

Tribunals

The Lord Chancellor has administrative responsibility for several tribunals-

- the Immigration Appellate Authorities, comprising-
 - Immigration Adjudicators
 - Immigration Appeal Tribunal
- the Immigration Services Tribunal
- the Special Immigration Appeals Commission
- the Social Security and Child Support Commissioners
- Pensions Appeal Tribunals
- the Finance and Tax Tribunal, comprising-
 - VAT and Duties Tribunals
 - Special Commissioners
 - Financial Services and Markets Tribunal
- the Lands Tribunal
- the Transport Tribunal
- the Proscribed Organisation Appeals Commission

The Lord Chancellor also has responsibility for the Independent Schools Tribunal, which is set up as necessary to hear appeals.

Tribunals:
Cases received, 2003

Tribunals

■ Special Commissioners

■ Lands Tribunal

■ Transport Tribunal

Statistical information on the Employment Appeal Tribunal for which the Department of Trade and Industry has administrative responsibility is included at the end of this chapter.

During 2002-

- the number of appeals received by the Immigration Adjudicators increased by 20% to 100,992 (Table 7.1)
- the number of cases disposed of by the Immigration Appeal Tribunal increased by 42% to 46,295 (Table 7.2)
- disposals at the Pensions Appeal Tribunals decreased by 27% to 2,836

The Immigration Appellate Authorities

The Immigration Appellate Authority (IAA) is a tribunal which hears appeals against decisions made by the Home Secretary (and his officials) in asylum and immigration matters. The main types of appeal heard are against decisions to-

- refuse a person political asylum
- refuse a person entry to, or leave to remain in, the UK for permanent settlement
- deport someone already in the UK
- refuse a person entry to the UK for a family visit

The IAA has two tiers: *The Immigration Adjudicators* and *The Immigration Appeal Tribunal*.

The Immigration Adjudicators

The Immigration Adjudicators is an independent judicial body, which is constituted under the Immigration Act 1971 and the Immigration and Asylum Act 1999. It forms the first tier in considering appeals against decisions made by Immigration Officers, Entry Clearance Officers and the Secretary of State for Home Affairs.

From April 2004 the adjudicator tier will be made up of the Chief Adjudicator, His Honour Judge Henry Hodge OBE, the Deputy Chief Adjudicator, Miss Arfon-Jones, 405 fee paid Adjudicators, 153 salaried Adjudicators and a Regional and a Deputy Adjudicator at each main hearing centre. Jurisdiction covers the whole of the United Kingdom with 9 main hearing centres including Taylor House in Central London, Hatton Cross, Birmingham, Bradford, Manchester, Stoke, Newport, North Shields and Glasgow. From June 2004 there will be a total of 140 courtrooms available. There are also an additional 5 satellite hearing centres which utilise existing courts on a casual hiring basis providing an extra 7 available courtrooms.

The Immigration Appeal Tribunal

The Immigration Appeal Tribunal is an independent judicial body, which is constituted under the Immigration Act 1971 and the Immigration and Asylum Act 1999. It deals with applications for leave to appeal and appeals against decisions made by an Immigration Adjudicator. In certain matters the Tribunal has jurisdiction in the first instance.

The Tribunal currently consists of the President, the Honourable Mr Justice Ouseley, the Deputy President, Mr CMG Ockelton, 26 full-time Vice-Presidents, 50 part-time legally qualified Chairpersons and 60 lay Members. Jurisdiction covers the whole of the United Kingdom, and the Tribunal sits in London, but parties may also attend hearings in Manchester, Glasgow, Birmingham and Leeds via video conferencing links.

Table 7.1
The Immigration Adjudicators: Appeals received and disposed of, 2003

	Asylum	Immigration	Visit Visa	Total
Received	70,577	14,637	15,778	100,992
Disposed of	81,723	12,411	14,214	108,348

Table 7.2
The Immigration Appeals Tribunal: Cases received and disposed of, 2003

	Applications			Appeals			Total
	Asylum	Immigration	Visit Visa	Asylum	Immigration	Visit Visa	
Received	34,955	2,073	1,849	11,843	871	471	52,062
Disposed of	32,178	1,997	1,479	9,451	808	382	46,295

The Immigration Services Tribunal

The Immigration Services Tribunal is an independent judicial body constituted under the Immigration and Asylum Act 1999. It is not connected to the Immigration Appellate Authority and has the following functions:

- (a) to hear appeals against decisions of the Office of the Immigration Services Commissioner concerning the registration of immigration advisors, and
- (b) to consider disciplinary charges brought by the Commissioner against immigration advisors

The Tribunal also has a number of interlocutory powers in respect of both types of cases.

The judiciary are all part-time and consist of a President, His Honour Judge Seddon Cripps, five legally qualified Chairmen and eight lay Members who have substantial experience in immigration services or in the law and procedure relating to immigration.

During 2003, 18 cases were received all of which were appeals. No disciplinary charges were received in 2003.

Hearings are in public (unless the Tribunal directs otherwise) and take place before a legally qualified Member and two other Members. For administrative purposes the Tribunal is run alongside the Lands and Transport Tribunals.

Table 7.3
The Immigration Services Tribunal: Appeals and applications received and disposed of, 2003

	Number of cases received	Cases disposed of		Pending at end of year
		Heard or determined	Otherwise disposed of	
Appeals:				
against decision of ISC	18	14	8	3
Applications:				
Disciplinary charges	-	-	-	-
Total	18	14	8	3

The Special Immigration Appeals Commission

The Special Immigration Appeals Commission is an independent commission established by the Special Immigration Appeals Commission Act 1997. It deals with appeals against decisions made by the Secretary of State under the terms of Part 4 of the Anti-Terrorism, Crime and Security Act 2001.

The Lord Chancellor is responsible for appointing members of the Commission. Jurisdiction covers the whole of the United Kingdom with a dedicated hearing centre based in central London. Of the 16 appeals received in 2002 the Commission heard 12, 10 of which were dismissed and 2 are awaiting judgement. A further 4 appeals were received during 2003 and with the remaining 4 from 2002, have been listed for hearings up to October 2004. The Commission also received an appeal against the Deprivation of Citizenship under section 40(5) of the British Nationality Act 1981 which has been listed for hearing in April 2004.

The Social Security and Child Support Commissioners

The National Insurance Commissioners (an independent judicial body) were created by the National Insurance Act 1946 and re-named Social Security Commissioners by the Social Security Act 1980. The additional jurisdiction of Child Support Commissioners was added by the Child Support Act 1991. Social Security Commissioners acquired an additional jurisdiction in housing benefit and council tax benefit cases in July 2001 by the Child Support, Pensions and Social Security Act 2000. Commissioners determine applications and appeals on point of law from decisions of Appeal Service tribunals. Commissioners are appointed by the Queen.

Apart from the Chief Commissioner, there are now 17 full-time Commissioners whose jurisdictions covered England, Wales and Scotland. During 2003 one Commissioner retired. Commissioners decide most appeals on the papers, but also have oral hearings in London, Cardiff and Edinburgh, and at other centres in major cities in the UK. They also offer oral hearings by video conferencing. The Commissioners have one office in London and another in Edinburgh.

Travelling and subsistence allowances are reimbursed to parties, but no legal costs are awarded. Appeal against the decision of a Commissioner can be made on a point of law to the Court of Appeal (Court of Session in Scotland) if leave to do so is given by the Commissioner or the Court.

The number of applications received by the Commissioners in England and Wales in 2003 decreased by 8% to 4,468, the number of appeals fell to 2,227, a decrease of nearly 20%. There were 252 oral appeal hearings in 2003, an increase of nearly 18% against last year's figures. The total number of cases disposed of totalled 6,721, a decrease by nearly 18% on last year's figures.

Table 7.4
The Social Security Commissioners: Applications and appeals received and disposed of in England and Wales, 2003

	Number of cases received	Cases disposed of		Total
		Heard or determined	Otherwise disposed of	
Applications	4,468	4,208	91	4,299
Appeals	2,227	2,383	39	2,422
Total	6,695	6,591	130	6,721

The Pensions Appeal Tribunals

The Pensions Appeal Tribunals is a judicial body constituted by the Pensions Appeal Tribunals Act of 1943 and 1949 as amended by the Child Support Pensions and Social Security Act 2000 for the purpose of determining appeals against the decisions of the Secretary of State for Defence in relation to war pensions. There are three types of appeal to the Tribunals-

- (a) entitlement appeals (to determine whether a person is entitled to an award)
- (b) assessment appeals (against the assessment, the degree of disablement found, period of interim assessment, or the making of a final settlement)
- (c) appeals against decisions of the Secretary of State in respect of supplementary benefits specified in SI 2001/1031

There is a legally qualified President and Deputy President, and the Tribunal consists of the President, Deputy President or a legally qualified Chairman, a lay Member (usually an ex-service Member) and a Medical Member. In assessment cases the Tribunal is similarly constituted but with a Medical Chairman instead of one who is legally qualified. The Tribunal hears cases in London and at seven other centres in England and Wales. Their jurisdiction is to deal with the cases of appellants resident in England and Wales, and in the rest of the world except Scotland and Northern Ireland.

Travelling and subsistence expenses are reimbursed to appellants, as are medical expenses authorised by the Tribunal, but no legal costs are awarded. In entitlement cases only an appeal on a point of law may be made by either party, with leave, to a nominated High Court Judge, or alternatively a joint application may be made by both parties to the President of the Tribunal for him to direct that the decision of the Tribunal be set aside and the matter re-heard, on the grounds of fresh evidence or error of law.

During 2003, 2,088 cases were received (3,372 in 2002). The total number of cases disposed of was 2,836, of which 2,608 were heard or determined, and 228 were otherwise disposed of. At the end of 2003 there were 1,571 cases outstanding.

The Finance and Tax Tribunal

The VAT and Duties Tribunals

The VAT and Duties Tribunals determine appeals against certain decisions of the Commissioners of Customs and Excise with respect to Value Added Tax, Customs Duties, Excise Duties, Insurance Premium Tax, Landfill Tax, Climate Change Levy and Aggregates Levy.

The Tribunals are headed by a President and there are five salaried legal Chairmen, and a part-time Vice-President for Scotland. There are also separate panels of fee-paid legally qualified Chairmen for England and Wales, Scotland and Northern Ireland and likewise separate panels of non-legal Members. Many of the Chairmen also sit as Special Commissioners.

A Tribunal may consist of the President or a Chairman sitting alone or with one or two Members. A Tribunal has power to award costs. An appeal from a Tribunal lies, on a point of law only, to the High Court (the Court of Session in Scotland or the Court of Appeal in Northern Ireland). Exceptionally, an appeal can be made direct to the Court of Appeal if certain conditions are met.

The Tribunals sit regularly in London, Manchester, Birmingham and Edinburgh, and periodically elsewhere.

The number of new appeals received in 2003 was 2,656, an increase of 2% against 2002. The total number of disposals, either by way of a hearing or otherwise, increased from 2,934 in 2002 to 3,293 in 2003.

Table 7.5
The VAT & Duties Tribunals: Appeals received and disposed of, 2003

	Number of cases received	Cases disposed of		Total
		Heard or determined	Otherwise disposed of	
VAT appeals	2,176	623	1,771	2,394
Customs & Excise Duties, Insurance Premium Tax, Landfill Tax, Climate Change Levy, Aggregates Levy	480	371	528	899
Total	2,656	994	2,299	3,293

The Special Commissioners

The Special Commissioners has existed for over a century. It is an independent judicial tribunal presently constituted by the Taxes Management Act 1970 (as amended by subsequent Finance Acts). The Special Commissioners hear appeals by taxpayers against all direct taxes other than Stamp Duty and their jurisdiction extends to the whole of the United Kingdom.

The Tribunal consists of a Presiding Special Commissioner and five full-time Special Commissioners. There are also 12 deputy Special Commissioners. All also sit as Chairmen of the VAT and Duties Tribunals. They sit to hear appeals at four main locations - London, Manchester, Belfast and Edinburgh - but will also conduct hearings at other convenient centres throughout the United Kingdom should a more local venue be deemed necessary.

Appeals from the Special Commissioners will be, on a point of law only, to the High Court (the Court of Session in Scotland or the Court of Appeal in Northern Ireland). Exceptionally, an appeal can be made direct to the Court of Appeal if certain conditions are met.

During 2003, the Special Commissioners received and disposed of 178 and 187 cases respectively (161 and 224 in 2002).

Table 7.6
The Special Commissioners: Cases received and disposed of showing class of jurisdiction, 2003

	Number of cases received	Cases disposed of		
		Heard or determined	Otherwise disposed of	Total
Point of Principle	134	59	76	135
Delay	-	-	8	8
Applications	44	28	16	44
Total	178	87	100	187

The Financial Services and Markets Tribunal

Created under section 132 of the Financial Services and Markets Act 2000, the Tribunal hears references by firms and certain individuals employed in business regulated by the Financial Services Authority against decisions of the Authority relating to disciplinary matters, authorisations and the imposition of penalties. The Tribunal came fully into effect on 1st December 2001. 23 references were received during 2003.

The Lands Tribunal

The Lands Tribunal is an independent judicial body set up in 1949 to resolve disputes about land. The Tribunal deals with a wide range of land related issues, both as an appellate body and as a tribunal of first instance. The Tribunal has jurisdiction under a variety of statutes. The principle jurisdictions are: land compensation (as a result of compulsory purchase or blight, for example); commercial rating appeals; leasehold valuation and enfranchisement appeals; the discharge or modification of restrictive covenants; and rights of light applications.

The Tribunal comprises a full-time legal President, George Bartlett QC, together with three full-time surveyor members and one part-time legal member. The Tribunal hears cases in London or at any location in England and Wales convenient to the parties, and has the power to award costs. Appeal lies to the Court of Appeal on a point of law.

During 2003, legislation was introduced under the Commonhold and Leasehold Reform Act 2002 which limits the Lands Tribunal's power to make costs orders in respect of appeals from decisions of Leasehold Valuation Tribunals where those appeals were issued in the LVT after 30th September 2003. This may affect the number of LVT appeals received by the Tribunal in the future.

Table 7.7
The Lands Tribunal: Cases received and disposed of showing class of jurisdiction, 2003

	Number of cases received	Cases disposed of		
		Heard or determined	Otherwise disposed of	Total disposals
Class of jurisdiction				
Acquisition of land	80	22	65	87
Land compensation	52	4	86	90
References by consent	-	1	1	2
Blight Notice/Others	21	2	7	9
Total	153	29	159	188
Section 84 of Law of Property Act 1925	54	4	33	37
Rights of Light Act 1959	119	-	123	123
Absent owners	7	-	15	15
Determinations	-	-	-	-
Leasehold Reforms appeals	67	16	47	63
Total	247	20	218	238
Rating appeals:				
up to £50,000	25	13	33	46
over £50,000	5	1	25	26
Appeals	30	14	59	72
Grand Total	430	63	436	498

Total cases increased from 425 in 2002 to 430 in 2003, a rise of 1%. Rating appeals fell by 40%, references decreased by over 4%, and other cases together increased by nearly 15%. The number of cases disposed of rose from 409 in 2002 to 498 in 2003. Cases heard or determined fell by 24%, and cases disposed of by consent, withdrawal or otherwise increased by nearly 34%. The pending figure fell to 552, a reduction of nearly 2%. Since 1999 the number of pending cases has been reduced by nearly 37%.

The Transport Tribunal

The Transport Tribunal is an independent judicial body constituted by the Transport Act 1985. It has jurisdiction to determine appeals against decisions of Traffic Commissioners concerning operator licences for heavy goods vehicles and public service vehicles and premises used as operating centres. An operator may also apply to the Tribunal for a decision of a Commissioner to be stayed (i.e. deferred). Stay applications are by their nature very urgent, and the Tribunal is obliged by statute to determine them within 14 days maximum.

During 2003 the Tribunal workload continued to increase as a result of the jurisdiction to consider appeals against decisions of the Registrar of Approved Driving Instructors introduced in 2002. This has led to a significant increase in the number of cases received by the Tribunal in the last two years. from 84 in 2001 to 257 in 2002 and now to 373 in 2003 (excluding stays).

The Tribunal is a court of record, and its jurisdiction extends to England, Scotland and Wales. Appeal lies to the Court of Appeal, or in Scotland to the Court of Session. The Tribunal judiciary are all part-time, and comprise a legally qualified President, Hugh Carlisle QC, three legal Chairmen and six lay Members with experience in road transport matters. The Tribunal hears cases in London or Edinburgh.

Total matters received rose from 280 in 2002 to 400 in 2003, comprising 373 appeals and 27 applications for stays. The number of matters disposed of rose from 199 in 2002 to 507 in 2003. The pending figure decreased to 95 at the end of the year.

Table 7.8
The Transport Tribunal: Appeals and Applications received and disposed of, 2003

	Number of cases received	Cases disposed of		
		Heard or determined	Otherwise disposed of	Total
Applications for stays	27	27	-	27
Appeals				
Goods Vehicle	90	65	39	133
Public Service Vehicle	34	27	6	46
Driving Instructor	249	159	89	301
Total	400	278	134	507

The Proscribed Organisation Appeals Commission

The Proscribed Organisation Appeals Commission is an independent tribunal recently established by the Terrorism Act 2000. It deals with appeals against decisions made by the Secretary of State to refuse to de-proscribe organisations.

The Lord Chancellor is responsible for appointing members of the Commission. Jurisdiction covers the whole of the United Kingdom with a dedicated hearing centre based in central London. The two outstanding appeals were withdrawn by the appellants and no further appeals were received during 2003.

The Employment Appeal Tribunal

The Employment Appeal Tribunal was constituted by the Employment Protection Act 1975 and is a superior court of record (that is, it is not subject in any way, save in matters of appeal, to any other court). The Tribunal hears appeals on a question of law arising from any decisions of, or any proceedings before, an industrial tribunal. For example, it deals with unfair dismissal and redundancy matters and allegations of discriminatory acts. It may also hear applications for compensation from persons unreasonably excluded from unions. The Tribunal has wide discretion regarding costs. For example, the party against whom the decision has been made may have to pay all or part of the costs of the other party and either party may be penalised if there has been unreasonable delay or conduct on their part. There is a right to appeal from the Tribunal to the Court of Appeal (Civil Division) in England and Wales and to the Court of Session in Scotland.

The Tribunal consists of a High Court Judge, who presides, and normally two other Members who have special knowledge or experience of industrial relations, either as representatives of employers or of workers, and are appointed on the joint recommendation of the Lord Chancellor and the Secretary of State for Employment.

Table 7.9
The Employment Appeal Tribunal: Cases received and disposed of showing class of jurisdiction, 2003

	Number of cases received	Cases disposed of					Total
		By hearing					
		Dismissed	Allowed	Remitted	Withdrawn		
Employment particulars	32	15	6	1	4	26	
Protection of wages	26	16	1	4	16	37	
Guarantee payments	-	-	-	-	-	-	
Sunday working/employment protection	-	1	-	-	-	1	
Time off work	1	-	1	-	-	1	
Maternity rights	4	2	-	-	-	2	
Unfair dismissal	389	204	78	87	110	479	
Redundancy/Insolvency	19	14	5	9	9	37	
Employment Rights Act others	13	22	3	6	6	37	
Employment Tribunals Act 1996	-	-	-	-	-	-	
Equal Pay Act	12	4	5	4	5	18	
Sex Discrimination Act 1976	78	39	11	12	26	88	
Race Relations Act 1976	97	73	14	23	33	143	
TU/Lab Relations(cons) Act 1992	14	10	7	2	2	21	
Disability Discrim. Act 1995	77	47	14	21	19	101	
Transfer of Undertaking	39	18	5	8	12	43	
Jurisdiction	41	43	15	18	24	100	
Interlocutories	10	8	0	1	4	13	
Working Time Regulation	23	9	8	4	2	23	
Employment Tribunal procedures	242	138	53	23	47	261	
Others	-	-	-	-	-	-	
Employment Rights Act 1996	-	-	-	-	-	-	
Contract of Employment	-	-	-	-	-	-	
National Minimum Wage	4	1	1	-	-	2	
Human Rights Act	3	2	-	1	1	4	
Part-time workers	2	2	1	-	-	3	
Total	1,126	668	227	225	320	1,440	

Further Reading

The Annual Report of the Council on Tribunals contains statistics for the tribunals under the general supervision of the Council.

The General Commissioners

The General Commissioners are an independent tribunal constituted by the Taxes Management Act 1970 (as amended by subsequent Finance Acts). General Commissioners are appointed by the Lord Chancellor (or, in Scotland, by the Scottish Ministers) to local Divisions. There are currently 407 Divisions.

As at 1 April 2004 there were 1969 General Commissioners of Income Tax in England and Wales. Of that total, 1554 were men (78.92%), and 415 were women (21.08%). During 2003/04, 5 men and 1 woman were appointed. [Note: since June 2000 there has been a moratorium on new appointments save in exceptional circumstances where amalgamation of Divisions or dual appointments are not possible]. During 2003/04 there were 303 leavers in England and Wales.

As at 1 April 2004 there were 262 General Commissioners in Scotland. Of that total 229 were men (87.4%) and 33 (12.6%) were women.

As at 1 April 2004 there were 55 General Commissioners in Northern Ireland. Of that total were 46 men (83.6%) and 9 (16.4%) were women.

The General Commissioners hear appeals by taxpayers on a variety of matters including income tax, National Insurance contributions, Stamp Duty Land Tax and statutory sick pay.

Appeals from the General Commissioners are by way of case stated, on a point of law, to the High Court (the Court of Session in Scotland or the Court of Appeal in Northern Ireland).

During 2003, 29,320 cases were received, 13,853 were decided and 4,286 were withdrawn.

The General Commissioners

The General Commissioners are an independent tribunal constituted by the Taxes Management Act 1970 (as amended by subsequent Finance Acts). General Commissioners are appointed by the Lord Chancellor (or, in Scotland, by the Scottish Ministers) to local Divisions. There are currently 407 Divisions.

As at 1 April 2004 there were 1969 General Commissioners of Income Tax in England and Wales. Of that total, 1554 were men (78.92%), and 415 were women (21.08%). During 2003/04, 5 men and 1 woman were appointed. [Note: since June 2000 there has been a moratorium on new appointments save in exceptional circumstances where amalgamation of Divisions or dual appointments are not possible]. During 2003/04 there were 303 leavers in England and Wales.

As at 1 April 2004 there were 262 General Commissioners in Scotland. Of that total 229 were men (87.4%) and 33 (12.6%) were women.

As at 1 April 2004 there were 55 General Commissioners in Northern Ireland. Of that total were 46 men (83.6%) and 9 (16.4%) were women.

The General Commissioners hear appeals by taxpayers on a variety of matters including income tax, National Insurance contributions, Stamp Duty Land Tax and statutory sick pay.

Appeals from the General Commissioners are by way of case stated, on a point of law, to the High Court (the Court of Session in Scotland or the Court of Appeal in Northern Ireland).

During 2003, 29,320 cases were received, 13,853 were decided and 4,286 were withdrawn.