

ENVIRONMENTAL COURTS AND TRIBUNALS

UKELA

May 2010

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Pring Report April 2010 - World Resources Institute

- Over 350 forms of environmental court and tribunals in 41 different countries
- Over half of these created since 2004
- The familiar : Land and Environment Court New South Wales; Regional Environmental Courts, Sweden; Environment Court, New Zealand; Federal Environmental Court, Brazil
- The less familiar: Environment Court, Bahamas; Vermont Environment Court, USA; Environmental Appeals Tribunal, Malawi

Pring Report April 2010 - Environmental Courts and Tribunals round the World



Why Not an Environmental Court

- Environmental law is not really so different from other specialized areas such as health and safety
- Difficult boundaries area
- Environmental cases should not be marginalized
- The environment needs to be integrated into all areas of law
- Insufficient case-load to warrant whole new court
- Costs on public purse
- Small specialized courts can more easily suffer “capture” by regulatory bodies and other interests

Environmental Courts - Analysis But No Action - Phase 1

- 1989 Carnwath Report on Enforcing Planning Control
- 1991 Lord Justice Woolf Lecture
- 2000 Grant Report

Phase 2

2002 Royal Commission 23rd Report *Environmental Planning*

2003 Macrory and Woods Report *Modernizing Environmental Justice*

2004 WWF/Environmental Law Foundation Report *Environmental Justice*

Current influences

- Aarhus pressures on judicial review re costs
Sullivan Report, Jackson Review, European Commission Reasoned Opinion
- Reform of Tribunal System
flexibility, legal and non-legal specialisms as needed, cost-effective
- New environmental civil sanctions regimes
appeals to first tier tribunal
- Appeal routes on existing environmental regulations
disparate and muddled

Appeal routes under selected environmental regulations : ENGLAND (I)

- Persistent Organic Pollution Regs 2007/3106 MAGISTRATES COURT
- Environmental Permitting Regs 2007/3538 PLANNING INSPECTORATE
- Environmental Liability Regs 2009 PLANNING INSPECTORATE
- Producer Responsibility Obligations
(Packaging Waste) Regs 2007 BUSINESS INNOVATION AND SKILLS
- Waste Electrical and Electronic
Equipment Regs BUSINESS INNOVATION AND SKILLS
- Dangerous Substances and Preparations Regs 2006 ENVIRONMENT, FOOD AND
RURAL AFFAIRS

Appeal routes under selected environmental regulations ENGLAND (2)

- Contaminated Lands Regs 2006
(used to be Magistrates Court)

DEPT of ENVIRONMENT FOOD
& RURAL AFFAIRS
- Waste Batteries Regs 2009

DEPT of BUSINESS INNOVATION
& SKILLS
- Aviation Greenhouse Emissions Regs 2009

DEPT of ENERGY &
CLIMATE CHANGE
- Tree Preservation Orders (since 2008)

PLANNING INSPECTORATE
- Environmental Civil Sanctions Order 2010

FIRST TIER TRIBUNAL

A New Environmental Tribunal for England and Wales?

- Stand alone first tier; extended Environment & Lands Tribunal; sub-division of Regulatory first tier.
- Statutory appeals under environmental regulations
- Appeals against civil sanctions
- Some environmental judicial reviews to Upper Tribunal (s 14 Tribunal, Courts and Enforcement Act 2007)