

The role and nature of statutory tribunals law employment essay

[Law](#)



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Procedures

The steps taken to gather information include: Interviewing people- Gillian ShawReferring to books, newspapers and Internet sites.

Statutory Tribunals

Original legislation for creation of tribunal system is contained within the Tribunals and Inquiries Act 1958. Now regulated by the Tribunals, Courts and Enforcement Act 2007 received Royal Assent on 9 July 2007. The Act provides a new judicial and legal framework, bringing together individual Tribunals into a new, unified tribunals structure. Tribunals were established to ensure the speedy and cost effective resolution of disputes relating to administrative matters. Examples of tribunals are Social Security Appeals, National Health Service, and Immigration. Tribunals are like courts because: they deal with civil law casesthey take place in a formal room which can look like a courtboth sides present their arguments in the casedecision is made by the members of the tribunal (who are a bit like judges in a court).

Tribunals are effectively independent civil courts that deal with cases in a specific area of law. They are set up by parliament (under 'Acts of Parliament' or 'statutes') and are given certain powers under the law. There are lots of different types of tribunals set up to deal with various problems

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including: employment problems, mental health issues, arguments over pensions or benefits, immigration and asylum. There isn't a tribunal that deals with general housing issues. However, if you're renting from a private landlord and your landlord is trying to put up your rent unfairly or is refusing to carry out repairs, The Scottish Land Court might be able to help you.

Administrative Justice and Tribunal Council

(AJTC) and its Scottish Committee

On 1 November 2007, the Tribunals, Courts and Enforcement Act 2007 established the Administrative Justice and Tribunals Council (AJTC), which replaced the Council on Tribunals. The AJTC has a wider role than its predecessor: while it retains the role of overseeing tribunals and inquiries, it is also tasked with keeping the administrative justice system overall under review. The stated purpose of the AJTC is to help make administrative justice and tribunals increasingly accessible, fair and effective by:

- playing a pivotal role in the development of coherent principles and good practice;
- promoting understanding, learning and continuous improvement;
- ensuring that the needs of users are central.

Employment Tribunals

Employment Tribunals hear claims about matters to do with employment. These include: unfair dismissal, redundancy payments and discrimination. An Employment Tribunal is like a court but it is not as formal; for example, nobody wears a wig or gown. However, like a court it must act independently and cannot give legal advice. Almost all hearings are open to the public. The Employment Tribunals are independent judicial bodies who determine

disputes between employers and employees over employment rights. Our website provides information about the tribunal's procedures and gives guidance on how you make or respond to a claim. Administrative support to employment tribunals is provided by the HM Courts and Tribunal Service, an executive agency of the Ministry of Justice (MOJ). Each employment tribunal consists of a chairman who is a lawyer and two other members, appointed by the Ministry of Justice, one from a panel of members representing employers, and the other from a panel of members representing employees. Sometimes however, it may consist of a chairman sitting alone or with just one lay member. Tribunals hold most of the hearings in their own offices, which are situated in the larger towns and cities. A preliminary hearing allows the tribunal to determine any issue relating to the entitlement of any party to bring or contest proceedings to which the originating application applies. As the name suggests, it is held before the substantive case is heard. Any of the parties may apply for such a hearing, or it may be convened at the decision of the tribunal. Notice must be given to all parties in writing and an opportunity given to advance oral argument before the tribunal. A full tribunal or a chairman sitting alone may conduct a pre-hearing review of a case in advance of the full tribunal hearing. If it appears that the case has little prospect of success either party may be ordered to pay a deposit of up to £500 as a condition of continuing to proceed with, or defend the case. If the complaint is not settled or withdrawn at an earlier stage, it proceeds to a full hearing by an employment tribunal. At the hearing, tribunals try to keep their proceedings as simple and informal as possible. Many applicants and respondents put their own cases to the tribunal although some choose to

have a representative who may be a lawyer, trade union official, representative of an employers' organisation, or simply a friend or colleague. The tribunal clerk explains the procedure to the parties before the case begins and the chairman will assist both parties in putting their case as the hearing proceeds. The tribunal will normally give both parties the opportunity to present their respective cases and question their own and the other party's witnesses. The tribunal panel may ask questions of the parties or their witnesses. It is in the interest of both applicant and respondent to attend the hearing. If one party is neither present nor represented, the tribunal may decide the case in their absence, after considering any written representations made. In some cases a tribunal finds it very difficult to reach a decision if a party does not attend and may adjourn the case. A tribunal may dismiss an application if the applicant fails to attend without explanation. Tribunal hearings are generally completed in one day. Decisions may be by majority vote, but in fact nearly all are unanimous. The tribunal usually announces its decision and the reasons for it straight away. A written decision is also sent to the parties, generally within three to six weeks. Both parties have a right to ask for a review of the decision and a right to appeal against the tribunal's decision, on a question of law, to the Employment Appeal Tribunal. Information on how to apply for a review of the decision, and how to appeal, is sent to the parties with the tribunal decision. Legal aid is not available at employment tribunals, but some employees may be able to claim a limited amount of free advice under the legal advice and assistance scheme. This does not cover the cost of a legal representative at the hearing. Allowances are available from the tribunal office to cover the

cost of travel to a hearing and other expenses both to the applicant and respondent, to the witnesses called and to representatives, including members of Citizens Advice Bureau, but not full-time officials of employers' organisations or trade unions, barristers or solicitors or any other paid or unpaid professional person or organisation or organisations who represent parties as opposed to acting as their witnesses. Loss of earnings may also be paid up to a maximum. The tribunal can provide details of the current rate on the day of a hearing. If the tribunal finds that the dismissal was fair, it will dismiss the application. If it finds the dismissal unfair, the tribunal will normally order that: The employee be reinstated by the employer in the same job or; The employee be re-engaged by the employer in a different job or; The employer pays a sum of money to the employee in compensation. Orders for reinstatement or re-engagement normally include an award of compensation for loss of earnings.

Employment Appeal Tribunal

Employment Appeal Tribunal is a superior court and has its headquarters in Edinburgh. The main function of the Employment Appeal Tribunal (EAT) is to hear appeals from decisions made by Employment Tribunals. An appeal must be on a point of law, i. e. it must identify flaws in the legal reasoning of the original decision. The Employment Appeal Tribunal will not normally re-examine issues of fact. It also hears appeals from (and applications relating to) decisions made by the Certification Officer or by the Central Arbitration Committee, however these are infrequent. The EAT's powers are set out in Part II of the Employment Tribunals Act 1996 (as amended) and the Employment Appeal Tribunal Rules 1993 (as amended). There is a further

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right of appeal on point of law to the Court of Session and possibly the Supreme Court.

Conclusions

Tribunals have been established to deal with matters between state departments and citizens and with issues between one person and another which could well have been dealt with by the ordinary courts, because of parliamentary suspicions and dislike of lawyers and courts and in belief that cases would be disposed of more quickly and fairly than in ordinary courts. There are many advantages of using the tribunals; Expertise-specialist skill or knowledge is readily available for speedy resolution of the case, Time- in theory case is heard quicker as case load in tribunals is not as heavy as for civil court, Cost- there is currently no charge for bringing on application to the tribunal system, although this may change in the future, Accessibility- Tribunals operate in all major industrial centres, making them easily accessible. For example there are 31 permanent centres at which Employment Tribunals are heard, Informality- less formal than civil/ criminal court system. There are no wigs or gowns and the hearing rooms are less imposing than many courtrooms. In the higher courts the parties are expected to present their case and challenge the case of the opposite side.