

*Status: Point in time view as at 27/07/2007. This version of this schedule contains provisions that are prospective.*  
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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 4

#### THE ASYLUM AND IMMIGRATION TRIBUNAL

##### Textual Amendments

- F1** Sch. 4 substituted (4.4.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26(4), 48(1)-(3), [Sch. 1](#); S.I. 2005/565, [art. 2](#) (with savings in arts. 3-9)

##### *Membership*

- 1 The Lord Chancellor shall appoint the members of the Asylum and Immigration Tribunal.
- 2 (1) A person is eligible for appointment as a member of the Tribunal only if he—
- (a) has a seven year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41),
  - (b) is an advocate or solicitor in Scotland of at least seven years' standing,
  - (c) is a member of the Bar of Northern Ireland, or a solicitor of the Supreme Court of Northern Ireland, of at least seven years' standing,
  - (d) in the Lord Chancellor's opinion, has legal experience which makes him as suitable for appointment as if he satisfied paragraph (a), (b) or (c), or
  - (e) in the Lord Chancellor's opinion, has non-legal experience which makes him suitable for appointment.
- (2) A person appointed under sub-paragraph (1)(a) to (d) shall be known as a legally qualified member of the Tribunal.
- 3 (1) A member—
- (a) may resign by notice in writing to the Lord Chancellor,
  - (b) shall cease to be a member on reaching the age of 70, and
  - (c) otherwise, shall hold and vacate office in accordance with the terms of his appointment (which may include provision—
    - (i) about the training, appraisal and mentoring of members of the Tribunal by other members, and
    - (ii) for removal).
- (2) Sub-paragraph (1)(b) is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (c. 8) (extension to age 75).
- 4 [ The Lord Chancellor may by order make provision for the title of members of the <sup>F2</sup>(1)] Tribunal.
- [ An order under sub-paragraph (1) relating to members sitting in England and Wales <sup>F3</sup>(2) may only be made with the concurrence of Lord Chief Justice of England and Wales.

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- (3) An order under sub-paragraph (1) relating to members sitting in Scotland may only be made with the concurrence of the Lord President of the Court of Session.
- (4) An order under sub-paragraph (1) relating to members sitting in Northern Ireland may only be made with the concurrence of the Lord Chief Justice of Northern Ireland.]

#### Textual Amendments

- F2** Sch. 4 para. 4 renumbered (3.4.2006) as Sch. 4 para. 4(1) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, [Sch. 1 para. 9\(2\)](#)
- F3** Sch. 4 para. 4(2)-(4) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, [Sch. 1 para. 9\(3\)](#)

#### Presidency

- 5 (1) The Lord Chancellor shall appoint—
- (a) a member of the Tribunal, who holds or has held high judicial office within the meaning of the Appellate Jurisdiction Act 1876 (c. 59), as President of the Tribunal, and
  - (b) one or more members of the Tribunal as Deputy President.
- (2) A Deputy President—
- (a) may act for the President if the President is unable to act or unavailable, and
  - (b) shall perform such functions as the President may delegate or assign to him.
- [ The Lord Chancellor may appoint a person under sub-paragraph (1)(a) only with the
- <sup>F4</sup>(3) concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.]

#### Textual Amendments

- F4** Sch. 4 para. 5(3) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, [Sch. 1 para. 10](#)

PROSPECTIVE

#### <sup>F5</sup>Judicial assistance

#### Textual Amendments

- F5** Sch. 4 paras. 5A, 5B and cross-heading inserted (prosp.) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(1), 148, [Sch. 8 para. 54\(5\)](#)

- 5A (1) The Senior President of Tribunals, with the consent of the President of the Tribunal, may assign—

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- (a) a relevant tribunal judge to act as a legally qualified member of the Tribunal;
- (b) a relevant other tribunal member to act as a member of the Tribunal who is not a legally qualified member.

(2) In this paragraph—

(a) “relevant tribunal judge” means—

- (i) a person who is a judge of the First-tier Tribunal by virtue of appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007,
- (ii) a transferred-in judge of the First-tier Tribunal,
- (iii) a person who is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to that Act,
- (iv) a transferred-in judge of the Upper Tribunal,
- (v) a deputy judge of the Upper Tribunal, or
- (vi) a person who is the Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, and does not fall within any of sub-paragraphs (i) to (v);

(b) “relevant other tribunal member” means—

- (i) a person who is a member of the First-tier Tribunal by virtue of appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007,
- (ii) a transferred-in other member of the First-tier Tribunal,
- (iii) a person who is a member of the Upper Tribunal by virtue of appointment under paragraph 2(1) of Schedule 3 to that Act, or
- (iv) a transferred-in other member of the Upper Tribunal.

(3) A relevant tribunal judge within sub-paragraph (2)(a)(i) or (ii) who is assigned under sub-paragraph (1) may, when acting under his assignment, exercise any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—

- (a) has the title of Immigration Judge, and
- (b) is neither the President, nor a Deputy President, of the Tribunal.

(4) A relevant tribunal judge within sub-paragraph (2)(a)(iii), (iv) or (v) who is assigned under sub-paragraph (1) may, when acting under his assignment, exercise—

- (a) any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
  - (i) has the title of Immigration Judge, and
  - (ii) is neither the President, nor a Deputy President, of the Tribunal, and
- (b) any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
  - (i) has the title of Senior Immigration Judge, and
  - (ii) is neither the President, nor a Deputy President, of the Tribunal.

(5) A relevant other tribunal member who is assigned under sub-paragraph (1) may, when acting under his assignment, exercise any function or jurisdiction which is exercisable by a member of the Tribunal who—

- (a) is appointed under paragraph 2(1)(e), and
- (b) is neither the President, nor a Deputy President, of the Tribunal.

5B (1) The Senior President of Tribunals may—

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- (a) with the consent of the President of the Tribunal,
  - (b) with the consent required by sub-paragraph (4), and
  - (c) with the consent of the relevant judge concerned,
- assign a relevant judge to act as a Senior Immigration Judge.
- (2) In this paragraph “relevant judge” means a person who—
- (a) is an ordinary judge of the Court of Appeal in England and Wales (including the vice-president, if any, of either division of that Court),
  - (b) is a Lord Justice of Appeal in Northern Ireland,
  - (c) is a judge of the Court of Session,
  - (d) is a puisne judge of the High Court in England and Wales or Northern Ireland,
  - (e) is a circuit judge,
  - (f) is a sheriff in Scotland,
  - (g) is a county court judge in Northern Ireland,
  - (h) is a district judge in England and Wales or Northern Ireland, or
  - (i) is a District Judge (Magistrates' Courts).
- (3) References in sub-paragraph (2)(c) to (i) to office-holders do not include deputies or temporary office-holders.
- (4) The consent required by this sub-paragraph is—
- (a) the consent of the Lord Chief Justice of England and Wales where the relevant judge is—
    - (i) an ordinary judge of the Court of Appeal in England and Wales,
    - (ii) a puisne judge of the High Court in England and Wales,
    - (iii) a circuit judge,
    - (iv) a district judge in England and Wales, or
    - (v) a District Judge (Magistrates' Courts);
  - (b) the consent of the Lord President of the Court of Session where the relevant judge is—
    - (i) a judge of the Court of Session, or
    - (ii) a sheriff;
  - (c) the consent of the Lord Chief Justice of Northern Ireland where the relevant judge is—
    - (i) a Lord Justice of Appeal in Northern Ireland,
    - (ii) a puisne judge of the High Court in Northern Ireland,
    - (iii) a county court judge in Northern Ireland, or
    - (iv) a district judge in Northern Ireland.
- (5) A relevant judge who is assigned under sub-paragraph (1) may, when acting under his assignment, exercise—
- (a) any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
    - (i) has the title of Immigration Judge, and
    - (ii) is neither the President, nor a Deputy President, of the Tribunal, and
  - (b) any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
    - (i) has the title of Senior Immigration Judge, and

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(ii) is neither the President, nor a Deputy President, of the Tribunal.]

### *Proceedings*

- 6 The Tribunal shall sit at times and places determined by the Lord Chancellor.
- 7 (1) The jurisdiction of the Tribunal shall be exercised by such number of its members as the President, having regard to the complexity and other circumstances of particular cases or classes of case, may direct.
- (2) A direction under this paragraph—
- (a) may relate to the whole or part of specified proceedings or to the whole or part of proceedings of a specified kind,
  - (b) may enable jurisdiction to be exercised by a single member,
  - (c) may require or permit the transfer of the whole or part of proceedings—
    - (i) from one member to another,
    - (ii) from one group of members to another,
    - (iii) from one member to a group of members, or
    - (iv) from a group of members to one member,
  - (d) may be varied or revoked by a further direction, and
  - (e) is subject to rules under section 106.
- 8 (1) The President may make arrangements for the allocation of proceedings to members of the Tribunal.
- (2) Arrangements under this paragraph—
- (a) may permit allocation by the President or another member of the Tribunal,
  - (b) may permit the allocation of a case to a specified member or to a specified class of member,
  - (c) may include provision for transfer, and
  - (d) are subject to rules under section 106.

### *Staff*

- 9 The Lord Chancellor may appoint staff for the Tribunal.

### *Money*

- 10 The Lord Chancellor—
- (a) may pay remuneration and allowances to members of the Tribunal,
  - (b) may pay remuneration and allowances to staff of the Tribunal, and
  - (c) may defray expenses of the Tribunal.
- 11 The Lord Chancellor may pay compensation to a person who ceases to be a member of the Tribunal if the Lord Chancellor thinks it appropriate because of special circumstances.

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## *f<sup>6</sup>* Delegation

### Textual Amendments

**F6** Sch. 4 para. 12 inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 11**

- 12 (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under this Schedule.
- (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this Schedule.
- (3) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this Schedule—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]]

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