

Information about statutory tribunals law constitutional administrative essay

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Immigration Service Tribunals

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1. Introduction

A tribunal in the general sense is any person or institution with the authority to judge, adjudicate on, or determine claims or disputes—whether or not it is called a tribunal in its title. For example, an advocate appearing before a court on which a single judge was sitting could describe that judge as 'their tribunal'. Many governmental bodies that are titled 'tribunals' are so described to emphasize the fact that they are not courts of normal jurisdiction. Private judicial bodies are also often styled 'tribunals'. The word 'tribunal' is not conclusive of a body's function. For example, in Great Britain, the Employment Appeal Tribunal is a superior court of record. The term is originally derived from the tribunes, magistrates of the Classical Roman Republic. "Tribunal" originally referred to the office of the tribunes, and the term is still sometimes used in this sense in historical writings. Tribunals were intended to provide a less formal forum than the courts for dealing with disputes, and they have increased in number and importance over the years. While most focus on disputes between individuals and the state (e. g. social security, tax and immigration matters), some 'party to party' tribunals, such as employment tribunals, deal with disputes between private individuals and/or businesses. Tribunals are now a significant part of Scotland's civil justice system, handling considerable volumes of cases in comparison with courts. Every day hundreds of decisions affecting people are made by tribunals, ranging from the provision of coordinated support plans for a child's education to whether an individual is entitled to claim incapacity benefit. Is no consistent system of appointment of tribunals' members and chairs in Scotland. Most of those appointed to tribunals out with the Tribunals Service are appointed by Scottish Ministers or by local authority.

2. Procedures

The Tribunal Procedure Committee makes rules governing the practice and procedure in the First - tier Tribunal and the Upper Tribunal of the Tribunals Service. It is an advisory Non-Departmental Public Body, sponsored by the Ministry of Justice. The membership of the Tribunal Procedure Committee (TPC) is governed by Schedule 5 to the Tribunals, Courts and Enforcement Act 2007. The Committee consists of the following members: The Senior President of Tribunals or a person nominated by him; Four members appointed by the Lord Chancellor, one of whom is nominated by the Administrative Justice and Tribunals Council; Three members appointed by the Lord Chief Justice of England and Wales; One member appointed by the Lord President of the Court of Session; and Up to four additional members, nominated by the Senior President of Tribunals and appointed by an appropriate senior judge, with relevant experience in and knowledge of a particular issue or subject area. As the TPC has been classified as a Non Departmental Public Body, the four appointments made by the Lord Chancellor are governed by the Office of the Commissioner for Public Appointments (OCPA), and recruitment to these posts must comply with the OCPA Code of Practice.

3. Findings

3. 1 Information about Statutory Tribunals:

Statutory tribunals are institutions that have the authority to judge, adjudicate on or determine any claims or disputes that are brought forth.

These tribunals are necessary because they ensure justice is given to the person who deserves it and the person in the wrong is punished. They also

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help in solving conflicts and resolving crimes. A new statutory structure for certain statutory tribunals was created by Part I of the Tribunals, Courts and Enforcement Act 2007. It provides a unified structure for tribunals and recognized legally qualified members of tribunals as members of the judiciary.

3. 2 Information about Council on Tribunals:

On 1 November 2007 the Tribunals, Courts and Enforcement Act 2007 came into effect and provided for the establishment of the Administrative Justice and Tribunals Council (AJTC), to replace the abolished Council on Tribunals. The Scottish Committee of the AJTC similarly replaced the Scottish Committee of the Council on Tribunals and, with this change, assumed the remit:

- to keep the overall administrative justice system in Scotland under review;
- to keep under review the constitution and working of those tribunals, under Scottish jurisdiction, which are designated as being under the AJTC's oversight;
- to keep under review the constitution and working of statutory inquiries relating to Scotland. Our remit also empowers us to scrutinize and comment on legislation, existing and proposed, relating to all aspects of administrative justice in Scotland.

The Council on Tribunals has been replaced by the Administrative Justice & Tribunals Council. The AJTC can be found at www.ajtc.gov.uk

The Council on Tribunals was an advisory non-departmental public body sponsored by the Ministry of Justice. It was set up in 1958 following the publication of the Franks Report on Administrative Tribunals and Enquiries in 1957 to keep under review and report on the constitution and working of

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tribunals under its supervision and, where necessary, to consider and report on the administrative procedures of statutory inquiries. Council on Tribunals sought to ensure that tribunals and inquires met the needs of users through the provision of an open, fair, impartial, efficient, timely and accessible service. The Administrative Justice & Tribunals Council, which was created by the Tribunals, Courts and Enforcement Act 2007 replaces the Council on Tribunals. It will retain oversight over tribunals and inquiries and seek improvements for users across the whole administrative justice landscape. There is a Scottish committee of the Council composed of: The Parliamentary Commissioner for Administration; The Scottish Public Services Ombudsman Scottish members of the Council. The Council is to keep under review, and report on, the constitution and working of the listed tribunals (the tribunals under its supervision), in general and individually. It is also to report on any other matter relating to the listed tribunals or referred to it by the Lord Chancellor, the Scottish and Welsh ministers. The Council may scrutinize and comment on legislation relating to tribunals.

3. 3 Information about the functions of the AJTC

The Administrative Justice and Tribunals Council keeps under review the administrative justice system as a whole with a view to making it accessible, fair and efficient. We seek to ensure that the relationships between the courts, tribunals, ombudsmen and alternative dispute resolution providers satisfactorily reflect the needs of users. Government regulates various aspects of our everyday lives, making decisions in relation to individual people. ‘ Administrative justice’ includes the procedures for making such decisions, the law that regulates decision-making, and the systems (such as

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the various tribunals and ombudsmen) that enable people to challenge these decisions.

4. Information about the Immigration Tribunals

4.1 Explanation on the composition, role and powers of the Immigration Tribunals

The Immigration Services Tribunal was created in October 2000. In January 2010 it transferred into the General Regulatory Chamber of the First-tier Tribunal. It hears appeals against decisions made by the Office of the Immigration Services Commissioner and considers disciplinary charges brought against immigration advisors by the Commissioner. It consists of: the judicial head, Judge D Hunter QC; judicial members who are legally qualified; lay members with experience in immigration services or in the law and procedure relating to immigration. Appeals are started by the Appellant sending a written notice of appeal to the tribunal with all necessary information. The notice should be sent on the form called 'Notice of Appeal against a decision of the Immigration Services Commissioner'. The form should contain the information set out in Rule 22 of the Tribunal Procedure (First-Tier Tribunal) (General Regulatory Chamber) Rules 2009. The Upper Tribunal (Immigration and Asylum Chamber) (UTIAC) is a superior court of record dealing with appeals against decisions made by the First-tier Tribunal (Immigration and Asylum Chamber). The former Asylum and Immigration Tribunal (AIT) was superseded by the implementation of the UTIAC in Feb 2010. Its purpose is to hear and decide appeals against decisions made by the First-tier Tribunal in matters of immigration, asylum and nationality.

Appeals are heard by one or more Upper Tribunal Judges who are sometimes

accompanied by non legal members of the Tribunal. Judges and non legal members are appointed by the Lord Chancellor and together they form an independent judicial body. Ordinarily, there is no right to appeal a decision of the AIT. The system of appeals to adjudicators (who were appointed by the Secretary of State) with the right of subsequent appeal to the Immigration Appeal Tribunal (IAT) (whose members were appointed by the Lord Chancellor) was first created by the Immigration Appeals Act 1969 (1969 c. 21). The AIT makes most initial decisions through a single immigration judge. Such decisions can be "reconsidered". An order for reconsideration is sought by making a written request to the High Court in England and Wales or the Court of Session (Outer House) in Scotland. For an indefinite period requests for reconsideration orders will be considered initially by Immigration judges of the AIT ("the filter"); should the request be refused a party can "opt-in" to the High Court or Court of Session. Either of the parties (the Home Secretary or the Appellant) can apply for reconsideration, within strict time limits (for example, 5 days from receipt of the decision if the Appellant is in the UK). Such an application must be made in writing. A Senior Immigration Judge considers whether or not the grounds for reconsideration are "arguable". The only matters which can be considered are errors of law. A party cannot say that he seeks a re-hearing of the facts or that the factual conclusions reached by the Immigration Judge are wrong. He can only seek reconsideration if the Immigration Judge has misdirected himself in law, failed to consider relevant material, considered irrelevant material, or erred in his fact-finding to the extent that the findings are irrational and therefore amount to an error of law. If permission is refused on the papers, the party

may renew his application for an order for reconsideration to the High Court or Court of Session. Again, the time limits are short. If the High Court or Court of Sessions agree that the AIT has made a mistake in not considering the application for reconsideration, he may order the AIT to reconsider. After a re-hearing, or if the AIT which hears a case for the first time has a 3 or more members, the decision may only be challenged by an appeal to the Court of Appeal (Civil Division) in England and Wales, or the Court of Session (Inner House) in Scotland. Permission is required for such an appeal either from the Tribunal itself or the relevant court.

5. Conclusion

Tribunals are more efficient, simple and cheaper than court expenses. The procedure means that if you do not know what you are doing the tribunal will help you. Tribunals are very similar to courts, the finality of the decision is similar to the court but the procedure it is more informal. In conclusion the tribunals have good and bad points that are different from case to case.