

**EXPLANATORY MEMORANDUM TO
THE ADMINISTRATIVE JUSTICE AND TRIBUNALS COUNCIL (LISTED
TRIBUNALS) ORDER 2007**

2007 No. 2951

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Description

- 2.1. This Instrument provides for those bodies listed in it to come under the oversight of the Administrative Justice and Tribunals Council (AJTC). Among other functions, the AJTC will keep under review, consider and report on matters relating to the “listed tribunals”, their constitution and working.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1. None.

4. Legislative Background

- 4.1. This Instrument is made in accordance with paragraph 25 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007. The Act received Royal Assent on 19th July 2007. It provides for the abolition of the Council on Tribunals and its replacement by the AJTC. The AJTC’s functions include the oversight of those tribunals designated as “listed tribunals” for the purpose of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007. Those listed tribunals are the new First-tier and Upper Tribunals to be established under that Act, and any other tribunals so designated by the appropriate “responsible authority”. This Instrument designates as “listed tribunals”, and therefore brings under the oversight of the AJTC, those tribunals for which the Lord Chancellor is the “responsible authority”. The Scottish Ministers will make a similar order for tribunals for which they are the responsible listing authority and the Welsh Ministers will make an order for tribunals for which they are the responsible listing authority. The tribunals listed in this Instrument are broadly the same as those that are currently under the oversight of the Council on Tribunals, which are listed in Schedule 1 to the Tribunals and Inquiries Act 1992.

5. Extent

5.1. The Regulations apply to England, Wales, Scotland and Northern Ireland.

6. European Convention on Human Rights

6.1. As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1. The White Paper *Transforming Public Services: Complaints, Redress and Tribunals* (2004), set out the government's proposals for reforming the administrative justice system. Chapter 11 of the White Paper proposed that, alongside the creation of the Tribunals Service in April 2006, the Council on Tribunals (the body which currently has oversight over the majority of tribunals) should take on a wider remit to become a Council charged with keeping under review the administrative justice system as a whole and focused on the needs of the public and users. The Tribunals, Courts and Enforcement Act 2007 provides for the replacement of the Council on Tribunals with the AJTC, with the new Council having such a wider remit.

7.2 Currently the Council on Tribunal's remit is defined in part by a list of specific tribunals which it is to keep under review, which are set out in Schedule 1 to the Tribunals and Inquiries Act 1992. Such a list of specific tribunals applies also in relation to the new AJTC. The list of Tribunals to be overseen by the AJTC includes the new First-tier and Upper Tribunals to be established under the Tribunals, Courts and Enforcement Act 2007, and any other tribunals designated by the Lord Chancellor, the Scottish Ministers or the Welsh Ministers (as appropriate). This Instrument sets out those tribunals to be added to the list on the authority of the Lord Chancellor. Other instruments are being made by the Scottish Ministers and the Welsh Ministers setting out those tribunals to be added to the list on their authority. Together, the list created by the three instruments accords broadly with the list in Schedule 1 to the Tribunals and Inquiries Act 1992. The intention is that, over time, as the jurisdictions of most of the listed tribunals are transferred away from the current tribunals and into the new First-tier and Upper Tribunals by the process under the Tribunals, Courts and Enforcement Act 2007 the current tribunals will be abolished and will be removed from the list.

7.3 The AJTC's remit in relation to the listed tribunals will be to keep under review and report on the constitution and working of listed tribunals (individually and generally), and to consider and report on any other matter relating to listed

tribunals (individually or generally) that the AJTC determines to be of special importance.

7.4. As well as its specific role in relation to the listed tribunals, the AJTC will be tasked with considering how to make the administrative justice system as a whole more accessible, fair and efficient, and advising the Lord Chancellor, the Scottish Ministers, Welsh Ministers and the Senior President accordingly. It will be concerned with ensuring the relationships between the courts, tribunals, ombudsmen and alternative dispute resolution routes satisfactorily reflect the needs of users. It will keep under review and report on statutory inquiries, will consider and report on matters referred to it by the Lord Chancellor, the Welsh Ministers or the Scottish Ministers relating to a particular tribunal or tribunals in general, and may scrutinise and comment on legislation that is extant or proposed, including procedural rules, relating to tribunals.

7.5. The Council on Tribunals and other relevant government departments have been consulted on the drafting of this Instrument and are in agreement with its content.

8. Impact

8.1. A Regulatory Impact Assessment was prepared for the Tribunals, Courts and Enforcement Act. The relevant extracts from the final version are attached at Annex A. A full version of the Regulatory Impact Assessment can be found at <http://www.justice.gov.uk/publications/tribunalscourtsandenforcementact.htm>

9. Contact

9.1. Any enquiries about the contents of this memorandum should be addressed to: Michaela Strange, Directorate of Reviews and Legislation, Tribunals Service, 1st Floor, 4 Abbey Orchard Street, London SW1P 2HT, Email: michaela.strange@justice.gsi.gov.uk Tel. 020 7340 6562

**Tribunals, Courts and Enforcement Act
Regulatory Impact Assessment (Final Version)
Relevant Extracts Relating to the AJTC**

SECTION 1: TRIBUNALS – PUBLIC SECTOR IMPACT ASSESSMENT

Part 5 - Options

An Administrative Justice & Tribunals Council

1.33 To complement all of these proposals the Council on Tribunals will be abolished, and replaced by an Administrative Justice and Tribunals Council, which will subsume the Council's current functions, but also take on a wider remit, including advising ministers on how to make the administrative justice system more accessible, fair and efficient, with particular reference to user priorities and concerns.

Part 6 – Costs and Benefits

An Administrative Justice & Tribunals Council

1.62 The Council on Tribunals will be abolished and replaced by a new body, the Administrative Justice and Tribunals Council. On implementation, the existing membership of the Council on Tribunals will become members of the new body, but as the new Council broadens its horizons, as and when new vacancies arise, the composition of the Council will change to accommodate its enhanced role. However, the size and general function of the Council will not change sufficiently to generate any extra cost beyond the current running cost of the Council on Tribunals.