

Scottish Courts and Tribunals Service



Anthony Cannon

By email: request-523153-
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Scottish Courts and Tribunals Service HQ
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29th October 2018

Our Ref: FOI 2018 167

Dear Mr Cannon,

Freedom of Information (Scotland) Act 2002 (FOISA)

Thank you for your request for information received by this office on 01st October 2018, in the following terms:

The UK government imposed restrictions on A8 and A2 Citizens between 2009 and 2011. The restrictions were found to be unlawful by the Court of appeal. The decision is subject to a further appeal. This has resulted in some cases being delayed for the outcome of that appeal.

1. *Could you advise me how many cases have been stayed under the provision of Section 26 of the Social Security Act 1998.*
2. *Has any guidance been issued to tribunals on how to approach this issue?*

The Scottish Courts and Tribunals Service (SCTS) does try wherever possible to provide the information requested – however, on this occasion SCTS does not hold any information in relation to your request. It may assist if I explain that section 26 of the Social Security Act 1998 ('the 1998 Act') applies to decisions of the First-tier Tribunal – including the Social Security and Child Support chamber – and Upper Tribunal. These tribunals are reserved to the UK government and are therefore administered by HM Courts & Tribunals Service rather than SCTS. Consequently, SCTS does not hold any information regarding the number of tribunals cases which have been stayed under section 26 of the 1998 Act. Therefore I regret that your request in relation to tribunals matters must be refused in terms of Section 17 FOISA – information not held.

From late November 2018, the Social Security Chamber of the First Tier Tribunal for Scotland will become operational and will be administered by SCTS:

<https://www.scotcourts.gov.uk/the-courts/tribunal-locations/social-security-chamber---first-tier-tribunal-for-scotland>

However, there are no plans for any currently stayed appeals to be transferred to the new Social Security Chamber.

You may wish to consider submitting your request to HM Courts & Tribunals Service who may hold the information you require. They can be contacted by email at:

data.access@justice.gsi.gov.uk

Or by post at:

Disclosure Team
Postal Point 10.38, Floor 10
102 Petty France
London
SW1H 9AJ
United Kingdom

Section 26(7)(b)(ii) of the Social Security Act 1998 provides for an application to be made to the Court of Session by way of judicial review in appeals involving issues that arise on appeal in other cases:

<http://www.legislation.gov.uk/ukpga/1998/14/section/26/enacted>

I should explain that the SCTS uses a live operational case management system for the processing of court business. The information held on the system is structured for these operational needs, rather than for statistical reporting or research purposes. Enquiries are currently ongoing in order to establish what information is held regarding any judicial reviews in relation to such matters and I would expect to be able to provide a further response in relation to this aspect by 5th November.

I am sorry not to be of more assistance at this time. However should you feel dissatisfied with this decision or the manner in which your request has been handled, the Act provides for a review process to be conducted. Should you wish to take advantage of this process you may apply in writing for a review. Your request should provide details of why you wish a review to be carried out and should be made within 40 working days of receipt of this letter to:-

The Freedom of Information Officer
Scottish Courts and Tribunals Service
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD
foi@scotcourts.gov.uk

Following that review should you still feel dissatisfied, you have the right to lodge an appeal with the Scottish Information Commissioner either online:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>

or at the following address:-

Office of the Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St. Andrews
FIFE
KY16 9DS

Yours sincerely

Ruari Peoples
Correspondence Officer