
DRAFT STATUTORY INSTRUMENTS

2008 No.0000

TRIBUNALS AND INQUIRIES

The Transfer of Tribunal Functions Order 2008

Made - - - - 2008

Coming into force 3rd November 2008

THE TRANSFER OF TRIBUNAL FUNCTIONS ORDER 2008

1. Citation, commencement, interpretation and extent
 2. Additions to the list of tribunals in Schedule 6
 3. Transfer of functions of certain tribunals
 4. Abolition of tribunals transferred under section 30(1)
 5. Transfer of persons into the First-tier Tribunal and the Upper Tribunal
 6. Appeal to Upper Tribunal from tribunals in Wales
 7. Appeal to Upper Tribunal from tribunals in Scotland
 8. Appeal to Upper Tribunal from tribunals in Northern Ireland
 9. Minor, consequential and transitional provisions
- Signature

SCHEDULE 1 — Functions transferred to the First-tier Tribunal and Upper Tribunal

SCHEDULE 2 — Persons transferred as judges and members of the First-tier Tribunal and Upper Tribunal

SCHEDULE 3 — Minor, consequential and supplemental provisions

1. War Pensions (Administrative Provisions) Act 1919
2. In section 8 (appeals to Pensions Appeal Tribunals)—
3. In paragraph 1 of the Schedule (constitution jurisdiction and procedure...
4. Pensions Appeal Tribunals Act 1943
5. In section 1 (appeals against rejection of war pension claims)—...
6. In section 2(1) and (2) (appeals against rejection of war...
7. In section 3(1) and (2) (appeals against rejection of war...
8. In section 4(1) and (2) (appeals in cases where award...
9. In section 5 (appeals against assessment of extent of disablement)—...
10. In subsection 5A(1)(b) (appeals in other cases) for “Tribunal” substitute...
11. In section 5B (matters relevant on appeal) for “appeal, a...

12. (1) Section 6 (constitution, jurisdiction and procedure of Pensions Appeal...
13. (1) Section 6A (appeals from Tribunal to Social Security Commissioner)...
14. In section 6B (redetermination etc of appeals by Pensions Appeal...
15. In section 6C (appeals from Commissioner)— (a) in subsections (1)...
16. In section 6D (procedure in proceedings before Commissioner)—
17. In section 8(1), (3) and (5) (time limit for appeals)...
18. In section 9 (notices) for “Tribunal” substitute “appropriate tribunal”.
19. In section 11A(5) (regulations) omit paragraph (b) (together with the...
20. In section 12 (interpretation)— (a) before the definition of “detention”...
21. (1) The Schedule (constitution, jurisdiction and procedure of Pensions Appeal...
22. Administration of Justice Act 1960
23. Parliamentary Commissioner Act 1967
24. Omit section 11B(2)(b) and (3)(b) (the Criminal Injuries Compensation Scheme)....
25. Omit paragraph 6C of Schedule 3 (matters not subject to...
26. (1) Schedule 4 (relevant tribunals for the purposes of section...
27. Local Authority Social Services Act 1970
28. House of Commons Disqualification Act 1975
29. Northern Ireland Assembly Disqualification Act 1975
30. Vaccine Damage Payments Act 1979
31. In section 3A(1) (decisions reversing earlier decisions) for “an appeal...
32. In section 4 (appeals to appeal tribunals) as it has...
33. In section 4 (appeals to appeal tribunals) as it has...
34. In section 7A(1) (correction of errors and setting aside of...
35. Omit section 9A (interpretation).
36. In section 12(3) (financial provision)— (a) omit paragraph (b); and...
37. Judicial Pensions Act 1981
38. Forfeiture Act 1982
39. Mental Health Act 1983
40. In section 21(3) (patients absent without leave) for “a Mental...
41. In section 41(3)(b) (power of higher courts to restrict discharge...
42. In section 50(1) (prisoners under sentence) for “a Mental Health...
43. In section 51(3) (detained persons) for “a Mental Health Review...
44. In section 53(2) (civil prisoners and persons detained under the...
45. In section 65 (Mental Health Review Tribunals)—
46. In section 66 (applications to tribunals)— (a) in subsection (1)...
47. In section 67(1) (references to tribunals by Secretary of State...
48. In section 68(2), (6) and (7) (duty of managers of...
49. In section 68A(5) (power to reduce periods under section 68)...
50. In section 69(1) and (2) (applications to tribunals concerning patients...
51. In section 70 (applications to tribunals concerning restricted patients) for...
52. In section 71(1) and (2) (references by Secretary of State...
53. In section 72 (powers of tribunals)— (a) in subsections (1),...
54. In section 73 (power to discharge restricted patients)—
55. In section 74 (restricted patients subject to restriction directions)—
56. In section 75 (applications and references concerning conditionally discharged restricted...
57. In section 76(1) (visiting and examination of patients) for “a...
58. In section 77 (general provisions concerning tribunal applications)—
59. Section 78 (procedure of tribunals) is amended as follows.
60. After section 78 insert— Appeal from the Mental Health Review...
61. In section 79 (interpretation of Part 5) omit subsection (7)....

62. In section 86(3) (removal of alien patients) for “a Mental...
63. In section 132(1)(b) (duty of managers of hospitals to give...
64. In section 132A(1)(b) (duty of managers of hospitals to give...
65. In section 134(3) (correspondence of patients)— (a) in paragraph (d)...
66. In section 145(1) (interpretation) after the definition of “application for...
67. In Schedule 2 (Mental Health Review Tribunals)—
68. In paragraph 34(4) of Schedule 5 (transitional and saving provisions)...
69. Repatriation of Prisoners Act 1984
70. Disabled Persons (Services, Consultation and Representation) Act 1986
71. Children Act 1989
72. In section 65(3)(b) (persons disqualified from carrying on, or being...
73. In section 65A(1) (appeal against refusal of authority to give...
74. Omit section 79B(8) (other definitions, etc).
75. In section 79H(2) (suspension of registration) before “Tribunal” insert “First-tier”....
76. In section 79M(1) and (2) (appeals) before “Tribunal” insert “First-tier”....
77. Child Support Act 1991
78. In section 16(1A)(c) (revision of decisions) for “an appeal tribunal”...
79. In section 17(1)(decisions superseding earlier decisions)— (a) in paragraphs (b)...
80. In section 20 (appeals to appeal tribunals) as it has...
81. In section 20 (appeals to appeal tribunals) as substituted by...
82. Omit section 22 (Child Support Commissioners).
83. In section 23(3) (Child Support Commissioners for Northern Ireland) omit...
84. In section 23A (redetermination of appeals)— (a) in subsection (1)...
85. In section 24 (appeal to Child Support Commissioner)—
86. Omit section 25 (appeal from Child Support Commissioner on question...
87. In section 28ZA(1)(b) (decisions involving issues that arise on appeal...
88. (1) Section 28ZB (appeals involving issues that arise on appeal...
89. In section 28ZC (restrictions on liability in certain cases of...
90. In section 28ZD(1) (correction of errors and setting aside of...
91. In section 28D (determination of applications) (a) in subsections (1)(b)...
92. In section 45 (jurisdiction of courts in certain proceedings under...
93. In section 46A(1) (finality of decisions)— (a) after “Subject to...
94. In section 46B(1) (matters arising as respects decisions)—
95. In section 50 (unauthorised disclosure of information)—
96. In section 54 (interpretation) omit the definition of “appeal tribunal”....
97. (1) Schedule 4 (Child Support Commissioners) is amended as follows....
98. In Schedule 4A (departure directions), as it has effect without the...
99. In Schedule 4A (applications for a variation), as substituted by...
100. (1) Schedule 4C (decisions and appeals: departure directions and reduced...
101. Social Security Administration Act 1992
102. In section 2B(6) (supplementary provisions relating to work-focused interviews) for...
103. In section 71(2) (over-payments—general)— (a) for “a tribunal” substitute “the...
104. (1) Schedule 4 (persons employed in social security administration or...
105. Tribunals and Inquiries Act 1992
106. In section 11(1) (appeals from certain tribunals) omit “; 40B”....
107. In Part 1 of Schedule 1 (tribunals under direct supervision...
108. Judicial Pensions and Retirement Act 1993
109. In Part 2 of Schedule 1 (other appointments – members...

110. In Schedule 5 (retirement provisions: the relevant offices) omit—
111. Pensions Schemes Act 1993
112. In section 170(6) (decisions and appeals) for “appeal tribunal” substitute...
113. In section 171A(1) (reports by Inland Revenue) for “an appeal...
114. Disability Discrimination Act 1995
115. In section 28H (tribunals)— (a) omit subsection (1);
116. In section 28I(5)(a) (jurisdiction and powers of the Tribunal) for...
117. In section 28J (procedure)— (a) in subsection (1)—
118. After section 28J insert— Appeal from the Welsh Tribunal to...
119. In section 28M(5) (roles of the Secretary of State and...
120. In section 28N(5)(b) (civil proceedings: Scotland) for “Tribunal” substitute
“First-tier...
121. In paragraph 10 of Part 3 of Schedule 3 (discrimination...
122. Criminal Injuries Compensation Act 1995
123. In section 1(4) (the Criminal Injuries Compensation Scheme) omit the...
124. In section 5 (appeals)— (a) for subsections (1) to (7)...
125. In section 9 (financial provisions)— (a) in subsection (1) omit...
126. In section 11(4) (parliamentary control) omit paragraph (b) (together with...
127. Education Act 1996
128. In section 313(5) (code of practice)— (a) omit “(except sections...
129. In section 326A(6) (unopposed appeals)— (a) in paragraph (a) for...
130. In section 333 (constitution of tribunal)— (a) in the title...
131. In section 334 (the President and members of the panels)—...
132. For section 335(1) and (2) (remuneration and expenses) substitute—
133. In section 336 (tribunal procedure)— (a) in subsection (1)—
134. Omit section 336ZA (Special Educational Needs Tribunal for Wales).
135. After that section insert— Appeals from the Welsh Tribunal to...
136. In section 336A(2) (compliance with orders)— (a) in paragraph (a)...
137. Employment Tribunals Act 1996
138. Social Security (Recovery of Benefits) Act 1997
139. In section 11(5) (appeals against certificates of recoverable benefits) omit...
140. In section 12 (reference of questions to medical appeal tribunal)—...
141. In section 13 (appeal to Social Security Commissioner)—
142. In section 29 (general interpretation) omit the definitions of “appeal...
143. Social Security Act 1998
144. Omit section 4 (unified appeal tribunals).
145. Omit section 5 (President of appeal tribunals).
146. Omit section 6 (panel for appointment to appeal tribunals).
147. Omit section 7 (constitution of appeal tribunals).
148. In section 10(1)(b) (decisions superseding earlier decisions) for “of an...
149. In section 12 (appeal to appeal tribunal)—
150. In section 13 (redetermination etc of appeals by tribunal)—
151. In section 14 (appeal from tribunal to Commissioner)—
152. In section 15 (appeal from Commissioner on point of law)—...
153. After section 15 insert— Functions of Senior President of Tribunals (1) The
Senior President...
154. In section 16 (procedure) omit subsections (2), (3)(a) (together with...
155. In section 17(1) (finality of decisions) after “this Chapter”, in...
156. In section 18(1)(a) (matters arising as respects decisions) for “,...
157. In section 20 (medical examination required by appeal tribunal)—
158. After section 20 insert— Travelling and other allowances (1) The Lord
Chancellor may pay...
159. In section 21 (suspension in prescribed cases)—

160. In section 24A (appeals dependent on issues falling to be...
161. In section 25(1)(b) (decisions involving issues that arise on appeal...
162. (1) Section 26 (appeals involving issues that arise on appeal...
163. In section 27 (restrictions on entitlement to benefit in certain...
164. In section 28 (correction of errors and setting aside of...
165. In section 29(3) (decision that accident is an industrial accident),...
166. Before section 39 insert— Certificates A document bearing a certificate which— (a) is signed by...
167. In section 39(1) (interpretation etc of Chapter 2) omit the...
168. In section 79 (regulations and orders)— (a) in subsection (1)...
169. In section 80 (Parliamentary control of regulations)—
170. In section 81(1) (reports by Secretary of State) for “an...
171. Omit Schedule 1 (appeal tribunals: supplementary provisions).
172. Omit Schedule 4 (Social Security Commissioners).
173. In Schedule 5 (regulations as to procedure: provision which may...
174. Protection of Children Act 1999
175. In section 9 (the tribunal)— (a) omit subsection (1);
176. In section 12(1) (interpretation) in the definition of “Tribunal” (as...
177. Omit the Schedule (the tribunal).
178. Access to Justice Act 1999
179. Immigration and Asylum Act 1999
180. In section 94(1) (interpretation of Part 6) omit the definition...
181. Omit section 102 (Asylum Support Adjudicators).
182. In section 103 (appeals) as it has effect before the...
183. In section 103 (appeals) as it has effect after the...
184. In section 103A(1) (appeals: location of support under section 4...
185. Omit section 104 (Lord Chancellor’s rules).
186. Omit Schedule 10 (Asylum Support Adjudicators).
187. Care Standards Act 2000
188. Freedom of Information Act 2000
189. Criminal Justice and Court Services Act 2000
190. Child Support, Pensions and Social Security Act 2000
191. Tax Credits Act 2002
192. Education Act 2002
193. In section 144(1) (directions under section 142: appeal) for “Tribunal...
194. In section 166(1) (appeals) for “tribunal established under section 9...
195. In subsection 167(1) (determination of appeals) for “tribunal established under...
196. In section 167B(1) (directions under section 167A: appeals) for “Tribunal...
197. Nationality, Immigration and Asylum Act 2002
198. Health and Social Care (Community Health and Standards) Act 2003
199. In section 157 (appeal against a certificate or a waiver...
200. In section 158 (appeal tribunals)— (a) in subsection (1) for...
201. Omit section 159 (appeal to Social Security Commissioner).
202. Child Trust Funds Act 2004
203. Asylum and Immigration (Treatment of Claimants, etc) Act 2004
204. Domestic Violence, Crime and Victims Act 2004
205. In section 37(5) (representations where restriction order made) for “A...
206. In section 37A(6) (representations where restriction order not made) for...
207. In section 38(5)(a) and (b) (information where restriction order made)...
208. In section 38A(4)(a) to (c) (information where restriction order not...
209. In section 40(5) (representations) for “A Mental Health Review Tribunal”...
210. In section 41(5)(a) and (b) (information) for “a Mental Health...

- 211. In section 43(5) (representations where restriction direction made) for “A...
- 212. In section 43A(6) (representations where restriction direction not given)
for...
- 213. In section 44(5)(a) and (b) (information where restriction direction made)...
- 214. In section 44A(4)(a) to (c) (information where restriction direction not...
- 215. In paragraph 17 of Schedule 9 (authorities within the remit...
- 216. Constitutional Reform Act 2005
- 217. Omit section 3(7B)(f) (guarantee of continued judicial independence).
- 218. In the table in section 94B(3) (appointments not subject to...
- 219. (1) Paragraph 4 of Schedule 7 (protected functions of the...
- 220. (1) Schedule 14 (the Judicial Appointments Commission: relevant offices
and...
- 221. Childcare Act 2006
- 222. Safeguarding Vulnerable Groups Act 2006
- 223. Mental Health Act 2007
- 224. Child Maintenance and Other Payments Act 2008
- 225. In section 6 (fees)— (a) in subsection (5) for “an...
- 226. In section 50 (appeal to appeal tribunal)—
- 227. Omit section 51 (appeal to Social Security Commissioner).
- 228. Repeals and revocations

SCHEDULE 4 — Transitional provisions

- 1. Transitional provisions
- 2. Subject to article 3(3)(b) any proceedings before a tribunal listed...
- 3. (1) The following sub-paragraphs apply where proceedings are continued
in...
- 4. Subject to article 3(3)(a) and (b) where an appeal lies...
- 5. Subject to article 3(3)(b) where an appeal lies to a...
- 6. Subject to article 3(3)(a) and (b) any case to be...
- 7. Savings provisions

Explanatory Note