by the civil courts in Scotland and can be considered by the sheriff court and the Court of Session.

Reform of Scottish Tribunals

The Tribunals (Scotland) Act 2014 has established a streamlined two-tier structure for Scottish tribunals. Scotland’s most senior judge, the Lord President, has leadership of the new structures, similar to the UK model described above. The Lord President has delegated a number of functions to Lady Smith, who has been appointed as President of Scottish Tribunal. The Upper Tribunal will take on responsibility for hearing most appeals from First-tier decisions, removing these from the jurisdictions of the courts. The administration of the First-tier and Upper Tribunal will be carried out by the Scottish Courts and Tribunals Service. Tribunals will transfer into Scottish Tribunals in a phased process, with the first transfer having started in December 2016.

Tribunal practice

Overall, the procedure in UK and Scottish tribunals tends to be less formal than in the other courts. Members of tribunals can include non-legal specialists or experts, such as doctors and lay people, although the chairperson is almost always legally qualified.

Matters of administrative law (judicial review) in Scotland are heard by the Court of Session. Further information on the Scottish Tribunals can be found on the Scottish Courts and Tribunals website.

Specialised courts

In Scotland, where a case (civil or criminal) raises a constitutional issue arising from the UK devolution settlements (for example, human rights issues), it can be decided by the Supreme Court of the United Kingdom.

The Sheriff Personal Injury Court

This court was established on 22 September 2015 to act as a national centre of expertise in personal injury cases. Personal injury cases may be brought in the court if the sum sued for is in excess of £5,000. Parties also have the choice of raising personal injury claims of any value in the local Sheriff Court. Special provision is made for workplace personal injury cases: those for more than £1,000 may be raised directly in the Sheriff Personal Injury Court, while workplace cases under £1,000 may be remitted to the Court if the local Sheriff considers that they are of sufficient importance or difficulty. Since 22 September 2015 the Court of Session can no longer consider personal injury actions below £100,000.

Other courts include:

- The Court of the Lord Lyon – which deals with matters of heraldry
- The Scottish Land Court – which deals with disputes between landlord and tenant.

Related Links

Her Majesty's Courts and Tribunals Service

Court of the Lord Lyon

Scottish Land Court

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