

SCHEDULES

SCHEDULE 7

Section 87(5).

THE IMMIGRATION SERVICES TRIBUNAL

Members

- 1 (1) The Tribunal is to consist of such number of members as the Lord Chancellor may determine.
- (2) The members are to be appointed by the Lord Chancellor.
- (3) A person may be appointed as a member only if—
- (a) he is legally qualified; or
 - (b) he appears to the Lord Chancellor to have had substantial experience in immigration services or in the law and procedure relating to immigration.

The President

- 2 The Tribunal is to have a President appointed by the Lord Chancellor from among those of its members who are legally qualified.

Terms and conditions of appointment

- 3 (1) Each member is to hold and vacate office in accordance with the terms of his appointment.
- (2) A member is eligible for re-appointment when his term of office ends.
- (3) A member may resign at any time by notice in writing given to the Lord Chancellor.
- (4) The Lord Chancellor may dismiss a member on the ground of incapacity or misconduct.

Remuneration and expenses

- 4 The Lord Chancellor may pay to any member such remuneration and expenses as he may determine.

Proceedings

- 5 The Tribunal is to sit at such times and in such places as the Lord Chancellor may direct.
- 6 (1) The Commissioner is entitled to be represented before the Tribunal, in relation to the hearing of appeals or disciplinary charges, by such persons as he may authorise.
- (2) The Commissioner may authorise a person to represent him before the Tribunal in relation to—

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- (a) specified proceedings; or
 - (b) all or specified categories of proceedings.
- (3) “Specified” means specified by the Commissioner.

Rules of procedure

- 7 (1) The Lord Chancellor may make rules as to the procedure and practice to be followed in relation to the exercise of the Tribunal’s functions.
- (2) Before making or altering any such rules, the Lord Chancellor must consult the Scottish Ministers.
- (3) Subject to the provisions of this Schedule and the rules, the Tribunal may determine its own procedure.
- (4) The rules must make provision for any person appealing to the Tribunal or otherwise subject to its jurisdiction to be entitled to be legally represented.
- (5) The rules may, in particular, make provision—
- (a) as to the mode and burden of proof and the giving and admissibility of evidence;
 - (b) for proceedings before the Tribunal to be capable of being determined in the absence of any party to the proceedings if that party has failed, without reasonable excuse, to appear before the Tribunal or has failed to comply with any reasonable directions given by the Tribunal as to the conduct of the proceedings;
 - (c) with respect to other matters preliminary or incidental to, or arising out of, any matter with respect to which the Tribunal is or may be exercising functions;
 - (d) as to the period within which an appeal against a decision of the Commissioner can be brought;
 - (e) authorising such functions of the Tribunal as may be specified in the rules to be exercised by a single member.

Suspending the effect of a relevant decision

- 8 (1) A relevant decision of the Commissioner is not to have effect while the period within which an appeal may be brought against the decision is running.
- (2) If the appellant applies to the Tribunal under this paragraph, the Tribunal may direct that while the appeal is being dealt with—
- (a) no effect is to be given to the decision appealed against; or
 - (b) only such limited effect is to be given to it as may be specified in the direction.
- (3) Rules under paragraph 7 must include provision requiring the Tribunal to consider applications by the Commissioner for the cancellation or variation of directions given under this paragraph.

Staff

- 9 (1) The Lord Chancellor may appoint such staff for the Tribunal as he considers appropriate.

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- (2) The Lord Chancellor may pay, or provide for the payment of, such pensions, allowances or gratuities (including by way of compensation for loss of office or employment) to or in respect of the Tribunal's staff as he considers appropriate.

Expenditure

- 10 The Lord Chancellor may pay such other expenses of the Tribunal as he considers appropriate.

Meaning of "legally qualified"

- 11 A person is legally qualified for the purposes of this Schedule if—
- (a) he has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
 - (b) he is an advocate or solicitor in Scotland of at least 7 years' standing; or
 - (c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing.

Disqualification for House of Commons

- 12 In Part I of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), insert at the appropriate place—
“Member of the Immigration Services Tribunal”.

Disqualification for Northern Ireland Assembly

- 13 In Part I of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership), insert at the appropriate place—
“Member of the Immigration Services Tribunal”.