

2010 No. 41

TRIBUNALS AND INQUIRIES

**The Tribunals, Courts and Enforcement Act 2007
(Miscellaneous Provisions) Order 2010**

<i>Made</i> - - - -	<i>10th January 2010</i>
<i>Laid before Parliament</i>	<i>12th January 2010</i>
<i>Coming into force</i> - -	<i>15th February 2010</i>

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 11(5)(f), 13(8)(f), 31(9) and 38(1) of the Tribunals, Courts and Enforcement Act 2007(a).

Citation and commencement

1. This Order may be cited as the Tribunals, Courts and Enforcement Act 2007 (Miscellaneous Provisions) Order 2010 and comes into force on 15 February 2010.

Amendments to the Appeals (Excluded Decisions) Order 2009

2. The Appeals (Excluded Decisions) Order 2009(b) is amended as follows.
3. For article 2 (excluded decisions) substitute—

“Excluded decisions

2. For the purposes of section 11(1) of the Tribunals, Courts and Enforcement Act 2007, the following decisions of the First-tier Tribunal are excluded decisions—

- (a) a decision under section 103 of the Immigration and Asylum Act 1999(c) (appeals); and
- (b) a decision under paragraphs 22, 23, 24, 29, 30, 31, 32 and 33 of Schedule 2 to the Immigration Act 1971(d).”.

4. After article 3(1) (excluded decisions) insert—

“(m) any procedural, ancillary or preliminary decision made in relation to an appeal against a decision under section 40A of the British Nationality Act 1981(e), section

(a) 2007 c.15.
(b) S.I. 2009/275.
(c) 1999 c.33.
(d) 1971 c.77. Paragraph 22(1A) was inserted by paragraph 11 of Schedule 2 to the Asylum and Immigration Act 1996 (c.49) and paragraphs 22(1A), (2) and (3), 23(1) and (2), 24(2) and (3), 25, 29(2), (3) and (6) and 33(3) of Schedule 2 were amended by paragraph 1(2) to (4) and (6) of Part 1 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19).
(e) 1981 c. 61.

82, 83 or 83A of the Nationality, Immigration and Asylum Act 2002(a), or regulation 26 of the Immigration (European Economic Area) Regulations 2006(b).”.

Revocations and saving provisions

5. The Asylum and Immigration Tribunal (Judicial Titles) Order 2005(c) is revoked.

6. The Legal Aid (Asylum and Immigration Appeals) (Northern Ireland) Regulations 2007(d) (“the 2007 Regulations”) are revoked.

7. The 2007 Regulations shall continue to apply to proceedings to which paragraphs 2 to 8 and 13(1)(b), (c) and (2) (in relation to sub-paragraphs (1)(b) to (e)) of Schedule 4 to the Transfer of Functions of the Asylum and Immigration Tribunal Order 2010(e) (“the 2010 Order”) apply until the proceedings are finally determined —

- (a) as if the repeals in Schedule 1 to the 2010 Order in respect of sections 103A and 103D of the Nationality, Immigration and Asylum Act 2002(f) and rule 33 of the Asylum and Immigration Tribunal (Procedure) Rules 2005(g) (“the 2005 Rules”), and the repeals and revocations in Schedule 3 to the 2010 Order and article 6 of this Order in respect of paragraph 30 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(h) and the 2007 Regulations had not been made;
- (b) as if the references to the Tribunal in section 103D of the Nationality, Immigration and Asylum Act 2002, paragraph 30 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, the 2007 Regulations and rule 33 of the 2005 Rules were references to the First-tier Tribunal or the Upper Tribunal as appropriate, and the references to the appropriate court and the High Court were references to the Upper Tribunal where appropriate; and
- (c) subject to any necessary modifications.

10th January 2010

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

(a) 2002 c. 41. Section 82 was amended by sections 26(2) and 31 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19); sections 2, 11(6), 47(6), 57(2) and 61 of the Immigration, Asylum and Nationality Act 2006 (c. 13), and section 35(1) and (3) of the UK Borders Act 2007 (c. 30). Section 83A was inserted by section 1 of the Immigration, Asylum and Nationality Act 2006.

(b) S.I. 2006/1003.

(c) S.I. 2005/227.

(d) S.I. 2007/1318.

(e) S.I. 2010/21.

(f) 2002 c.41.

(g) S.I. 2005/230.

(h) 2004 c.19.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Appeals (Excluded Decisions) Order 2009. Section 11 of the Tribunals, Courts and Enforcement Act 2007 provides for a right of appeal on a point of law from the First-tier Tribunal to the Upper Tribunal. Section 13 of that Act provides for a right of appeal on a point of law from the Upper Tribunal to the relevant appellate court. There is no right of appeal under section 11 or 13 against an “excluded decision”. Excluded decisions are listed in sections 11(5) and 13(8). This Order specifies additional decisions which are also excluded from these rights of appeal.

This Order makes two revocations and one savings provision for in connection with the transfer of functions of the Asylum and Immigration Tribunal pursuant to section 30 of the Tribunals, Courts and Enforcement Act 2007.

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STATUTORY INSTRUMENTS

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