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## SCHEDULES

### SCHEDULE 1 **U.K.**

Section 2

#### SENIOR PRESIDENT OF TRIBUNALS

#### PART 1 **U.K.**

##### RECOMMENDATIONS FOR APPOINTMENT

###### *Duty to fill vacancies*

- 1 (1) If there is a vacancy in the office of Senior President of Tribunals, the Lord Chancellor must recommend a person for appointment to that office.
- (2) Sub-paragraph (1) does not apply to a vacancy while the Lord Chief Justice of England and Wales agrees that it may remain unfilled.

###### *The two routes to a recommendation: agreement under this paragraph or selection under Part 2*

- 2 (1) Before the Lord Chancellor may recommend a person for appointment to the office of Senior President of Tribunals, the Lord Chancellor must consult—
  - (a) the Lord Chief Justice of England and Wales,
  - (b) the Lord President of the Court of Session, and
  - (c) the Lord Chief Justice of Northern Ireland.
- (2) Sub-paragraphs (3) and (4) apply if—
  - (a) the outcome of consultation under sub-paragraph (1) is agreement between—
    - (i) the Lord Chancellor,
    - (ii) the Lord Chief Justice of England and Wales,
    - (iii) the Lord President of the Court of Session, and
    - (iv) the Lord Chief Justice of Northern Ireland,as to the person to be recommended, and
  - (b) the person is—
    - (i) an ordinary judge of the Court of Appeal in England and Wales,
    - (ii) a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court, or
    - (iii) a Lord Justice of Appeal in Northern Ireland.
- (3) The Lord Chancellor must recommend the person for appointment to the office of Senior President of Tribunals, subject to sub-paragraph (4).
- (4) Where the person—

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- (a) declines to be recommended, or does not agree within a time specified to him for that purpose, or
  - (b) is otherwise not available within a reasonable time to be recommended,
- the Lord Chancellor must, instead of recommending the person for appointment, consult afresh under sub-paragraph (1).
- (5) If the Lord Chancellor has consulted under sub-paragraph (1) but sub-paragraphs (3) and (4) do not apply following that consultation, the Lord Chancellor must make a request to the Judicial Appointments Commission for a person to be selected for recommendation for appointment to the office of Senior President of Tribunals.

## PART 2 **U.K.**

### SELECTION BY THE JUDICIAL APPOINTMENTS COMMISSION

#### *Eligibility for selection*

- 3 A person is eligible for selection in pursuance of a request under paragraph 2(5) only if—
- (a) he satisfies the judicial-appointment eligibility condition on a 7-year basis,
  - (b) he is an advocate or solicitor in Scotland of at least seven years' standing, or
  - (c) he is a barrister or solicitor in Northern Ireland of at least seven years' standing.

#### *The selection process*

- 4 In Chapter 2 of Part 4 of the Constitutional Reform Act 2005 (c. 4) (appointments), after section 75 insert—

#### *“Senior President of Tribunals*

#### **75A Sections 75B to 75G apply where request made for selection**

- (1) Sections 75B to 75G apply where the Lord Chancellor makes a request to the Commission under paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007 (request for person to be selected for recommendation for appointment to the office of Senior President of Tribunals).
- (2) Those sections are subject to section 95 (withdrawal and modification of requests).

#### **75B Selection process**

- (1) On receiving a request the Commission must appoint a selection panel.
- (2) The panel must —
  - (a) determine the selection process to be applied,
  - (b) apply the selection process, and
  - (c) make a selection accordingly.

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- (3) As part of the selection process the panel must consult—
  - (a) the Lord Chief Justice, if not a member of the panel,
  - (b) the Lord President of the Court of Session, if not a member of the panel, and
  - (c) the Lord Chief Justice of Northern Ireland, if not a member of the panel.
- (4) One person only must be selected for the recommendation to which a request relates.
- (5) Subsection (4) applies to selection under this section and to selection under section 75G.
- (6) A selection panel is a committee of the Commission.

### **75C Selection panel**

- (1) The selection panel must consist of four members.
- (2) The first member is the Lord Chief Justice, or his nominee.
- (3) The second member is a person designated by the Lord Chief Justice.
- (4) Unless subsection (7) applies, the third member is the chairman of the Commission or his nominee.
- (5) The fourth member is a lay member of the Commission designated by the third member.
- (6) Subsection (7) applies if—
  - (a) there is no chairman of the Commission, or
  - (b) the chairman of the Commission is unavailable and has not nominated a person under subsection (4).
- (7) In those cases the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman.
- (8) A nominee of the Lord Chief Justice must be a Head of Division or a Lord Justice of Appeal.
- (9) The person designated under subsection (3) must be—
  - (a) a person who holds, or has held, the office of Senior President of Tribunals,
  - (b) a person who holds, or has held, office as a Chamber President of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal, or
  - (c) a person who holds, or has held, an office that, in the opinion of the Lord Chief Justice, is such that a holder of it would acquire knowledge or experience of tribunals broadly similar to that which would be acquired by—
    - (i) a person who holds the office of Senior President of Tribunals, or
    - (ii) a person who holds office as a Chamber President of a chamber of the First-tier Tribunal, or

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(iii) a person who holds office as a Chamber President of a chamber of the Upper Tribunal.

- (10) Before designating a person under subsection (3), the Lord Chief Justice must consult—
- (a) the Lord President of the Court of Session, and
  - (b) the Lord Chief Justice of Northern Ireland.
- (11) A person may not be appointed to the panel if he is willing to be considered for selection.
- (12) A person may not be appointed to the panel as the nominee of more than one person.
- (13) A person appointed to the panel otherwise than as a nominee may not be a nominee.
- (14) The first member is the chairman of the panel.
- (15) On any vote by the panel the chairman of the panel has an additional, casting vote in the event of a tie.

### **75D Report**

- (1) After complying with section 75B(2) the selection panel must submit a report to the Lord Chancellor.
- (2) The report must—
  - (a) state who has been selected;
  - (b) contain any other information required by the Lord Chancellor.
- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the panel must provide any further information the Lord Chancellor may require.

### **75E The Lord Chancellor's options**

- (1) This section refers to the following stages—

<i>Stage 1:</i>	where a person has been selected under section 75B
<i>Stage 2:</i>	where a person has been selected following a rejection or reconsideration at stage 1
<i>Stage 3:</i>	where a person has been selected following a rejection or reconsideration at stage 2

- (2) At stage 1 the Lord Chancellor must do one of the following—
  - (a) accept the selection;
  - (b) reject the selection;
  - (c) require the selection panel to reconsider the selection.

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- (3) At stage 2 the Lord Chancellor must do one of the following—
  - (a) accept the selection;
  - (b) reject the selection, but only if it was made following a reconsideration at stage 1;
  - (c) require the selection panel to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must accept the selection, unless subsection (5) applies and he accepts a selection under it.
- (5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.

#### **75F Exercise of powers to reject or require reconsideration**

- (1) The power of the Lord Chancellor under section 75E to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion, the person selected is not suitable for the office of Senior President of Tribunals.
- (2) The power of the Lord Chancellor under section 75E to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion—
  - (a) there is not enough evidence that the person is suitable for the office of Senior President of Tribunals, or
  - (b) there is evidence that the person is not the best candidate on merit.
- (3) The Lord Chancellor must give the selection panel reasons in writing for rejecting or requiring reconsideration of a selection.

#### **75G Selection following rejection or requirement to reconsider**

- (1) If under section 75F the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the selection panel must select a person in accordance with this section.
- (2) If the Lord Chancellor rejects a selection, the selection panel—
  - (a) may not select the person rejected, and
  - (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.
- (3) If the Lord Chancellor requires a selection to be reconsidered, the selection panel—
  - (a) may select the same person or a different person, but
  - (b) where the requirement is following a rejection, may not select the person rejected.
- (4) The selection panel must inform the Lord Chancellor of the person selected following a rejection or a requirement to reconsider.

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- (5) Subsections (2) and (3) do not prevent a person being selected on a subsequent request under paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007.”

*Withdrawal and modification of requests under paragraph 2(5)*

- 5 (1) Section 95 of the Constitutional Reform Act 2005 (c. 4) (withdrawal and modification of requests) is amended as follows.
- (2) In subsection (1) (application of section), after “87” insert “ or paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007 ”.
- (3) In subsection (4) (limitation on withdrawal of request under subsection (2)(c)), after “73(2),” insert “ 75E(2), ”.

**PART 3 U.K.**

TERMS OF OFFICE

*Tenure, removal, resignation etc.*

- 6 (1) If—
- (a) a person appointed to the office of Senior President of Tribunals is appointed on terms that provide for him to retire from the office at a particular time specified in those terms (“the end of the fixed-term”), and
- (b) the end of the fixed-term is earlier than the time at which the person is required by the 1993 Act to retire from the office,
- the person shall, if still holding the office at the end of the fixed-term, vacate the office at the end of the fixed-term.
- (2) Subject to sub-paragraph (1) (and to the 1993 Act), a person appointed to the office of Senior President of Tribunals shall hold that office during good behaviour, subject to a power of removal by Her Majesty on an address presented to Her by both Houses of Parliament.
- (3) It is for the Lord Chancellor to recommend to Her Majesty the exercise of the power of removal under sub-paragraph (2).
- (4) In this paragraph “the 1993 Act” means the Judicial Pensions and Retirement Act 1993 (c. 8).
- 7 (1) Sub-paragraph (2) applies to a person appointed to the office of Senior President of Tribunals on a recommendation made under paragraph 2(3).
- (2) The person ceases to be Senior President of Tribunals if he ceases to fall within paragraph 2(2)(b).
- 8 A person who holds the office of Senior President of Tribunals may at any time resign that office by giving the Lord Chancellor notice in writing to that effect.
- 9 (1) The Lord Chancellor, if satisfied by means of a medical certificate that a person holding the office of Senior President of Tribunals—
- (a) is disabled by permanent infirmity from the performance of the duties of the office, and

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- (b) is for the time being incapacitated from resigning the office, may, subject to sub-paragraph (2), by instrument under his hand declare the person to have vacated the office; and the instrument shall have the like effect for all purposes as if the person had on the date of the instrument resigned the office.
- (2) A declaration under sub-paragraph (1) with respect to a person shall be of no effect unless it is made with the concurrence of—
- (a) the Lord Chief Justice of England and Wales,
  - (b) the Lord President of the Court of Session, and
  - (c) the Lord Chief Justice of Northern Ireland.

#### *Remuneration, allowances and expenses*

- 10 The Lord Chancellor may pay to the Senior President of Tribunals such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
  - (b) allowances;
  - (c) expenses.

#### *Oaths*

- 11 (1) A person appointed to the office of Senior President of Tribunals must take the required oaths in the presence of—
- (a) the Lord Chief Justice of England and Wales, or
  - (b) another holder of high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4)) who is nominated by the Lord Chief Justice of England and Wales for the purpose of taking the oaths from the person.
- (2) Sub-paragraph (1) applies whether or not the person has previously taken the required oaths after accepting another office.
- (3) In this paragraph “the required oaths” means—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868 (c. 72).

## **PART 4** **U.K.**

### CERTAIN FUNCTIONS OF THE SENIOR PRESIDENT

#### *Meaning of “tribunal member”*

- 12 (1) For the purposes of this Part of this Schedule, each of the following is a “tribunal member”—
- (a) a judge, or other member, of the First-tier Tribunal or Upper Tribunal,
  - (b) any member of the Asylum and Immigration Tribunal,

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- (c) a member of a panel of members of employment tribunals (whether or not a panel of chairmen),
- (d) a judge, or other member, of the Employment Appeal Tribunal, and
- (e) a person who is, or is a member of, a tribunal in a list in Schedule 6 that has effect for the purposes of section 30.

(2) In this Part of this Schedule “tribunals” means—

- (a) the First-tier Tribunal,
- (b) the Upper Tribunal,
- (c) the Asylum and Immigration Tribunal,
- (d) employment tribunals,
- (e) the Employment Appeal Tribunal, and
- (f) any tribunal in a list in Schedule 6 that has effect for the purposes of section 30.

#### *Representations to Parliament*

- 13 The Senior President of Tribunals may lay before Parliament written representations on matters that appear to him to be matters of importance relating—
- (a) to tribunal members, or
  - (b) otherwise to the administration of justice by tribunals.

#### *Representation of views of tribunal members*

- 14 The Senior President of Tribunals is responsible for representing the views of tribunal members to Parliament, to the Lord Chancellor and to Ministers of the Crown generally.

## SCHEDULE 2 U.K.

Section 4

### JUDGES AND OTHER MEMBERS OF THE FIRST-TIER TRIBUNAL

#### *Power to appoint judges of First-tier Tribunal*

- 1 (1) The Lord Chancellor may appoint a person to be one of the judges of the First-tier Tribunal.
- (2) A person is eligible for appointment under sub-paragraph (1) only if the person—
- (a) satisfies the judicial-appointment eligibility condition on a 5-year basis,
  - (b) is an advocate or solicitor in Scotland of at least five years' standing,
  - (c) is a barrister or solicitor in Northern Ireland of at least five years' standing, or
  - (d) in the Lord Chancellor's opinion, has gained experience in law which makes the person as suitable for appointment as if the person satisfied any of paragraphs (a) to (c).
- (3) Section 52(2) to (5) (meaning of “gain experience in law”) apply for the purposes of sub-paragraph (2)(d), but as if section 52(4)(i) referred to the Lord Chancellor instead of to the relevant decision-maker.



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### *Power to appoint other members of First-tier Tribunal*

- 2 (1) The Lord Chancellor may appoint a person to be one of the members of the First-tier Tribunal who are not judges of the tribunal.
- (2) A person is eligible for appointment under sub-paragraph (1) only if the person has qualifications prescribed in an order made by the Lord Chancellor with the concurrence of the Senior President of Tribunals.

### *Appointed and transferred-in judges and other members: removal from office*

- 3 (1) This paragraph applies to any power by which—
- (a) a person appointed under paragraph 1(1) or 2(1),
  - (b) a transferred-in judge of the First-tier Tribunal, or
  - (c) a transferred-in other member of the First-tier Tribunal,
- may be removed from office.
- (2) If the person exercises functions wholly or mainly in Scotland, the power may be exercised only with the concurrence of the Lord President of the Court of Session.
- (3) If the person exercises functions wholly or mainly in Northern Ireland, the power may be exercised only with the concurrence of the Lord Chief Justice of Northern Ireland.
- (4) If neither of sub-paragraphs (2) and (3) applies, the power may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.

### *Terms of appointment*

- 4 (1) This paragraph applies—
- (a) to a person appointed under paragraph 1(1) or 2(1),
  - (b) to a transferred-in judge of the First-tier Tribunal, and
  - (c) to a transferred-in other member of the First-tier Tribunal.
- (2) If the terms of the person's appointment provide that he is appointed on a salaried (as opposed to fee-paid) basis, the person may be removed from office—
- (a) only by the Lord Chancellor (and in accordance with paragraph 3), and
  - (b) only on the ground of inability or misbehaviour.
- (3) Subject to sub-paragraph (2) (and to the Judicial Pensions and Retirement Act 1993 (c. 8)), the person is to hold and vacate office in accordance with the terms of his appointment.

### *Remuneration, allowances and expenses*

- 5 (1) Sub-paragraph (2) applies—
- (a) to a person appointed under paragraph 1(1) or 2(1),
  - (b) to a transferred-in judge of the First-tier Tribunal, and
  - (c) to a transferred-in other member of the First-tier Tribunal.
- (2) The Lord Chancellor may pay to a person to whom this sub-paragraph applies such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;

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- (b) allowances;
- (c) expenses.

*Certain judges neither appointed under paragraph 1(1) nor transferred in*

- 6 (1) In this paragraph “judge by request of the First-tier Tribunal” means a person who is a judge of the First-tier Tribunal but who—
- (a) is not the Senior President of Tribunals,
  - (b) is not a judge of the First-tier Tribunal appointed under paragraph 1(1),
  - (c) is not a transferred-in judge of the First-tier Tribunal,
  - (d) is not a Chamber President, or Acting Chamber President or Deputy Chamber President, of a chamber of the First-tier Tribunal,
  - (e) is not a judge of the First-tier Tribunal by virtue of section 4(1)(e) (chairman of employment tribunal),
  - (f) is not a judge of the First-tier Tribunal by virtue of section 4(1)(d) or by virtue of the combination of sections 4(1)(c) and 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal), and
  - (g) is not a judge of the First-tier tribunal by virtue of section 4(2) (criminal injuries compensation adjudicator appointed by the Scottish Ministers).
- (2) A judge by request of the First-tier Tribunal may act as a judge of the First-tier Tribunal only if requested to do so by the Senior President of Tribunals.
- (3) Such a request made to a person who is a judge of the First-tier Tribunal by virtue of the combination of sections 4(1)(c) and 5(1)(g) may be made only with—
- (a) the concurrence of the Lord Chief Justice of England and Wales where the person 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 concurrence of the Lord President of the Court of Session where the person is—
    - (i) a judge of the Court of Session, or
    - (ii) a sheriff;
  - (c) the concurrence of the Lord Chief Justice of Northern Ireland where the person 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.
- (4) Sub-paragraph (5) applies—
- (a) to a judge by request of the First-tier Tribunal,
  - (b) to a person who is a judge of the First-tier Tribunal by virtue of section 4(1)(e) (chairman of employment tribunal), and

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- (c) to a person who is a judge of the First-tier Tribunal by virtue of section 4(1)(d) or by virtue of the combination of sections 4(1)(c) and 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal).
- (5) The Lord Chancellor may pay to a person to whom this sub-paragraph applies such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
  - (b) allowances;
  - (c) expenses.

*Other members neither appointed under paragraph 2(1) nor transferred in*

- 7
- (1) In this paragraph “ex officio member of the First-tier Tribunal” means a person who is a member of the First-tier Tribunal by virtue of—
- (a) section 4(3)(d) (members of employment tribunals who are not chairmen),
  - (b) the combination of sections 4(3)(c) and 5(2)(c) (members of Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996), or
  - (c) the combination of sections 4(3)(c) and 5(2)(d) (members of Asylum and Immigration Tribunal who are not legally qualified members).
- (2) The Lord Chancellor may pay to an ex officio member of the First-tier Tribunal such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
  - (b) allowances;
  - (c) expenses.

*Training etc.*

- 8
- The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of judges and other members of the First-tier Tribunal (in their capacities as such judges and other members).

*Oaths*

- 9
- (1) Sub-paragraph (2) applies to a person (“J”)—
- (a) who is appointed under paragraph 1(1) or 2(1), or
  - (b) who becomes a transferred-in judge, or a transferred-in other member, of the First-tier Tribunal and has not previously taken the required oaths after accepting another office.
- (2) J must take the required oaths before—
- (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from J.
- (3) A person is eligible for the purposes of sub-paragraph (2)(b) if any one or more of the following paragraphs applies to him—

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- (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4));
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (4) In this paragraph “the required oaths” means (subject to sub-paragraph (5))—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868 (c. 72).
- (5) Where it appears to the Lord Chancellor that J will carry out functions as a judge or other member of the First-tier Tribunal wholly or mainly in Northern Ireland, the Lord Chancellor may direct that in relation to J “the required oaths” means—
- (a) the oath as set out in section 19(2) of the Justice (Northern Ireland) Act 2002 (c. 26), or
  - (b) the affirmation and declaration as set out in section 19(3) of that Act.

### SCHEDULE 3 U.K.

Section 5

#### JUDGES AND OTHER MEMBERS OF THE UPPER TRIBUNAL

##### *Power to appoint judges of Upper Tribunal*

- 1 (1) Her Majesty, on the recommendation of the Lord Chancellor, may appoint a person to be one of the judges of the Upper Tribunal.
- (2) A person is eligible for appointment under sub-paragraph (1) only if the person—
- (a) satisfies the judicial-appointment eligibility condition on a 7-year basis,
  - (b) is an advocate or solicitor in Scotland of at least seven years' standing,
  - (c) is a barrister or solicitor in Northern Ireland of at least seven years' standing, or
  - (d) in the Lord Chancellor's opinion, has gained experience in law which makes the person as suitable for appointment as if the person satisfied any of paragraphs (a) to (c).
- (3) Section 52(2) to (5) (meaning of “gain experience in law”) apply for the purposes of sub-paragraph (2)(d), but as if section 52(4)(i) referred to the Lord Chancellor instead of to the relevant decision-maker.

##### *Power to appoint other members of Upper Tribunal*

- 2 (1) The Lord Chancellor may appoint a person to be one of the members of the Upper Tribunal who are not judges of the tribunal.
- (2) A person is eligible for appointment under sub-paragraph (1) only if the person has qualifications prescribed in an order made by the Lord Chancellor with the concurrence of the Senior President of Tribunals.

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*Appointed and transferred-in judges and other members: removal from office*

- 3 (1) This paragraph applies to any power by which—
- (a) a person appointed under paragraph 1(1) or 2(1),
  - (b) a transferred-in judge of the Upper Tribunal, or
  - (c) a transferred-in other member of the Upper Tribunal,
- may be removed from office.
- (2) If the person exercises functions wholly or mainly in Scotland, the power may be exercised only with the concurrence of the Lord President of the Court of Session.
- (3) If the person exercises functions wholly or mainly in Northern Ireland, the power may be exercised only with the concurrence of the Lord Chief Justice of Northern Ireland.
- (4) If neither of sub-paragraphs (2) and (3) applies, the power may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.

*Terms of appointment*

- 4 (1) This paragraph applies—
- (a) to a person appointed under paragraph 1(1) or 2(1),
  - (b) to a transferred-in judge of the Upper Tribunal, and
  - (c) to a transferred-in other member of the Upper Tribunal.
- (2) If the terms of the person's appointment provide that he is appointed on a salaried (as opposed to fee-paid) basis, the person may be removed from office—
- (a) only by the Lord Chancellor (and in accordance with paragraph 3), and
  - (b) only on the ground of inability or misbehaviour.
- (3) Subject to sub-paragraph (2) (and to the Judicial Pensions and Retirement Act 1993 (c. 8)), the person is to hold and vacate office as a judge, or other member, of the Upper Tribunal in accordance with the terms of his appointment.

*Remuneration, allowances and expenses*

- 5 (1) Sub-paragraph (2) applies—
- (a) to a person appointed under paragraph 1(1) or 2(1),
  - (b) to a transferred-in judge of the Upper Tribunal, and
  - (c) to a transferred-in other member of the Upper Tribunal.
- (2) The Lord Chancellor may pay to a person to whom this sub-paragraph applies such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
  - (b) allowances;
  - (c) expenses.

*Certain judges neither appointed under paragraph 1(1) nor transferred in*

- 6 (1) In this paragraph “judge by request of the Upper Tribunal” means a person who is a judge of the Upper Tribunal but—

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- (a) is not the Senior President of Tribunals,
  - (b) is not a judge of the Upper Tribunal appointed under paragraph 1(1),
  - (c) is not a transferred-in judge of the Upper Tribunal,
  - (d) is not a judge of the Upper Tribunal by virtue of section 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal),
  - (e) is not a deputy judge of the Upper Tribunal, and
  - (f) is not a Chamber President, or Acting Chamber President or Deputy Chamber President, of a chamber of the Upper Tribunal.
- (2) A judge by request of the Upper Tribunal may act as a judge of the Upper Tribunal only if requested to do so by the Senior President of Tribunals.
- (3) Such a request made to a person who is a judge of the Upper Tribunal by virtue of section 5(1)(g) may be made only with—
- (a) the concurrence of the Lord Chief Justice of England and Wales where the person 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 concurrence of the Lord President of the Court of Session where the person is—
    - (i) a judge of the Court of Session, or
    - (ii) a sheriff;
  - (c) the concurrence of the Lord Chief Justice of Northern Ireland where the person 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.
- (4) The Lord Chancellor may pay to a judge by request of the Upper Tribunal, or a person who is a judge of the Upper Tribunal by virtue of section 5(1)(d), such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
  - (b) allowances;
  - (c) expenses.

#### *Deputy judges of the Upper Tribunal*

- 7 (1) The Lord Chancellor may appoint a person to be a deputy judge of the Upper Tribunal for such period as the Lord Chancellor considers appropriate.
- (2) A person is eligible for appointment under sub-paragraph (1) only if he is eligible to be appointed under paragraph 1(1) (see paragraph 1(2)).
- (3) Sub-paragraphs (4) and (5) apply—
- (a) to a person appointed under sub-paragraph (1), and

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- (b) to a person who becomes a deputy judge of the Upper Tribunal as a result of provision under section 31(2).
- (4) A person to whom this sub-paragraph applies is to hold and vacate office as a deputy judge of the Upper Tribunal in accordance with the terms of his appointment (subject to the Judicial Pensions and Retirement Act 1993 (c. 8)).
- (5) The Lord Chancellor may pay to a person to whom this sub-paragraph applies such amounts (if any) as the Lord Chancellor may determine by way of—
  - (a) remuneration;
  - (b) allowances;
  - (c) expenses.

*Other members neither appointed under paragraph 2(1) nor transferred in*

- 8 (1) In this paragraph “ex officio member of the Upper Tribunal” means—
- (a) a person who is a member of the Upper Tribunal by virtue of section 5(2)(c) (member of Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996 (c. 17)), or
  - (b) a person who is a member of the Upper Tribunal by virtue of section 5(2)(d) (member of the Asylum and Immigration Tribunal who is not a legally qualified member).
- (2) The Lord Chancellor may pay to an ex officio member of the Upper Tribunal such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
  - (b) allowances;
  - (c) expenses.

*Training etc.*

- 9 The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of judges and other members of the Upper Tribunal (in their capacities as such judges and other members).

*Oaths*

- 10 (1) Sub-paragraph (2) applies to a person (“J”)—
- (a) who is appointed under paragraph 1(1), 2(1) or 7(1), or
  - (b) who—
    - (i) becomes a transferred-in judge, or a transferred-in other member, of the Upper Tribunal, or
    - (ii) becomes a deputy judge of the Upper Tribunal as a result of provision under section 31(2),and has not previously taken the required oaths after accepting another office.
- (2) J must take the required oaths before—
- (a) the Senior President of Tribunals, or

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- (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from J.
- (3) A person is eligible for the purposes of sub-paragraph (2)(b) if any one or more of the following paragraphs applies to him—
  - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4));
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (4) In this paragraph “the required oaths” means (subject to sub-paragraph (5))—
  - (a) the oath of allegiance, and
  - (b) the judicial oath,
 as set out in the Promissory Oaths Act 1868 (c. 72).
- (5) Where it appears to the Lord Chancellor that J will carry out functions as a judge or other member of the Upper Tribunal wholly or mainly in Northern Ireland, the Lord Chancellor may direct that in relation to J “the required oaths” means—
  - (a) the oath as set out in section 19(2) of the Justice (Northern Ireland) Act 2002 (c. 26), or
  - (b) the affirmation and declaration as set out in section 19(3) of that Act.

## SCHEDULE 4 U.K.

Section 7

### CHAMBERS AND CHAMBER PRESIDENTS: FURTHER PROVISION

#### PART 1 U.K.

#### CHAMBER PRESIDENTS: APPOINTMENT, DELEGATION, DEPUTIES AND FURTHER PROVISION

##### *Eligibility for appointment as Chamber President by Lord Chancellor*

- 1 A person is eligible for appointment under section 7(7) only if—
- (a) he is a judge of the Upper Tribunal, or
  - (b) he does not fall within paragraph (a) but is eligible to be appointed under paragraph 1(1) of Schedule 3 as a judge of the Upper Tribunal (see paragraph 1(2) of that Schedule).

##### *Appointment as Chamber President by Lord Chancellor: consultation and nomination*

- 2 (1) The Lord Chancellor must consult the Senior President of Tribunals before the Lord Chancellor appoints under section 7(7) a person within—
- section 6(1)(a) (ordinary judge of Court of Appeal in England and Wales),
  - section 6(1)(b) (Lord Justice of Appeal in Northern Ireland),
  - section 6(1)(c) (judge of the Court of Session), or
  - section 6(1)(d) (puisne judge of the High Court in England and Wales or Northern Ireland).



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- (2) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the ordinary judges of the Court of Appeal in England and Wales or the puisne judges of the High Court in England and Wales, the Lord Chancellor must first ask the Lord Chief Justice of England and Wales to nominate one of those judges for the purpose.
- (3) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the judges of the Court of Session, the Lord Chancellor must first ask the Lord President of the Court of Session to nominate one of those judges for the purpose.
- (4) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the Lords Justices of Appeal in Northern Ireland or the puisne judges of the High Court in Northern Ireland, the Lord Chancellor must first ask the Lord Chief Justice of Northern Ireland to nominate one of those judges for the purpose.
- (5) If a judge is nominated under sub-paragraph (2), (3) or (4) in response to a request under that sub-paragraph, the Lord Chancellor must appoint the nominated judge as Chamber President of the chamber concerned.

*Chamber Presidents: duration of appointment, remuneration etc.*

- 3 (1) A Chamber President is to hold and vacate office as a Chamber President in accordance with the terms of his appointment as a Chamber President (subject to the Judicial Pensions and Retirement Act 1993 (c. 8)).
- (2) The Lord Chancellor may pay to a Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
  - (a) remuneration;
  - (b) allowances;
  - (c) expenses.

*Delegation of functions by Chamber Presidents*

- 4 (1) The Chamber President of a chamber of the First-tier Tribunal or Upper Tribunal may delegate any function he has in his capacity as the Chamber President of the chamber—
  - (a) to any judge, or other member, of either of those tribunals;
  - (b) to staff appointed under section 40(1).
- (2) A delegation under sub-paragraph (1) is not revoked by the delegator's becoming incapacitated.
- (3) Any delegation made by a person under sub-paragraph (1) that is in force immediately before the person ceases to be the Chamber President of a chamber continues in force until subsequently varied or revoked by another holder of the office of Chamber President of that chamber.
- (4) The delegation under sub-paragraph (1) of a function shall not prevent the exercise of the function by the Chamber President of the chamber concerned.
- (5) In this paragraph “delegate” includes further delegate.

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### *Deputy Chamber Presidents*

- 5 (1) The Lord Chancellor may appoint a person who is not a Deputy Chamber President of a chamber to be a Deputy Chamber President of a chamber.
- (2) The Senior President of Tribunals may appoint a person who is a Deputy Chamber President of a chamber to be instead, or to be also, a Deputy Chamber President of another chamber.
- (3) The power under sub-paragraph (1) is exercisable in any particular case only if the Lord Chancellor—
- (a) has consulted the Senior President of Tribunals about whether a Deputy Chamber President should be appointed for the chamber concerned, and
  - (b) considers, in the light of the consultation, that a Deputy Chamber President of the chamber should be appointed.
- (4) A person is eligible for appointment under sub-paragraph (1) only if—
- (a) he is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3,
  - (b) he is a transferred-in judge of the Upper Tribunal (see section 31(2)),
  - (c) he is a judge of the Upper Tribunal by virtue of—
    - section 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal),
    - section 5(1)(e) (Social Security Commissioner for Northern Ireland),
    - section 5(1)(g) (certain judges of courts in the United Kingdom), or
    - section 5(1)(h) (deputy judge of the Upper Tribunal), or
  - (d) he falls within none of paragraphs (a) to (c) but is eligible to be appointed under paragraph 1(1) of Schedule 3 as a judge of the Upper Tribunal (see paragraph 1(2) of that Schedule).
- (5) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the ordinary judges of the Court of Appeal in England and Wales or the puisne judges of the High Court in England and Wales, the Lord Chancellor must first ask the Lord Chief Justice of England and Wales to nominate one of those judges for the purpose.
- (6) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the judges of the Court of Session, the Lord Chancellor must first ask the Lord President of the Court of Session to nominate one of those judges for the purpose.
- (7) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the Lords Justices of Appeal in Northern Ireland or the puisne judges of the High Court in Northern Ireland, the Lord Chancellor must first ask the Lord Chief Justice of Northern Ireland to nominate one of those judges for the purpose.
- (8) If a judge is nominated under sub-paragraph (5), (6) or (7) in response to a request under that sub-paragraph, the Lord Chancellor must appoint the nominated judge as a Deputy Chamber President of the chamber concerned.

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- (9) A Deputy Chamber President is to hold and vacate office as a Deputy Chamber President in accordance with the terms of his appointment (subject to the Judicial Pensions and Retirement Act 1993 (c. 8)).
- (10) The Lord Chancellor may pay to a Deputy Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
  - (a) remuneration;
  - (b) allowances;
  - (c) expenses.
- (11) In sub-paragraphs (1) and (2) “chamber” means chamber of the First-tier Tribunal or chamber of the Upper Tribunal.

#### *Acting Chamber Presidents*

- 6 (1) If in the case of a particular chamber of the First-tier Tribunal or Upper Tribunal there is no-one appointed under section 7 to preside over the chamber, the Senior President of Tribunals may appoint a person to preside over the chamber during the vacancy.
- (2) A person appointed under sub-paragraph (1) is to be known as an Acting Chamber President.
- (3) A person who is the Acting Chamber President of a chamber is to be treated as the Chamber President of the chamber for all purposes other than—
  - (a) the purposes of this paragraph of this Schedule, and
  - (b) the purposes of the Judicial Pensions and Retirement Act 1993 (c. 8).
- (4) A person is eligible for appointment under sub-paragraph (1) only if he is eligible for appointment as a Chamber President.
- (5) An Acting Chamber President is to hold and vacate office as an Acting Chamber President in accordance with the terms of his appointment.
- (6) The Lord Chancellor may pay to an Acting Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
  - (a) remuneration;
  - (b) allowances;
  - (c) expenses.

#### *Guidance*

- 7 The Chamber President of a chamber of the First-tier Tribunal or the Upper Tribunal is to make arrangements for the issuing of guidance on changes in the law and practice as they relate to the functions allocated to the chamber.

#### *Oaths*

- 8 (1) Sub-paragraph (2) applies to a person (“the appointee”)—
  - (a) appointed under section 7(7) as a Chamber President,
  - (b) appointed under paragraph 5(1) as a Deputy Chamber President of a chamber, or
  - (c) appointed as an Acting Chamber President.

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- (2) The appointee must take the required oaths before—
  - (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) A person is eligible for the purposes of sub-paragraph (2)(b) if any one or more of the following paragraphs applies to him—
  - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4));
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (4) Sub-paragraph (2) does not apply to the appointee if he has previously taken the required oaths in compliance with a requirement imposed on him under paragraph 9 of Schedule 2 or paragraph 10 of Schedule 3.
- (5) In this paragraph “the required oaths” means (subject to sub-paragraph (6))—
  - (a) the oath of allegiance, and
  - (b) the judicial oath,
 as set out in the Promissory Oaths Act 1868 (c. 72).
- (6) Where it appears to the Lord Chancellor that the appointee will carry out functions under his appointment wholly or mainly in Northern Ireland, the Lord Chancellor may direct that in relation to the appointee “the required oaths” means—
  - (a) the oath as set out in section 19(2) of the Justice (Northern Ireland) Act 2002 (c. 26), or
  - (b) the affirmation and declaration as set out in section 19(3) of that Act.

## PART 2 U.K.

### JUDGES AND OTHER MEMBERS OF CHAMBERS: ASSIGNMENT AND JURISDICTION

#### *Assignment is function of Senior President of Tribunals*

- 9 (1) The Senior President of Tribunals has—
  - (a) the function of assigning judges and other members of the First-tier Tribunal (including himself) to chambers of the First-tier Tribunal, and
  - (b) the function of assigning judges and other members of the Upper Tribunal (including himself) to chambers of the Upper Tribunal.
- (2) The functions under sub-paragraph (1) are to be exercised in accordance with the following provisions of this Part of this Schedule.

#### *Deemed assignment of Chamber Presidents and Deputy Chamber Presidents*

- 10 (1) The Chamber President, or a Deputy Chamber President, of a chamber—
  - (a) is to be taken to be assigned to that chamber;
  - (b) may be assigned additionally to one or more of the other chambers;
  - (c) may be assigned under paragraph (b) to different chambers at different times.

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- (2) Paragraphs 11(1) and (2) and 12(2) and (3) do not apply to assignment of a person who is a Chamber President or a Deputy Chamber President.
- (3) In sub-paragraph (1) “chamber” means chamber of the First-tier Tribunal or the Upper Tribunal.

*Assigning members of First-tier Tribunal to its chambers*

- 11 (1) Each person who is a judge or other member of the First-tier Tribunal by virtue of appointment under paragraph 1(1) or 2(1) of Schedule 2 or who is a transferred-in judge, or transferred-in other member, of the First-tier Tribunal—
  - (a) is to be assigned to at least one of the chambers of the First-tier Tribunal, and
  - (b) may be assigned to different chambers of the First-tier Tribunal at different times.
- (2) A judge or other member of the First-tier Tribunal to whom sub-paragraph (1) does not apply—
  - (a) may be assigned to one or more of the chambers of the First-tier Tribunal, and
  - (b) may be assigned to different chambers of the First-tier Tribunal at different times.
- (3) The Senior President of Tribunals may assign a judge or other member of the First-tier Tribunal to a particular chamber of the First-tier Tribunal only with the concurrence—
  - (a) of the Chamber President of the chamber, and
  - (b) of the judge or other member.
- (4) The Senior President of Tribunals may end the assignment of a judge or other member of the First-tier Tribunal to a particular chamber of the First-tier Tribunal only with the concurrence of the Chamber President of the chamber.
- (5) Sub-paragraph (3)(a) does not apply where the judge, or other member, concerned is not assigned to any of the chambers of the First-tier Tribunal.
- (6) Sub-paragraphs (3)(a) and (4) do not apply where the judge concerned is within section 6(1)(a) to (d) (judges of Courts of Appeal, Court of Session and High Courts).
- (7) Sub-paragraphs (3) and (4) do not apply where the judge concerned is the Senior President of Tribunals himself.

*Assigning members of Upper Tribunal to its chambers*

- 12 (1) Sub-paragraph (2) applies to a person if—
  - (a) he is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3, or
  - (b) he is a transferred-in judge of the Upper Tribunal, or
  - (c) he is a deputy judge of the Upper Tribunal, or
  - (d) he is a member of the Upper Tribunal by virtue of appointment under paragraph 2(1) of Schedule 3, or
  - (e) he is a transferred-in other member of the Upper Tribunal.
- (2) Each person to whom this sub-paragraph applies—

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- (a) is to be assigned to at least one of the chambers of the Upper Tribunal, and
  - (b) may be assigned to different chambers of the Upper Tribunal at different times.
- (3) A judge or other member of the Upper Tribunal to whom sub-paragraph (2) does not apply—
- (a) may be assigned to one or more of the chambers of the Upper Tribunal, and
  - (b) may be assigned to different chambers of the Upper Tribunal at different times.
- (4) The Senior President of Tribunals may assign a judge or other member of the Upper Tribunal to a particular chamber of the Upper Tribunal only with the concurrence—
- (a) of the Chamber President of the chamber, and
  - (b) of the judge or other member.
- (5) The Senior President of Tribunals may end the assignment of a judge or other member of the Upper Tribunal to a particular chamber of the Upper Tribunal only with the concurrence of the Chamber President of the chamber.
- (6) Sub-paragraph (4)(a) does not apply where the judge, or other member, concerned is not assigned to any of the chambers of the Upper Tribunal.
- (7) Sub-paragraphs (4)(a) and (5) do not apply where the judge concerned is within section 6(1)(a) to (d) (judges of Courts of Appeal, Court of Session and High Courts).
- (8) Sub-paragraphs (4) and (5) do not apply where the judge concerned is the Senior President of Tribunals himself.

*Policy of Senior President of Tribunals as respects assigning members to chambers etc.*

- 13 (1) The Senior President of Tribunals must publish a document recording the policy adopted by him in relation to—
- (a) the assigning of persons to chambers in exercise of his functions under paragraph 9,
  - (b) the assigning of persons to act as members of the Asylum and Immigration Tribunal in exercise of his functions under paragraphs 5A and 5B of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (c. 41), and
  - (c) the nominating of persons to act as members of panels of members of employment tribunals in exercise of his functions under any such provision as is mentioned in section 5D(1) of the Employment Tribunals Act 1996 (c. 17).
- (2) That policy must be such as to secure—
- (a) that appropriate use is made of the knowledge and experience of the judges and other members of the First-tier Tribunal and Upper Tribunal, and
  - (b) that, in the case of a chamber (of the First-tier Tribunal or Upper Tribunal) whose business consists of, or includes, cases likely to involve the application of the law of Scotland or Northern Ireland, sufficient knowledge and experience of that law is to be found among persons assigned to the chamber.

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- (3) No policy may be adopted by the Senior President of Tribunals for the purposes of sub-paragraph (1) unless the Lord Chancellor concurs in the policy.
- (4) The Senior President of Tribunals must keep any policy adopted for the purposes of sub-paragraph (1) under review.

#### *Choosing members to decide cases*

- 14 (1) The First-tier Tribunal's function, or the Upper Tribunal's function, of deciding any matter in a case before the tribunal is to be exercised by a member or members of the chamber of the tribunal to which the case is allocated.
- (2) The member or members must be chosen by the Senior President of Tribunals.
- (3) A person choosing under sub-paragraph (2)—
  - (a) must act in accordance with any provision under paragraph 15;
  - (b) may choose himself.
- (4) In this paragraph “member”, in relation to a chamber of a tribunal, means a judge or other member of the tribunal who is assigned to the chamber.

#### *Composition of tribunals*

- 15 (1) The Lord Chancellor must by order make provision, in relation to every matter that may fall to be decided by the First-tier Tribunal or the Upper Tribunal, for determining the number of members of the tribunal who are to decide the matter.
- (2) Where an order under sub-paragraph (1) provides for a matter to be decided by a single member of a tribunal, the order—
  - (a) must make provision for determining whether the matter is to be decided by one of the judges, or by one of the other members, of the tribunal, and
  - (b) may make provision for determining, if the matter is to be decided by one of the other members of the tribunal, what qualifications (if any) that other member must have.
- (3) Where an order under sub-paragraph (1) provides for a matter to be decided by two or more members of a tribunal, the order—
  - (a) must make provision for determining how many (if any) of those members are to be judges of the tribunal and how many (if any) are to be other members of the tribunal, and
  - (b) may make provision for determining—
    - (i) if the matter is to be decided by persons who include one or more of the other members of the tribunal, or
    - (ii) if the matter is to be decided by two or more of the other members of the tribunal, what qualifications (if any) that other member or any of those other members must have.
- (4) A duty under sub-paragraph (1), (2) or (3) to provide for the determination of anything may be discharged by providing for the thing to be determined by the Senior President of Tribunals, or a Chamber President, in accordance with any provision made under that sub-paragraph.

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- (5) Power under paragraph (b) of sub-paragraph (2) or (3) to provide for the determination of anything may be exercised by giving, to the Senior President of Tribunals or a Chamber President, power to determine that thing in accordance with any provision made under that paragraph.
- (6) Where under sub-paragraphs (1) to (4) a matter is to be decided by two or more members of a tribunal, the matter may, if the parties to the case agree, be decided in the absence of one or more (but not all) of the members chosen to decide the matter.
- (7) Where the member, or any of the members, of a tribunal chosen to decide a matter does not have any qualification that he is required to have under sub-paragraphs (2) (b), or (3)(b), and (5), the matter may despite that, if the parties to the case agree, be decided by the chosen member or members.
- (8) Before making an order under this paragraph, the Lord Chancellor must consult the Senior President of Tribunals.
- (9) In this paragraph “qualification” includes experience.

## SCHEDULE 5 U.K.

Section 22

### PROCEDURE IN FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

#### PART 1 U.K.

#### TRIBUNAL PROCEDURE RULES

##### *Introductory*

- 1 (1) This Part of this Schedule makes further provision about the content of Tribunal Procedure Rules.
- (2) The generality of section 22(1) is not to be taken to be prejudiced by—
  - (a) the following paragraphs of this Part of this Schedule, or
  - (b) any other provision (including future provision) authorising or requiring the making of provision by Tribunal Procedure Rules.
- (3) In the following paragraphs of this Part of this Schedule “Rules” means Tribunal Procedure Rules.

##### *Concurrent functions*

- 2 Rules may make provision as to who is to decide, or as to how to decide, which of the First-tier Tribunal and Upper Tribunal is to exercise, in relation to any particular matter, a function that is exercisable by the two tribunals on the basis that the question as to which of them is to exercise the function is to be determined by, or under, Rules.

##### *Delegation of functions to staff*

- 3 (1) Rules may provide for functions—



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- (a) of the First-tier Tribunal, or
  - (b) of the Upper Tribunal,
- to be exercised by staff appointed under section 40(1).

- (2) In making provision of the kind mentioned in sub-paragraph (1) in relation to a function, Rules may (in particular)—
- (a) provide for the function to be exercisable by a member of staff only if the member of staff is, or is of a description, specified in exercise of a discretion conferred by Rules;
  - (b) provide for the function to be exercisable by a member of staff only if the member of staff is approved, or is of a description approved, for the purpose by a person specified in Rules.

#### *Time limits*

- 4 Rules may make provision for time limits as respects initiating, or taking any step in, proceedings before the First-tier Tribunal or the Upper Tribunal.

#### *Repeat applications*

- 5 Rules may make provision restricting the making of fresh applications where a previous application in relation to the same matter has been made.

#### *Tribunal acting of its own initiative*

- 6 Rules may make provision about the circumstances in which the First-tier Tribunal, or the Upper Tribunal, may exercise its powers of its own initiative.

#### *Hearings*

- 7 Rules may—
- (a) make provision for dealing with matters without a hearing;
  - (b) make provision as respects allowing or requiring a hearing to be in private or as respects allowing or requiring a hearing to be in public.

#### *Proceedings without notice*

- 8 Rules may make provision for proceedings to take place, in circumstances described in Rules, at the request of one party even though the other, or another, party has had no notice.

#### *Representation*

- 9 Rules may make provision conferring additional rights of audience before the First-tier Tribunal or the Upper Tribunal.

#### *Evidence, witnesses and attendance*

- 10 (1) Rules may make provision about evidence (including evidence on oath and administration of oaths).

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- (2) Rules may modify any rules of evidence provided for elsewhere, so far as they would apply to proceedings before the First-tier Tribunal or Upper Tribunal.
- (3) Rules may make provision, where the First-tier Tribunal has required a person—
- (a) to attend at any place for the purpose of giving evidence,
  - (b) otherwise to make himself available to give evidence,
  - (c) to swear an oath in connection with the giving of evidence,
  - (d) to give evidence as a witness,
  - (e) to produce a document, or
  - (f) to facilitate the inspection of a document or any other thing (including any premises),
- for the Upper Tribunal to deal with non-compliance with the requirement as though the requirement had been imposed by the Upper Tribunal.
- (4) Rules may make provision for the payment of expenses and allowances to persons giving evidence, producing documents, attending proceedings or required to attend proceedings.

#### *Use of information*

- 11 (1) Rules may make provision for the disclosure or non-disclosure of information received during the course of proceedings before the First-tier Tribunal or Upper Tribunal.
- (2) Rules may make provision for imposing reporting restrictions in circumstances described in Rules.

#### *Costs and expenses*

- 12 (1) Rules may make provision for regulating matters relating to costs, or (in Scotland) expenses, of proceedings before the First-tier Tribunal or Upper Tribunal.
- (2) The provision mentioned in sub-paragraph (1) includes (in particular)—
- (a) provision prescribing scales of costs or expenses;
  - (b) provision for enabling costs to undergo detailed assessment in England and Wales by a county court or the High Court;
  - (c) provision for taxation in Scotland of accounts of expenses by an Auditor of Court;
  - (d) provision for enabling costs to be taxed in Northern Ireland in a county court or the High Court;
  - (e) provision for costs or expenses—
    - (i) not to be allowed in respect of items of a description specified in Rules;
    - (ii) not to be allowed in proceedings of a description so specified;
  - (f) provision for other exceptions to either or both of subsections (1) and (2) of section 29.

#### *Set-off and interest*

- 13 (1) Rules may make provision for a party to proceedings to deduct, from amounts payable by him, amounts payable to him.

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- (2) Rules may make provision for interest on sums awarded (including provision conferring a discretion or provision in accordance with which interest is to be calculated).

#### *Arbitration*

- 14 Rules may provide for Part 1 of the Arbitration Act 1996 (c. 23) (which extends to England and Wales, and Northern Ireland, but not Scotland) not to apply, or not to apply except so far as is specified in Rules, where the First-tier Tribunal, or Upper Tribunal, acts as arbitrator.

#### *Correction of errors and setting-aside of decisions on procedural grounds*

- 15 (1) Rules may make provision for the correction of accidental errors in a decision or record of a decision.
- (2) Rules may make provision for the setting aside of a decision in proceedings before the First-tier Tribunal or Upper Tribunal—
- (a) where a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative,
  - (b) where a document relating to the proceedings was not sent to the First-tier Tribunal or Upper Tribunal at an appropriate time,
  - (c) where a party to the proceedings, or a party's representative, was not present at a hearing related to the proceedings, or
  - (d) where there has been any other procedural irregularity in the proceedings.
- (3) Sub-paragraphs (1) and (2) shall not be taken to prejudice, or to be prejudiced by, any power to correct errors or set aside decisions that is exercisable apart from rules made by virtue of those sub-paragraphs.

#### *Ancillary powers*

- 16 Rules may confer on the First-tier Tribunal, or the Upper Tribunal, such ancillary powers as are necessary for the proper discharge of its functions.

#### *Rules may refer to practice directions*

- 17 Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions under section 23.

#### *Presumptions*

- 18 Rules may make provision in the form of presumptions (including, in particular, presumptions as to service or notification).

#### *Differential provision*

- 19 Rules may make different provision for different purposes or different areas.

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## PART 2 U.K.

### TRIBUNAL PROCEDURE COMMITTEE

#### *Membership*

- 20 The Tribunal Procedure Committee is to consist of—
- (a) the Senior President of Tribunals or a person nominated by him,
  - (b) the persons currently appointed by the Lord Chancellor under paragraph 21,
  - (c) the persons currently appointed by the Lord Chief Justice of England and Wales under paragraph 22,
  - (d) the person currently appointed by the Lord President of the Court of Session under paragraph 23, and
  - (e) any person currently appointed under paragraph 24 at the request of the Senior President of Tribunals.

#### *Lord Chancellor's appointees*

- 21 (1) The Lord Chancellor must appoint—
- (a) three persons each of whom must be a person with experience of—
    - (i) practice in tribunals, or
    - (ii) advising persons involved in tribunal proceedings, and
  - (b) one person nominated by the Administrative Justice and Tribunals Council.
- (2) Before making an appointment under sub-paragraph (1), the Lord Chancellor must consult the Lord Chief Justice of England and Wales.
- (3) Until the Administrative Justice and Tribunals Council first has ten members appointed under paragraph 1(2) of Schedule 7, the reference to that council in sub-paragraph (1)(b) is to be read as a reference to the Council on Tribunals; and if, when the Administrative Justice and Tribunals Council first has ten members so appointed, the person appointed under sub-paragraph (1)(b) is a nominee of the Council on Tribunals, that person ceases to be a member of the Tribunal Procedure Committee at that time.

#### *Lord Chief Justice's appointees*

- 22 (1) The Lord Chief Justice of England and Wales must appoint—
- (a) one of the judges of the First-tier Tribunal,
  - (b) one of the judges of the Upper Tribunal, and
  - (c) one person who is a member of the First-tier Tribunal, or is a member of the Upper Tribunal, but is not a judge of the First-tier Tribunal and is not a judge of the Upper Tribunal.
- (2) Before making an appointment under sub-paragraph (1), the Lord Chief Justice of England and Wales must consult the Lord Chancellor.

#### *Lord President's appointee*

- 23 (1) The Lord President of the Court of Session must appoint one person with experience in and knowledge of the Scottish legal system.

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- (2) Before making an appointment under sub-paragraph (1), the Lord President of the Court of Session must consult the Lord Chancellor.

*Persons appointed at request of Senior President of Tribunals*

- 24 (1) At the request of the Senior President of Tribunals, an appropriate senior judge may appoint a person or persons with experience in and knowledge of—
- (a) a particular issue, or
  - (b) a particular subject area in relation to which the First-tier Tribunal or the Upper Tribunal has, or is likely to have, jurisdiction,
- for the purpose of assisting the Committee with regard to that issue or subject area.
- (2) In sub-paragraph (1) “an appropriate senior judge” means any of—
- (a) the Lord Chief Justice of England and Wales,
  - (b) the Lord President of the Court of Session, and
  - (c) the Lord Chief Justice of Northern Ireland.
- (3) The total number of persons appointed at any time under sub-paragraph (1) must not exceed four.
- (4) Before making an appointment under sub-paragraph (1), the person making the appointment must consult the Lord Chancellor.
- (5) The terms of appointment of a person appointed under sub-paragraph (1) may (in particular) authorise him to act as a member of the Committee only in relation to matters specified by those terms.

*Power to amend paragraphs 20 to 24*

- 25 (1) The Lord Chancellor may by order—
- (a) amend any of paragraphs 20, 21(1), 22(1), 23(1) and 24(1), and
  - (b) make consequential amendments in any other provision of paragraphs 21 to 24 or in paragraph 28(7).
- (2) The making of an order under this paragraph—
- (a) requires the concurrence of the Lord Chief Justice of England and Wales,
  - (b) if the order amends paragraph 23(1), requires also the concurrence of the Lord President of the Court of Session, and
  - (c) if the order amends paragraph 24(1), requires also the concurrence of the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland.

*Committee members' expenses*

- 26 The Lord Chancellor may reimburse members of the Tribunal Procedure Committee their travelling and out-of-pocket expenses.

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### PART 3 U.K.

#### MAKING OF TRIBUNAL PROCEDURE RULES BY TRIBUNAL PROCEDURE COMMITTEE

##### *Meaning of “Rules” and “the Committee”*

- 27 In the following provisions of this Part of this Schedule—  
 “the Committee” means the Tribunal Procedure Committee;  
 “Rules” means Tribunal Procedure Rules.

##### *Process for making Rules*

- 28 (1) Before the Committee makes Rules, the Committee must—
- (a) consult such persons (including such of the Chamber Presidents) as it considers appropriate,
  - (b) consult the Lord President of the Court of Session if the Rules contain provision relating to proceedings in Scotland, and
  - (c) meet (unless it is inexpedient to do so).
- (2) Rules made by the Committee must be—
- (a) signed by a majority of the members of the Committee, and
  - (b) submitted to the Lord Chancellor.
- (3) The Lord Chancellor may allow or disallow Rules so made.
- (4) If the Lord Chancellor disallows Rules so made, he must give the Committee written reasons for doing so.
- (5) Rules so made and allowed—
- (a) come into force on such day as the Lord Chancellor directs, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the instrument contained rules made by a Minister of the Crown.
- (6) A statutory instrument containing Rules made by the Committee is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In the case of a member of the Committee appointed under paragraph 24, the terms of his appointment may (in particular) provide that, for the purposes of subparagraph (2)(a), he is to count as a member of the Committee only in relation to matters specified in those terms.

##### *Power of Lord Chancellor to require Rules to be made*

- 29 (1) This paragraph applies if the Lord Chancellor gives the Committee written notice that he thinks it is expedient for Rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such Rules, in accordance with paragraph 28, as it considers necessary to achieve the specified purpose.
- (3) Those Rules must be made—
- (a) within such period as may be specified by the Lord Chancellor in the notice, or

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- (b) if no period is so specified, within a reasonable period after the Lord Chancellor gives the notice to the Committee.

#### PART 4 U.K.

##### POWER TO AMEND LEGISLATION IN CONNECTION WITH TRIBUNAL PROCEDURE RULES

###### *Lord Chancellor's power*

- 30 (1) The Lord Chancellor may by order amend, repeal or revoke any enactment to the extent he considers necessary or desirable—
- (a) in order to facilitate the making of Tribunal Procedure Rules, or
  - (b) in consequence of—
    - (i) section 22,
    - (ii) Part 1 or 3 of this Schedule, or
    - (iii) Tribunal Procedure Rules.
- (2) In this paragraph “enactment” means any enactment whenever passed or made, including an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

#### SCHEDULE 6 U.K.

Sections 30 to 37

##### TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 TO 36

#### PART 1 U.K.

##### TRIBUNALS FOR THE PURPOSES OF SECTIONS 30, 35 AND 36

<i>Tribunal</i>	<i>Enactment</i>
Appeal tribunal	Chapter 1 of Part 1 of the Social Security Act 1998 (c. 14)
Child Support Commissioner	Section 22 of the Child Support Act 1991 (c. 48)
The Secretary of State as respects his function of deciding appeals under:	Section 41 of the Consumer Credit Act 1974 (c. 39)
The Secretary of State as respects his function of deciding appeals under:	Section 7(1) of the Estate Agents Act 1979 (c. 38)
Foreign Compensation Commission	Section 1 of the Foreign Compensation Act 1950 (c. 12)
Commissioner for the general purposes of the income tax	Section 2 of the Taxes Management Act 1970 (c. 9)
Information Tribunal	Section 6 of the Data Protection Act 1998 (c. 29)

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Meat Hygiene Appeals Tribunal	Regulation 6 of the Fresh Meat (Hygiene and Inspection) Regulations 1995 (S.I. 1995/539)
Meat Hygiene Appeals Tribunal	Regulation 6 of the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995 (S.I. 1995/540)
Meat Hygiene Appeals Tribunal	Regulation 5 of the Wild Game Meat (Hygiene and Inspection) Regulations 1995 (S.I. 1995/2148)
Mental Health Review Tribunal for a region of England	Section 65(1) and (1A)(a) of the Mental Health Act 1983 (c. 20)
Reinstatement Committee	Paragraph 1 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17)
Reserve forces appeal tribunal	Section 88 of the Reserve Forces Act 1996 (c. 14)
Sea Fish Licence Tribunal	Section 4AA of the Sea Fish (Conservation) Act 1967 (c. 84)
Social Security Commissioner	Schedule 4 to the Social Security Act 1998 (c. 14)
Special Educational Needs and Disability Tribunal	Section 333 of the Education Act 1996 (c. 56)
Transport Tribunal	Schedule 4 to the Transport Act 1985 (c. 67)
Umpire or deputy umpire	Paragraph 5 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985
VAT and duties tribunal	Schedule 12 to the Value Added Tax Act 1994 (c. 23)

## PART 2 U.K.

### TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 AND 35

<i><b>Tribunal</b></i>	<i><b>Enactment</b></i>
Adjudicator	Section 5 of the Criminal Injuries Compensation Act 1995 (c. 53)

## PART 3 U.K.

### TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 AND 36

<i><b>Tribunal</b></i>	<i><b>Enactment</b></i>
Adjudicator to Her Majesty's Land Registry	Section 107 of the Land Registration Act 2002 (c. 9)



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Charity Tribunal	Section 2A of the Charities Act 1993 (c. 10)
Consumer Credit Appeals Tribunal	Section 40A of the Consumer Credit Act 1974 (c. 39)
Financial Services and Markets Tribunal	Section 132 of the Financial Services and Markets Act 2000 (c. 8)
Gambling Appeals Tribunal	Section 140 of the Gambling Act 2005 (c. 19)
Immigration Services Tribunal	Section 87 of the Immigration and Asylum Act 1999 (c. 33)
Lands Tribunal	Section 1(1)(b) of the Lands Tribunal Act 1949 (c. 42)
Pensions Appeal Tribunal in England and Wales	Paragraph 1(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 (c. 39)
Pensions Regulator Tribunal	Section 102 of the Pensions Act 2004 (c. 35)
Commissioner for the special purposes of the Income Tax Acts	Section 4 of the Taxes Management Act 1970 (c. 9)

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#### PART 4 **U.K.**

##### TRIBUNALS FOR THE PURPOSES OF SECTION 30

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<i>Tribunal</i>	<i>Enactment</i>
Agricultural Land Tribunal	Section 73 of the Agriculture Act 1947 (c. 48)
Aircraft and Shipbuilding Industries Arbitration Tribunal	Section 42 of the Aircraft and Shipbuilding Industries Act 1977 (c. 3)
Antarctic Act Tribunal	Regulation 11 of the Antarctic Regulations 1995 (S.I. 1995/490)
Appeal tribunal	Part 2 of Schedule 9 to the Scheme set out in Schedule 2 to the Firefighters' Pension Scheme Order 1992 (S.I. 1992/129)
Asylum Support Adjudicator	Section 102 of the Immigration and Asylum Act 1999
Case tribunal, or interim case tribunal, drawn from the Adjudication Panel for England	Section 76 of the Local Government Act 2000 (c. 22)
[ <sup>F1</sup> Claims Management Services Tribunal	Section 12 of the Compensation Act 2006 (c.29)]
Family Health Services Appeal Authority	Section 49S of the National Health Service Act 1977 (c. 49)
[ <sup>F2</sup> Gender Recognition Panel	Section 1(3) of the Gender Recognition Act 2004 (c.7)]

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Insolvency Practitioners Tribunal	Section 396(1) of the Insolvency Act 1986 (c. 45)
Appeals Tribunal	Part 3 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (S.I. 2003/1483)
Plant Varieties and Seeds Tribunal	Section 42 of the Plant Varieties Act 1997 (c. 66)
[ <sup>F3</sup> Panel Tribunal	Section 189(6) of the Greater London Authority Act 1999]
Tribunal	Rule 6 of the model provisions with respect to appeals as applied with modifications by the Chemical Weapons (Licence Appeal Provisions) Order 1996 (S.I. 1996/3030)
Tribunal	Health Service Medicines (Price Control Appeals) Regulations 2000 (S.I. 2000/124)
Tribunal	Section 706 of the Income and Corporation Taxes Act 1988 (c. 1)
[ <sup>F4</sup> Tribunal	Section 704 of the Income Tax Act 2007 (c.3)]
Tribunal	Section 150 of the Mines and Quarries Act 1954 (c. 70)
Tribunal	Part 1 of Schedule 3 to the Misuse of Drugs Act 1971 (c. 38)
Tribunal	Regulation H6(3) of the Police Pensions Regulations 1987 (S.I. 1987/257)
Tribunal	Section 9 of the Protection of Children Act 1999 (c. 14)

#### **Textual Amendments**

- F1** Sch. 6 Pt. 4: entry inserted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), **art. 2**
- F2** Sch. 6 Pt. 4: entry inserted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), **art. 2**
- F3** Sch. 6 Pt. 4: entry inserted (8.7.2009) by [The Transfer of Functions \(Estate Agents Appeals and Additional Scheduled Tribunal\) Order 2009 \(S.I. 2009/1836\)](#), **art. 4** (with Sch. 3)
- F4** Sch. 6 Pt. 4: entry inserted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), **art. 2**

## PART 5 U.K.

### TRIBUNALS FOR THE PURPOSES OF SECTIONS 35 AND 36

*Tribunal*

*Enactment*

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Employment Appeal Tribunal	Section 20 of the Employment Tribunals Act 1996 (c. 17)
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## PART 6 **U.K.**

### TRIBUNALS FOR THE PURPOSES OF SECTION 35

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<i>Tribunal</i>	<i>Enactment</i>
Employment tribunal	Section 1 of the Employment Tribunals Act 1996

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## PART 7 **U.K.**

### TRIBUNALS FOR THE PURPOSES OF SECTION 32(3)

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<i>Tribunal</i>	<i>Enactment</i>
Case tribunal, or interim case tribunal, drawn from the Adjudication Panel for Wales	Section 76 of the Local Government Act 2000 (c. 22)
Appeals Tribunal	Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (S.I. 2001/2281)
Mental Health Review Tribunal for Wales	Section 65(1) and (1A)(b) of the Mental Health Act 1983 (c. 20)
Special Educational Needs Tribunal for Wales	Section 336ZA of the Education Act 1996 (c. 56)
Tribunal	Section 27 of, and Schedule 3 to, the Education Act 2005 (c. 18)

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## SCHEDULE 7 **U.K.**

Section 44

### ADMINISTRATIVE JUSTICE AND TRIBUNALS COUNCIL

#### Modifications etc. (not altering text)

- C1** Sch. 7 extended (1.4.2010) by [The Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 76\(8\)\(a\)](#), 148; S.I. 2009/3318, [art. 4\(u\)](#)
- C2** Sch. 7 modified (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), [ss. 113\(8\)](#), 241; S.I. 2010/101, [art. 3\(d\)](#) (with [art. 6](#))
- C3** Sch. 7 modified (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), [ss. 95\(3\)](#), 241; S.I. 2010/101, [art. 3\(d\)](#) (with [art. 6](#))
- C4** Sch. 7 modified (16.1.2012) by [The Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), [reg. 37\(5\)](#) (with [reg. 3](#))

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## PART 1 **U.K.**

### MEMBERS AND COMMITTEES

#### *Membership*

- 1 (1) The Council is to consist of—
- (a) the Parliamentary Commissioner for Administration, and
  - (b) not more than fifteen nor fewer than ten appointed members.
- (2) Of the appointed members—
- (a) either two or three are to be appointed by the Scottish Ministers with the concurrence of the Lord Chancellor and the Welsh Ministers,
  - (b) either one or two are to be appointed by the Welsh Ministers with the concurrence of the Lord Chancellor and the Scottish Ministers, and
  - (c) the others are to be appointed by the Lord Chancellor with the concurrence of the Scottish Ministers and the Welsh Ministers.

#### *Chairman of the Council*

- 2 (1) After consultation with the Scottish Ministers and the Welsh Ministers, the Lord Chancellor must nominate one of the appointed members to be chairman of the Council.
- (2) The chairman of the Council is to hold and vacate that office in accordance with the terms of his nomination, but—
- (a) may resign that office by giving written notice to the Lord Chancellor, and
  - (b) ceases to be chairman if he ceases to be a person who is a member of the Council by virtue of appointment under paragraph 1(2).

#### *Term of office of appointed members of Council*

- 3 (1) Subject to the following provisions of this paragraph, a person appointed under paragraph 1(2) is to hold and vacate office in accordance with the terms of his appointment.
- (2) A person appointed under paragraph 1(2)(a) may resign by giving written notice to the Scottish Ministers.
  - (3) A person appointed under paragraph 1(2)(b) may resign by giving written notice to the Welsh Ministers.
  - (4) A person appointed under paragraph 1(2)(c) may resign by giving written notice to the Lord Chancellor.
  - (5) The Lord Chancellor may remove a person appointed under paragraph 1(2) on the ground of inability or misbehaviour.
  - (6) The power of the Lord Chancellor under sub-paragraph (5) to remove a person who was appointed under paragraph 1(2)(a) may be exercised only with the concurrence of the Scottish Ministers.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) The power of the Lord Chancellor under sub-paragraph (5) to remove a person who was appointed under paragraph 1(2)(b) may be exercised only with the concurrence of the Welsh Ministers.

*Scottish Committee*

- 4 (1) There is to be a Scottish Committee of the Council (referred to in this Schedule as “the Scottish Committee”) for the purpose of exercising the functions conferred on it by any statutory provision.
- (2) The Scottish Committee is to consist of—
- (a) the Parliamentary Commissioner for Administration,
  - (b) the Scottish Public Services Ombudsman,
  - (c) the members of the Council appointed under paragraph 1(2)(a), and
  - (d) either three or four other persons, not being members of the Council, appointed by the Scottish Ministers.

*Chairman of the Scottish Committee*

- 5 (1) The Scottish Ministers must nominate one of the members mentioned in paragraph 4(2)(c) to be chairman of the Scottish Committee.
- (2) The chairman of the Scottish Committee is to hold and vacate that office in accordance with the terms of his nomination, but—
- (a) may resign that office by giving written notice to the Scottish Ministers, and
  - (b) ceases to be chairman if he ceases to be a person who is a member of the Council by virtue of appointment under paragraph 1(2)(a).

*Term of office of appointed members of Scottish Committee*

- 6 (1) Subject to the following provisions of this paragraph, a person appointed under paragraph 4(2)(d) is to hold and vacate office in accordance with the terms of his appointment.
- (2) The person may resign by giving written notice to the Scottish Ministers.
- (3) The Scottish Ministers may remove the person on the ground of inability or misbehaviour.

*Welsh Committee*

- 7 (1) There is to be a Welsh Committee of the Council (referred to in this Schedule as “the Welsh Committee”) for the purpose of exercising the functions conferred on it by any statutory provision.
- (2) The Welsh Committee is to consist of—
- (a) the Parliamentary Commissioner for Administration,
  - (b) the Public Services Ombudsman for Wales,
  - (c) the members of the Council appointed under paragraph 1(2)(b), and
  - (d) either two or three other persons, not being members of the Council, appointed by the Welsh Ministers.

*Status: Point in time view as at 01/01/2010.*

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### *Chairman of Welsh Committee*

- 8 (1) The Welsh Ministers must nominate one of the members mentioned in paragraph 7(2)(c) to be chairman of the Welsh Committee.
- (2) The chairman of the Welsh Committee is to hold and vacate that office in accordance with the terms of his nomination, but—
- (a) may resign that office by giving written notice to the Welsh Ministers, and
  - (b) ceases to be chairman if he ceases to be a person who is a member of the Council by virtue of appointment under paragraph 1(2)(b).

### *Term of office of Committee members*

- 9 (1) Subject to the following provisions of this paragraph, a person appointed under paragraph 7(2)(d) is to hold and vacate office in accordance with the terms of his appointment.
- (2) The person may resign by giving written notice to the Welsh Ministers.
- (3) The Welsh Ministers may remove the person on the ground of inability or misbehaviour.

### *Remuneration of Council and Committee members*

- 10 (1) The Lord Chancellor must pay such remuneration as he may determine to each of the following—
- (a) the chairman of the Council;
  - (b) the chairman of the Scottish Committee;
  - (c) the chairman of the Welsh Committee.
- (2) The Lord Chancellor may pay such fees as he may determine to—
- (a) members of the Council other than the chairman;
  - (b) members of the Scottish Committee other than the chairman;
  - (c) members of the Welsh Committee other than the chairman.
- (3) The Lord Chancellor may pay such expenses as he may determine to—
- (a) members of the Council;
  - (b) members of the Scottish Committee;
  - (c) members of the Welsh Committee.
- (4) In sub-paragraph (3) “expenses” includes (in particular) subsistence allowances and travelling expenses.

#### **Commencement Information**

- II** Sch. 7 para. 10 wholly in force at 1.6.2008; Sch. 7 para. 10 not in force at Royal Assent see s. 148; Sch. 7 para. 10(1)(a)(b)(2)(a)(b)(3)(a)(b)(4) in force at 1.11.2007 and Sch. 7 para. 10 in force at 1.6.2008 otherwise by [S.I. 2007/2709](#), [arts. 3\(c\)\(i\), 6\(a\)](#)

### *Status of Council and Committees*

- 11 The Council, the Scottish Committee and the Welsh Committee are not to be regarded—

*Status: Point in time view as at 01/01/2010.*

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- (a) as agents or servants of the Crown, or
- (b) as enjoying any status, immunity or privilege of the Crown.

#### Commencement Information

- I2** Sch. 7 para. 11 wholly in force at 1.6.2008; Sch. 7 para. 11 not in force at Royal Assent see s. 148; Sch. 7 para. 11 in force for certain purposes at 1.11.2007 and 1.6.2008 otherwise by [S.I. 2007/2709](#), [arts. 3\(c\)\(ii\)](#), [6\(a\)](#)

## PART 2 **U.K.**

### FUNCTIONS

#### *Introductory*

- 12 The Council has the functions conferred on it by this Schedule or any other statutory provision.

#### *Functions with respect to the administrative justice system*

- 13 (1) The Council is to—
- (a) keep the administrative justice system under review,
  - (b) consider ways to make the system accessible, fair and efficient,
  - (c) advise the persons mentioned in sub-paragraph (2) on the development of the system,
  - (d) refer proposals for changes in the system to those persons, and
  - (e) make proposals for research into the system.
- (2) Those persons are—
- (a) the Lord Chancellor,
  - (b) the Scottish Ministers,
  - (c) the Welsh Ministers, and
  - (d) the Senior President of Tribunals.
- (3) The Council may make such reports as it considers appropriate on any of the matters mentioned in sub-paragraph (1).
- (4) In this paragraph “the administrative justice system” means the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including—
- (a) the procedures for making such decisions,
  - (b) the law under which such decisions are made, and
  - (c) the systems for resolving disputes and airing grievances in relation to such decisions.

#### *General functions with respect to tribunals*

- 14 (1) The Council is to—
- (a) keep under review, and report on, the constitution and working—

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- (i) of listed tribunals in general, and
  - (ii) of each listed tribunal,
  - (b) consider, and report on, any other matter—
    - (i) that relates to listed tribunals in general or to a particular listed tribunal, and
    - (ii) that the Council determines to be of special importance, and
  - (c) consider, and report on, any particular matter referred to the Council—
    - (i) that relates to tribunals in general or to any particular tribunal, and
    - (ii) whose referral to the Council falls within paragraph 16.
- (2) The Council may scrutinise and comment on legislation, existing or proposed, relating to tribunals or to any particular tribunal.
- (3) The Council must—
- (a) consult the Scottish Committee before exercising the power conferred by sub-paragraph (2) with respect to legislation, existing or proposed, that relates to at least one tribunal with jurisdiction in cases arising in Scotland;
  - (b) consult the Welsh Committee before exercising that power with respect to legislation, existing or proposed, that relates to at least one tribunal with jurisdiction in cases arising in Wales.
- (4) In sub-paragraphs (1)(c), (2) and (3)—
- “legislation” includes procedural rules;
  - “tribunal” includes a proposed tribunal.

#### **Commencement Information**

**I3** Sch. 7 para. 14 wholly in force at 1.6.2008; Sch. 7 para. 14 not in force at Royal Assent see s. 148; Sch. 7 para. 14(1)(2)(3)(a)(4) in force at 1.11.2007 and Sch. 7 para. 14 in force at 1.6.2008 otherwise by [S.I. 2007/2709](#), [arts. 3\(c\)\(i\), 6\(a\)](#)

#### *General functions with respect to statutory inquiries*

- 15 The Council is to—
- (a) keep under review, and report on, the constitution and working of statutory inquiries, both in general and by reference to statutory provisions under which statutory inquiries of different descriptions may be held,
  - (b) consider, and report on, any other matter—
    - (i) that relates to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
    - (ii) that the Council determines to be of special importance, and
  - (c) consider, and report on, any particular matter referred to the Council—
    - (i) that relates to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
    - (ii) whose referral to the Council falls within paragraph 16.

#### *Referral of matters to the Council under paragraphs 14 and 15*

- 16 (1) This paragraph has effect for the purposes of paragraphs 14(1)(c) and 15(c).



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- (2) The referral of any matter falls within this paragraph if it is referred to the Council jointly by—
- (a) the Lord Chancellor,
  - (b) the Welsh Ministers, and
  - (c) the Scottish Ministers.
- (3) In addition—
- (a) the referral of a matter that relates only to Wales falls within this paragraph if it is referred to the Council by the Welsh Ministers,
  - (b) the referral of a matter that relates only to Scotland falls within this paragraph if it is referred to the Council by the Scottish Ministers, and
  - (c) the referral of a matter that—
    - (i) does not relate to Scotland, and
    - (ii) if it relates to Wales, does not relate only to Wales,falls within this paragraph if it is referred to the Council by the Lord Chancellor.

*Reports by the Council under paragraphs 14 and 15*

- 17 (1) A report by the Council on a matter referred to it under paragraph 14(1)(c) or 15(c) must be made to the authority or authorities who referred the matter.
- (2) Any other report by the Council under paragraph 14 or 15—
- (a) must be made to the Lord Chancellor,
  - (b) if it relates to Wales, must be made also to the Welsh Ministers, and
  - (c) if it relates to Scotland, must be made also to the Scottish Ministers.
- (3) The Lord Chancellor must lay before each House of Parliament every report made by the Council to him under this paragraph, other than a report that relates only to matters within sub-paragraph (4).
- (4) Matters are within this sub-paragraph if legislation providing for them would be within the legislative competence of the Scottish Parliament if the legislation were included in an Act of that Parliament.
- (5) The Scottish Ministers must lay before the Scottish Parliament every report made by the Council to them under this paragraph.
- (6) The Welsh Ministers must lay before the National Assembly for Wales every report made by the Council to them under this paragraph.
- (7) Where—
- (a) a report is required by this paragraph to be made to one or more, but not all, of—
    - (i) the Lord Chancellor,
    - (ii) the Welsh Ministers, and
    - (iii) the Scottish Ministers, and
  - (b) the Council considers that the report could be relevant to matters that are the responsibility of another of those authorities,
- the Council must send a copy of the report to the other authority.

*Status: Point in time view as at 01/01/2010.*

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*Referral of matters to, and reports by, the Scottish Committee*

- 18 (1) The Council may not make a report on any matter relating only to Scotland until the Council—
- (a) has referred the matter of the report for consideration, and report to the Council, by the Scottish Committee, and
  - (b) has considered the report of the Committee.
- (2) Where the Council proposes to make a report on a matter that relates to Scotland but not only to Scotland, the Council must give the Scottish Committee details of the matter.
- (3) The Scottish Committee may of its own motion make a report to the Council on any of the following matters so far as relating to Scotland—
- (a) any matter relating to the administrative justice system,
  - (b) the constitution or working—
    - (i) of listed tribunals in general or of a particular listed tribunal, or
    - (ii) of statutory inquiries in general or of statutory inquiries of a particular description,
  - (c) any other matter—
    - (i) that relates to listed tribunals in general, to a particular listed tribunal, to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
    - (ii) that the Scottish Committee determines to be of special importance, and
  - (d) any matter referred to the Council under paragraph 14(1)(c) or 15(c).
- (4) If—
- (a) the Council does not make a report on matters dealt with in a report made by the Scottish Committee under sub-paragraph (1) or (3), or
  - (b) in making a report on those matters, the Council does not adopt the report made by the Scottish Committee without modification,
- the Scottish Committee may submit its report to the Scottish Ministers.
- (5) Where the Scottish Committee—
- (a) submits a report to the Scottish Ministers under sub-paragraph (4), and
  - (b) considers that the report could be relevant to matters that are the responsibility of the Lord Chancellor or the Welsh Ministers,
- the Council must send a copy of the report to the Lord Chancellor or (as the case may be) the Assembly.
- (6) The Scottish Ministers must lay before the Scottish Parliament any report submitted to them under sub-paragraph (4).
- (7) In sub-paragraph (3)(a) “the administrative justice system” has the meaning given by paragraph 13(4).

*Referral of matters to, and reports by, the Welsh Committee*

- 19 (1) The Council may not make a report on any matter relating only to Wales until the Council—

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- (a) has referred the matter of the report for consideration, and report to the Council, by the Welsh Committee, and
  - (b) has considered the report of the Committee.
- (2) Where the Council proposes to make a report on a matter that relates to Wales but not only to Wales, the Council must give the Welsh Committee details of the matter.
- (3) The Welsh Committee may of its own motion make a report to the Council on any of the following matters so far as relating to Wales—
- (a) any matter relating to the administrative justice system,
  - (b) the constitution or working—
    - (i) of listed tribunals in general or of a particular listed tribunal, or
    - (ii) of statutory inquiries in general or of statutory inquiries of a particular description,
  - (c) any other matter—
    - (i) that relates to listed tribunals in general, to a particular listed tribunal, to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
    - (ii) that the Welsh Committee determines to be of special importance, and
  - (d) any matter referred to the Council under paragraph 14(1)(c) or 15(c).
- (4) If—
- (a) the Council does not make a report on matters dealt with in a report made by the Welsh Committee under sub-paragraph (1) or (3), or
  - (b) in making a report on those matters, the Council does not adopt the report made by the Welsh Committee without modification,
- the Welsh Committee may submit its report to the Welsh Ministers.
- (5) Where the Welsh Committee—
- (a) submits a report to the Welsh Ministers under sub-paragraph (4), and
  - (b) considers that the report could be relevant to matters that are the responsibility of the Lord Chancellor or the Scottish Ministers,
- the Council must send a copy of the report to the Lord Chancellor or (as the case may be) the Scottish Ministers.
- (6) The Welsh Ministers must lay before the National Assembly for Wales any report submitted to them under sub-paragraph (4).
- (7) In sub-paragraph (3)(a) “the administrative justice system” has the meaning given by paragraph 13(4).

*The Council's programme of work*

- 20 (1) The Council must formulate, in general terms, a programme of the work that the Council plans to undertake in carrying out its functions.
- (2) The Council must—
- (a) keep the programme under review, and
  - (b) revise it when appropriate.

*Status: Point in time view as at 01/01/2010.*

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- (3) In discharging its duties under sub-paragraphs (1) and (2), the Council must have regard to—
- (a) the work of the Civil Justice Council,
  - (b) the work of the Social Security Advisory Committee, and
  - (c) the work of the Industrial Injuries Advisory Council.
- (4) The Council must send a copy of the programme, and a copy of any significant revisions to the programme, to—
- (a) the Lord Chancellor,
  - (b) the Welsh Ministers, and
  - (c) the Scottish Ministers.

#### *Annual reports*

- 21 (1) The Council must make an annual report on the proceedings of the Council to—
- (a) the Lord Chancellor,
  - (b) the Scottish Ministers, and
  - (c) the Welsh Ministers.
- (2) The Scottish Committee must make an annual report to the Scottish Ministers on the proceedings of the Scottish Committee.
- (3) The Welsh Committee must make an annual report to the Welsh Ministers on the proceedings of the Welsh Committee.
- (4) The Lord Chancellor must lay before each House of Parliament a copy of any report made under sub-paragraph (1).
- (5) The Scottish Ministers must lay before the Scottish Parliament a copy of any report made under sub-paragraph (1) or (2).
- (6) The Welsh Ministers must lay before the National Assembly for Wales a copy of any report made under sub-paragraph (1) or (3).

#### **Commencement Information**

- I4** Sch. 7 para. 21 wholly in force at 1.6.2008; Sch. 7 para. 21 not in force at Royal Assent see s. 148; Sch. 7 para. 21(1)(2)(4)(5) in force and Sch. 7 para. 21(6) in force for certain purposes at 1.11.2007 and Sch. 7 para. 21 in force at 1.6.2008 otherwise by [S.I. 2007/2709](#), [arts. 3\(b\)\(i\)\(iii\)](#), [6\(a\)](#)

#### *Right to attend proceedings*

- 22 (1) A member of any of—
- (a) the Council,
  - (b) the Scottish Committee, and
  - (c) the Welsh Committee,
- may attend (as observer) proceedings of a listed tribunal or of a statutory inquiry.
- (2) The right under sub-paragraph (1) applies even in respect of proceedings—
- (a) taking the form of a hearing held in private, or
  - (b) not taking the form of a hearing.

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The right under sub-paragraph (1) is subject to any statutory provision by which members of the Council, members of the Scottish Committee or members of the Welsh Committee are expressly excluded from proceedings.

#### Commencement Information

- I5** Sch. 7 para. 22 wholly in force at 1.6.2008; Sch. 7 para. 22 not in force at Royal Assent see s. 148; Sch. 7 para. 22(1)(a)(b)(2) in force and Sch. 7 para. 22(3) in force for certain purposes at 1.11.2007 and Sch. 7 para. 22 in force at 1.6.2008 otherwise by [S.I. 2007/2709](#), [arts. 3\(c\)\(i\), 6\(a\)](#)

#### *Application to Northern Ireland*

- 23 Nothing in paragraphs 13 to 15 authorises or requires the Council to deal with a matter if legislation providing for the matter would be within the legislative competence of the Northern Ireland Assembly.

### **PART 3** **U.K.**

#### COUNCIL TO BE CONSULTED ON RULES FOR LISTED TRIBUNALS

- 24 (1) The power of a Minister of the Crown, the Welsh Ministers or the Scottish Ministers to make, approve, confirm or concur in procedural rules for any listed tribunal is exercisable only after consultation with the Council.
- (2) Sub-paragraph (1) does not apply with respect to any procedural rules made or to be made for a listed tribunal by the Tribunal Procedure Committee.
- (3) The Council must consult the Scottish Committee in relation to the exercise of its function under sub-paragraph (1) with respect to any tribunal having jurisdiction in relation to Scotland.
- (4) The Council must consult the Welsh Committee in relation to the exercise of its function under sub-paragraph (1) with respect to any tribunal having jurisdiction in relation to Wales.

### **PART 4** **U.K.**

#### INTERPRETATION

#### *Meaning of “listed tribunal”*

- 25 (1) The following are listed tribunals for the purposes of this Schedule—
- (a) the First-tier Tribunal, and
  - (b) the Upper Tribunal.
- (2) In addition, an authority may by order provide for a tribunal to be a listed tribunal for the purposes of this Schedule if, or to the extent that, the tribunal is one for which the authority is responsible.
- (3) For the purposes of sub-paragraph (2)—
- (a) each of the following is an authority—

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- (i) the Lord Chancellor,
  - (ii) the Scottish Ministers, and
  - (iii) the Welsh Ministers, and
- (b) the Lord Chancellor is the authority responsible for a tribunal unless, or except to the extent that, paragraph 26 or 27 provides for the Scottish Ministers or the Welsh Ministers to be the authority responsible for the tribunal.
- (4) An order under sub-paragraph (2) may include—
- (a) provision for a tribunal to be a listed tribunal only for the purposes of provisions of this Schedule specified in the order;
  - (b) provision for a tribunal to be a listed tribunal for the purposes of this Schedule, or for the purposes of provisions of this Schedule specified in the order, only in so far as it exercises functions so specified.
- (5) The power under sub-paragraph (2) may not be exercised so as to cause a tribunal to be a listed tribunal for any purpose of this Schedule so far as it exercises functions with respect to relevant Northern Ireland matters; and for this purpose a matter is a “relevant Northern Ireland matter” if legislation providing for the matter would be within the legislative competence of the Northern Ireland Assembly.
- (6) The power under sub-paragraph (2) may not be exercised so as to cause a tribunal to be a listed tribunal for any purpose of this Schedule if the tribunal is established otherwise than by or under a statutory provision.
- (7) Sub-paragraph (4) is not to be taken to prejudice the generality of section 49(3).

#### Commencement Information

**I6** Sch. 7 para. 25 wholly in force at 1.11.2007; Sch. 7 para. 25 not in force at Royal Assent see s. 148; Sch. 7 para. 25(2)-(7) in force at 19.9.2007 and Sch. 7 para. 25(1) in force at 1.11.2007 by [S.I. 2007/2709](#), [arts. 2\(k\)](#), [3\(c\)\(i\)](#)

#### *Responsible authorities for purposes of paragraph 25: Scotland*

- 26 (1) This paragraph applies for the purposes of paragraph 25.
- (2) The Scottish Ministers are the authority responsible for a tribunal if—
- (a) all of the tribunal's functions are exercisable only in relation to Scotland, and
  - (b) at least one of the powers referred to in sub-paragraph (3) is exercisable as mentioned in sub-paragraph (6).
- (3) Those powers are—
- (a) power to appoint the members of the tribunal;
  - (b) power to make procedural rules for the tribunal.
- (4) In the case of a tribunal that exercises functions in relation to Scotland and also exercises those or other functions in relation to somewhere other than Scotland, the Scottish Ministers are the authority responsible for the tribunal to the extent that it exercises functions in relation to Scotland if at least one of the powers referred to in sub-paragraph (3) is exercisable as mentioned in sub-paragraph (6).
- (5) Those powers are—

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- (a) power to appoint the members of tribunal who exercise the tribunal's functions in relation to Scotland;
  - (b) power to make procedural rules for the exercise of the tribunal's functions in relation to Scotland.
- (6) Power is exercisable as mentioned in this sub-paragraph if it is exercisable—
- (a) by the Scottish Ministers, or
  - (b) by the Lord President of the Court of Session,
- and is not exercisable by them or him jointly or concurrently with a Minister of the Crown.

*Responsible authorities for purposes of paragraph 25: Wales*

- 27 (1) This paragraph applies for the purposes of paragraph 25.
- (2) The Welsh Ministers are the authority responsible for a tribunal if—
- (a) all of the tribunal's functions are exercisable only in relation to Wales, and
  - (b) at least one of the powers referred to in sub-paragraph (3) is exercisable as mentioned in sub-paragraph (6).
- (3) Those powers are—
- (a) power to appoint the members of the tribunal;
  - (b) power to make procedural rules for the tribunal.
- (4) In the case of a tribunal that exercises functions in relation to Wales and also exercises those or other functions in relation to somewhere other than Wales, the Welsh Ministers are the authority responsible for the tribunal to the extent that it exercises functions in relation to Wales if at least one of the powers referred to in sub-paragraph (5) is exercisable as mentioned in sub-paragraph (6).
- (5) Those powers are—
- (a) power to appoint the members of the tribunal who exercise the tribunal's functions in relation to Wales;
  - (b) power to make procedural rules for the exercise of the tribunal's functions in relation to Wales.
- (6) Power is exercisable as mentioned in this sub-paragraph if it is exercisable by the Welsh Ministers and is not exercisable by the Welsh Ministers jointly or concurrently with a Minister of the Crown.

*Other definitions*

- 28 (1) In this Schedule—
- “enactment” includes an Act of the Scottish Parliament;
  - “the Council” means the Administrative Justice and Tribunals Council;
  - “Minister of the Crown” has the meaning given in the Ministers of the Crown Act 1975 (c. 26);
  - “procedural rules”, in relation to a tribunal, includes any statutory provision relating to the practice or procedure of the tribunal;
  - “the Scottish Committee” means the Scottish Committee of the Council;
  - “statutory inquiry” means a 1992 Act inquiry held, or to be held, by or on behalf of—

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) a Minister of the Crown,
  - (b) the Scottish Ministers, or
  - (c) the Welsh Ministers;
- “statutory provision” means a provision contained in, or having effect under, any enactment;
- “tribunal” does not include an ordinary court of law;
- “the Welsh Committee” means the Welsh Committee of the Council;
- (2) References in this Schedule to members of tribunals include references to the person constituting a tribunal consisting of one person.
- (3) In sub-paragraph (1) “1992 Act inquiry” means—
- (a) an inquiry or hearing within paragraph (a) of the definition of “statutory inquiry” in section 16(1) of the Tribunals and Inquiries Act 1992 (c. 53), or
  - (b) an inquiry or hearing that is a statutory inquiry for the purposes of that Act by virtue of an order under section 16(2) of that Act (including such an order made after the coming into force of this Schedule).

SCHEDULE 8 U.K.

Section 48(1)

TRIBUNALS AND INQUIRIES: CONSEQUENTIAL AND OTHER AMENDMENTS

*Taxes Management Act 1970 (c. 9)*

- 1 (1) The following offices are abolished—
- General Commissioner;
  - clerk to the General Commissioners for a division;
  - assistant clerk to the General Commissioners for a division.
- (2) In consequence of sub-paragraph (1), sections 2 and 3 of the Taxes Management Act 1970 cease to have effect.
- (3) In this paragraph—
- “division” has the meaning given by section 2(1) and (6) of that Act;
  - “General Commissioner” means a Commissioner for the general purposes of the income tax.

*Chronically Sick and Disabled Persons Act 1970 (c. 44)*

- 2 In section 21(7E) of the Chronically Sick and Disabled Persons Act 1970 (procedural regulations in connection with appeals against refusal of application for disabled person's badge), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

*Health and Safety at Work etc. Act 1974 (c. 37)*

- 3 In section 44 of the Health and Safety at Work etc. Act 1974 (appeals in connection with licensing provisions), after subsection (4) insert—



*Status: Point in time view as at 01/01/2010.*

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“(4A) A hearing held by a person appointed in pursuance of subsection (2) above shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

*House of Commons Disqualification Act 1975 (c. 24)*

- 4 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified), in the appropriate places insert— “The Administrative Justice and Tribunals Council. ” “The First-tier Tribunal. ” “The Scottish Committee of the Administrative Justice and Tribunals Council. ” “The Upper Tribunal. ” “The Welsh Committee of the Administrative Justice and Tribunals Council. ”

**Commencement Information**

- 17** Sch. 8 para. 4 wholly in force at 3.11.2008; Sch. 8 para. 4 not in force at Royal Assent see s. 148(5); Sch. 8 para. 4 in force for certain purposes at 1.1.2007 and for certain further purposes at 1.6.2008 by S.I. 2007/2709, arts. 3(b)(ii), {(6)(b)(i)} and Sch. 8 para. 4 in force at 3.11.2008 otherwise by S.I. 2008/2696, art. 5(c)(iii)

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 5 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified), in the appropriate places insert— “The Administrative Justice and Tribunals Council. ” “The First-tier Tribunal. ” “The Scottish Committee of the Administrative Justice and Tribunals Council. ” “The Upper Tribunal. ” “The Welsh Committee of the Administrative Justice and Tribunals Council. ”

**Commencement Information**

- 18** Sch. 8 para. 5 wholly in force at 3.11.2008; Sch. 8 para. 5 not in force at Royal Assent see s. 148(5); Sch. 8 para. 5 in force for certain purposes at 1.1.2007 and for certain further purposes at 1.6.2008 by S.I. 2007/2709, arts. 3(b)(ii), 6(b)(i) and Sch. 8 para. 5 in force at 3.11.2008 otherwise by S.I. 2008/2696, art. 5(c)(iii)

*Litigants in Person (Costs and Expenses) Act 1975 (c. 47)*

- 6 (1) The Litigants in Person (Costs and Expenses) Act 1975 is amended as follows.
- (2) In section 1(1) and (2) (costs, expenses and losses of litigant in person to be recoverable), before the word “or” at the end of paragraph (b) insert—  
“(ba) before the First-tier Tribunal or the Upper Tribunal,”.
- (3) In section 1(4) (meaning of “rules of court”), before the word “and” at the end of paragraph (b) insert—  
“(ba) in relation to the First-tier Tribunal or the Upper Tribunal, means Tribunal Procedure Rules,”.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Race Relations Act 1976 (c. 74)*

- 7 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty), under the heading “Other bodies, etc.” insert the following entries in the appropriate places— “ The Administrative Justice and Tribunals Council. ” “ The Scottish Committee of the Administrative Justice and Tribunals Council. ” “ The Welsh Committee of the Administrative Justice and Tribunals Council. ”

**Commencement Information**

- I9** Sch. 8 para. 7 wholly in force at 1.6.2008; Sch. 8 para. 7 not in force at Royal Assent see s. 148(5); Sch. 8 para. 7 in force for certain purposes at 1.1.2007 and at 1.6.2008 otherwise by S.I. 2007/2709, arts. 3(b)(ii), 6(b)(ii)

*Estate Agents Act 1979 (c. 38)*

- 8 Omit section 24(2) of the Estate Agents Act 1979 (Council on Tribunals' right to attend hearings etc.).

*Town and Country Planning Act 1990 (c. 8)*

- 9 The Town and Country Planning Act 1990 is amended as follows.
- 10 In paragraph 8 of Schedule 6 (appeals determined by appointed persons: supplementary provision), after sub-paragraph (1) insert—
- “(1A) A local inquiry or hearing held in pursuance of this Schedule shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”
- 11 In paragraph 8 of Schedule 7 (objections to simplified planning zone schemes), after sub-paragraph (6) insert—
- “(7) A local inquiry or other hearing held under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”
- 12 In paragraph 5 of Schedule 8 (local inquiries held by Planning Inquiry Commission), after sub-paragraph (3) insert—
- “(3A) An inquiry held by a commission under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

*Food Safety Act 1990 (c. 16)*

- 13 (1) The Food Safety Act 1990 is amended as follows.
- (2) In section 26(2)(e) (regulations may provide for appeals, including appeals to a tribunal set up by the regulations)—
- (a) after “to the sheriff,” insert “ or to the First-tier Tribunal or the Upper Tribunal, ” and
  - (b) omit “or to a tribunal constituted in accordance with the regulations,”.
- (3) In section 37(2) (subsection (1)(c) does not apply where appeal may be made to a tribunal set up by regulations under Part 2), for the words from “provide for an appeal” onwards substitute “provide for an appeal—
- (a) to a tribunal constituted in accordance with the regulations, or
  - (b) to the First-tier Tribunal or the Upper Tribunal.”

*Courts and Legal Services Act 1990 (c. 41)*

- 14 The Courts and Legal Services Act 1990 is amended as follows.
- 15 In section 119(1) (interpretation), in the definition of “court”, for paragraph (a) (any tribunal kept under review by the Council on Tribunals) substitute—
- “(a) a tribunal that is (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council);”.
- 16 In Schedule 11 (full-time judges etc barred from legal practice), at the end insert—
- “Judge or other member of the First-tier Tribunal—
- (a) appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007, or
  - (b) who is a transferred-in judge, or a transferred-in other member, of the First-tier Tribunal (see section 31(2) of that Act)
- Judge or other member of the Upper Tribunal—
- (a) appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, or
  - (b) who is a transferred-in judge, or a transferred-in other member, of the Upper Tribunal (see section 31(2) of that Act)
- Senior President of Tribunals Chamber President, or Acting Chamber President or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal ”.

*Social Security Administration Act 1992 (c. 5)*

- 17 The Social Security Administration Act 1992 is amended as follows.

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 18 In Schedule 4 (persons employed in social security administration or adjudication), in paragraph 3(b) of Part 2, for “Council on Tribunals or the” substitute “Administrative Justice and Tribunals Council or the Welsh or”.

**Commencement Information**

**I10** Sch. 8 para. 18 wholly in force at 1.6.2008; Sch. 8 para. 18 not in force at Royal Assent see s. 148(5); Sch. 8 para. 18 in force for certain purposes at 1.1.2007 and at 1.6.2008 otherwise by S.I. 2007/2709, arts. 3(b)(iii), 6(b)(ii)

- 19 In Schedule 7 (regulations not requiring prior submission), in paragraphs 9 and 14, for the words from “Council on Tribunals” onwards substitute “Administrative Justice and Tribunals Council is required by paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007.”

*Transport and Works Act 1992 (c. 42)*

- 20 The Transport and Works Act 1992 is amended as follows.
- 21 In section 22 (validity of orders authorising works), in subsections (1)(b) and (2)(b), for “1971” substitute “1992”.
- 22 (1) Section 23 (inquiries etc. held by person appointed to determine application) is amended as follows.
- (2) In subsection (9)—
- (a) for “1971” substitute “1992”, and
- (b) for “section 12(1)” substitute “section 10(1)”.
- (3) After that subsection insert—
- “(9A) A local inquiry or other hearing held by a person appointed under this section shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

*Tribunals and Inquiries Act 1992 (c. 53)*

- 23 The Tribunals and Inquiries Act 1992 is amended as follows.

VALID FROM 19/08/2013

- 24 Omit section 5 (recommendations of Council as to appointment of members of tribunals).

- 25 In section 6, subsections (1) to (3) (chairman of a tribunal presided over by a Child Support Commissioner, and chairman of a reserve forces reinstatement committee, to be selected from panels appointed by Lord Chancellor or Lord President of the Court of Session) cease to have effect.

*Status: Point in time view as at 01/01/2010.*

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### Commencement Information

- I11** Sch. 8 para. 25 partly in force; Sch. 8 para. 25 not in force at Royal Assent see s. 148(5); Sch. 8 para. 25 in force for certain purposes at 3.11.2008 by S.I. 2008/2696, art. 5(c)(ii)

26 F5 .....

### Textual Amendments

- F5** Sch. 8 para. 26 repealed (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 146, 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 5(i)(vii) (with arts. 3, 4)

27 Omit section 8 (procedural rules for tribunals).

### Commencement Information

- I12** Sch. 8 para. 27 partly in force; Sch. 8 para. 27 not in force at Royal Assent see s. 148(5); Sch. 8 para. 27 in force for certain purposes by S.I. 2008/1653, art. 2(a) (with arts. 3, 4)

28 In section 9 (power of Lord Chancellor, after consulting the Council, to make rules of procedure for statutory inquiries), after subsection (3) insert—

“(3A) The Council, in exercising their functions under this section in relation to inquiries to be held in Wales, shall consult with the Welsh Committee.”

## PROSPECTIVE

29 In section 14(1) (restricted application of Act in relation to certain tribunals)—  
(a) for “the working or a decision of, or procedural rules for,” substitute “ a decision of ”, and  
(b) for “working, decisions or procedure” substitute “ decisions ”.

30 In section 16(1) (interpretation)—  
(a) for the definition of “Council” substitute—  
    ““Council” means the Administrative Justice and Tribunals Council,”  
(b) after the definition of “Council” insert—  
    ““enactment” includes an Act of the Scottish Parliament,”  
(c) for the definition of “Scottish Committee” substitute—  
    ““Scottish Committee” means the Scottish Committee of the Administrative Justice and Tribunals Council,” and  
(d) after the definition of “statutory provision” insert—  
    ““Welsh Committee” means the Welsh Committee of the Administrative Justice and Tribunals Council.”

*Status: Point in time view as at 01/01/2010.*

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### Commencement Information

**I13** Sch. 8 para. 30 wholly in force at 1.6.2008; Sch. 8 para. 30 not in force at Royal Assent see s. 148; Sch. 8 para. 30(a)-(c) in force at 1.11.2007 and Sch. 8 para. 30(d) in force at 1.6.2008 by S.I. 2007/2709, art. 3(b)(i)

### *Judicial Pensions and Retirement Act 1993 (c. 8)*

- 31 (1) The Judicial Pensions and Retirement Act 1993 is amended as follows.
- (2) In section 26 (retirement date for holders of certain judicial offices etc.), subsection (7) is amended as follows.
- (3) In paragraph (f), for the words from “(persons” to the end substitute “ (holders of relevant office);”.
- (4) After paragraph (g) insert—
- “(ga) hold office as a deputy judge of the Upper Tribunal if—
- (i) section 94B of the Constitutional Reform Act 2005 applied to the appointment, and
- (ii) his corresponding qualifying office was listed in section 6(1) of the Tribunals, Courts and Enforcement Act 2007;”.
- (5) In Part 2 of Schedule 1 (offices which may be qualifying judicial offices for purposes of the pensions provisions), at the end of the part dealing with the members of tribunals insert— “Judge or other member of the First-tier Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007 Judge or other member of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007 Transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the Tribunals, Courts and Enforcement Act 2007) Senior President of Tribunals Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal ”.
- (6) In Schedule 5 (retirement provisions: the relevant offices), at the end insert— “ Judge or other member of the First-tier Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007 Judge or other member of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007 Transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the Tribunals, Courts and Enforcement Act 2007) Senior President of Tribunals Deputy judge of the Upper Tribunal appointed under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, except in a case where the holding of the office by the person in question falls within section 26(7)(ga) of this Act Deputy judge of the Upper Tribunal by virtue of an order under section 31(2) of the Tribunals, Courts and Enforcement Act 2007 Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal ”.

*Status: Point in time view as at 01/01/2010.*

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#### Commencement Information

- I14** Sch. 8 para. 31 wholly in force at 3.11.2008; Sch. 8 para. 31 not in force at Royal Assent see s. 148; Sch. 8 para. 31(1)-(3) in force at 19.9.2007 by S.I. 2007/2709, art. 2(c)(i); Sch. 8 para. 31(4)-(6) in force at 3.11.2008 by S.I. 2008/2696, art. 5(c)(i)

#### *Pension Schemes Act 1993 (c. 48)*

- 32 In section 185(8) of the Pension Schemes Act 1993 (consultation about regulations), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

#### *Law of Property (Miscellaneous Provisions) Act 1994 (c. 36)*

- 33 (1) Section 17(3) of the Law of Property (Miscellaneous Provisions) Act 1994 (notices affecting land where recipient has died: exceptions where relating to court or tribunal etc. proceedings) is amended as follows.
- (2) For paragraph (b) substitute—
- “(b) any tribunal that is (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council), or”.
- (3) For “within the meaning of section 8 of the Tribunals and Inquiries Act 1992” substitute “ within the meaning given by paragraph 28 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 ”.

#### Commencement Information

- I15** Sch. 8 para. 33 wholly in force at 3.11.2008; Sch. 8 para. 33 not in force at Royal Assent see s. 148; Sch. 8 para. 33(1)(2) in force at 1.11.2007 by S.I. 2007/2709, art. 3(b)(i); Sch. 8 para. 33(3) in force at 3.11.2008 by S.I. 2008/2696, art. 5(c)(i)

PROSPECTIVE

#### *Criminal Injuries Compensation Act 1995 (c. 53)*

- 34 In the Criminal Injuries Compensation Act 1995, after section 5 insert—

##### **“5A Oaths to be taken by adjudicators**

- (1) A person appointed as an adjudicator under section 5 (“the adjudicator”) must take—
- (a) the oath of allegiance, and
- (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.
- (2) The adjudicator must take the oaths before—
- (a) the Senior President of Tribunals, or

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- (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the adjudicator.
- (3) A person is eligible for the purposes of subsection (2)(b) if any one or more of the following paragraphs applies to him—
- (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
- (b) he holds judicial office (as defined in section 109(4) of that Act);
- (c) he holds (in Scotland) the office of sheriff.
- (4) In relation to a person who is an adjudicator appointed before the coming into force of this section, the requirement in subsection (1) applies from the coming into force of this section.”

*Employment Tribunals Act 1996 (c. 17)*

35 The Employment Tribunals Act 1996 is amended as follows.

36 Before section 4 insert—

**Meaning of “Employment Judge”**

“3A A person who is a member of a panel of chairmen of employment tribunals which is appointed in accordance with regulations under section 1(1) may be referred to as an Employment Judge.”

37 In section 4 (composition of employment tribunals), in each of subsections (2), (6), (6A) and (6B)(a) (which refer to the person who is the chairman of an employment tribunal), after “the person mentioned in subsection (1)(a) alone” insert “ or alone by any Employment Judge who, in accordance with regulations made under section 1(1), is a member of the tribunal ”.

38 In sections 4(4), 18(8) and 40(1), after “The Secretary of State” insert “ and the Lord Chancellor, acting jointly, ”.

39 In section 5(1) (pay), for paragraph (c) substitute—

“(c) any person who is an Employment Judge on a full-time basis, and”.

40 After section 5 insert—

**“5A Training etc.**

The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of members of panels of members of employment tribunals (in their capacities as members of such panels, whether or not panels of chairmen).

**5B Members of employment tribunals: removal from office**

- (1) Any power by which the President of the Employment Tribunals (England and Wales) may be removed from that office may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.



*Status: Point in time view as at 01/01/2010.*

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- (2) Any power by which the President of the Employment Tribunals (Scotland) may be removed from that office may be exercised only with the concurrence of the Lord President of the Court of Session.
- (3) Any power by which a member of a panel may be removed from membership of the panel—
  - (a) may, if the person exercises functions wholly or mainly in Scotland, be exercised only with the concurrence of the Lord President of the Court of Session;
  - (b) may, if paragraph (a) does not apply, be exercised only with the concurrence of the Lord Chief Justice of England and Wales.
- (4) In subsection (3) “panel” means—
  - (a) a panel of chairmen of employment tribunals, or
  - (b) any other panel of members of employment tribunals,which is appointed in accordance with regulations made under section 1(1).
- (5) 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 his functions under this section.
- (6) 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 section.

### 5C Oaths

- (1) Subsection (2) applies to a person (“the appointee”)—
  - (a) who is appointed—
    - (i) as President of the Employment Tribunals (England and Wales),
    - (ii) as President of the Employment Tribunals (Scotland), or
    - (iii) as a member of a panel (as defined in section 5B(4)), and
  - (b) who has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
  - (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) If the appointee is a President or panel member appointed before the coming into force of this section, the requirement in subsection (2) applies in relation to the appointee from the coming into force of this section.
- (4) A person is eligible for the purposes of subsection (2)(b) if one or more of the following paragraphs applies to him—
  - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.

*Status: Point in time view as at 01/01/2010.*

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- (5) In this section “the required oaths” means—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.

## 5D Judicial assistance

- (1) Subsection (2) applies where regulations under section 1(1) make provision for a relevant tribunal judge, or a relevant judge, to be able by virtue of his office to act as a member of a panel of members of employment tribunals.
- (2) The provision has effect only if—
- (a) the persons in relation to whom the provision operates have to be persons nominated for the purposes of the provision by the Senior President of Tribunals,
  - (b) its operation in relation to a panel established for England and Wales in any particular case requires the consent of the President of Employment Tribunals (England and Wales),
  - (c) its operation in relation to a panel established for Scotland in any particular case requires the consent of the President of Employment Tribunals (Scotland),
  - (d) its operation as respects a particular relevant judge requires—
    - (i) the consent of the relevant judge, and
    - (ii) the appropriate consent (see subsection (3)), and
  - (e) it operates as respects a relevant tribunal judge or a relevant judge only for the purpose of enabling him to act as a member of a panel of chairmen of employment tribunals.
- (3) In subsection (2)(d)(ii) “the appropriate consent” means—
- (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.
- (4) In this section—

*Status: Point in time view as at 01/01/2010.*

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- (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 judge” means a person who—
- (i) 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),
  - (ii) is a Lord Justice of Appeal in Northern Ireland,
  - (iii) is a judge of the Court of Session,
  - (iv) is a puisne judge of the High Court in England and Wales or Northern Ireland,
  - (v) is a circuit judge,
  - (vi) is a sheriff in Scotland,
  - (vii) is a county court judge in Northern Ireland,
  - (viii) is a district judge in England and Wales or Northern Ireland, or
  - (ix) is a District Judge (Magistrates' Courts).

(5) References in subsection (4)(b)(iii) to (ix) to office-holders do not include deputies or temporary office-holders.”

41 (1) Section 7A (practice directions) is amended as follows.

(2) Before subsection (1) insert—

“(A1) The Senior President of Tribunals may make directions about the procedure of employment tribunals.”

(3) In subsection (1)—

- (a) in paragraph (a), before “President” insert “ territorial ”, and
- (b) in paragraphs (b) and (c), for “such directions” substitute “ directions under subsection (A1) or paragraph (a) ”.

(4) In subsection (2), for “by the President” substitute “ under subsection (A1) or (1)(a) ”.

(5) After subsection (2) insert—

“(2A) The power under subsection (A1) includes—

- (a) power to vary or revoke directions made in exercise of the power, and
- (b) power to make different provision for different purposes (including different provision for different areas).

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2B) Directions under subsection (A1) may not be made without the approval of the Lord Chancellor.
- (2C) Directions under subsection (1)(a) may not be made without the approval of—
- (a) the Senior President of Tribunals, and
  - (b) the Lord Chancellor.
- (2D) Subsections (2B) and (2C)(b) do not apply to directions to the extent that they consist of guidance about any of the following—
- (a) the application or interpretation of the law;
  - (b) the making of decisions by members of an employment tribunal.
- (2E) Subsections (2B) and (2C)(b) do not apply to directions to the extent that they consist of criteria for determining which members of employment tribunals may be selected to decide particular categories of matter; but the directions may, to that extent, be made only after consulting the Lord Chancellor.”
- (6) In subsection (3), after “references to the” insert “ territorial ”.

42 After section 7A insert—

**“7B Mediation**

- (1) Employment tribunal procedure regulations may include provision enabling practice directions to provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (2) The provision that may be included in employment tribunal procedure regulations by virtue of subsection (1) includes provision for enabling practice directions to provide for a member to act as mediator in relation to disputed matters in a case even though the member has been selected to decide matters in the case.
- (3) Once a member has begun to act as mediator in relation to a disputed matter in a case that is the subject of proceedings, the member may decide matters in the case only with the consent of the parties.
- (4) Staff appointed under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (staff for employment and other tribunals) may, subject to their terms of appointment, act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (5) Before making a practice direction that makes provision in relation to mediation, the person making the direction must consult the Advisory, Conciliation and Arbitration Service.
- (6) In this section—
  - “member” means a member of a panel of members of employment tribunals (whether or not a panel of chairmen);
  - “practice direction” means a direction under section 7A;
  - “proceedings” means proceedings before an employment tribunal.”

*Status: Point in time view as at 01/01/2010.*

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43 In section 15(1) (enforcement in England and Wales as an order of a county court), for the words from “shall, if a county court so orders,” to the end substitute “ shall be recoverable by execution issued from a county court or otherwise as if it were payable under an order of a county court. ”

44 After section 24 insert—

#### **“24A Training etc. of members of Appeal Tribunal**

The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of judges, and other members, of the Appeal Tribunal (in their capacities as members of the Appeal Tribunal).

#### **24B Oaths**

- (1) Subsection (2) applies to a person (“the appointee”)—
  - (a) who is appointed under section 22(1)(c) or 23(3), or
  - (b) who is appointed under section 24(1A) and—
    - (i) falls when appointed within paragraph (a), but not paragraph (b), of section 24(2), and
    - (ii) has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
  - (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) If the appointee is a member of the Appeal Tribunal appointed before the coming into force of this section, the requirement in subsection (2) applies in relation to the appointee from the coming into force of this section.
- (4) A person is eligible for the purposes of subsection (2)(b) if one or more of the following paragraphs applies to him—
  - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (5) In this section “the required oaths” means—
  - (a) the oath of allegiance, and
  - (b) the judicial oath,as set out in the Promissory Oaths Act 1868.”

45 In section 27(1)(a) (payment of appointed members of Employment Appeal Tribunal), after “members,” insert “ and ”.

46 (1) Section 28 (composition of Employment Appeal Tribunal) is amended as follows.

- (2) In subsection (4) (appeals from employment tribunal consisting of chairman alone), for the words from “question” to “section 4(1)(a) alone” substitute “ chairman-alone question ”.

*Status: Point in time view as at 01/01/2010.*

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(3) After subsection (4) insert—

“(4A) In subsection (4) “chairman-alone question” means—

- (a) a question arising from any decision of an employment tribunal that is a decision of—
  - (i) the person mentioned in section 4(1)(a) acting alone, or
  - (ii) any Employment Judge acting alone, or
- (b) a question arising in any proceedings before an employment tribunal that are proceedings before—
  - (i) the person mentioned in section 4(1)(a) alone, or
  - (ii) any Employment Judge alone.”

47 After section 29 insert—

**“29A Practice directions**

- (1) Directions about the procedure of the Appeal Tribunal may be given—
  - (a) by the Senior President of Tribunals, or
  - (b) by the President of the Appeal Tribunal.
- (2) A power under subsection (1) includes—
  - (a) power to vary or revoke directions given in exercise of the power, and
  - (b) power to make different provision for different purposes.
- (3) Directions under subsection (1)(a) may not be given without the approval of the Lord Chancellor.
- (4) Directions under subsection (1)(b) may not be given without the approval of—
  - (a) the Senior President of Tribunals, and
  - (b) the Lord Chancellor.
- (5) Subsection (1) does not prejudice any power apart from that subsection to give directions about the procedure of the Appeal Tribunal.
- (6) Directions may not be given in exercise of any such power as is mentioned in subsection (5) without the approval of—
  - (a) the Senior President of Tribunals, and
  - (b) the Lord Chancellor.
- (7) Subsections (3), (4)(b) and (6)(b) do not apply to directions to the extent that they consist of guidance about any of the following—
  - (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the Appeal Tribunal.
- (8) Subsections (3), (4)(b) and (6)(b) do not apply to directions to the extent that they consist of criteria for determining which members of the Appeal Tribunal may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Lord Chancellor.

*Status: Point in time view as at 01/01/2010.*

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(9) Subsections (4) and (6) do not apply to directions given in a particular case for the purposes of that case only.

(10) Subsection (6) does not apply to directions under section 28(1).”

48 In section 30(3) (Employment Appeal Tribunal to regulate its own procedure, subject to procedure rules), after the words “Appeal Tribunal procedure rules” insert “ and directions under section 28(1) or 29A(1) ”.

*Town and Country Planning (Scotland) Act 1997 (c. 8)*

49 The Town and Country Planning (Scotland) Act 1997 is amended as follows.

50 In paragraph 5 of Schedule 6 (local inquiries held by Planning Inquiry Commission), after sub-paragraph (4) insert—

“(4A) An inquiry held by a commission under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

51 In paragraph 8 of Schedule 7 (local inquiries held by Joint Planning Inquiry Commission), after sub-paragraph (4) insert—

“(4A) A local inquiry held by a joint commission shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

*Greater London Authority Act 1999 (c. 29)*

52 In section 338 of the Greater London Authority Act 1999 (spatial development strategy: examination in public), for subsection (10) substitute—

“(10) An examination in public shall constitute a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (Administrative Justice and Tribunals Council).”

*Freedom of Information Act 2000 (c. 36)*

53 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public bodies and offices), insert in the appropriate places— “ The Administrative Justice and Tribunals Council. ” “ The Scottish Committee of the Administrative Justice and Tribunals Council. ” “ The Welsh Committee of the Administrative Justice and Tribunals Council. ”

**Commencement Information**

**I16** Sch. 8 para. 53 wholly in force at 1.6.2008; Sch. 8 para. 53 not in force at Royal Assent see s. 148(5); Sch. 8 para. 53 in force for certain purposes at 1.1.2007 and at 1.6.2008 otherwise by S.I. 2007/2709, arts. 3(b)(ii), 6(b)(ii)

*Status: Point in time view as at 01/01/2010.*

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PROSPECTIVE

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

54

F6

**Textual Amendments**

**F6** Sch. 8 para. 54 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), [Sch. 3](#) (with Sch. 4)

*Courts Act 2003 (c. 39)*

- 55 (1) Section 98 of the Courts Act 2003 (register of judgments and orders etc.) is amended as follows.
- (2) In subsection (1) (registrable orders etc.), after paragraph (e) insert—
  - “(f) a decision or award of—
    - (i) the First-tier Tribunal,
    - (ii) the Upper Tribunal,
    - (iii) an employment tribunal, or
    - (iv) the Employment Appeal Tribunal,
 in pursuance of which any sum is payable.”
- (3) In subsection (3) (regulations)—
  - (a) in each of paragraphs (a) and (b) (exemption), after “orders” insert “ , decisions, awards ”, and
  - (b) in paragraph (d) (power to provide for certain sums only to be registered), after “magistrates' court” insert “ or in the case of sums payable in pursuance of decisions or awards of a tribunal mentioned in subsection (1)(f) ”.

*Title Conditions (Scotland) Act 2003 (asp 9)*

- 56 The Title Conditions (Scotland) Act 2003 is amended as follows.
- 57 In section 104(1) (rules as to when certain orders of Lands Tribunal take effect), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.
- 58 In section 126 (rules as to fees chargeable by Lands Tribunal in relation to functions under Act), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

*Planning and Compulsory Purchase Act 2004 (c. 5)*

- 59 In section 8 of the Planning and Compulsory Purchase Act 2004 (regional spatial strategy: examination in public), for subsection (7) substitute—
  - “(7) An examination in public—
    - (a) is a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (Administrative Justice and Tribunals Council), but



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- (b) is not a statutory inquiry for the purposes of the Tribunals and Inquiries Act 1992.”

*Gender Recognition Act 2004 (c. 7)*

- 60 In paragraph 6(5) of Schedule 1 to the Gender Recognition Act 2004 (directions about practice and procedure of Gender Recognition Panels), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

*Civil Contingencies Act 2004 (c. 36)*

- 61 In section 25 of the Civil Contingencies Act 2004 (consultation in connection with establishment of tribunal), in each of subsections (1), (2)(b), (3) and (6), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

*Constitutional Reform Act 2005 (c. 4)*

- 62 The Constitutional Reform Act 2005 is amended as follows.
- 63 In section 109(5) (disciplinary powers: meaning of “senior judge”), after paragraph (d) insert—
- “(da) Senior President of Tribunals;”.
- 64 In Schedule 7 (protected functions of Lord Chancellor), in Part A (general) of the list in paragraph 4—
- (a) omit the entry for section 6(2), (8) and (9) of the Tribunals and Inquiries Act 1992 (c. 53), and
- (b) omit the entry for paragraph 7(4) of Schedule 5 to that Act.

**Commencement Information**

**I17** Sch. 8 para. 64 partly in force; Sch. 8 para. 64 not in force at Royal Assent see s. 148; Sch. 8 para. 64(b) in force at 3.11.2008 by S.I. 2007/2696, art. 5(c)

- 65 (1) In Schedule 12 (the Judicial Appointments Commission), paragraph 2 (members) is amended as follows.
- (2) In sub-paragraph (2)(d) (one member must be holder of an office listed in Part 3 of Schedule 14), after “listed in Part 3 of Schedule 14” insert “ or of an office listed in sub-paragraph (2A) ”.
- (3) After sub-paragraph (2) insert—
- “(2A) The offices referred to in sub-paragraph (2)(d) are—
- (a) Senior President of Tribunals;
- (b) judge of the Upper Tribunal appointed under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007;
- (c) transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of that Act);
- (d) deputy judge of the Upper Tribunal under section 31(2) of that Act;
- (e) member of the Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996.”

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#### Commencement Information

**I18** Sch. 8 para. 65 wholly in force at 3.11.2008; Sch. 8 para. 65 not in force at Royal Assent see s. 148; Sch. 8 para. 65(1)(2) in force and Sch. 8 para. 65(3) in force for certain purposes at 19.9.2007 by S.I. 2007/2709, art. 2(c)(i)(ii) and Sch. 8 para. 65(3) in force at 3.11.2008 otherwise by S.I. 2008/2696, art. 5(c)(iv)

66 (1) Schedule 14 (Judicial Appointments Commission: relevant offices and enactments) is amended as follows.

(2) In Part 1 (appointments by Her Majesty), at the end insert—

“Judge of the Upper Tribunal by appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007”

(3) In Part 3 (appointments by Lord Chancellor to offices to which paragraph 2(2)(d) of Schedule 12 applies), at the end insert—

“Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, by appointment under section 7(7) of the Tribunals, Courts and Enforcement Act 2007, but not where appointed in accordance with paragraph 2(2) to (5) of Schedule 4 to that Act

Section 7(7) of the Tribunals, Courts and Enforcement Act 2007

Judge of the First-tier Tribunal by appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Other member of the First-tier Tribunal by appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Other member of the Upper Tribunal by appointment under paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Deputy judge of the Upper Tribunal by appointment under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Deputy Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, but not where appointed in accordance with paragraph 5(5) to (8) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 5(1) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007”

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## SCHEDULE 9 **U.K.**

Section 48(2)

### TRIBUNALS: TRANSITIONAL PROVISION

#### PART 1 **U.K.**

##### GENERAL AND MISCELLANEOUS

###### *Introductory*

- 1 The following provisions of this Schedule are to be taken not to prejudice the generality of sections 31(9) and 145(1).

###### *Membership of Tribunal Procedure Committee*

- 2 (1) The Lord Chancellor may by order make provision for a person—
- (a) who is a scheduled tribunal, or
  - (b) who is a member of a scheduled tribunal,
- to be treated for the purposes of sub-paragraph (1) of paragraph 22 of Schedule 5 as falling within paragraph (a), (b) or (c) of that sub-paragraph.
- (2) In sub-paragraph (1) “scheduled tribunal” means a tribunal in a list in Schedule 6 that has effect for the purposes of section 30.
- (3) The power under sub-paragraph (1) may not be exercised so as to provide for the Secretary of State to be treated as mentioned in that sub-paragraph.

#### PART 2 **U.K.**

### JUDGES AND OTHER MEMBERS OF FIRST-TIER AND UPPER TRIBUNALS: RETIREMENT DATES

###### *Interpretation of Part 2 of Schedule*

- 3 (1) For the purposes of this Part of this Schedule—
- (a) “relevant judicial office” means—
    - (i) the office of transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2)),
    - (ii) an office to which a person is appointed under paragraph 1(1) or 2(1) of Schedule 2 or 3 (judge, or other member, of the First-tier Tribunal or of the Upper Tribunal),
    - (iii) the office of deputy judge of the Upper Tribunal (whether under section 31(2) or under paragraph 7 of Schedule 3),
    - (iv) the office of Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of the Upper Tribunal, or
    - (v) the office of Senior President of Tribunals;
  - (b) “relevant day”, in relation to a person who holds a relevant judicial office, means the day when he was appointed to that office or, if he holds that office as the latest in an unbroken succession of different relevant judicial offices, the day when he was appointed to the first of the offices in that succession;

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- (c) an office is a “qualifying office” at any particular time (but see sub-paragraph (2)) if—
    - (i) the office is that of member of a tribunal which at that time is in a list in Schedule 6, or
    - (ii) the office itself is at that time in a list in Schedule 6,
 and (in either case) the list has effect at that time for the purposes of section 30;
  - (d) “the 1993 Act” means the Judicial Pensions and Retirement Act 1993 (c. 8).
- (2) Where—
- (a) a person held two or more qualifying offices (“the actual offices”) immediately before the relevant day, and
  - (b) at that time the person held at least one of the actual offices on a salaried basis and held at least one of the actual offices on a non-salaried basis,
- the person shall be treated for the purposes of paragraphs 6 and 7 as not having held immediately before the relevant day any of the actual offices that the person held on a non-salaried basis at that time.
- (3) For the purposes of sub-paragraph (2)—
- (a) a person holds an office on a salaried basis at any particular time if, at that time, the person's service in the office is remunerated by payment of a salary, and
  - (b) a person holds an office on a non-salaried basis at any particular time if, at that time, the person's service in the office—
    - (i) is remunerated by the payment of fees,
    - (ii) is remunerated by the payment of a supplement to the salary payable to him in respect of his service in another office, or
    - (iii) is unremunerated.

*Retirement from First-tier and Upper Tribunals: application of paragraphs 5 to 8*

- 4 Paragraphs 5 to 8 apply where a person holds a relevant judicial office.

*Retirement later than age 70 in certain cases where office previously held in another tribunal*

- 5 (1) Subject to paragraph 8(1) (persons who held certain judicial offices on 30th March 1995), sub-paragraphs (3) and (4) apply where the person has a personal retirement date under either or both of paragraphs 6 and 7.
- (2) In sub-paragraphs (3) and (4) and paragraph 8(1) and (2)—
- (a) if the person has a personal retirement date under just one of paragraphs 6 and 7 or has the same personal retirement date under each of those paragraphs, “the special date” means that date;
  - (b) if the person has a personal retirement date under each of those paragraphs and those dates are different, “the special date” means the later of those dates.
- (3) Subsection (1) of section 26 of the 1993 Act shall have effect (subject to the following provisions of that section) as if it provided for the person to vacate the relevant judicial office on the special date.
- (4) The special date is to be taken for the purposes of that section to be the compulsory retirement date for the relevant judicial office in the person's case.

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*Cases where retirement from existing office would be after age 70*

- 6 (1) Sub-paragraphs (2) and (3) apply where, immediately before the relevant day, the person—
- (a) held a qualifying office, and
  - (b) was required to vacate the qualifying office on a day later than the day on which he attains the age of 70.
- (2) The person's personal retirement date under this paragraph is the later day mentioned in sub-paragraph (1)(b), subject to sub-paragraph (3).
- (3) If—
- (a) there are two or more qualifying offices each of which is one that, immediately before the relevant day, the person—
    - (i) held, and
    - (ii) was required to vacate on a day later than the day on which he attains the age of 70, and
  - (b) the later day mentioned in paragraph (a)(ii) is not the same for each of those offices,
- the person's personal retirement date under this paragraph is the latest (or later) of those later days.

*Cases where no requirement to retire from existing office*

- 7 (1) Sub-paragraph (2) applies where—
- (a) immediately before the relevant day, the person held, on an unlimited basis, a qualifying office or two or more qualifying offices, and
  - (b) the relevant day falls after the day on which the person attains the age of 69.
- (2) The person's personal retirement date under this paragraph is the last day of the 12 months beginning with the day after the relevant day.
- (3) For the purposes of this paragraph, a person holds an office on an unlimited basis at a particular time if at that time he is not required to vacate the office at any particular later time.

*Interaction between rules under paragraph 5, and rules under Schedule 7 to the 1993 Act, in cases where office held on 30th March 1995*

- 8 (1) If—
- (a) sub-paragraph (2) of paragraph 2 of Schedule 7 to the 1993 Act (transitional provision where person held salaried relevant office on 30th March 1995) has effect in relation to retirement from the relevant judicial office in the person's case, and
  - (b) the date that, for the purposes of that paragraph, is the person's potential retirement date by reference to his pre-commencement office (“the retirement date preserved in 1995”) is the same as, or later than, the special date,
- paragraph 5(3) and (4) do not apply.
- (2) If the special date is later than the retirement date preserved in 1995, paragraph 2(2)(b) of Schedule 7 to the 1993 Act does not have effect in relation to the relevant judicial office in the person's case.

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(3) Accordingly, in paragraph 1 of Schedule 7 to the 1993 Act, after sub-paragraph (5) insert—

“(6) Paragraph 2(2) has effect subject to paragraph 8(2) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 (certain cases where the post-commencement office is that of judge, or other member, of the First-tier Tribunal or the Upper Tribunal).”

*Eligibility for appointment after having attained age of 70*

- 9 (1) Sub-paragraph (3) applies in respect of a person on each day that—
- (a) is, or is later than, the day on which the person attains the age of 70,
  - (b) is a day on which the person holds a qualifying office, and
  - (c) is earlier than the day on which the person is required to vacate the qualifying office.
- (2) Sub-paragraph (3) also applies in respect of a person on each day that—
- (a) is, or is later than, the day on which the person attains the age of 70, and
  - (b) is a day on which the person holds, on an unlimited basis, a qualifying office.
- (3) Where this sub-paragraph applies in respect of a person on a day, the fact that the person has attained the age of 70 shall not (by itself) render him ineligible for appointment (or re-appointment) on that day to a relevant judicial office.
- (4) For the purposes of this paragraph, a person holds an office on an unlimited basis at a particular time if at that time he is not required to vacate the office at any particular later time.

**PART 3 U.K.**

JUDGES AND OTHER MEMBERS OF FIRST-TIER AND UPPER TRIBUNALS:  
PENSIONS WHERE OFFICE ACQUIRED UNDER SECTION 31(2)

*Interpretation of Part 3 of Schedule*

- 10 For the purposes of this Part of this Schedule—
- (a) “new office” means—
    - (i) the office of judge of the First-tier Tribunal by virtue of being a transferred-in judge of the First-tier Tribunal,
    - (ii) the office of other member of the First-tier Tribunal by virtue of being a transferred-in other member of the First-tier Tribunal,
    - (iii) the office of judge of the Upper Tribunal by virtue of being a transferred-in judge of the Upper Tribunal, and
    - (iv) the office of other member of the Upper Tribunal by virtue of being a transferred-in other member of the Upper Tribunal;
  - (b) a person holds an office “on a salaried basis” if and so long as, and to the extent that—
    - (i) the person's service in the office is remunerated by payment of a salary, and

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- (ii) the salary is not subject to terms which preclude rights to pensions and other benefits accruing by reference to it;
- (c) a person shall be regarded as holding “qualifying judicial office” at any time when he holds, on a salaried basis, any one or more of the offices specified in Schedule 1 to the 1993 Act, and any reference to a “qualifying judicial office” is a reference to any office specified in that Schedule if it is held on a salaried basis;
- (d) “the 1993 Act” means the Judicial Pensions and Retirement Act 1993 (c. 8).

*Right to opt in to Part 1 of the 1993 Act where qualifying judicial office not previously held*

- 11 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a person becomes, as a result of provision under section 31(2), the holder of a new office,
  - (b) before that, the person has never held qualifying judicial office, and
  - (c) the person, on becoming the holder of the new office, holds the new office on a salaried basis.
- (2) Section 1(1)(a) of the 1993 Act (Part 1 of the 1993 Act applies to a person who first holds qualifying judicial office on or after 31st March 1995) does not have effect in relation to the person.
- (3) The person is entitled, subject to paragraph 12, to elect for Part 1 of the 1993 Act (judicial pensions) to apply to him.
- (4) Part 1 of the 1993 Act applies to a person who makes an election under sub-paragraph (3).
- (5) Sub-paragraph (4) is subject to sections 1(5) and 13 of the 1993 Act (where person has opted out of Part 1 of the 1993 Act then, except as provided by section 13 of that Act, that Part does not apply to the person).

*Election under paragraph 11(3) for pension under Part 1 of the 1993 Act*

- 12 (1) In this paragraph “opt-in election” means an election under paragraph 11(3).
- (2) An opt-in election may be made only in such circumstances, within such time and in such manner as the Lord Chancellor may by regulations prescribe.
- (3) An opt-in election is irrevocable.
- (4) Regulations under sub-paragraph (2) may permit the making of an opt-in election even though the person in respect of whom the opt-in election is made—
- (a) has ceased (whether by virtue of dying or otherwise) to hold the office mentioned in paragraph 11(1)(a), or
  - (b) has ceased to hold that office on a salaried basis without having ceased to hold that office.
- (5) Where regulations under sub-paragraph (2) permit the making of an opt-in election in respect of a person who has died, the right to make that election is exercisable by the person's personal representatives.
- (6) The Lord Chancellor may by regulations provide for a person in respect of whom an opt-in election is made to be treated for such purposes as may be prescribed by the

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regulations as if the person had, at such times as may be prescribed by the regulations, been a person to whom Part 1 of the 1993 Act applies.

- (7) An opt-in election may not be made in respect of a person at any time when an election made under section 13 of the 1993 Act (election to opt out of Part 1 of the 1993 Act) is in force in respect of the person.

#### Commencement Information

**I19** Sch. 9 para. 12 wholly in force at 3.11.2008; Sch. 9 para. 12 not in force at Royal Assent see s. 148(5); Sch. 9 para. 12(2) in force at 19.9.2007 by S.I. 2007/2709, art. 2(d); Sch. 9 para. 12(1)-(3)-(7) in force at 3.11.2008 by S.I. 2008/2696, art. 5(d)

#### *Continuation of existing public service pension arrangements in certain cases*

- 13 (1) Sub-paragraph (2) applies if—
- (a) a person, as a result of provision under section 31(2), becomes the holder of a new office,
  - (b) either—
    - (i) the person held qualifying judicial office immediately before 31st March 1995, or
    - (ii) before becoming the holder of the new office, the person has never held qualifying judicial office,
  - (c) immediately before the person becomes the holder of the new office—
    - (i) the person holds an office within paragraph (a), (b) or (c) of section 31(2) (the “old office”), and
    - (ii) the person's service in the old office is subject to a public service pension scheme,
  - (d) the person, on becoming the holder of the new office, holds the new office on a salaried basis, and
  - (e) immediately after the person becomes the holder of the new office, the person—
    - (i) is not a person to whom Part 1 of the 1993 Act applies, and
    - (ii) is not a person to whom that Part would apply but for section 13 of that Act.
- (2) The person's service in the new office, so far as it is service during the continuity period—
- (a) shall be subject to that public service pension scheme, and
  - (b) shall be subject to that scheme in a way that corresponds to the way in which the person's service in the old office was subject to that scheme.
- (3) In sub-paragraph (2) “the continuity period” means the period—
- (a) that begins when the person becomes the holder of the new office on a salaried basis, and
  - (b) that ends with whichever of the following first happens after that—
    - (i) the person's ceasing to hold the new office,
    - (ii) the person's ceasing to hold the new office on a salaried basis without ceasing to hold the new office,



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- (iii) the person's becoming a person to whom Part 1 of the 1993 Act applies, and
  - (iv) the person's becoming a person to whom Part 1 of the 1993 Act would apply but for section 13 of that Act.
- (4) For the purposes of sub-paragraph (1)(c)(ii), the person's service in the old office is not to be treated as subject to a public service pension scheme at a time when the scheme does not apply to him as a result of his having exercised a right to elect for the scheme not to apply to him.
- (5) A public service pension scheme which, apart from sub-paragraph (2), would not be a judicial pension scheme for the purposes of the 1993 Act does not become a judicial pension scheme for those purposes if it is only as a result of sub-paragraph (2) that pensions and other benefits are payable under the scheme in respect of service in qualifying judicial office.
- (6) In this paragraph “public service pension scheme” means any public service pension scheme, as defined in—
  - (a) section 1 of the Pension Schemes Act 1993 (c. 48), or
  - (b) section 1 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49).

#### **PART 4 U.K.**

##### AMENDMENTS TO THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993

- 14 The Judicial Pensions and Retirement Act 1993 (c. 8) is amended as follows.
- 15 (1) Section 1 (application of Part 1: judicial pensions) is amended as follows.
- (2) In subsection (1) (persons to whom Part 1 of the 1993 Act applies), after paragraph (d) insert “and
    - (e) to any person appointed to a qualifying judicial office in circumstances falling within subsection (4A) below;”.
  - (3) In subsection (1), after “but this subsection is subject to the following provisions of this Act” insert “ and to Part 3 of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 (transitional arrangements for pensions of certain judges and other members of the First-tier Tribunal and Upper Tribunal) ”.
  - (4) After subsection (4) insert—
    - “(4A) The circumstances of a person's appointment to a qualifying judicial office (“the subsequent office”) fall within this subsection if—
      - (a) the person, immediately before being appointed to the subsequent office, holds an office within subsection (4B) below (“the replacement tribunal office”);
      - (b) the person held the replacement tribunal office on a salaried basis from when he became its holder until immediately before being appointed to the subsequent office; and
      - (c) the person, before becoming the holder of the replacement tribunal office, had never held qualifying judicial office.
- (4B) The offices within this subsection are—

*Status: Point in time view as at 01/01/2010.*

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- (a) the office of judge of the First-tier Tribunal by virtue of being a transferred-in judge of the First-tier Tribunal,
  - (b) the office of other member of the First-tier Tribunal by virtue of being a transferred-in other member of the First-tier Tribunal,
  - (c) the office of judge of the Upper Tribunal by virtue of being a transferred-in judge of the Upper Tribunal, and
  - (d) the office of other member of the Upper Tribunal by virtue of being a transferred-in other member of the Upper Tribunal.”
- 16 In section 9(4) (contribution towards cost of surviving spouse's, surviving civil partner's and surviving children's pension), for “or (d) above,” substitute “, (d) or (e) above or in the case of persons to whom this Part applies by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007, ”.
- 17 (1) In section 12(1) (transfer of accrued benefits under judicial pension schemes in certain cases where person held qualifying judicial office before 31st March 1995)—
- (a) for “or (d)” substitute “, (d) or (e) ”,
  - (b) after “of section 1(1) above” insert “ or by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 ”, and
  - (c) omit paragraph (b) (which is superseded by the new section 12B inserted by this Part of this Schedule).
- (2) In the sidenote to section 12, for the words after “Transfer of rights” substitute “ under judicial pension schemes ”.
- 18 After section 12 insert—

**“12A Transfer of rights under other public service pension schemes**

- (1) Where this Part—
- (a) begins, on or after the day on which this section comes into force, to apply to a person by virtue of section 1(1)(d) above, or
  - (b) begins to apply to a person—
    - (i) by virtue of section 1(1)(e) above, or
    - (ii) by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007,
 any relevant public service pension rights of his shall be transferred to the scheme constituted by this Part.
- (2) Where a person's rights under a public service pension scheme are transferred under subsection (1) above—
- (a) that scheme shall no longer have effect in relation to him, and
  - (b) no pension or lump sum under the scheme shall be paid to or in respect of him.
- (3) Regulations may make provision—
- (a) for calculating, whether by actuarial assessment or otherwise, the amount or value of the rights transferred under subsection (1) above, and
  - (b) prescribing the manner in which those rights are to be given effect under this Part.

*Status: Point in time view as at 01/01/2010.*

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- (4) Without prejudice to the generality of paragraph (b) of subsection (3) above, regulations under that paragraph may provide for rights transferred under subsection (1) above to be given effect by crediting the person in question with such service, on or after the day on which this Part first applies to the person, as may be prescribed.
- (5) For the purposes of this section, a person's "relevant public service pension rights" are the person's accrued rights to benefit under any public service pension scheme, but this is subject to subsections (6) to (8) below.
- (6) A person's rights under a public service pension scheme are not "relevant public service pension rights" if the scheme is a judicial pension scheme other than—
- (a) the principal civil service pension scheme, or
  - (b) the principal civil service pension scheme for the civil service of Northern Ireland.
- (7) A person's rights—
- (a) under the principal civil service pension scheme, or
  - (b) under the principal civil service pension scheme for the civil service of Northern Ireland,
- are not "relevant public service pension rights" if they are transferred under section 12 above.
- (8) A person's rights under a public service pension scheme are not "relevant public service pension rights" unless at least some of his service which was subject to the scheme was qualifying tribunal service and, in that event, all of his rights under the scheme shall be regarded as relevant public service pension rights.
- (9) In this section—
- "prescribe" means prescribe in regulations;
  - "public service pension scheme" means any public service pension scheme, as defined in—
    - (a) section 1 of the Pension Schemes Act 1993, or
    - (b) section 1 of the Pension Schemes (Northern Ireland) Act 1993;
  - "qualifying tribunal service" means—
    - (a) service as, or as a member of, a tribunal specified in a list in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 that has effect for the purposes of section 30 of that Act, or
    - (b) service as an authorised decision-maker for a tribunal, within the meaning given by section 31(4) of that Act;
  - "regulations" means regulations made by the Lord Chancellor with the concurrence of the Treasury.

## **12B Rate of pension etc. where rights transferred under section 12 or 12A**

Entitlement to, and the rate or amount of, any judicial pension or derivative benefit payable under this Part to or in respect of a person whose rights are transferred under section 12 or 12A above shall be determined by reference to—

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- (a) any rights of his that are transferred under section 12 above,  
 (b) any rights of his that are transferred under section 12A above, and  
 (c) his service in qualifying judicial office on or after the day on which this Part first applies to him.”
- 19 In section 23 (which provides that Schedule 2 does not apply to transfers under section 12), after “section 12” insert “ or 12A ”.

## SCHEDULE 10 **U.K.**

Section 50

### AMENDMENTS RELATING TO JUDICIAL APPOINTMENTS

#### PART 1 **U.K.**

##### AMENDMENTS

- 1 (1) Paragraph 2A of the Schedule to the War Pensions (Administrative Provisions) Act 1919 (c. 53) (legally qualified member of Pensions Appeal Tribunals) is amended as follows.
- (2) For paragraph (a) substitute—  
 “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In paragraphs (b) and (c), for “7” substitute “ 5 ”.
- 2 (1) Section 109 of the London Building Acts (Amendment) Act 1939 (c. xcvi) is amended as follows.
- (2) For subsection (1)(b) (tribunal of appeal: Lord Chancellor's nominee) substitute—  
 “(b) A person is eligible to be nominated by the Lord Chancellor under paragraph (a) or (h) of this subsection only if the person—  
 (i) is a solicitor of the Senior Courts of England and Wales,  
 (ii) is a barrister in England and Wales, or  
 (iii) has a qualification that is specified under subsection (4) of this section;”.
- (3) After subsection (3) insert—  
 “(4) The Lord Chancellor may by order specify a qualification for the purposes of paragraph (b) of subsection (1) of this section.
- (5) Subsections (2) to (4), (9), (10) and (12) to (14) of section 51 of the Tribunals, Courts and Enforcement Act 2007 (contents of and procedure for orders under subsection (1) of that section, and cessation of effect of such orders) shall apply for the purposes of subsection (4) of this section as they apply for the purposes of subsection (1) of that section, but as if the reference in subsection (3) of that section to section 50 of that Act were a reference to this section.
- (6) For the purposes of paragraph (b) of subsection (1) of this section, a person shall be taken first to become a barrister—

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- (a) when the person completes pupillage in connection with becoming a barrister, or
  - (b) in the case of a person not required to undertake pupillage in connection with becoming a barrister, when the person is called to the Bar of England and Wales.
- (7) For the purposes of paragraph (b) of subsection (1) of this section, a person shall be taken not to be a solicitor or a barrister, or not to have a qualification specified under subsection (4) of this section, if as a result of disciplinary proceedings he is prevented from practising as a solicitor or (as the case may be) as a barrister or as a holder of the specified qualification.”
- (4) At any time before the coming into force of section 59(1) of the Constitutional Reform Act 2005 (c. 4) (renaming of Supreme Court), the reference to the Senior Courts in the section 109(1)(b) substituted by sub-paragraph (2) is to be read as a reference to the Supreme Court.
- 3 (1) Paragraph 2A(2) of the Schedule to the Pensions Appeal Tribunals Act 1943 (c. 39) (legally qualified members of Pensions Appeal Tribunals) is amended as follows.
  - (2) For paragraph (a) substitute—
    - “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
  - (3) In paragraphs (b) and (c), for “seven” substitute “ five ”.
- 4 In paragraph 13(1) of Schedule 9 to the Agriculture Act 1947 (chairman of agricultural land tribunal), for the words from “person” to the end substitute “ person who satisfies the judicial-appointment eligibility condition on a 5-year basis.”
- 5 F7 .....

#### Textual Amendments

F7 Sch. 10 para. 5 repealed (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(5), [Sch. 4](#) (with Sch. 5)

- 6 (1) The Courts-Martial (Appeals) Act 1951 (c. 46) is amended as follows.
  - (2) In section 31(1) (Judge Advocate General)—
    - (a) for paragraph (a) substitute—
      - “(a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and
    - (b) in paragraphs (b) and (c), for “10” (in each place where it occurs) substitute “ 7 ”.
  - (3) In section 31(2) (Vice Judge Advocate General and assistants)—
    - (a) for paragraph (a) substitute—
      - “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”, and
    - (b) in paragraphs (b) and (c), for “7” (in each place where it occurs) substitute “ 5 ”.

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- 7 In section 12(2) of the City of London (Courts) Act 1964 (c. iv) (Common Serjeant), for the words from “he has a 10 year” to the end substitute “ he satisfies the judicial-appointment eligibility condition on a 7-year basis. ”
- 8 (1) Section 4(2) of the Taxes Management Act 1970 (c. 9) (Special Commissioners) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;”.
- (3) In paragraphs (b) and (c), for “10” substitute “ 7 ”.
- 9 (1) The Courts Act 1971 (c. 23) is amended as follows.
- (2) In section 16(3) (Circuit judges), for paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;”.
- (3) In section 21(2) (recorders), for the words from “he has a 10 year” to the end substitute “ he satisfies the judicial-appointment eligibility condition on a 7-year basis. ”
- (4) In section 24(1)(b) (assistant recorders), for the words from “any person who has a 10 year” to the end substitute “ any person who satisfies the judicial-appointment eligibility condition on a 7-year basis. ”
- 10 (1) Paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 (c. 38) (tribunal chairmen) is amended as follows.
- (2) For sub-paragraph (i) substitute—
- “(i) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In sub-paragraphs (ii) and (iii), for “7” substitute “ 5 ”.
- 11 <sup>F8</sup> .....

#### Textual Amendments

**F8** Sch. 10 para. 11 repealed (1.9.2009) by [The Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009 \(S.I. 2009/1835\)](#), art. 4(3), **Sch. 3** (with Sch. 4)

- 12 (1) Paragraph 4(1)(a) of Schedule 3 to the Industry Act 1975 (c. 68) (presidents of arbitration tribunals) is amended as follows.
- (2) For sub-paragraph (i) substitute—
- “(i) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis; or”.
- (3) In sub-paragraph (ii), for “7” substitute “ 5 ”.
- 13 (1) The Supreme Court Act 1981 (c. 54) is amended as follows.
- (2) In section 10(3) (Lord Justice of Appeal and puisne judge of High Court), in paragraphs (b) and (c), for sub-paragraph (i) substitute—

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“(i) he satisfies the judicial-appointment eligibility condition on a 7-year basis; or”.

(3) For Schedule 2 (eligibility for appointment to certain offices) substitute—

“SCHEDULE  
2 **U.K.**

Sections 88 to 95

LIST OF OFFICES IN SENIOR COURTS FOR PURPOSES OF PART 4

PART 1 **U.K.**

<i>Office</i>	<i>Persons qualified</i>
Official Solicitor	A person who has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990).

PART 2 **U.K.**

<i>Office</i>	<i>Persons qualified</i>
Master, Queen's Bench Division	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals	A person who satisfies the judicial-appointment eligibility condition on a 7-year basis.
Admiralty Registrar	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
Master, Chancery Division	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
Registrar in Bankruptcy of the High Court	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
Taxing Master of the Senior Courts	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
District judge of the principal registry of the Family Division	<ol style="list-style-type: none"><li>1. A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.</li><li>2. A district probate registrar who either—<ol style="list-style-type: none"><li>(a) is of at least 5 years' standing, or</li><li>(b) has, during so much of the 5 years immediately preceding his appointment</li></ol></li></ol>

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as he has not been a district probate registrar, served as a civil servant in the principal registry or a district probate registry.

3. A civil servant who has served at least 7 years in the principal registry or a district probate registry.

### PART 3 U.K.

<i>Office</i>	<i>Persons qualified</i>
District probate registrar	1. A person who satisfies the judicial-appointment eligibility condition on a 5-year basis. 2. A civil servant who has served at least 5 years in the principal registry of the Family Division or a district probate registry.”

(4) Part 2 of the Schedule substituted by sub-paragraph (3) of this paragraph shall have effect until the coming into force of section 45(6) of the Mental Capacity Act 2005 (c. 9) as if it also contained the following entry—

“Master of the Court of Protection	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.”
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(5) At any time before the coming into force of section 59(1) of the Constitutional Reform Act 2005 (c. 4) (renaming of Supreme Court), the references to the Senior Courts in the Schedule substituted by sub-paragraph (3) of this paragraph are to be read as references to the Supreme Court.

14 In section 130(2) of the Representation of the People Act 1983 (c. 2) (election court), for paragraph (a) substitute—

“(a) unless he satisfies the judicial-appointment eligibility condition on a 7-year basis; or”.

15 In section 9 of the County Courts Act 1984 (c. 28) (district judges and deputy district judges), for the words from “he has” to the end substitute “ he satisfies the judicial-appointment eligibility condition on a 5-year basis. ”

16 (1) Paragraph 5 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17) (umpires and deputy umpires) is amended as follows.

(2) For paragraph (a) substitute—

“(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;”.

(3) In paragraphs (b) and (c), for “10” substitute “ 7 ”.

17 (1) Paragraph 2 of Schedule 4 to the Transport Act 1985 (c. 67) is amended as follows.

(2) In sub-paragraph (2) (president of Transport Tribunal)—

(a) for paragraph (a) substitute—





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### Textual Amendments

- F9** Sch. 10 para. 22(2)(4)(5) repealed (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), [Sch. 3 para. 228\(q\)](#)

23 **F10** .....

### Textual Amendments

- F10** Sch. 10 para. 23 repealed (1.9.2009) by [The Transfer of Functions of the Charity Tribunal Order 2009 \(S.I. 2009/1834\)](#), art. 4(3), [Sch. 3](#) (with Sch. 4)

- 24 (1) Schedule 12 to the Value Added Tax Act 1994 (c. 23) is amended as follows.
- (2) In paragraph 2(2) (President of VAT and duties tribunals)—
- (a) for paragraph (a) substitute—
- “(a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and
- (b) in paragraphs (b) and (c), for “10” substitute “ 7 ”.
- (3) In paragraph 7(4) (panel of chairmen)—
- (a) for paragraph (a) substitute—
- “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis; or”, and
- (b) in paragraph (b) and in the words after that paragraph, for “7” substitute “ 5 ”.
- 25 (1) Section 77(2) of the Trade Marks Act 1994 (c. 26) (persons appointed to decide appeals from registrar) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In paragraphs (b) and (c), for “7” substitute “ 5 ”.
- 26 (1) Sections 96(7) and 264(6) of the Merchant Shipping Act 1995 (c. 21) (arbitrators) are amended as follows.
- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;”.
- (3) In paragraphs (b) and (c), for “10” substitute “ 7 ”.
- 27 In paragraph 1(1)(a) of Schedule 6 to the Police Act 1996 (c. 16) (legally qualified member of Police Appeals Tribunals), for the words from “have a seven” to “1990” substitute “ satisfy the judicial-appointment eligibility condition on a 5-year basis ”.
- 28 In section 334(1) of the Education Act 1996 (c. 56) (President and members of chairmen's panel of Special Educational Needs and Disability Tribunal), for the words from “has” to the end substitute “ satisfies the judicial-appointment eligibility condition on a 5-year basis. ”
- 29 **F11** .....

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**Textual Amendments**

**F11** Sch. 10 para. 29 repealed (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), [Sch. 3 para. 228\(r\)](#)

30 (1) Section 6(5) of the Data Protection Act 1998 (c. 29) (chairman and deputy chairmen of Information Tribunal) is amended as follows.

(2) For paragraph (a) substitute—

“(a) persons who satisfy the judicial-appointment eligibility condition on a 5-year basis.”.

(3) In paragraphs (b) and (c), for “7” substitute “ 5 ”.

31 **F12** .....

**Textual Amendments**

**F12** Sch. 10 para. 31 repealed (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), [Sch. 3 para. 228\(q\)](#)

32 (1) Paragraph 11 of Schedule 7 to the Immigration and Asylum Act 1999 (c. 33) (President and other members of Immigration Services Tribunal) is amended as follows.

(2) For paragraph (a) substitute—

“(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;”.

(3) In paragraphs (b) and (c), for “7” substitute “ 5 ”.

33 (1) Paragraph 1(1) of Schedule 3 to the Regulation of Investigatory Powers Act 2000 (c. 23) (members of tribunal) is amended as follows.

(2) For paragraph (b) substitute—

“(b) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;”.

(3) In paragraphs (c) and (d), for “ten” substitute “ seven ”.

34 (1) Schedule 13 to the Financial Services and Markets Act 2000 (c. 8) is amended as follows.

(2) In paragraph 2(5) (President of Financial Services and Markets Tribunal)—

(a) for paragraph (a) substitute—

“(a) satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and

(b) in paragraphs (b) and (c)(i) and (ii), for “ten” substitute “ 7 ”.

(3) In paragraph 3(2) (panel of chairmen)—

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- (a) for paragraph (a) substitute—  
     “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;”, and  
 (b) in paragraphs (b) and (c)(i) and (ii), for “seven” substitute “ 5 ”.
- 35 (1) The Land Registration Act 2002 (c. 9) is amended as follows.  
 (2) In section 107(2) (Adjudicator to Her Majesty's Land Registry), for the words from “have” to the end substitute “ satisfy the judicial-appointment eligibility condition on a 7-year basis. ”  
 (3) In paragraph 4(2) of Schedule 9 (delegation by adjudicator of non-administrative functions to staff), for the words from “has” to the end substitute “ satisfies the judicial-appointment eligibility condition on a 7-year basis. ”
- 36 (1) Paragraph 1 of Schedule 2 to the Enterprise Act 2002 (c. 40) is amended as follows.  
 (2) In sub-paragraph (1) (President of Competition Appeal Tribunal)—  
     (a) for paragraph (a) substitute—  
         “(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and  
     (b) in paragraphs (b) and (c), for “10” substitute “ 7 ”.  
 (3) In sub-paragraph (2) (chairmen)—  
     (a) for paragraph (a) substitute—  
         “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;”, and  
     (b) in paragraphs (b) and (c), for “7” substitute “ 5 ”.
- 37 (1) Paragraph 2(1) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (c. 41) (members of Asylum and Immigration Tribunal) is amended as follows.  
 (2) For paragraph (a) substitute—  
     “(a) satisfies the judicial-appointment eligibility condition on a 5-year basis;”.  
 (3) In paragraphs (b) and (c), for “seven” substitute “ 5 ”.
- 38 (1) The Courts Act 2003 (c. 39) is amended as follows.  
 (2) In section 22(1) (District Judges (Magistrates' Courts)), for “has a 7 year general qualification” substitute “ satisfies the judicial-appointment eligibility condition on a 5-year basis ”.  
 (3) In section 24(1) (Deputy District Judges (Magistrates' Courts)), for “has a 7 year general qualification” substitute “ satisfies the judicial-appointment eligibility condition on a 5-year basis ”.
- 39 In section 81(2)(a) of the Traffic Management Act 2004 (c. 18) (adjudicators), for the words from “have” to the end substitute “ satisfy the judicial-appointment eligibility condition on a 5-year basis; ”.
- 40 (1) Schedule 4 to the Pensions Act 2004 (c. 35) is amended as follows.

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- (2) In paragraph 1(2) (panel of chairmen of Pensions Regulator Tribunal)—
- (a) for paragraph (a) substitute—
    - “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis,” and
    - (b) in paragraphs (b), (c) and (d), for “7” substitute “ 5 ”.
  - (3) In paragraph 2(5) (President or Deputy President)—
    - (a) for paragraph (a) substitute—
      - “(a) satisfies the judicial-appointment eligibility condition on a 7-year basis,” and
      - (b) in paragraphs (b), (c) and (d), for “10” substitute “ 7 ”.
- 41 (1) Section 25 of the Constitutional Reform Act 2005 (c. 4) (judges of the Supreme Court) is amended as follows.
- (2) In subsection (1), for paragraph (b) and the word “or” immediately preceding it substitute—
    - “(b) satisfied the judicial-appointment eligibility condition on a 15-year basis, or
    - (c) been a qualifying practitioner for a period of at least 15 years.”
  - (3) In subsection (2), omit paragraph (a).
- 42 In paragraph 1(2) of Schedule 3 to the Education Act 2005 (c. 18) (Chairman of tribunal hearing appeals under section 27 of that Act), for the words from “have a” to the end substitute “ satisfy the judicial-appointment eligibility condition on a 5-year basis. ”
- 43 (1) Paragraph 2 of Schedule 8 to the Gambling Act 2005 (c. 19) (President and members of Gambling Appeals Tribunal) is amended as follows.
- (2) For paragraph (a) substitute—
    - “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis.”.
  - (3) In paragraphs (b) and (c), for “seven” substitute “ 5 ”.
- 44 (1) Schedule 13 to the National Health Service Act 2006 (c. 41) is amended as follows.
- (2) For paragraph 3 (President and Deputy President of Family Health Services Appeal Authority) substitute—
    - “3 (1) A person is eligible to be appointed as the President only if he satisfies the judicial-appointment eligibility condition on a 7-year basis.
    - (2) A person is eligible to be appointed as a Deputy President only if he satisfies the judicial-appointment eligibility condition on a 5-year basis.”
  - (3) In paragraph 6(2)(a) (other members), for “with a 7 year general qualification (construed as in paragraph 3)” substitute “ who satisfy the judicial-appointment eligibility condition on a 5-year basis ”.

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- (4) In paragraph 9 (composition of panels), for the words from “must” to the end substitute “ must satisfy the judicial-appointment eligibility condition on a 5-year basis.”

## PART 2 U.K.

### AMENDMENTS RELATING TO ENACTMENTS ALREADY REPEALED

- 45 (1) This Part of this Schedule contains amendments of enactments that have already been repealed by provisions of other Acts.
- (2) In each case—
- (a) the repealing provision is specified in relation to the enactment being amended, and
  - (b) the amendment has effect only until the repealing provision is fully commenced in relation to the enactment amended.
- 46 (1) In section 6 of the Appellate Jurisdiction Act 1876 (c. 59) (Lords of Appeal in Ordinary)—
- (a) for the words from “for not less than fifteen” to the end of paragraph (a) substitute—
    - “(a) a person who satisfies the judicial-appointment eligibility condition on a 15-year basis;”, and
    - (b) at the beginning of each of paragraphs (b) and (c) insert “ for not less than fifteen years,”.
  - (2) In relation to the enactment referred to in sub-paragraph (1), the repealing provision is paragraph 9 of Schedule 17 to the Constitutional Reform Act 2005 (c. 4).
- 47 (1) In section 28(2) of the Courts-Martial (Appeals) Act 1951 (c. 46) (Judge Advocate of Her Majesty's Fleet)—
- (a) for paragraph (a) substitute—
    - “(a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and
    - (b) in paragraphs (b) and (c), for “10” (in each place where it occurs) substitute “7”.
  - (2) In section 84B(2) of each of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) and the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) (judge advocates), for paragraph (a) substitute—
    - “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
  - (3) In section 103B(5) of each of those Acts (qualified officers in field general courts-martial), for paragraph (a) substitute—
    - “(a) a person who is a barrister or solicitor in England and Wales;”.
  - (4) In section 53B(2) of the Naval Discipline Act 1957 (c. 53) (judge advocates), for paragraph (a) substitute—
    - “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
  - (5) In relation to the enactments referred to in sub-paragraphs (1) to (4), the repealing provision is Schedule 17 to the Armed Forces Act 2006 (c. 52).

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- 48 (1) In section 29(2)(a) of the Betting, Gaming and Lotteries Act 1963 (c. 2) (chairman of Levy Appeal Tribunal)—
- (a) for sub-paragraph (i) substitute—
- “(i) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis; or”, and
- (b) in sub-paragraph (ii), for “7” substitute “5”.
- (2) In relation to the enactment referred to in sub-paragraph (1), the repealing provision is section 356(3)(f) of the Gambling Act 2005 (c. 19).
- 49 (1) In section 17(1)(a) of the Commons Registration Act 1965 (c. 64) (Commons Commissioners), for the words from “persons” to “1990,” substitute “ persons who satisfy the judicial-appointment eligibility condition on a 5-year basis ”.
- (2) In relation to the enactment referred to in sub-paragraph (1), the repealing provision is Part 1 of Schedule 6 to the Commons Act 2006 (c. 26).
- 50 (1) In section 73(4) of the Road Traffic Act 1991 (c. 40) (parking adjudicator), for the words from “have” to the end substitute “ satisfy the judicial-appointment eligibility condition on a 5-year basis. ”
- (2) In relation to the enactment referred to in sub-paragraph (1), the repealing provision is Part 1 of Schedule 12 to the Traffic Management Act 2004 (c. 18).

## SCHEDULE 11 U.K.

Section 56

### DISTRICT JUDGES AND DEPUTY DISTRICT JUDGES

#### *Supreme Court Act 1981 (c. 54)*

- 1 The Supreme Court Act 1981 is amended as set out in paragraphs 2 and 3.
- 2 In section 100 (district judges), after subsection (4) insert—
- “(5) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1).”
- 3 (1) Section 102 (deputy district judges) is amended as follows.
- (2) For subsections (1) and (2) (appointment of deputy district judges to district registries) substitute—
- “(1) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the High Court, he may appoint a person to be a deputy district judge.
- (1A) A person is qualified for appointment under subsection (1) only if the person—
- (a) is qualified for appointment as a district judge, or
- (b) holds, or has held, the office of district judge.
- (1B) The Lord Chancellor may not appoint a person under subsection (1) without the concurrence of the Lord Chief Justice if the person—

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- (a) holds the office of district judge, or
  - (b) ceased to hold the office of district judge within two years ending with the date when the appointment takes effect.
- (1C) Section 85 of the Constitutional Reform Act 2005 (c. 4) (selection of certain office holders) does not apply to an appointment to which subsection (1B) applies.”
- (3) In subsection (3) (former district judge may be appointed as deputy even though too old to be appointed as a district judge, but no appointment by virtue of the subsection may extend beyond age 75), for the words from the beginning to “by virtue of this subsection” substitute “ No appointment to which subsection (1B) applies ”.
- (4) For subsection (4) (powers of deputy district judges) substitute—
- “(4A) The Lord Chief Justice, after consulting the Lord Chancellor—
- (a) may assign a deputy district judge appointed under this section to one or more district registries;
  - (b) may change an assignment so as to assign the deputy district judge to a different district registry or registries (or to no district registry).
- (4B) A deputy district judge appointed under this section and assigned to a district registry has, while acting under his assignment, the same jurisdiction as a district judge assigned to that registry.
- (4C) Every deputy district judge appointed under this section is, by virtue of his office, capable of acting as a district judge in any district registry to which he is not assigned, but may act in a district registry to which he is not assigned only in accordance with arrangements made by or on behalf of the Lord Chief Justice.”
- (5) After subsection (5) insert—
- “(5A) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1B) or (4A).”
- 4 (1) This paragraph applies to a person holding office as a deputy district judge under section 102 of the Supreme Court Act 1981 (c. 54) by virtue of an appointment made before the commencement of paragraph 3 (“the commencement date”).
- (2) If the person had held the office of district judge before his appointment, the person is to be treated after the commencement date as if section 102(1B) of that Act had applied to his appointment (and had been complied with).
- (3) The person is to be treated after the commencement date as assigned under section 102(4A) of that Act to the district registry for which he was appointed.

*County Courts Act 1984 (c. 28)*

5 The County Courts Act 1984 is amended as set out in paragraphs 6 to 9.

6 In section 6 (district judges), after subsection (6) insert—

“(7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (2).”



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- 7 (1) Section 8 (deputy district judges) is amended as follows.
- (2) For subsection (1) (appointment and powers of deputy district judges) substitute—
- “(1) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the county courts, he may appoint a person to be a deputy district judge.
- (1ZA) A person is qualified for appointment under subsection (1) only if the person—
- (a) is qualified for appointment as a district judge, or
- (b) holds, or has held, the office of district judge.
- (1ZB) The Lord Chancellor may not appoint a person under subsection (1) without the concurrence of the Lord Chief Justice if the person—
- (a) holds the office of district judge, or
- (b) ceased to hold the office of district judge within two years ending with the date when the appointment takes effect.
- (1ZC) Section 85 of the Constitutional Reform Act 2005 (c. 4) (selection of certain office holders) does not apply to an appointment to which subsection (1ZB) applies.”
- (3) In subsection (1A)(a) (duration of appointment as deputy district judge of person who previously held office as district judge), for “if he has previously held office as a district judge,” substitute “ if subsection (1ZB) applies to the appointment, ”.
- (4) After subsection (1A) insert—
- “(1B) The Lord Chief Justice, after consulting the Lord Chancellor—
- (a) may assign a deputy district judge appointed under this section to one or more districts;
- (b) may change an assignment so as to assign the deputy district judge to a different district or districts (or to no district).
- (1C) A deputy district judge appointed under this section and assigned to a district has, while acting under his assignment, the same powers as if he were a district judge assigned to the district.
- (1D) Every deputy district judge appointed under this section is, by virtue of his office, capable of acting as a district judge in any district to which he is not assigned, but may act in a district to which he is not assigned only in accordance with arrangements made by or on behalf of the Lord Chief Justice.”
- (5) After subsection (3) insert—
- “(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1ZB) or (1B).”
- 8 In section 9(qualifications for appointment as a district judge, or as a deputy district judge for a county court district)—
- (a) omit “, or deputy district judge”, and
- (b) in the heading, after “Qualifications” insert “ for appointment as district judge ”.

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- 9 In section 147(1) (interpretation of Act), in the definition of “officer” (which provides that “officer”, in relation to a county court, includes a district judge or deputy district judge of that court), for the words after “means” and before “and any clerk” substitute “any district judge or deputy district judge assigned to that court”.
- 10 (1) This paragraph applies to a person holding office as a deputy district judge under section 8 of the County Courts Act 1984 (c. 28) by virtue of an appointment made before the commencement of paragraph 7 (“the commencement date”).
- (2) If the person had held the office of district judge before his appointment, the person is to be treated after the commencement date as if section 8(1ZB) of that Act had applied to his appointment (and had been complied with).
- (3) If sub-paragraph (2) does not apply, the person is to be treated after the commencement date as appointed under section 8(1) of that Act.
- (4) The person is to be treated after the commencement date as assigned under section 8(1B) of that Act to the county court district for which he was appointed.

*Judicial Pensions and Retirement Act 1993 (c. 8)*

- 11 The Judicial Pensions and Retirement Act 1993 is amended as follows.
- 12 In section 26(7) (certain offices for which retirement date is age 75), for paragraph (g) (certain deputy district judges) substitute—
- “(g) hold office as a deputy district judge if either section 102(1B) of that Act (former district judge appointed as deputy in the High Court) or section 8(1ZB) of the County Courts Act 1984 (former district judge appointed as deputy in the county courts) applied to the appointment.”.
- 13 (1) Schedule 5 (“the relevant offices” for the purposes of the retirement provisions) is amended as follows.
- (2) In the entry for a deputy district judge appointed under section 102 of the Supreme Court Act 1981, for the words after “except in a case where” substitute “subsection (1B) of that section applied to the appointment of the person in question”.
- (3) In the entry for a deputy district judge appointed under section 8 of the County Courts Act 1984, for the words after “except in a case where” substitute “subsection (1ZB) of that section applied to the appointment of the person in question”.

*Courts Act 2003 (c. 39)*

- 14 In section 64(2) of the Courts Act 2003 (power to alter listed judicial titles), in the entry for a deputy district judge for a county court district, for “for a county court district” substitute “appointed under section 8 of the County Courts Act 1984”.

*Constitutional Reform Act 2005 (c. 4)*

- 15 In Part 2 of Schedule 14 to the Constitutional Reform Act 2005 (certain offices to which appointments are made by the Lord Chancellor)—
- (a) in the entry for a deputy district judge in a district registry of the High Court, omit “in a district registry of the High Court”, and

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- (b) in the entry for a deputy district judge for a county court district, omit “for a county court district”.

VALID FROM 15/07/2013

SCHEDULE 12 **E+W**

Section 62(1)

TAKING CONTROL OF GOODS

**Modifications etc. (not altering text)**

**C5** Sch. 12 applied (prosp.) by Finance Act 2008 (c. 9), ss. 127(2), 129(4)

VALID FROM 06/04/2014

SCHEDULE 13 **E+W**

Section 62(3)

TAKING CONTROL OF GOODS: AMENDMENTS

VALID FROM 06/04/2014

SCHEDULE 14 **E+W**

Section 86

RENT ARREARS RECOVERY: AMENDMENTS

*Distress for Rent Act 1689 (c. 5)*

1 The Distress for Rent Act 1689 ceases to have effect.

*Landlord and Tenant Act 1709 (c. 18)*

2 In the Landlord and Tenant Act 1709 omit the following—  
(a) section 1;  
(b) sections 6 to 8.

*Landlord and Tenant Act 1730 (c. 28)*

3 In the Landlord and Tenant Act 1730 omit section 5.

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*Distress for Rent Act 1737 (c. 19)*

- 4 In the Distress for Rent Act 1737 the following cease to have effect—
- (a) sections 1 to 10;
  - (b) sections 16 and 17;
  - (c) section 19.

*Deserted Tenements Act 1817 (c. 52)*

- 5 The Deserted Tenements Act 1817 ceases to have effect.

*Fines and Recoveries Act 1833 (c. 74)*

- 6 (1) In section 67 of the Fines and Recoveries Act 1833 (assignees to recover rent of the lands of a bankrupt), for the words from “or may distrain” to “recovering of rent in arrear;” substitute “ or, so far as the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) is exercisable to recover any of those rents and profits, may exercise that power, as if they were the landlord, on behalf of the creditors; ”.
- (2) This paragraph does not extend to Northern Ireland.

*Metropolitan Police Courts Act 1840 (c. 84)*

- 7 The Metropolitan Police Courts Act 1840 ceases to have effect.

*Execution Act 1844 (c. 96)*

- 8 The Execution Act 1844 ceases to have effect.

*Lands Clauses Consolidation Act 1845 (c. 18)*

- 9 (1) In section 11 of the Lands Clauses Consolidation Act 1845 (payment of rents to be charged on tolls) omit the words from “or it shall be lawful” to the end.
- (2) This paragraph extends only to England and Wales.

*Inclosure Act 1845 (c. 118)*

- 10 In section 112 of the Inclosure Act 1845 (recovery of rents of allotment) for “by distress” substitute “ under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) ”.

*Markets and Fairs Clauses Act 1847 (c. 14)*

- 11 (1) Section 38 of the Markets and Fairs Clauses Act 1847 (recovery of stallage, rents or tolls) is amended as follows.
- (2) The existing words become subsection (1).
- (3) After “England” insert “ (subject to subsection (2)) ”.
- (4) After subsection (1) insert—

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“(2) Subsection (1) does not apply to the levying of rent in respect of premises in England and Wales to the extent that the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) is exercisable to recover such rent.

(3) Where that power is exercisable to recover such rent, either the undertakers or their lessee, if not the landlord for the purposes of section 72(1) of that Act, may exercise that power as if they or he were the landlord.”

(5) This paragraph extends only to England and Wales.

*Sequestration Act 1849 (c. 67)*

12 (1) Section 1 of the Sequestration Act 1849 (sequestrator enabled to sue etc. in his own name) is amended as follows.

(2) For “levy any distress” substitute “ exercise the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) ”.

(3) Omit the words “levy” and “distress” in the second place where each occurs.

(4) Omit “levied”.

*Landlord and Tenant Act 1851 (c. 25)*

13 (1) The Landlord and Tenant Act 1851 ceases to have effect.

(2) This paragraph extends only to England and Wales.

*Common Law Procedure Act 1852 (c. 76)*

14 The Common Law Procedure Act 1852 is amended as follows.

15 In section 210 (proceedings in ejectment by landlord for non-payment of rent), for “and that no sufficient distress was to be found on the demised premises, countervailing the arrears then due” substitute “ and that either of the conditions in section 210A was met in relation to the arrears ”.

16 After that section insert—

**“210A Conditions relating to commercial rent arrears recovery**

(1) The first condition is that the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) was not exercisable to recover the arrears.

(2) The second condition is that there were not sufficient goods on the premises to recover the arrears by that power.”

*Improvement of Land Act 1864 (c. 114)*

17 (1) In section 64 of the Improvement of Land Act 1864 (interest on arrears of rentcharges), for the words from “a sufficient distress” to “charges of such distress” substitute “ goods that would be sufficient to pay the amount outstanding under

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Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) ”.

(2) This paragraph extends only to England and Wales.

*Railway Rolling Stock Protection Act 1872 (c. 50)*

18 (1) The Railway Rolling Stock Protection Act 1872 ceases to have effect.

(2) This paragraph extends only to England and Wales.

*Law of Distress Amendment Act 1888 (c. 21)*

19 The Law of Distress Amendment Act 1888 ceases to have effect.

*Law of Distress Amendment Act 1908 (c. 53)*

20 The Law of Distress Amendment Act 1908 ceases to have effect.

*Law of Property Act 1925 (c. 20)*

21 The Law of Property Act 1925 is amended as follows.

22 In section 109 (powers etc. of receiver appointed by mortgagee), in subsection (3), for “, distress” substitute “or under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) ”.

23 Section 121(2) ceases to have effect.

24 In section 150 (surrender of a lease, without prejudice to underleases with a view to the grant of a new lease), in subsection (5), for “by distress or” substitute “under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) or by ”.

25 In section 162 (restrictions on the perpetuity rule) in subsection (1) omit paragraph (a).

26 In section 189 (indemnities against rents) omit subsection (1).

27 (1) Section 190 (equitable apportionment of rents and remedies for non-payment or breach of covenant) is amended as follows.

(2) Omit subsection (2).

(3) For subsections (4) and (5) substitute—

“(4) Subsection (5) applies where—

(a) any default is made in payment of the whole or part of a rent by the person (“the defaulter”) who, by reason of a charge or apportionment within subsection (3), is liable to pay it, and

(b) the lessee for the time being of any other land comprised in the lease, in whom, as respects that land, the residue of the term or interest created by the lease is vested, (“the paying lessee”) pays or is required to pay the whole or part of the rent which ought to have been paid by the defaulter.

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(5) Section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) applies, subject to the other provisions of Chapter 2 of Part 3 of that Act, to the recovery by the paying lessee from the defaulter of the rent paid by the paying lessee which ought to have been paid by the defaulter, as if the paying lessee were the landlord, and the defaulter his tenant, under the lease.”

(4) In subsection (7) omit “owner or”.

*Administration of Estates Act 1925 (c. 23)*

28 (1) Section 26 of the Administration of Estates Act 1925 (rights of action by and against personal representative) is amended as follows.

(2) Omit subsection (3).

(3) For subsection (4) substitute—

“(4) To recover rent due or accruing to the deceased, a personal representative may exercise any power under section 72(1) (commercial rent arrears recovery) or 81 (right to rent from sub-tenant) of the Tribunals, Courts and Enforcement Act 2007 that would have been exercisable by the deceased if he had still been living.”

*Leasehold Reform Act 1967 (c. 88)*

29 In section 15 of the Leasehold Reform Act 1967 (terms of tenancy to be granted on extension), in subsection (3) for “distress, re-entry or otherwise” substitute “ re-entry or otherwise (subject to section 85 of the Tribunals, Courts and Enforcement Act 2007) ”.

*Agriculture Act 1970 (c. 40)*

30 In section 85 of the Agriculture Act 1970 (exemption for certain sales), in paragraph (d) after “warrant of distress” insert “ or warrant of control ”.

*Rent (Agriculture) Act 1976 (c. 80)*

31 Section 8 of the Rent (Agriculture) Act 1976 ceases to have effect.

*Rent Act 1977 (c. 42)*

32 The Rent Act 1977 is amended as follows

33 In section 141(5) (county court jurisdiction) (until its repeal by the Courts and Legal Services Act 1990 (c. 41) comes into force) for “sections 147 and” substitute “ section ”.

34 Section 147 ceases to have effect.

*Limitation Act 1980 (c. 58)*

35 The Limitation Act 1980 is amended as follows

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

36 In section 19 (time limit for actions to recover rent) for “or distress made” substitute “ and the power conferred by section 72(1) of the Tribunals, Courts and Enforcement Act 2007 shall not be exercisable ”.

37 In section 38 (interpretation) omit “rentcharges and” and “rent or”.

*County Courts Act 1984 (c. 28)*

38 The County Courts Act 1984 is amended as follows.

39 Section 116 ceases to have effect.

40 In section 139, for subsection (1)(c) substitute—

- “(c) the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) is exercisable to recover the arrears; and
- (d) there are not sufficient goods on the premises to recover the arrears by that power.”.

*Agricultural Holdings Act 1986 (c. 5)*

41 The Agricultural Holdings Act 1986 is amended as follows.

42 Omit sections 16 to 19.

43 In section 24 (restriction of landlord's remedies for breach of contract of tenancy) omit “, by distress or otherwise,”.

*Insolvency Act 1986 (c. 45)*

44 (1) Section 347 of the Insolvency Act 1986 (distress etc.) is amended as follows.

(2) In subsection (1) for the words from the beginning to “available” substitute “ CRAR (the power of commercial rent arrears recovery under section 72(1) of the Tribunals, Courts and Enforcement Act 2007) is exercisable where the tenant is an undischarged bankrupt ”.

(3) In subsection (2)—

- (a) for the words from the beginning to “goods and effects of” substitute “ Where CRAR has been exercised to recover rent from ”;
- (b) for “that distress” substitute “ CRAR ”;
- (c) for “the distress was levied” substitute “ goods were taken control of under CRAR ”.

(4) In subsection (5) for the words from the beginning to “upon” substitute “ CRAR is not exercisable at any time after the discharge of a bankrupt against ”.

(5) Omit subsections (6) and (7).

(6) Omit subsection (11).

*Housing Act 1988 (c. 50)*

45 Omit section 19 of the Housing Act 1988.



*Status:* Point in time view as at 01/01/2010.

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Water Industry Act 1991 (c. 56)*

- 46 In section 179 of the Water Industry Act 1991 (vesting of works in undertaker) in subsection (4)(b) omit “or to the landlord's remedy for rent”.

*Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)*

- 47 In section 57 of the Leasehold Reform, Housing and Urban Development Act 1993 (terms on which new lease is to be granted), in subsection (2)(b)(ii) for “distress, re-entry or otherwise” substitute “ re-entry or otherwise (subject to section 85 of the Tribunals, Courts and Enforcement Act 2007) ”.

*Constitutional Reform Act 2005 (c. 4)*

- 48 In Schedule 7 to the Constitutional Reform Act 2005 (protected functions of the Lord Chancellor), in paragraph 4, omit the entry for the Law of Distress Amendment Act 1888.

PROSPECTIVE

SCHEDULE 15 **E+W**

Section 91

ATTACHMENT OF EARNINGS ORDERS: DEDUCTIONS AT FIXED RATES

**PART 1 E+W**

MAIN AMENDMENTS

*Introduction*

- 1 This Schedule amends the Attachment of Earnings Act 1971 (c. 32).

*Amendment of section 6: Effect and contents of order*

- 2 (1) For section 6(1)(a) (instruction to employer to make deductions from debtor's earnings) substitute—

“(a) to make periodical deductions from the debtor's earnings, as specified in the order; and”.

- (2) After section 6(1) insert—

“(1A) If [F28the county court] makes an attachment of earnings order to secure payment of a judgment debt, the order must specify that periodical deductions are to be made in accordance with the fixed deductions scheme.

(1B) If a court (whether [F28the county court] or another court) makes any other attachment of earnings order, the order must specify that periodical deductions are to be made in accordance with Part 1 of Schedule 3.”

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) In section 6(5) (order to specify normal deduction and protected earnings rates), for “the order” substitute “ a Schedule 3 deductions order ”.

#### Textual Amendments

**F28** Words in [Sch. 15 para. 2\(2\)](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

#### *Insertion of new section 6A*

3 After section 6 insert—

#### “6A The fixed deductions scheme

- (1) In this Act “fixed deductions scheme” means any scheme that the Lord Chancellor makes which specifies the rates and frequencies at which deductions are to be made under attachment of earnings orders so as to secure the repayment of judgment debts.
- (2) The Lord Chancellor is to make the fixed deductions scheme by regulations.
- (3) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (4) The Lord Chancellor may not make a statutory instrument containing the first regulations under subsection (2) unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (5) A statutory instrument containing any subsequent regulations under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.”

#### *Amendment of section 9: Variation, lapse and discharge of orders*

4 After section 9(1) (power of court to vary order) insert—

“(1A) Subsection (1) is subject to Schedule 3A (which deals with the variation of certain attachment of earnings orders by changing the basis of deductions).”

#### *Insertion of new section 9A*

5 After section 9 insert—

#### “9A Suspension of fixed deductions orders

- (1) [<sup>F29</sup>The county court] must make an order suspending a fixed deductions order if the court is satisfied of either or both of the following—
  - (a) that the fixed deductions order requires periodical deductions to be made at a rate which is not appropriate;

*Status: Point in time view as at 01/01/2010.*

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- (b) that the fixed deductions order requires periodical deductions to be made at times which are not appropriate.
- (2) The county court is to make the suspension order on the following terms—
  - (a) if the condition in subsection (1)(a) is met: on terms specifying the rate at which the debtor must make repayments (whether higher or lower than the rate at which the order requires the deductions to be made);
  - (b) if the condition in subsection (1)(b) is met: on terms specifying the times at which the debtor must make repayments;
  - (c) if either or both conditions are met: on any additional terms that the court thinks appropriate.
- (3) If the employer is given notice of the suspension order, the employer must cease to make the deductions required by the fixed deductions order; but the employer is under no liability for non-compliance before seven days have elapsed since service of the notice.
- (4) <sup>[F29]</sup>The county court]—
  - (a) must revoke the suspension order if any of the terms of the suspension order are broken;
  - (b) may revoke the suspension order in any other circumstances if the court thinks that it is appropriate to do so.
- (5) Rules of court may make provision as to the circumstances in which <sup>[F29]</sup>the county court] may of its own motion—
  - (a) make a suspension order; or
  - (b) revoke a suspension order.
- (6) The suspension of a fixed deductions order under this section does not prevent the order from being treated as remaining in force subject to the provisions of this section.
- (7) This section is without prejudice to any other powers of a court to suspend attachment of earnings orders or to revoke the suspension of such orders.
- (8) In this section, in relation to a fixed deductions order, “repayments” means repayments of the judgment debt to which the order relates.”

#### Textual Amendments

**F29** Words in [Sch. 15 para. 5](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

#### *Amendment of section 25: General interpretation*

6 In section 25(1) (meaning of particular words and phrases) insert the following entries at the appropriate place—

““fixed deductions order” means an attachment of earnings order under which periodical deductions are to be made in accordance with the fixed deductions scheme;”;

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

““fixed deductions scheme” has the meaning given by section 6A(1);”;

““Schedule 3 deductions order” means an attachment of earnings order under which periodical deductions are to be made in accordance with Part 1 of Schedule 3;”;

““suspension order” means an order under section 9A suspending a fixed deductions order;”.

### *Insertion of new Schedule 3A*

7 After Schedule 3 insert—

## “SCHEDULE 3A **E+W**”

### CHANGING THE BASIS OF DEDUCTIONS

#### PART 1 **E+W**

#### CHANGING TO THE FIXED DEDUCTIONS SCHEME

##### *Introduction*

- 1 This Part of this Schedule deals with the variation of a certain kind of attachment of earnings order — referred to as a Schedule 3 judgment debt order — by changing the basis of deductions.
- 2 A Schedule 3 judgment debt order is a Schedule 3 deductions order made by [<sup>F30</sup>the county court] to secure payment of a judgment debt.
- 3 References to variation of a Schedule 3 judgment debt order by changing the basis of deductions are references to the variation of the order so that it specifies that periodical deductions are to be made in accordance with the fixed deductions scheme.

##### *Variation at discretion of court*

- 4 (1) [<sup>F30</sup>The county court] may vary a Schedule 3 judgment debt order by changing the basis of deductions.
  - (2) The county court may make the variation—
    - (a) in consequence of an application made to the court, or
    - (b) of its own motion.
  - (3) The variation takes effect on the date that it is made.

##### *Variation by court upon redirection*

- 5 (1) [<sup>F30</sup>The county court] must vary a Schedule 3 judgment debt order by changing the basis of deductions if—
  - (a) the order lapses, and

*Status: Point in time view as at 01/01/2010.*

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(b) the county court directs the order to a person in accordance with section 9(4).

(2) The variation must be made at the same time as the county court directs the order in accordance with section 9(4).

(3) The variation takes effect on the date that it is made.

*Automatic variation on changeover date*

6 (1) On the changeover date, all Schedule 3 judgment debt orders are to be treated as if [<sup>F30</sup>the county court] had varied them by changing the basis of deductions.

(2) The variation takes effect on the changeover date.

(3) The changeover date is the date which the Lord Chancellor specifies for the purposes of this paragraph.

(4) The Lord Chancellor is to specify the changeover date in an order made by statutory instrument.

(5) A statutory instrument containing an order under sub-paragraph (4) is subject to annulment in pursuance of a resolution of either House of Parliament.

*Notice of variation still required*

7 Section 9(2) (service by court of notice of variation) applies to the variation of an order under this Part of this Schedule (including variation in accordance with paragraph 6) as it applies to any other variation of an attachment of earnings order.

**PART 2** **E+W**

CHANGING FROM THE FIXED DEDUCTIONS SCHEME

*Introduction*

8 This Part of this Schedule deals with the variation of fixed deductions orders by changing the basis of deductions.

9 References to variation of a fixed deductions order by changing the basis of deductions are references to the variation of the order so that it specifies that periodical deductions are to be made in accordance with Part 1 of Schedule 3.

*General prohibition on changing from the fixed deductions basis*

10 A court may not vary a fixed deductions order by changing the basis of deductions unless the variation is in accordance with this Part of this Schedule.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Fixed deductions order directed to secure payments under an administration order*

- 11 (1) [<sup>F30</sup>The county court] must vary a fixed deductions order by changing the basis of deductions if, under section 5, the county court directs the order to take effect as an order to secure payments required by an administration order.
- (2) The variation must be made at the same time as the county court gives that direction under section 5.
- (3) The variation takes effect on the date that it is made.
- (4) Section 9(2) (service by court of notice of variation) applies to the variation of an order under this paragraph as it applies to any other variation of an attachment of earnings order.”

**Textual Amendments**

**F30** Words in [Sch. 15 para. 7](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

**PART 2** **E+W**

CONSEQUENTIAL AMENDMENTS

*Amendment of section 5: Securing payments under administration order*

- 8 In section 5(3) (power of county court to direct existing attachment of earnings order to secure administration order), for the words in brackets substitute “ (with the variation required by paragraph 11 of Schedule 3A and such other variations, if any, as the court thinks appropriate) ”.

*Amendment of section 14: Power of court to obtain information*

- 9 In section 14(1) (power of court to order debtor and employer to provide specified information), for “an attachment of earnings order” substitute “ a Schedule 3 deductions order ”.
- 10 After section 14(1) insert—
- “(1A) Where in any proceedings [<sup>F31</sup>the county court] has power to make a fixed deductions order, the court may order the debtor to give to the court, within a specified period, a statement signed by him of—
- (a) the name and address of any person by whom earnings are paid to him; and
- (b) specified particulars for enabling the debtor to be identified by any employer of his.”

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

**F31** Words in [Sch. 15 para. 10](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

11 In section 14(2) (powers of court after attachment of earnings order has been made), for the words from “Where” to “in force—” substitute “ At any time when a Schedule 3 deductions order is in force, the court or the fines officer, as the case may be, may— ”.

12 After section 14(2) insert—

“(2A) At any time when a fixed deductions order is in force, the court may—

- (a) make such an order as is described in subsection (1A) above; and
- (b) order the debtor to attend before it on a day and at a time specified in the order to give the information described in subsection (1A) above.”

13 In section 14(4) (rules of court about notice of application for attachment or earnings order), for the words from “give” to “the application.” substitute “ , within such period and in such manner as may be prescribed, give the court a statement in accordance with subsection (4A) or (4B). ”

14 After section 14(4) insert—

“(4A) In a case where the attachment of earnings order would, if made, be a Schedule 3 deductions order, the debtor must give a statement in writing of—

- (a) the matters specified in subsection (1)(a) above, and
- (b) any other prescribed matters which are, or may be, relevant under section 6 of this Act to the determination of the normal deduction rate and the protected earnings rate to be specified in any attachment of earnings order made on the application.

(4B) In a case where the attachment of earnings order would, if made, be a fixed deductions order, the debtor must give a statement in writing of the matters specified in subsection (1A) above.”

15 In section 14(5) (certain statements in proceedings for making or varying etc attachment of earnings orders deemed to be evidence of facts stated), after “subsection (1)(a) or (b)” insert “ or (1A) ”.

### *Amendment of section 15: Obligation of debtor and employer to notify changes*

16 (1) Section 15(1) is amended as follows.

(2) In paragraph (b) (obligation to notify of court of earnings under new employment) at the beginning insert “ if the order is a Schedule 3 deductions order, ”.

(3) In paragraph (c) (obligation of employer to notify court of debtor's new employment and earnings) for “and include” insert “ and, if the order is a Schedule 3 deductions order, include ”.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Amendment of section 17: Consolidated attachment orders*

- 17 (1) Section 17(3) (rules of court made in connection with consolidated attachment orders) is amended as follows.
- (2) In paragraph (b) (rules relating to powers of court to which order etc transferred), after “vary” insert “, suspend”.
- (3) In paragraph (e) (rules modifying or excluding statutory provisions), after “provisions of this Act” insert “, the fixed deductions scheme”.
- 18 After section 17(3) insert—
- “(4) Section 6(1A) applies to a consolidated attachment order which [<sup>F32</sup>the county court] makes to secure the payment of two or more judgment debts even if, immediately before the order is made, one or more of those debts is secured by a Schedule 3 deductions order.”

**Textual Amendments**

**F32** Words in [Sch. 15 para. 18](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

*Amendment of section 23: Enforcement provisions*

- 19 Section 23 is amended as follows.
- 20 In subsection (1) (failure of debtor to attend hearing)—
- (a) for the words from “notice of an application” to “such an order” substitute “relevant notice,”;
- (b) for “for any hearing of the application” substitute “in the notice for any hearing,”.
- 21 After subsection (1) insert—
- “(1ZA) In subsection (1) “relevant notice” means any of the following—
- (a) notice of an application to [<sup>F33</sup>the county court] to make, vary or suspend an attachment of earnings order;
- (b) notice that [<sup>F33</sup>the county court] is, of its own motion, to consider making, varying or suspending an attachment of earnings order.”

**Textual Amendments**

**F33** Words in [Sch. 15 para. 21](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

- 22 In subsection (2)(c) and (f) (offences related to attachment of earnings orders)—
- (a) after “section 14(1)” insert “or (1A)”.
- (b) after “attachment of earnings order” insert “or suspension order”.



*Status:* Point in time view as at 01/01/2010.

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

SCHEDULE 16 **E+W**

Section 106

ADMINISTRATION ORDERS: CONSEQUENTIAL AMENDMENTS

*Attachment of Earnings Act 1971 (c. 32)*

- 1 (1) Section 4 of the Attachment of Earnings Act 1971 (extension of power to make administration order) is amended as follows.
- (2) For subsections (2) and (2A) substitute—
- “(2) The court may make an administration order in respect of the debtor's estate if, after receipt of the list referred to in subsection (1)(b) above, the court is satisfied that the conditions in sections 112B(2) to (7) of the County Courts Act 1984 (conditions to power to make administration orders) are met in relation to the debtor.”
- (3) In subsection (4) for “section 112” substitute “ section 112J ”.

*Magistrates' Courts Act 1980 (c. 43)*

- 2 (1) Schedule 6A to the Magistrates' Courts Act 1980 (fines that may be altered under section 143 of the 1980 Act) is amended as follows.
- (2) Insert the following entry at the appropriate place in the entries relating to the County Courts Act 1984 (c. 28)—

“Section 112N(1) (administration orders: £250”  
failure to provide information)

*Insolvency Act 1986 (c. 45)*

- 3 (1) Section 429 of the Insolvency Act 1986 (disabilities on revocation of administration order against an individual) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) This section applies if [<sup>F34</sup>the county court] revokes an administration order made in respect of an individual (“the debtor”) on one of the relevant grounds.
- (2) The court may, at the time it revokes the administration order, make an order directing that this section and section 12 of the Company Directors Disqualification Act 1986 shall apply to the debtor for such period, not exceeding one year, as may be specified in the order.
- (2A) Each of the following is a relevant ground—
- (a) the debtor had failed to make two payments (whether consecutive or not) required by the order;

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) at the time the order was made—
- (i) the total amount of the debtor's qualifying debts was more than the prescribed maximum for the purposes of Part 6 of the 1984 Act, but
  - (ii) because of information provided, or not provided, by the debtor, that amount was thought to be less than, or the same as, the prescribed maximum.”

(3) In subsection (3) for “a person” in the first place substitute “ an individual ”.

(4) In subsection (4) for “a person” substitute “ an individual ”.

(5) In subsection (5) for “person” substitute “ individual ”.

#### **Textual Amendments**

**F34** Words in [Sch. 16 para. 3\(2\)](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

4 (1) Section 440 (extent: Scotland) is amended as follows.

(2) In subsection (2)(c) (provisions in the third Group of Parts that do not extend to Scotland) for “section 429(1) and (2)” substitute “ section 429(1) to (2A) ”.

#### *Company Directors Disqualification Act 1986 (c. 46)*

5 (1) Section 12 of the Company Directors Disqualification Act 1986 (failure to pay under county court administration order) is amended as follows.

(2) For the title of the section substitute “ Disabilities on revocation of administration order ”.

(3) Omit subsection (1).

(4) In subsection (2), for the words from “that section” to “429(2)(b)” substitute “ section 429 of the Insolvency Act applies by virtue of an order under subsection (2) of that section ”.

#### *Courts and Legal Services Act 1990 (c. 41)*

6 Omit section 13 of the Courts and Legal Services Act 1990.

#### *Charities Act 1993 (c. 10)*

F35-7

#### **Textual Amendments**

**F35** [Sch. 16 para. 7](#) repealed (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 10](#) (with s. 20(2), [Sch. 8](#))

*Status:* Point in time view as at 01/01/2010.

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Pensions Act 1995 (c. 26)*

- 8 (1) Section 29 of the Pensions Act 1995 (persons disqualified for being trustees of a trust scheme) is amended as follows.
- (2) In subsection (1)(f), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order).”

*Police Act 1996 (c. 16)*

- 9 (1) The Police Act 1996 is amended as follows.
- (2) In paragraph 11 of Schedule 2 (disqualification for being appointed as or being member of a police authority), in sub-paragraph (1)(c), for “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); or”.
- (3) In paragraph 7 of Schedule 2A (disqualification for being appointed as or being member of the Metropolitan Police Authority), in sub-paragraph (1)(c), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); or”.

*Housing Act 1996 (c. 52)*

- 10 (1) Paragraph 4 of Schedule 1 to the Housing Act 1996 (power to remove director, trustee etc. of registered social landlord) is amended as follows.
- (2) In sub-paragraph (2)(c), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order);”.

*Police Act 1997 (c. 50)*

- 11 (1) The Police Act 1997 is amended as follows.
- <sup>F36</sup>(2) . . . . .
- (3) In paragraph 3 of Schedule 2 (disqualification for being appointed as or being member of a Service Authority), in sub-paragraph (1)(c), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); or”.

**Textual Amendments**

**F36** Sch. 16 para. 11(2) repealed (30.8.2018) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 10 Pt. 8](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2018/940, [reg. 2\(1\)\(h\)\(ii\)](#) (with [reg. 2\(2\)](#))

*Criminal Justice and Police Act 2001 (c. 16)*

- 12 (1) Paragraph 3 of Schedule 3 to the Criminal Justice and Police Act 2001 (persons disqualified for being appointed as or being member of the Central Police Training and Development Authority) is amended as follows.

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- (2) In sub-paragraph (1)(b), for the words from “section 429(2)(b)” to the end substitute “ section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); or ”.

*Police Reform Act 2002 (c. 30)*

- 13 (1) Schedule 2 to the Police Reform Act 2002 (the Independent Police Complaints Commission) is amended as follows.
- (2) In paragraph 1(5) (grounds for removal of chairman), in paragraph (e)(ii), for the words from “section 429(2)(b)” to the end substitute “ section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); ”.
- (3) In paragraph 2(6) (grounds for removal of ordinary members), in paragraph (e)(ii), for the words from “section 429(2)(b)” to the end substitute “ section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); ”.

*Railways and Transport Safety Act 2003 (c. 20)*

- 14 (1) Paragraph 7 of Schedule 4 to the Railways and Transport Safety Act 2003, (eligibility for appointment as member of British Transport Police Authority) is amended as follows.
- (2) In sub-paragraph (3)(c), for “section 429(2)(b)” substitute “ section 429(2) ”.

*Courts Act 2003 (c. 39)*

- 15 (1) Section 98 of the Courts Act 2003 (register of judgments and orders) is amended as follows.
- (2) In subsection (1)(c) (administration orders) for “section 112” substitute “ Part 6 ”.

SCHEDULE 17 **E+W**

Section 108(1)

PART 7A OF THE INSOLVENCY ACT 1986

**Commencement Information**

- I22** [Sch. 17](#) wholly in force at 6.4.2009; [Sch. 17](#) not in force at Royal Assent see [s. 148](#); [Sch. 17](#) in force for certain purposes on 24.2.2009 and on 6.4.2009 in so far as not already in force by [S.I. 2009/382](#), [art. 2\(a\)\(b\)](#)

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## “PART 7A E+W

### DEBT RELIEF ORDERS

#### *Preliminary*

#### **Debt relief orders**

- 251A) An individual who is unable to pay his debts may apply for an order under this Part (“a debt relief order”) to be made in respect of his qualifying debts.
- (2) In this Part “qualifying debt” means (subject to subsection (3)) a debt which—
- (a) is for a liquidated sum payable either immediately or at some certain future time; and
  - (b) is not an excluded debt.
- (3) A debt is not a qualifying debt to the extent that it is secured.
- (4) In this Part “excluded debt” means a debt of any description prescribed for the purposes of this subsection.

#### *Applications for a debt relief order*

#### **Making of application**

- 251B) An application for a debt relief order must be made to the official receiver through an approved intermediary.
- (2) The application must include—
- (a) a list of the debts to which the debtor is subject at the date of the application, specifying the amount of each debt (including any interest, penalty or other sum that has become payable in relation to that debt on or before that date) and the creditor to whom it is owed;
  - (b) details of any security held in respect of any of those debts; and
  - (c) such other information about the debtor's affairs (including his creditors, debts and liabilities and his income and assets) as may be prescribed.
- (3) The rules may make further provision as to—
- (a) the form of an application for a debt relief order;
  - (b) the manner in which an application is to be made; and
  - (c) information and documents to be supplied in support of an application.
- (4) For the purposes of this Part an application is not to be regarded as having been made until—
- (a) the application has been submitted to the official receiver; and
  - (b) any fee required in connection with the application by an order under section 415 has been paid to such person as the order may specify.

#### **Duty of official receiver to consider and determine application**

- 251C) This section applies where an application for a debt relief order is made.

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- (2) The official receiver may stay consideration of the application until he has received answers to any queries raised with the debtor in relation to anything connected with the application.
- (3) The official receiver must determine the application by—
  - (a) deciding whether to refuse the application;
  - (b) if he does not refuse it, by making a debt relief order in relation to the specified debts he is satisfied were qualifying debts of the debtor at the application date;
 but he may only refuse the application if he is authorised or required to do so by any of the following provisions of this section.
- (4) The official receiver may refuse the application if he considers that—
  - (a) the application does not meet all the requirements imposed by or under section 251B;
  - (b) any queries raised with the debtor have not been answered to the satisfaction of the official receiver within such time as he may specify when they are raised;
  - (c) the debtor has made any false representation or omission in making the application or on supplying any information or documents in support of it.
- (5) The official receiver must refuse the application if he is not satisfied that—
  - (a) the debtor is an individual who is unable to pay his debts;
  - (b) at least one of the specified debts was a qualifying debt of the debtor at the application date;
  - (c) each of the conditions set out in Part 1 of Schedule 4ZA is met.
- (6) The official receiver may refuse the application if he is not satisfied that each condition specified in Part 2 of Schedule 4ZA is met.
- (7) If the official receiver refuses an application he must give reasons for his refusal to the debtor in the prescribed manner.
- (8) In this section “specified debt” means a debt specified in the application.

### **Presumptions applicable to the determination of an application**

251D(1) The following presumptions are to apply to the determination of an application for a debt relief order.

- (2) The official receiver must presume that the debtor is an individual who is unable to pay his debts at the determination date if—
  - (a) that appears to the official receiver to be the case at the application date from the information supplied in the application and he has no reason to believe that the information supplied is incomplete or inaccurate; and
  - (b) he has no reason to believe that, by virtue of a change in the debtor's financial circumstances since the application date, the debtor may be able to pay his debts.
- (3) The official receiver must presume that a specified debt (of the amount specified in the application and owed to the creditor so specified) is a qualifying debt at the application date if—
  - (a) that appears to him to be the case from the information supplied in the application; and

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- (b) he has no reason to believe that the information supplied is incomplete or inaccurate.
- (4) The official receiver must presume that the condition specified in paragraph 1 of Schedule 4ZA is met if—
  - (a) that appears to him to be the case from the information supplied in the application;
  - (b) any prescribed verification checks relating to the condition have been made; and
  - (c) he has no reason to believe that the information supplied is incomplete or inaccurate.
- (5) The official receiver must presume that any other condition specified in Part 1 or 2 of Schedule 4ZA is met if—
  - (a) that appears to him to have been the case as at the application date from the information supplied in the application and he has no reason to believe that the information supplied is incomplete or inaccurate;
  - (b) any prescribed verification checks relating to the condition have been made; and
  - (c) he has no reason to believe that, by virtue of a change in circumstances since the application date, the condition may no longer be met.
- (6) References in this section to information supplied in the application include information supplied to the official receiver in support of the application.
- (7) In this section “specified debt” means a debt specified in the application.

#### *Making and effect of debt relief order*

### **Making of debt relief orders**

- 251E) This section applies where the official receiver makes a debt relief order on determining an application under section 251C.
- (2) The order must be made in the prescribed form.
  - (3) The order must include a list of the debts which the official receiver is satisfied were qualifying debts of the debtor at the application date, specifying the amount of the debt at that time and the creditor to whom it was then owed.
  - (4) The official receiver must—
    - (a) give a copy of the order to the debtor; and
    - (b) make an entry for the order in the register containing the prescribed information about the order or the debtor.
  - (5) The rules may make provision as to other steps to be taken by the official receiver or the debtor on the making of the order.
  - (6) Those steps may include in particular notifying each creditor to whom a qualifying debt specified in the order is owed of—
    - (a) the making of the order and its effect,
    - (b) the grounds on which a creditor may object under section 251K, and
    - (c) any other prescribed information.

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- (7) In this Part the date on which an entry relating to the making of a debt relief order is first made in the register is referred to as “the effective date”.

### **Effect of debt relief order on other debt management arrangements**

251(F) This section applies if—

- (a) a debt relief order is made, and
  - (b) immediately before the order is made, other debt management arrangements are in force in respect of the debtor.
- (2) The other debt management arrangements cease to be in force when the debt relief order is made.
- (3) In this section “other debt management arrangements” means—
- (a) an administration order under Part 6 of the County Courts Act 1984;
  - (b) an enforcement restriction order under Part 6A of that Act;
  - (c) a debt repayment plan arranged in accordance with a debt management scheme that is approved under Chapter 4 of Part 5 of the Tribunals, Courts and Enforcement Act 2007.

### **Moratorium from qualifying debts**

251(G) A moratorium commences on the effective date for a debt relief order in relation to each qualifying debt specified in the order (“a specified qualifying debt”).

- (2) During the moratorium, the creditor to whom a specified qualifying debt is owed—
- (a) has no remedy in respect of the debt, and
  - (b) may not—
    - (i) commence a creditor's petition in respect of the debt, or
    - (ii) otherwise commence any action or other legal proceedings against the debtor for the debt,
 except with the permission of the court and on such terms as the court may impose.
- (3) If on the effective date a creditor to whom a specified qualifying debt is owed has any such petition, action or other proceeding as mentioned in subsection (2)(b) pending in any court, the court may—
- (a) stay the proceedings on the petition, action or other proceedings (as the case may be), or
  - (b) allow them to continue on such terms as the court thinks fit.
- (4) In subsection (2)(a) and (b) references to the debt include a reference to any interest, penalty or other sum that becomes payable in relation to that debt after the application date.
- (5) Nothing in this section affects the right of a secured creditor of the debtor to enforce his security.

### **The moratorium period**

251(H) The moratorium relating to the qualifying debts specified in a debt relief order continues for the period of one year beginning with the effective date for the order, unless—



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- (a) the moratorium terminates early; or
  - (b) the moratorium period is extended by the official receiver under this section or by the court under section 251M.
- (2) The official receiver may only extend the moratorium period for the purpose of—
- (a) carrying out or completing an investigation under section 251K;
  - (b) taking any action he considers necessary (whether as a result of an investigation or otherwise) in relation to the order; or
  - (c) in a case where he has decided to revoke the order, providing the debtor with the opportunity to make arrangements for making payments towards his debts.
- (3) The official receiver may not extend the moratorium period for the purpose mentioned in subsection (2)(a) without the permission of the court.
- (4) The official receiver may not extend the moratorium period beyond the end of the period of three months beginning after the end of the initial period of one year mentioned in subsection (1).
- (5) The moratorium period may be extended more than once, but any extension (whether by the official receiver or by the court) must be made before the moratorium would otherwise end.
- (6) References in this Part to a moratorium terminating early are to its terminating before the end of what would otherwise be the moratorium period, whether on the revocation of the order or by virtue of any other enactment.

### **Discharge from qualifying debts**

- 251(I) Subject as follows, at the end of the moratorium applicable to a debt relief order the debtor is discharged from all the qualifying debts specified in the order (including all interest, penalties and other sums which may have become payable in relation to those debts since the application date).
- (2) Subsection (1) does not apply if the moratorium terminates early.
  - (3) Subsection (1) does not apply in relation to any qualifying debt which the debtor incurred in respect of any fraud or fraudulent breach of trust to which the debtor was a party.
  - (4) The discharge of the debtor under subsection (1) does not release any other person from—
    - (a) any liability (whether as partner or co-trustee of the debtor or otherwise) from which the debtor is released by the discharge; or
    - (b) any liability as surety for the debtor or as a person in the nature of such a surety.
  - (5) If the order is revoked by the court under section 251M after the end of the moratorium period, the qualifying debts specified in the order shall (so far as practicable) be treated as though subsection (1) had never applied to them.

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### *Duties of debtor*

#### **Providing assistance to official receiver etc**

- 251(1) The duties in this section apply to a debtor at any time after the making of an application by him for a debt relief order.
- (2) The debtor must—
- (a) give to the official receiver such information as to his affairs,
  - (b) attend on the official receiver at such times, and
  - (c) do all such other things,
- as the official receiver may reasonably require for the purpose of carrying out his functions in relation to the application or, as the case may be, the debt relief order made as a result of the application.
- (3) The debtor must notify the official receiver as soon as reasonably practicable if he becomes aware of—
- (a) any error in, or omission from, the information supplied to the official receiver in, or in support of, the application;
  - (b) any change in his circumstances between the application date and the determination date that would affect (or would have affected) the determination of the application.
- (4) The duties under subsections (2) and (3) apply after (as well as before) the determination of the application, for as long as the official receiver is able to exercise functions of the kind mentioned in subsection (2).
- (5) If a debt relief order is made as a result of the application, the debtor must notify the official receiver as soon as reasonably practicable if—
- (a) there is an increase in his income during the moratorium period applicable to the order;
  - (b) he acquires any property or any property is devolved upon him during that period;
  - (c) he becomes aware of any error in or omission from any information supplied by him to the official receiver after the determination date.
- (6) A notification under subsection (3) or (5) must give the prescribed particulars (if any) of the matter being notified.

### *Objections, investigations and revocation*

#### **Objections and investigations**

- 251(1) Any person specified in a debt relief order as a creditor to whom a specified qualifying debt is owed may object to—
- (a) the making of the order;
  - (b) the inclusion of the debt in the list of the debtor's qualifying debts; or
  - (c) the details of the debt specified in the order.
- (2) An objection under subsection (1) must be—
- (a) made during the moratorium period relating to the order and within the prescribed period for objections;

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- (b) made to the official receiver in the prescribed manner;
  - (c) based on a prescribed ground;
  - (d) supported by any information and documents as may be prescribed;
- and the prescribed period mentioned in paragraph (a) must not be less than 28 days after the creditor in question has been notified of the making of the order.
- (3) The official receiver must consider every objection made to him under this section.
  - (4) The official receiver may—
    - (a) as part of his consideration of an objection, or
    - (b) on his own initiative,carry out an investigation of any matter that appears to the official receiver to be relevant to the making of any decision mentioned in subsection (5) in relation to a debt relief order or the debtor.
  - (5) The decisions to which an investigation may be directed are—
    - (a) whether the order should be revoked or amended under section 251L;
    - (b) whether an application should be made to the court under section 251M; or
    - (c) whether any other steps should be taken in relation to the debtor.
  - (6) The power to carry out an investigation under this section is exercisable after (as well as during) the moratorium relating to the order.
  - (7) The official receiver may require any person to give him such information and assistance as he may reasonably require in connection with an investigation under this section.
  - (8) Subject to anything prescribed in the rules as to the procedure to be followed in carrying out an investigation under this section, an investigation may be carried out by the official receiver in such manner as he thinks fit.

### **Power of official receiver to revoke or amend a debt relief order**

- 251(1) The official receiver may revoke or amend a debt relief order during the applicable moratorium period in the circumstances provided for by this section.
- (2) The official receiver may revoke the order on the ground that—
    - (a) any information supplied to him by the debtor—
      - (i) in, or in support of, the application, or
      - (ii) after the determination date,was incomplete, incorrect or otherwise misleading;
    - (b) the debtor has failed to comply with a duty under section 251J;
    - (c) a bankruptcy order has been made in relation to the debtor; or
    - (d) the debtor has made a proposal under Part 8 (or has notified the official receiver of his intention to do so).
  - (3) The official receiver may revoke the order on the ground that he should not have been satisfied—
    - (a) that the debts specified in the order were qualifying debts of the debtor as at the application date;
    - (b) that the conditions specified in Part 1 of Schedule 4ZA were met;

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- (c) that the conditions specified in Part 2 of that Schedule were met or that any failure to meet such a condition did not prevent his making the order.
- (4) The official receiver may revoke the order on the ground that either or both of the conditions in paragraphs 7 and 8 of Schedule 4ZA (monthly surplus income and property) are not met at any time after the order was made.
- For this purpose those paragraphs are to be read as if references to the determination date were references to the time in question.
- (5) Where the official receiver decides to revoke the order, he may revoke it either—
- (a) with immediate effect, or
  - (b) with effect from such date (not more than three months after the date of the decision) as he may specify.
- (6) In considering when the revocation should take effect the official receiver must consider (in the light of the grounds on which the decision to revoke was made and all the other circumstances of the case) whether the debtor ought to be given the opportunity to make arrangements for making payments towards his debts.
- (7) If the order has been revoked with effect from a specified date the official receiver may, if he thinks it appropriate to do so at any time before that date, revoke the order with immediate effect.
- (8) The official receiver may amend a debt relief order for the purpose of correcting an error in or omission from anything specified in the order.
- (9) But subsection (8) does not permit the official receiver to add any debts that were not specified in the application for the debt relief order to the list of qualifying debts.
- (10) The rules may make further provision as to the procedure to be followed by the official receiver in the exercise of his powers under this section.

#### *Role of the court*

#### **Powers of court in relation to debt relief orders**

- 251M) Any person may make an application to the court if he is dissatisfied by any act, omission or decision of the official receiver in connection with a debt relief order or an application for such an order.
- (2) The official receiver may make an application to the court for directions or an order in relation to any matter arising in connection with a debt relief order or an application for such an order.
  - (3) The matters referred to in subsection (2) include, among other things, matters relating to the debtor's compliance with any duty arising under section 251J.
  - (4) An application under this section may, subject to anything in the rules, be made at any time.
  - (5) The court may extend the moratorium period applicable to a debt relief order for the purposes of determining an application under this section.
  - (6) On an application under this section the court may dismiss the application or do one or more of the following—

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- (a) quash the whole or part of any act or decision of the official receiver;
  - (b) give the official receiver directions (including a direction that he reconsider any matter in relation to which his act or decision has been quashed under paragraph (a));
  - (c) make an order for the enforcement of any obligation on the debtor arising by virtue of a duty under section 251J;
  - (d) extend the moratorium period applicable to the debt relief order;
  - (e) make an order revoking or amending the debt relief order;
  - (f) make an order under section 251N; or
  - (g) make such other order as the court thinks fit.
- (7) An order under subsection (6)(e) for the revocation of a debt relief order—
- (a) may be made during the moratorium period applicable to the debt relief order or at any time after that period has ended;
  - (b) may be made on the court's own motion if the court has made a bankruptcy order in relation to the debtor during that period;
  - (c) may provide for the revocation of the order to take effect on such terms and at such a time as the court may specify.
- (8) An order under subsection (6)(e) for the amendment of a debt relief order may not add any debts that were not specified in the application for the debt relief order to the list of qualifying debts.

### **Inquiry into debtor's dealings and property**

- 251N) An order under this section may be made by the court on the application of the official receiver.
- (2) An order under this section is an order summoning any of the following persons to appear before the court—
- (a) the debtor;
  - (b) the debtor's spouse or former spouse or the debtor's civil partner or former civil partner;
  - (c) any person appearing to the court to be able to give information or assistance concerning the debtor or his dealings, affairs and property.
- (3) The court may require a person falling within subsection (2)(c)—
- (a) to provide a written account of his dealings with the debtor; or
  - (b) to produce any documents in his possession or under his control relating to the debtor or to the debtor's dealings, affairs or property.
- (4) Subsection (5) applies where a person fails without reasonable excuse to appear before the court when he is summoned to do so by an order under this section.
- (5) The court may cause a warrant to be issued to a constable or prescribed officer of the court—
- (a) for the arrest of that person, and
  - (b) for the seizure of any records or other documents in that person's possession.
- (6) The court may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until

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that person is brought before the court under the warrant or until such other time as the court may order.

### *Offences*

#### **False representations and omissions**

- 251(1) A person who makes an application for a debt relief order is guilty of an offence if he knowingly or recklessly makes any false representation or omission in making the application or providing any information or documents to the official receiver in support of the application.
- (2) A person who makes an application for a debt relief order is guilty of an offence if—
- (a) he intentionally fails to comply with a duty under section 251J(3) in connection with the application; or
  - (b) he knowingly or recklessly makes any false representation or omission in providing any information to the official receiver in connection with such a duty or otherwise in connection with the application.
- (3) It is immaterial for the purposes of an offence under subsection (1) or (2) whether or not a debt relief order is made as a result of the application.
- (4) A person in respect of whom a debt relief order is made is guilty of an offence if—
- (a) he intentionally fails to comply with a duty under section 251J(5) in connection with the order; or
  - (b) he knowingly or recklessly makes any false representation or omission in providing information to the official receiver in connection with such a duty or otherwise in connection with the performance by the official receiver of functions in relation to the order.
- (5) It is immaterial for the purposes of an offence under subsection (4)—
- (a) whether the offence is committed during or after the moratorium period; and
  - (b) whether or not the order is revoked after the conduct constituting the offence takes place.

#### **Concealment or falsification of documents**

- 251(1) A person in respect of whom a debt relief order is made is guilty of an offence if, during the moratorium period in relation to that order—
- (a) he does not provide, at the request of the official receiver, all his books, papers and other records of which he has possession or control and which relate to his affairs;
  - (b) he prevents the production to the official receiver of any books, papers or other records relating to his affairs;
  - (c) he conceals, destroys, mutilates or falsifies, or causes or permits the concealment, destruction, mutilation or falsification of, any books, papers or other records relating his affairs;
  - (d) he makes, or causes or permits the making of, any false entries in any book, document or record relating to his affairs; or
  - (e) he disposes of, or alters or makes any omission in, or causes or permits the disposal, altering or making of any omission in, any book, document or record relating to his affairs.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) A person in respect of whom a debt relief order is made is guilty of an offence if—
  - (a) he did anything falling within paragraphs (c) to (e) of subsection (1) during the period of 12 months ending with the application date; or
  - (b) he did anything falling within paragraphs (b) to (e) of subsection (1) after that date but before the effective date.
- (3) A person is not guilty of an offence under this section if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
- (4) In its application to a trading record subsection (2)(a) has effect as if the reference to 12 months were a reference to two years.
- (5) In subsection (4) “trading record” means a book, document or record which shows or explains the transactions or financial position of a person's business, including—
  - (a) a periodic record of cash paid and received,
  - (b) a statement of periodic stock-taking, and
  - (c) except in the case of goods sold by way of retail trade, a record of goods sold and purchased which identifies the buyer and seller or enables them to be identified.
- (6) It is immaterial for the purposes of an offence under this section whether or not the debt relief order in question is revoked after the conduct constituting the offence takes place (but no offence is committed under this section by virtue of conduct occurring after the order is revoked).

### **Fraudulent disposal of property**

- 251(1) A person in respect of whom a debt relief order is made is guilty of an offence if he made or caused to be made any gift or transfer of his property during the period between—
- (a) the start of the period of two years ending with the application date; and
  - (b) the end of the moratorium period.
- (2) The reference in subsection (1) to making a transfer of any property includes causing or conniving at the levying of any execution against that property.
  - (3) A person is not guilty of an offence under this section if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
  - (4) For the purposes of subsection (3) a person is to be taken to have proved that he had no such intent if—
    - (a) sufficient evidence is adduced to raise an issue as to whether he had such intent; and
    - (b) the contrary is not proved beyond reasonable doubt.
  - (5) It is immaterial for the purposes of this section whether or not the debt relief order in question is revoked after the conduct constituting an offence takes place (but no offence is committed by virtue of conduct occurring after the order is revoked).

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### **Fraudulent dealing with property obtained on credit**

- 251R) A person in respect of whom a debt relief order is made is guilty of an offence if during the relevant period he disposed of any property which he had obtained on credit and, at the time he disposed of it, had not paid for it.
- (2) Any other person is guilty of an offence if during the relevant period he acquired or received property from a person in respect of whom a debt relief order was made (the “debtor”) knowing or believing—
- (a) that the debtor owed money in respect of the property, and
  - (b) that the debtor did not intend, or was unlikely to be able, to pay the money he so owed.
- (3) In subsections (1) and (2) “relevant period” means the period between—
- (a) the start of the period of two years ending with the application date; and
  - (b) the determination date.
- (4) A person is not guilty of an offence under subsection (1) or (2) if the disposal, acquisition or receipt of the property was in the ordinary course of a business carried on by the debtor at the time of the disposal, acquisition or receipt.
- (5) In determining for the purposes of subsection (4) whether any property is disposed of, acquired or received in the ordinary course of a business carried on by the debtor, regard may be had, in particular, to the price paid for the property.
- (6) A person is not guilty of an offence under subsection (1) if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
- (7) In this section references to disposing of property include pawning or pledging it; and references to acquiring or receiving property shall be read accordingly.
- (8) It is immaterial for the purposes of this section whether or not the debt relief order in question is revoked after the conduct constituting an offence takes place (but no offence is committed by virtue of conduct occurring after the order is revoked).

### **Obtaining credit or engaging in business**

- 251S) A person in respect of whom a debt relief order is made is guilty of an offence if, during the relevant period—
- (a) he obtains credit (either alone or jointly with any other person) without giving the person from whom he obtains the credit the relevant information about his status; or
  - (b) he engages directly or indirectly in any business under a name other than that in which the order was made without disclosing to all persons with whom he enters into any business transaction the name in which the order was made.
- (2) For the purposes of subsection (1)(a) the relevant information about a person's status is the information that—
- (a) a moratorium is in force in relation to the debt relief order,
  - (b) a debt relief restrictions order is in force in respect of him, or
  - (c) both a moratorium and a debt relief restrictions order is in force,
- as the case may be.
- (3) In subsection (1) “relevant period” means—



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- (a) the moratorium period relating to the debt relief order, or
  - (b) the period for which a debt relief restrictions order is in force in respect of the person in respect of whom the debt relief order is made,
- as the case may be.
- (4) Subsection (1)(a) does not apply if the amount of the credit is less than the prescribed amount (if any).
- (5) The reference in subsection (1)(a) to a person obtaining credit includes the following cases—
- (a) where goods are bailed to him under a hire-purchase agreement, or agreed to be sold to him under a conditional sale agreement;
  - (b) where he is paid in advance (in money or otherwise) for the supply of goods or services.

### **Offences: supplementary**

- 251(I) Proceedings for an offence under this Part may only be instituted by the Secretary of State or by or with the consent of the Director of Public Prosecutions.
- (2) It is not a defence in proceedings for an offence under this Part that anything relied on, in whole or in part, as constituting the offence was done outside England and Wales.
- (3) A person guilty of an offence under this Part is liable to imprisonment or a fine, or both (but see section 430).

### *Supplementary*

### **Approved intermediaries**

- 251(U) In this Part “approved intermediary” means an individual for the time being approved by a competent authority to act as an intermediary between a person wishing to make an application for a debt relief order and the official receiver.
- (2) In this section “competent authority” means a person or body for the time being designated by the Secretary of State for the purposes of granting approvals under this section.
- (3) Designation as a competent authority may be limited so as to permit the authority only to approve persons of a particular description.
- (4) The Secretary of State may by regulations make provision as to—
- (a) the procedure for designating persons or bodies as competent authorities;
  - (b) descriptions of individuals who are ineligible to be approved under this section;
  - (c) the procedure for granting approvals under this section;
  - (d) the withdrawal of designations or approvals under this section;
- and provision made under paragraph (a) or (c) may include provision requiring the payment of fees.
- (5) The rules may make provision about the activities to be carried out by an approved intermediary in connection with an application for a debt relief order, which may in particular include—
- (a) assisting the debtor in making the application;

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- (b) checking that the application has been properly completed;
  - (c) sending the application to the official receiver.
- (6) The rules may also make provision about other activities to be carried out by approved intermediaries.
- (7) An approved intermediary may not charge a debtor any fee in connection with an application for a debt relief order.
- (8) An approved intermediary is not liable to any person in damages for anything done or omitted to be done when acting (or purporting to act) as an approved intermediary in connection with a particular application by a debtor for a debt relief order.
- (9) Subsection (8) does not apply if the act or omission was in bad faith.
- (10) Regulations under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

### **Debt relief restrictions orders and undertakings**

251V Schedule 4ZB (which makes provision about debt relief restrictions orders and debt relief restrictions undertakings) has effect.

### **Register of debt relief orders etc**

251W The Secretary of State must maintain a register of matters relating to—

- (a) debt relief orders;
- (b) debt relief restrictions orders; and
- (c) debt relief restrictions undertakings.

### **Interpretation**

251~~KL~~) In this Part—

“the application date”, in relation to a debt relief order or an application for a debt relief order, means the date on which the application for the order is made to the official receiver;

“approved intermediary” has the meaning given in section 251U(1);

“debt relief order” means an order made by the official receiver under this Part;

“debtor” means—

- (a) in relation to an application for a debt relief order, the applicant; and
- (b) in relation to a debt relief order, the person in relation to whom the order is made;

“debt relief restrictions order” and “debt relief restrictions undertaking” means an order made, or an undertaking accepted, under Schedule 4ZB;

“the determination date”, in relation to a debt relief order or an application for a debt relief order, means the date on which the application for the order is determined by the official receiver;

“the effective date” has the meaning given in section 251E(7);

“excluded debt” is to be construed in accordance with section 251A;

“moratorium” and “moratorium period” are to be construed in accordance with sections 251G and 251H;

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“qualifying debt”, in relation to a debtor, has the meaning given in section 251A(2);

“the register” means the register maintained under section 251W;

“specified qualifying debt” has the meaning given in section 251G(1).

- (2) In this Part references to a creditor specified in a debt relief order as the person to whom a qualifying debt is owed by the debtor include a reference to any person to whom the right to claim the whole or any part of the debt has passed, by assignment or operation of law, after the date of the application for the order.”

## SCHEDULE 18 **E+W**

Section 108(2)

### SCHEDULE 4ZA TO THE INSOLVENCY ACT 1986

#### Commencement Information

- I23** [Sch. 18](#) wholly in force at 6.4.2009; [Sch. 18](#) not in force at Royal Assent see [s. 148](#); [Sch. 18](#) in force for certain purposes on 24.2.2009 and on 6.4.2009 in so far as not already in force by [S.I. 2009/382](#), [art. 2\(a\)\(b\)](#)

## “SCHEDULE 4ZA **E+W**

### CONDITIONS FOR MAKING A DEBT RELIEF ORDER

#### PART 1 **E+W**

##### CONDITIONS WHICH MUST BE MET

##### *Connection with England and Wales*

- 1 (1) The debtor—
- (a) is domiciled in England and Wales on the application date; or
  - (b) at any time during the period of three years ending with that date—
    - (i) was ordinarily resident, or had a place of residence, in England and Wales; or
    - (ii) carried on business in England and Wales.
- (2) The reference in sub-paragraph (1)(b)(ii) to the debtor carrying on business includes—
- (a) the carrying on of business by a firm or partnership of which he is a member;
  - (b) the carrying on of business by an agent or manager for him or for such a firm or partnership.

##### *Debtor's previous insolvency history*

- 2 The debtor is not, on the determination date—
- (a) an undischarged bankrupt;
  - (b) subject to an interim order or voluntary arrangement under Part 8; or
  - (c) subject to a bankruptcy restrictions order or a debt relief restrictions order.

*Status: Point in time view as at 01/01/2010.*

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- 3 A debtor's petition for the debtor's bankruptcy under Part 9—
- (a) has not been presented by the debtor before the determination date;
  - (b) has been so presented, but proceedings on the petition have been finally disposed of before that date; or
  - (c) has been so presented and proceedings in relation to the petition remain before the court at that date, but the court has referred the debtor under section 274A(2) for the purposes of making an application for a debt relief order.
- 4 A creditor's petition for the debtor's bankruptcy under Part 9—
- (a) has not been presented against the debtor at any time before the determination date;
  - (b) has been so presented, but proceedings on the petition have been finally disposed of before that date; or
  - (c) has been so presented and proceedings in relation to the petition remain before the court at that date, but the person who presented the petition has consented to the making of an application for a debt relief order.
- 5 A debt relief order has not been made in relation to the debtor in the period of six years ending with the determination date.

*Limit on debtor's overall indebtedness*

- 6 (1) The total amount of the debtor's debts on the determination date, other than unliquidated debts and excluded debts, does not exceed the prescribed amount.
- (2) For this purpose an unliquidated debt is a debt that is not for a liquidated sum payable to a creditor either immediately or at some future certain time.

*Limit on debtor's monthly surplus income*

- 7 (1) The debtor's monthly surplus income (if any) on the determination date does not exceed the prescribed amount.
- (2) For this purpose “monthly surplus income” is the amount by which a person's monthly income exceeds the amount necessary for the reasonable domestic needs of himself and his family.
- (3) The rules may—
- (a) make provision as to how the debtor's monthly surplus income is to be determined;
  - (b) provide that particular descriptions of income are to be excluded for the purposes of this paragraph.

*Limit on value of debtor's property*

- 8 (1) The total value of the debtor's property on the determination date does not exceed the prescribed amount.
- (2) The rules may—
- (a) make provision as to how the value of a person's property is to be determined;
  - (b) provide that particular descriptions of property are to be excluded for the purposes of this paragraph.

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## PART 2 **E+W**

### OTHER CONDITIONS

- 9 (1) The debtor has not entered into a transaction with any person at an undervalue during the period between—
- (a) the start of the period of two years ending with the application date; and
  - (b) the determination date.
- (2) For this purpose a debtor enters into a transaction with a person at an undervalue if—
- (a) he makes a gift to that person or he otherwise enters into a transaction with that person on terms that provide for him to receive no consideration;
  - (b) he enters into a transaction with that person in consideration of marriage or the formation of a civil partnership; or
  - (c) he enters into a transaction with that person for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the individual.
- 10 (1) The debtor has not given a preference to any person during the period between—
- (a) the start of the period of two years ending with the application date; and
  - (b) the determination date.
- (2) For this purpose a debtor gives a preference to a person if—
- (a) that person is one of the debtor's creditors to whom a qualifying debt is owed or is a surety or guarantor for any such debt, and
  - (b) the debtor does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event that a debt relief order is made in relation to the debtor, will be better than the position he would have been in if that thing had not been done.”

## SCHEDULE 19 **E+W**

Section 108(2)

### SCHEDULE 4ZB TO THE INSOLVENCY ACT 1986

#### Commencement Information

**I24** Sch. 19 wholly in force at 6.4.2009; Sch. 19 not in force at Royal Assent see s. 148; Sch. 19 in force for certain purposes on 24.2.2009 and on 6.4.2009 in so far as not already in force by S.I. 2009/382, art. 2(a)(b)

## “SCHEDULE 4ZB **E+W**

### DEBT RELIEF RESTRICTIONS ORDERS AND UNDERTAKINGS

#### *Debt relief restrictions order*

- 1 (1) A debt relief restrictions order may be made by the court in relation to a person in respect of whom a debt relief order has been made.
- (2) An order may be made only on the application of—

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- (a) the Secretary of State, or
- (b) the official receiver acting on a direction of the Secretary of State.

*Grounds for making order*

- 2 (1) The court shall grant an application for a debt relief restrictions order if it thinks it appropriate to do so having regard to the conduct of the debtor (whether before or after the making of the debt relief order).
- (2) The court shall, in particular, take into account any of the following kinds of behaviour on the part of the debtor—
  - (a) failing to keep records which account for a loss of property by the debtor, or by a business carried on by him, where the loss occurred in the period beginning two years before the application date for the debt relief order and ending with the date of the application for the debt relief restrictions order;
  - (b) failing to produce records of that kind on demand by the official receiver;
  - (c) entering into a transaction at an undervalue in the period beginning two years before the application date for the debt relief order and ending with the date of the determination of that application;
  - (d) giving a preference in the period beginning two years before the application date for the debt relief order and ending with the date of the determination of that application;
  - (e) making an excessive pension contribution;
  - (f) a failure to supply goods or services that were wholly or partly paid for;
  - (g) trading at a time, before the date of the determination of the application for the debt relief order, when the debtor knew or ought to have known that he was himself to be unable to pay his debts;
  - (h) incurring, before the date of the determination of the application for the debt relief order, a debt which the debtor had no reasonable expectation of being able to pay;
  - (i) failing to account satisfactorily to the court or the official receiver for a loss of property or for an insufficiency of property to meet his debts;
  - (j) carrying on any gambling, rash and hazardous speculation or unreasonable extravagance which may have materially contributed to or increased the extent of his inability to pay his debts before the application date for the debt relief order or which took place between that date and the date of the determination of the application for the debt relief order;
  - (k) neglect of business affairs of a kind which may have materially contributed to or increased the extent of his inability to pay his debts;
  - (l) fraud or fraudulent breach of trust;
  - (m) failing to co-operate with the official receiver.
- (3) The court shall also, in particular, consider whether the debtor was an undischarged bankrupt at some time during the period of six years ending with the date of the application for the debt relief order.
- (4) For the purposes of sub-paragraph (2)—
  - “excessive pension contribution” shall be construed in accordance with section 342A;
  - “preference” shall be construed in accordance with paragraph 10(2) of Schedule 4ZA;

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“undervalue” shall be construed in accordance with paragraph 9(2) of that Schedule.

*Timing of application for order*

- 3 An application for a debt relief restrictions order in respect of a debtor may be made—
- (a) at any time during the moratorium period relating to the debt relief order in question, or
  - (b) after the end of that period, but only with the permission of the court.

*Duration of order*

- 4 (1) A debt relief restrictions order—
- (a) comes into force when it is made, and
  - (b) ceases to have effect at the end of a date specified in the order.
- (2) The date specified in a debt relief restrictions order under sub-paragraph (1)(b) must not be—
- (a) before the end of the period of two years beginning with the date on which the order is made, or
  - (b) after the end of the period of 15 years beginning with that date.

*Interim debt relief restrictions order*

- 5 (1) This paragraph applies at any time between—
- (a) the institution of an application for a debt relief restrictions order, and
  - (b) the determination of the application.
- (2) The court may make an interim debt relief restrictions order if the court thinks that—
- (a) there are prima facie grounds to suggest that the application for the debt relief restrictions order will be successful, and
  - (b) it is in the public interest to make an interim debt relief restrictions order.
- (3) An interim debt relief restrictions order may only be made on the application of—
- (a) the Secretary of State, or
  - (b) the official receiver acting on a direction of the Secretary of State.
- (4) An interim debt relief restrictions order—
- (a) has the same effect as a debt relief restrictions order, and
  - (b) comes into force when it is made.
- (5) An interim debt relief restrictions order ceases to have effect—
- (a) on the determination of the application for the debt relief restrictions order,
  - (b) on the acceptance of a debt relief restrictions undertaking made by the debtor, or
  - (c) if the court discharges the interim debt relief restrictions order on the application of the person who applied for it or of the debtor.
- 6 (1) This paragraph applies to a case in which both an interim debt relief restrictions order and a debt relief restrictions order are made.

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- (2) Paragraph 4(2) has effect in relation to the debt relief restrictions order as if a reference to the date of that order were a reference to the date of the interim debt relief restrictions order.

*Debt relief restrictions undertaking*

- 7 (1) A debtor may offer a debt relief restrictions undertaking to the Secretary of State.
- (2) In determining whether to accept a debt relief restrictions undertaking the Secretary of State shall have regard to the matters specified in paragraph 2(2) and (3).
- 8 A reference in an enactment to a person in respect of whom a debt relief restrictions order has effect (or who is “the subject of” a debt relief restrictions order) includes a reference to a person in respect of whom a debt relief restrictions undertaking has effect.
- 9 (1) A debt relief restrictions undertaking—
- (a) comes into force on being accepted by the Secretary of State, and
  - (b) ceases to have effect at the end of a date specified in the undertaking.
- (2) The date specified under sub-paragraph (1)(b) must not be—
- (a) before the end of the period of two years beginning with the date on which the undertaking is accepted, or
  - (b) after the end of the period of 15 years beginning with that date.
- (3) On an application by the debtor the court may—
- (a) annul a debt relief restrictions undertaking;
  - (b) provide for a debt relief restrictions undertaking to cease to have effect before the date specified under sub-paragraph (1)(b).

*Effect of revocation of debt relief order*

- 10 Unless the court directs otherwise, the revocation at any time of a debt relief order does not —
- (a) affect the validity of any debt relief restrictions order, interim debt relief restrictions order or debt relief restrictions undertaking which is in force in respect of the debtor;
  - (b) prevent the determination of any application for a debt relief restrictions order, or an interim debt relief restrictions order, in relation to the debtor that was instituted before that time;
  - (c) prevent the acceptance of a debt relief restrictions undertaking that was offered before that time; or
  - (d) prevent the institution of an application for a debt relief restrictions order or interim debt relief restrictions order in respect of the debtor, or the offer or acceptance of a debt relief restrictions undertaking by the debtor, after that time.”



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## SCHEDULE 20 **E+W**

Section 108(3)

### DEBT RELIEF ORDERS: CONSEQUENTIAL AMENDMENTS

#### PART 1 **E+W**

##### AMENDMENTS TO THE INSOLVENCY ACT 1986

1 The Insolvency Act 1986 (c. 45) is amended as follows.

#### Commencement Information

**I25** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 2 (1) In section 31 (disqualification of bankrupt) in subsection (1)—
- (a) at the end of paragraph (a) (before “or”) insert—  
“(aa) a moratorium period under a debt relief order applies in relation to him,”;
  - (b) in paragraph (b) after “order” insert “ or a debt relief restrictions order ”.
- (2) In the heading to that section after “**bankrupt**” insert “ **or person in respect of whom a debt relief order is made** ”.

#### Commencement Information

**I26** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

3 After section 274 insert—

#### “**274A Debtor who meets conditions for a debt relief order**”

- (1) This section applies where, on the hearing of a debtor's petition—
- (a) it appears to the court that a debt relief order would be made in relation to the debtor if, instead of presenting the petition, he had made an application under Part 7A; and
  - (b) the court does not appoint an insolvency practitioner under section 273.
- (2) If the court thinks it would be in the debtor's interests to apply for a debt relief order instead of proceeding on the petition, the court may refer the debtor to an approved intermediary (within the meaning of Part 7A) for the purposes of making an application for a debt relief order.
- (3) Where a reference is made under subsection (2) the court shall stay proceedings on the petition on such terms and conditions as it thinks fit; but if following the reference a debt relief order is made in relation to the debtor the court shall dismiss the petition.”

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I27** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 4 In section 384(2)(meaning of prescribed amount)—
- (a) at the beginning of the list of provisions insert “ section 251S(4); ”;
  - (b) in the list omit “and” after “section 361(2);” and
  - (c) at the end of the list insert “ paragraphs 6 to 8 of Schedule 4ZA, ”.

#### Commencement Information

**I28** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 5 (1) Section 385(1) (definitions) is amended as follows.
- (2) In the definition of “the debtor”, before paragraph (a) insert—
- “(za) in relation to a debt relief order or an application for such an order, has the same meaning as in Part 7A,”.
- (3) After the definition of “debtor's petition” insert—
- ““debt relief order” means an order made by the official receiver under Part 7A;”.

#### Commencement Information

**I29** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 6 (1) Section 390 (persons not qualified to act as insolvency practitioners) is amended as follows.
- (2) In subsection (4) after paragraph (a) insert—
- “(aa) a moratorium period under a debt relief order applies in relation of him,”.
- (3) In subsection (5) after “order” insert “ or a debt relief restrictions order ”.

#### Commencement Information

**I30** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 7 (1) Section 399 (appointment etc of official receivers) is amended as follows.
- (2) In subsection (1) for “or individual voluntary arrangement” (in both places) substitute “, individual voluntary arrangement, debt relief order or application for such an order ”.
- (3) In subsection (4) for “or individual voluntary arrangement” substitute “, individual voluntary arrangement, debt relief order or application for such an order ”.

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I31** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

8 In section 412(1) (individual insolvency rules) for “Parts VIII to XI” substitute “Parts 7A to 11”.

#### Commencement Information

**I32** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

9 (1) Section 415 (fees orders) is amended as follows.  
(2) In subsection (1) before paragraph (a) insert—  
“(za) the costs of persons acting as approved intermediaries under Part 7A,”.  
(3) In that subsection in paragraph (a) for “Parts VIII to XI” substitute “Parts 7A to 11”.

#### Commencement Information

**I33** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

10 In section 415A (fees orders: general), before subsection (1) insert—  
“(A1) The Secretary of State—  
(a) may by order require a person or body to pay a fee in connection with the grant or maintenance of a designation of that person or body as a competent authority under section 251U, and  
(b) may refuse to grant, or may withdraw, any such designation where a fee is not paid.”

#### Commencement Information

**I34** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

11 In section 418(1) (monetary limits)—  
(a) at the beginning of the list of provisions insert— “ section 251S(4) (maximum amount of credit which a person in respect of whom a debt relief order is made may obtain without disclosure of his status); ”;  
(b) at the end of the list of provisions insert— “ paragraphs 6 to 8 of Schedule 4ZA (maximum amount of a person's debts, monthly surplus income and property for purposes of obtaining a debt relief order); ”.

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I35** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 12 (1) Section 426A (disqualification from Parliament) is amended as follows.
- (2) In subsection (1) after “bankruptcy restrictions order” insert “ or a debt relief restrictions order ”.
- (3) In subsection (5) after “interim order” insert “ , or a debt relief restrictions order or an interim debt relief restrictions order, ”.
- (4) In subsection (6) after “bankruptcy restrictions undertaking” insert “ or a debt relief restrictions undertaking ”.

#### Commencement Information

**I36** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 13 (1) Section 426B (devolution) is amended as follows.
- (2) In subsection (1) after “Wales,” insert “ or makes a debt relief restrictions order or interim debt relief restrictions order in respect of such a member, ”.
- (3) In subsection (2) after “bankruptcy restrictions undertaking” insert “ or a debt relief restrictions undertaking ”.

#### Commencement Information

**I37** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 14 (1) Schedule 9 is amended as follows.
- (2) In paragraph 1 for “Parts VIII to XI” substitute “ Parts 7A to 11 ”.
- (3) In paragraph 5 for “Parts VIII to XI” substitute “ Parts 7A to 11 ”.
- (4) In paragraph 6 for “Parts VIII to XI” substitute “ Parts 7A to 11 ”.
- (5) After paragraph 7 insert—

#### *“Debt relief orders*

- 7A Provision as to the manner in which the official receiver is to carry out his functions under Part 7A.
- 7B Provision as to the manner in which any requirement that may be imposed by the official receiver on a person under Part 7A is to take effect.
- 7C Provision modifying the application of Part 7A in relation to an individual who has died at a time when a moratorium period under a debt relief order applies in relation to him.

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Debt relief restrictions orders and undertakings*

- 7D Provision about debt relief restrictions orders, interim orders and undertakings, including provision about evidence.

*Register of debt relief orders and debt relief restrictions orders etc*

- 7E Provision about the register required to be maintained by section 251W and the information to be contained in it, including provision—
- (a) enabling the amalgamation of the register with another register;
  - (b) enabling inspection of the register by the public.”

**Commencement Information**

**I38** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 15 (1) The Table in Schedule 10 (punishment of offences) is amended as follows.
- (2) In the entry relating to section 31, in the column describing the general nature of the offence, after “bankrupt” insert “ or person in respect of whom a debt relief order is made ”.
- (3) Insert the following entries after the entry relating to section 235(5)—

“251O(1)	False representations or omissions in making an application for a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(2)(a)	Failing to comply with duty in connection with an application for a debt relief order.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(2)(b)	False representations or omissions in connection with duty in relation to an application for a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(4)(a)	Failing to comply with duty in connection with	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory

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	a debt relief order.		maximum, or both.
251O(4)(b)	False representations or omissions in connection with a duty in relation to a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251P(1)	Failing to deliver books, records and papers to official receiver, concealing or destroying them or making false entries in them by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251P(2)	Person in respect of whom debt relief order is made doing anything falling within paragraphs (c) to (e) of section 251P(1) during the period of 12 months ending with the application date or doing anything falling within paragraphs (b) to (e) of section 251P(1) after that date but before the effective date.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251Q(1)	Fraudulent disposal of property by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

251R(1)	Disposal of property that is not paid for by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251R(2)	Obtaining property in respect of which money is owed by a person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251S(1)	Person in respect of whom a debt relief order is made obtaining credit or engaging in business without disclosing his status or name.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.”

(4) In the application of those entries in relation to offences committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (limit on magistrates' court powers to impose imprisonment), the references in the fourth column to “12 months” are to be read as references to “6 months”.

#### Commencement Information

**I39** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

## PART 2 **E+W**

### AMENDMENTS TO OTHER LEGISLATION

- 16 (1) Section 11(1) of the Company Directors Disqualification Act 1986 (c. 46) (undischarged bankrupts) (as substituted in relation to England and Wales by the Enterprise Act 2002 (c. 40)) is amended as follows.
- (2) At the end of paragraph (a) (before “or”) insert—
- “(aa) a moratorium period under a debt relief order applies in relation to him,”.
- (3) In paragraph (b) after “bankruptcy restrictions order” insert “ or a debt relief restrictions order ”.

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I40** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

- 17 In section 183(2) of the Employment Rights Act 1996 (c. 18) (insolvency of an employer who is individual), in paragraph (a) before sub-paragraph (i) insert—  
“(ai) a moratorium period under a debt relief order applies in relation to him,”.

#### Commencement Information

**I41** Sch. 20 wholly in force at 6.4.2009; Sch. 20 not in force at Royal Assent see s. 148(2); Sch. 20 in force for certain purposes at 24.2.2009 and at 6.4.2009 otherwise by S.I. 2009/382, art. 2

PROSPECTIVE

## SCHEDULE 21 E+W

Sections 111 and 113

### REGULATIONS UNDER SECTIONS 111 AND 113

- 1 The first column of this table lists the matters referred to in sections 111(3) and 113(5).
- 2 A matter listed in the first column includes the aspects set out in the appropriate part of the second column.

#### *Matter about which particular provision may be made:*

1. The scheme operator.
2. The terms of a debt management scheme.
3. The operation of a debt management scheme.

#### *Including these aspects:*

- (a) The constitution of the scheme operator.
- (b) The governance of the scheme operator.
- (c) The size of the scheme operator's undertaking.
- (d) The financial standing of the scheme operator.
- (e) Whether or not a scheme operator is a profit-making organisation.
- (a) The non-business debtors to whom the scheme is open.
- (b) The kinds of debts which may be specified in a plan arranged in accordance with the scheme.
- (a) How decisions are made about whether debt repayment plans are to be arranged.



*Status: Point in time view as at 01/01/2010.*

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- |   |  |
|---|--|
| 4. Changes that affect the scheme operator.   | (b) How debt repayment plans are arranged.   |
| 5. Changes to—<br>(i) the terms of a debt management scheme;<br>(ii) the operation of a debt management scheme. | (c) How decisions are made about the terms of debt repayment plans, including decisions about—<br>(i) what payments will be required in relation to the specified debts;<br>(ii) the amounts, times and recipients of payments;<br>(iii) the duration of the plan.<br>(d) The format of debt repayment plans.<br>(e) When debt repayment plans begin to have effect.<br>(f) How changes are to be made to debt repayment plans (including the specification of debts after a plan has been arranged).<br>(g) How decisions are made about whether debt repayment plans are to be terminated.<br>(h) How debt repayment plans are terminated. |
| 6. The transfer of the operation of a debt management scheme to another body.                                   | (a) Whether changes may be made.<br>(b) How changes are made.  |
|   | (a) Whether the operation of the scheme may be transferred.<br>(b) How the operation of the scheme is transferred.   |

SCHEDULE 22 **E+W**

Section 139

COMPULSORY PURCHASE: CONSEQUENTIAL AMENDMENTS

*Local Government (Miscellaneous Provisions) Act 1976 (c. 57)*

- 1 In Part 2 of Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1976 (compulsory purchase of rights: adaptation of 1965 Act), in paragraph 9 for “sheriff’s warrant” substitute “ enforcement officer’s or sheriff’s warrant ”.

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Local Government, Planning and Land Act 1980 (c. 65)*

- 2 In Part 4 of Schedule 28 to the Local Government, Planning and Land Act 1980 (acquisition of rights), in paragraph 23(4) for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

*Highways Act 1980 (c. 66)*

- 3 In Part 2 of Schedule 19 to the Highways Act 1980 (compulsory acquisition of rights: adaptation of 1965 Act), in paragraph 9 for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

*Gas Act 1986 (c. 44)*

- 4 In Part 2 of Schedule 3 to the Gas Act 1986 (compulsory acquisition of land and rights: procedure etc), in paragraph 10 for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

*Channel Tunnel Act 1987 (c. 53)*

- 5 In Part 3 of Schedule 5 to the Channel Tunnel Act 1987 (supplementary provisions as to acquisition of land), in paragraph 8(d) for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

*Housing Act 1988 (c. 50)*

- 6 In Part 3 of Schedule 10 to the Housing Act 1988 (acquisition of rights), in paragraph 23(2), for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

*Electricity Act 1989 (c. 29)*

- 7 In Part 2 of Schedule 3 to the Electricity Act 1989 (compulsory acquisition of land and rights: procedure etc), in paragraph 11 for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

F37 . . .

**Textual Amendments**  
**F37** Sch. 22 para. 8 and preceding cross-heading repealed (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 321(1), 324, [Sch. 16](#); S.I. 2008/3068, [art. 5](#), Sch. (with arts. 6-13)

8 F38 . . .

**Textual Amendments**  
**F38** Sch. 22 para. 8 repealed (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), ss. 321(1), 324, [Sch. 16](#); S.I. 2008/3068, [art. 5](#), Sch. (with arts. 6-13)

*Status: Point in time view as at 01/01/2010.*

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Channel Tunnel Rail Link Act 1996 (c. 61)*

- 9 In Part 3 of Schedule 4 to the Channel Tunnel Rail Link Act 1996 (supplementary provisions as to acquisition of land), in paragraph 9(5), for “sheriff’s warrant” there is substituted “ enforcement officer’s or sheriff’s warrant ”.

*Regional Development Agencies Act 1998 (c. 45)*

- 10 In Part 2 of Schedule 5 to the Regional Development Agencies Act 1998 (acquisition of rights), in paragraph 5(2), for “sheriff’s warrant” there is substituted “ enforcement officer’s or sheriff’s warrant ”.

*Postal Services Act 2000 (c. 26)*

- 11 In Part 2 of Schedule 5 to the Postal Services Act 2000 (acquisition of land and rights: procedure etc), in paragraph 10, for “sheriff’s warrant” there is substituted “ enforcement officer’s or sheriff’s warrant ”.

SCHEDULE 23 **U.K.**

Section 146

REPEALS

PART 1 **U.K.**

TRIBUNALS AND INQUIRIES

**Commencement Information**

- I42** Sch. 23 Pt. 1 partly in force; Sch. 23 Pt. 1 not in force at Royal Assent see s. 148(5); Sch. 23 Pt. 1 in force at 1.11.2007 for certain purposes by S.I. 2007/2709, art. 3(d); Sch. 23 Pt. 1 in force at 3.11.2008 and at 1.4.2009 for certain further purposes by S.I. 2008/2696, arts. 5(i), 6(c)

**Reference**

**Extent of repeal or revocation**

Taxes Management Act 1970 (c. 9)

Sections 2 to 3A.  
In section 5(1), the words “General Commissioner or”.  
In section 6—  
(a) in subsection (1), the words “a General Commissioner or” and the words “, or before a General Commissioner”, and  
(b) subsection (2).  
In section 56(3), the words “the clerk to”.  
Section 115(4).

Superannuation Act 1972 (c. 11)

In Schedule 6, paragraph 77.

Finance Act 1972 (c. 41)

Section 130.

Consumer Credit Act 1974 (c. 39)

In Schedule A1, paragraph 11.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 2— (a) the entry relating to the Council on Tribunals, and (b) the entry relating to the Scottish Committee of the Council on Tribunals.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part 2— (a) the entry relating to the Council on Tribunals, and (b) the entry relating to the Scottish Committee of the Council on Tribunals.
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, the entry relating to the Council on Tribunals.
Estate Agents Act 1979 (c. 38)	Section 24(2).
Finance Act 1988 (c. 39)	Section 134(1).
Food Safety Act 1990 (c. 16)	In section 26(2)— (a) in paragraph (e), the words “or to a tribunal constituted in accordance with the regulations,” and (b) paragraph (f). Section 37(2)(a). Section 47.
Finance (No. 2) Act 1992 (c. 48)	In section 75(1), paragraph (a). In Schedule 16, paragraph 2.
Tribunals and Inquiries Act 1992 (c. 53)	Sections 1 to 5, 6(1) to (3), (6) and (7) and 8. In section 13— (a) subsection (2), and (b) in subsection (5)(c), the words “the reference in section 8(1) to the Foreign Compensation Commission and”. Section 14(1A). In section 16(1), in the definition of “decision”, “procedural rules” and “working”, the words “; “procedural rules” and “working””. In Schedule 1, paragraph 19.
Judicial Pensions and Retirement Act 1993 (c. 8)	In section 1(1), the word “and” at the end of paragraph (c). Section 12(1)(b).
Employment Tribunals Act 1996 (c. 17)	Section 26. In section 27(1)— (a) in paragraph (b), the word “and” at the end, (b) paragraph (c), and (c) the words after “persons within paragraph (a) or (b)”.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Social Security Act 1998 (c. 14)	In Schedule 7, in paragraph 118(1), “subsection (3) of” and the words after “1992”.
Social Security Contributions (Transfer of Functions, Etc.) Act 1999 (c. 2)	In Schedule 7, paragraph 1.
Access to Justice Act 1999 (c. 22)	Sections 101 to 103.
Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)	In Schedule 6, in paragraph 1, the words “section 2(1) (appointment of General Commissioners)”.
Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc) Order 1999 (S.I. 1999/1747)	Schedule 9.
Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750)	In Schedule 1, the entry in respect of sections 2(3), 2(6) and 3(4) of the Taxes Management Act 1970.
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 6, the entry relating to the Council on Tribunals and the entry relating to the Scottish Committee of the Council on Tribunals.
Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649)	Article 335(3).
Justice (Northern Ireland) Act 2002 (c. 26)	In each of Schedules 1 and 6, the entry relating to the panel of persons appointed under section 6(1) of the Tribunals and Inquiries Act 1992 to act as chairmen of tribunals that sit in Northern Ireland.
Nationality, Immigration and Asylum Act 2002 (c. 41)	In Schedule 4, paragraphs 9 and 10(b) and (c).
Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823)	Article 14.
Constitutional Reform Act 2005 (c. 4)	In Schedule 4, paragraph 64. In Schedule 5, in the amendment made by paragraph 122(5), and in the amendment made by paragraph 126(5), the entry relating to the panel of persons appointed under section 6(1) of the Tribunals and Inquiries Act 1992 to act as chairmen of tribunals that sit in Northern Ireland. In Schedule 7, in Part A of the list in paragraph 4— (a) the entry for section 6(2), (8) and (9) of the Tribunals and Inquiries Act 1992, and (b) the entry for paragraph 7(4) of Schedule 5 to that Act.

*Status: Point in time view as at 01/01/2010.*

*Changes to legislation: Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	In Schedule 12, in paragraph 4(4)(a), the words “or no other except that of General Commissioner,”.
	In Schedule 14, in Part 2, the entry relating to General Commissioner for a division in England and Wales.
	In Schedule 14, in Part 3, the entry relating to members of panels appointed under section 6(1) of the Tribunals and Inquiries Act 1992.
Tribunals, Courts and Enforcement Act 2007 (c. 15)	In section 36(3)(a), the words “or 41(2)”. In Schedule 8, paragraph 26.

## PART 2 **U.K.**

### JUDICIAL APPOINTMENTS

<i>Reference</i>	<i>Extent of repeal</i>
Courts and Legal Services Act 1990 (c. 41)	In Schedule 10— (a) paragraph 4, (b) in paragraph 6(1), the words “paragraph 13(1) of” and the words after “1947”, and (c) paragraphs 24, 26, 32, 49, 50(2)(b) and 57.
Judicial Pensions and Retirement Act 1993 (c. 8)	In Schedule 5— (a) in the entry for a deputy district judge appointed under section 102 of the Supreme Court Act 1981, the words “for a district registry”, and (b) in the entry for a deputy district judge appointed under section 8 of the County Courts Act 1984, the words “for a county court district”.
Child Support Act 1991 (c. 48)	In section 54, the definition of “general qualification”.
Social Security Act 1998 (c. 14)	In Schedule 4, paragraph 1(3).
Enterprise Act 2002 (c. 40)	In Schedule 2, paragraph 1(4).
Constitutional Reform Act 2005 (c. 4)	Section 25(2)(a). In Schedule 3, paragraph 2(3). In Schedule 14, in Part 2— (a) in the entry relating to a deputy district judge in a district registry of the High Court, the words “in a district registry of the High Court”, and (b) in the entry relating to a deputy district judge for a county court district, the words “for a county court district”.

*Status:* Point in time view as at 01/01/2010.

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 30 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

In Schedule 14, in Part 3, the entries relating to—

- (a) Member of the Special Immigration Appeals Commission;
- (b) Chairman of the Special Immigration Appeals Commission;
- (c) Member of the Proscribed Organisations Appeal Commission;
- (d) Chairman of the Proscribed Organisations Appeal Commission;
- (e) Member of the Pathogens Access Appeal Commission; and
- (f) Chairman of the Pathogens Access Appeal Commission.

VALID FROM 06/04/2014

**PART 3 U.K.**

ENFORCEMENT BY TAKING CONTROL OF GOODS

<i>Reference</i>	<i>Extent of repeal</i>
Inclosure Act 1773 (c. 81)	In section 4, the words from “rendering” to the end. In section 16, the words from “rendering” to the end.
Sale of Farming Stock Act 1816 (c. 50)	The whole Act.
Judgments Act 1838 (c. 110)	Section 12.
Compulsory Purchase Act 1965 (c. 56)	Section 13(5). Section 29.
Sea Fisheries Act 1968 (c. 77)	In section 12(3), the words from “as they apply” to the end.
Criminal Justice Act 1972 (c. 71)	In section 66(2), the words from “sentence of imprisonment” to the end.
Magistrates' Courts Act 1980 (c. 43)	In section 125(2), the words from “This subsection” to the end. Section 125D(3)(c). Section 151. In Schedule 4A, paragraph 3.
British Fishing Boats Act 1983 (c. 8)	In section 5(3), the words from “as they apply” to the end.
County Courts Act 1984 (c. 28)	Section 85(3). Section 87(2). Sections 89 to 91. Sections 93 to 100. Sections 102 and 103.

*Status: Point in time view as at 01/01/2010.*

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	Section 123. In section 126— (a) in subsection (3) the words from “but” to the end; (b) in subsection (4) “ “bailiff””. In section 147(1) the definition of “bailiff”.
Finance Act 1984 (c. 43)	Section 16.
Local Government Finance Act 1988 (c. 41)	In Schedule 9, paragraph 3(2)(b).
Child Support Act 1991 (c. 48)	Section 35(2) to (8).
Social Security Administration Act 1992 (c. 5)	Section 121A(2) to (8) and (10).
Local Government Finance Act 1992 (c. 14)	In Schedule 4— (a) paragraph 7; (b) in paragraph 8(1)(a) the words from “an authority” to “paragraph 7 above”; (c) paragraph 12(1)(c); (d) paragraph 19(3).
Finance Act 1997 (c. 16)	Section 51(7).
Courts Act 2003 (c. 39)	In Schedule 7, paragraph 8(5).
Traffic Management Act 2004 (c. 18)	Section 82(3)(a). Section 83.

VALID FROM 06/04/2014

**PART 4 U.K.**

RENT ARREARS RECOVERY

<i>Reference</i>	<i>Extent of repeal</i>
Distress for Rent Act 1689 (c. 5)	The whole Act.
Landlord and Tenant Act 1709 (c. 18)	Section 1. Sections 6 to 8.
Landlord and Tenant Act 1730 (c. 28)	Section 5.
Distress for Rent Act 1737 (c. 19)	Sections 1 to 10. Sections 16 and 17. Section 19.
Deserted Tenements Act 1817 (c. 52)	The whole Act.
Metropolitan Police Courts Act 1840 (c. 84)	The whole Act.
Execution Act 1844 (c. 96)	The whole Act.



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Lands Clauses Consolidation Act 1845 (c. 18)	In section 11 the words from “or it shall be lawful” to the end.
Sequestration Act 1849 (c. 67)	In section 1 the words “levy” and “distress” in the second place where each occurs, and “levied”.
Landlord and Tenant Act 1851 (c. 25)	The whole Act.
Railway Rolling Stock Protection Act 1872 (c. 50)	The whole Act.
Law of Distress Amendment Act 1888 (c. 21)	The whole Act.
Law of Distress Amendment Act 1908 (c. 53)	The whole Act.
Law of Property Act 1925 (c. 20)	Section 121(2). Section 162(1)(a). Section 189(1). In section 190— (a) subsection (2); (b) in subsection (7), “owner or”.
Administration of Estates Act 1925 (c. 23)	Section 26(3).
Rent (Agriculture) Act 1976 (c. 80)	Section 8.
Rent Act 1977 (c. 42)	Section 147.
Limitation Act 1980 (c. 58)	In section 38, “rentcharges and” and “rent or”.
County Courts Act 1984 (c. 28)	Section 116.
Agricultural Holdings Act 1986 (c. 5)	Sections 16 to 19. In section 24, “, by distress or otherwise,”.
Insolvency Act 1986 (c. 45)	Section 347(6), (7) and (11).
Housing Act 1988 (c. 50)	Section 19.
Water Industry Act 1991 (c. 56)	In section 179(4)(b), “or to the landlord's remedy for rent”.
Constitutional Reform Act 2005 (c. 4)	In Schedule 7, in the table in paragraph 4, the entry for the Law of Distress Amendment Act 1888.

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PROSPECTIVE

**PART 5 U.K.**

## ADMINISTRATION ORDERS

<i>Reference</i>	<i>Extent of repeal</i>
Company Directors Disqualification Act 1986 (c. 46)	Section 12(1).
Courts and Legal Services Act 1990 (c. 41)	Section 13.

PROSPECTIVE

**PART 6 U.K.**

## APPEAL TRIBUNAL UNDER SECTION 28 OF THE REGISTERED DESIGNS ACT 1949: ABOLITION

<i>Reference</i>	<i>Extent of repeal</i>
Registered Designs Act 1949 (c. 88)	Section 28. In section 37(3), the words “or on the Appeal Tribunal” and the words from “and the Statutory Instruments Act 1946 shall apply” to the end. In section 44(1), the definition of “Appeal Tribunal”.
Administration of Justice Act 1969 (c. 58)	Section 24. In Schedule 1, the entry in respect of the Registered Designs Act 1949.
Administration of Justice Act 1970 (c. 31)	Section 10.
Patents Act 1977 (c. 37)	In Schedule 5, paragraph 5.
Copyright, Designs and Patents Act 1988 (c. 48)	Section 249(2). In Schedule 3, paragraph 17.
Constitutional Reform Act 2005 (c. 4)	In Schedule 4, paragraphs 37 and 66.

**Status:**

Point in time view as at 01/01/2010.

**Changes to legislation:**

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