Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

Tribunals, Courts and Enforcement Act 2007

2007 CHAPTER 15

An Act to make provision about tribunals and inquiries; to establish an Administrative Justice and Tribunals Council; to amend the law relating to judicial appointments and appointments to the Law Commission; to amend the law relating to the enforcement of judgments and debts; to make further provision about the management and relief of debt; to make provision protecting cultural objects from seizure or forfeiture in certain circumstances; to amend the law relating to the taking of possession of land affected by compulsory purchase; to alter the powers of the High Court in judicial review applications; and for connected purposes. [19th July 2007]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

C1 Act: power to apply (with modifications) conferred (1.1.2010 for certain purposes) by Saving Gateway Accounts Act 2009 (c. 8) {ss. 24(4)(5)}, 31; S.I. 2009/3332, **art. 2(e)**

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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PART 1

TRIBUNALS AND INQUIRIES

CHAPTER 1

TRIBUNAL JUDICIARY: INDEPENDENCE AND SENIOR PRESIDENT

1 Independence of tribunal judiciary

In section 3 of the Constitutional Reform Act 2005 (c. 4) (guarantee of continued judicial independence), after subsection (7) insert—

"(7A) In this section "the judiciary" also includes every person who—

(a) holds an office listed in Schedule 14 or holds an office listed in subsection (7B), and

(b) but for this subsection would not be a member of the judiciary for the purposes of this section.

(7B) The offices are those of—

(a) Senior President of Tribunals;

(b) President of Employment Tribunals (Scotland);

(c) Vice President of Employment Tribunals (Scotland);

(d) member of a panel of chairmen of Employment Tribunals (Scotland);

(e) member of a panel of members of employment tribunals that is not a panel of chairmen;

(f) adjudicator appointed under section 5 of the Criminal Injuries Compensation Act 1995."

2 Senior President of Tribunals

(1) Her Majesty may, on the recommendation of the Lord Chancellor, appoint a person to the office of Senior President of Tribunals.

(2) Schedule 1 makes further provision about the Senior President of Tribunals and about recommendations for appointment under subsection (1).

(3) A holder of the office of Senior President of Tribunals must, in carrying out the functions of that office, have regard to—

(a) the need for tribunals to be accessible,

(b) the need for proceedings before tribunals—

(i) to be fair, and

(ii) to be handled quickly and efficiently,

(c) the need for members of tribunals to be experts in the subject-matter of, or the law to be applied in, cases in which they decide matters, and

(d) the need to develop innovative methods of resolving disputes that are of a type that may be brought before tribunals.

(4) In subsection (3) "tribunals" means—

(a) the First-tier Tribunal,

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(b) the Upper Tribunal,
(c) employment tribunals,
(d) the Employment Appeal Tribunal, and
(e) the Asylum and Immigration Tribunal.

CHAPTER 2

FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

VALID FROM 03/11/2008

Establishment

3 The First-tier Tribunal and the Upper Tribunal

(1) There is to be a tribunal, known as the First-tier Tribunal, for the purpose of exercising the functions conferred on it under or by virtue of this Act or any other Act.

(2) There is to be a tribunal, known as the Upper Tribunal, for the purpose of exercising the functions conferred on it under or by virtue of this Act or any other Act.

(3) Each of the First-tier Tribunal, and the Upper Tribunal, is to consist of its judges and other members.

(4) The Senior President of Tribunals is to preside over both of the First-tier Tribunal and the Upper Tribunal.

(5) The Upper Tribunal is to be a superior court of record.

Members and composition of tribunals

VALID FROM 03/11/2008

4 Judges and other members of the First-tier Tribunal

(1) A person is a judge of the First-tier Tribunal if the person—
(a) is a judge of the First-tier Tribunal by virtue of appointment under paragraph 1(1) of Schedule 2,
(b) is a transferred-in judge of the First-tier Tribunal (see section 31(2)),
(c) is a judge of the Upper Tribunal,
(d) is a member of the Asylum and Immigration Tribunal appointed under paragraph 2(1)(a) to (d) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (c. 41) (legally qualified members) and is not a judge of the Upper Tribunal, or
(e) is a member of a panel of chairmen of employment tribunals.

(2) A person is also a judge of the First-tier Tribunal, but only as regards functions of the tribunal in relation to appeals such as are mentioned in subsection (1) of section 5 of

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the Criminal Injuries Compensation Act 1995 (c. 53), if the person is an adjudicator appointed under that section by the Scottish Ministers.

(3) A person is one of the other members of the First-tier Tribunal if the person—

(a) is a member of the First-tier Tribunal by virtue of appointment under paragraph 2(1) of Schedule 2,

(b) is a transferred-in other member of the First-tier Tribunal (see section 31(2)),

(c) is one of the other members of the Upper Tribunal, or

(d) is a member of a panel of members of employment tribunals that is not a panel of chairmen of employment tribunals.

(4) Schedule 2—

contains provision for the appointment of persons to be judges or other members of the First-tier Tribunal, and

makes further provision in connection with judges and other members of the First-tier Tribunal.

VALID FROM 03/11/2008

5 Judges and other members of the Upper Tribunal

(1) A person is a judge of the Upper Tribunal if the person—

(a) is the Senior President of Tribunals,

(b) is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3,

(c) is a transferred-in judge of the Upper Tribunal (see section 31(2)),

(d) is a member of the Asylum and Immigration Tribunal appointed under paragraph 2(1)(a) to (d) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (c. 41) (legally qualified members) who—

(i) is the President or a Deputy President of that tribunal, or

(ii) has the title Senior Immigration Judge but is neither the President nor a Deputy President of that tribunal,

(e) is the Chief Social Security Commissioner, or any other Social Security Commissioner, appointed under section 50(1) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8),

(f) is a Social Security Commissioner appointed under section 50(2) of that Act (deputy Commissioners),

(g) is within section 6(1),

(h) is a deputy judge of the Upper Tribunal (whether under paragraph 7 of Schedule 3 or under section 31(2)), or

(i) is a Chamber President or a Deputy Chamber President, whether of a chamber of the Upper Tribunal or of a chamber of the First-tier Tribunal, and does not fall within any of paragraphs (a) to (h).

(2) A person is one of the other members of the Upper Tribunal if the person—

(a) is a member of the Upper Tribunal by virtue of appointment under paragraph 2(1) of Schedule 3,

(b) is a transferred-in other member of the Upper Tribunal (see section 31(2)),

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(c) is a member of the Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996 (c. 17), or

(d) is a member of the Asylum and Immigration Tribunal appointed under paragraph 2(1)(e) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (members other than "legally qualified members").

(3) Schedule 3—

contains provision for the appointment of persons to be judges (including deputy judges), or other members, of the Upper Tribunal, and

makes further provision in connection with judges and other members of the Upper Tribunal.

VALID FROM 03/11/2008

6 Certain judges who are also judges of First-tier Tribunal and Upper Tribunal

(1) A person is within this subsection (and so, by virtue of sections 4(1)(c) and 5(1)(g), is a judge of the First-tier Tribunal and of the Upper Tribunal) if the person—

(a) 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),

(b) is a Lord Justice of Appeal in Northern Ireland,

(c) is a judge of the Court of Session,

(d) is a puisne judge of the High Court in England and Wales or Northern Ireland,

(e) is a circuit judge,

(f) is a sheriff in Scotland,

(g) is a county court judge in Northern Ireland,

(h) is a district judge in England and Wales or Northern Ireland, or

(i) is a District Judge (Magistrates' Courts).

(2) References in subsection (1)(c) to (i) to office-holders do not include deputies or temporary office-holders.

7 Chambers: jurisdiction and Presidents

(1) The Lord Chancellor may, with the concurrence of the Senior President of Tribunals, by order make provision for the organisation of each of the First-tier Tribunal and the Upper Tribunal into a number of chambers.

(2) There is—

(a) for each chamber of the First-tier Tribunal, and

(b) for each chamber of the Upper Tribunal,

to be a person, or two persons, to preside over that chamber.

(3) A person may not at any particular time preside over more than one chamber of the First-tier Tribunal and may not at any particular time preside over more than one chamber of the Upper Tribunal (but may at the same time preside over one chamber of the First-tier Tribunal and over one chamber of the Upper Tribunal).

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(4) A person appointed under this section to preside over a chamber is to be known as a Chamber President.

(5) Where two persons are appointed under this section to preside over the same chamber, any reference in an enactment to the Chamber President of the chamber is a reference to a person appointed under this section to preside over the chamber.

(6) The Senior President of Tribunals may (consistently with subsections (2) and (3)) appoint a person who is the Chamber President of a chamber to preside instead, or to preside also, over another chamber.

(7) The Lord Chancellor may (consistently with subsections (2) and (3)) appoint a person who is not a Chamber President to preside over a chamber.

(8) Schedule 4 (eligibility for appointment under subsection (7), appointment of Deputy Chamber Presidents and Acting Chamber Presidents, assignment of judges and other members of the First-tier Tribunal and Upper Tribunal, and further provision about Chamber Presidents and chambers) has effect.

(9) Each of the Lord Chancellor and the Senior President of Tribunals may, with the concurrence of the other, by order—
   (a) make provision for the allocation of the First-tier Tribunal's functions between its chambers;
   (b) make provision for the allocation of the Upper Tribunal's functions between its chambers;
   (c) amend or revoke any order made under this subsection.

Commencement Information

I1 S. 7 wholly in force at 3.11.2008; s. 7 not in force at Royal Assent see s. 148; s. 7(1)(9) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(a)**; s. 7(2)-(8) in force at 3.11.2008 by S.I. 2008/2696, {art . 5(a)}

VALID FROM 03/11/2008

8 Senior President of Tribunals: power to delegate

(1) The Senior President of Tribunals may delegate any function he has in his capacity as Senior President of Tribunals—
   (a) to any judge, or other member, of the Upper Tribunal or First-tier Tribunal;
   (b) to staff appointed under section 40(1).

(2) Subsection (1) does not apply to functions of the Senior President of Tribunals under section 7(9).

(3) A delegation under subsection (1) is not revoked by the delegator's becoming incapacitated.

(4) Any delegation under subsection (1) that is in force immediately before a person ceases to be Senior President of Tribunals continues in force until varied or revoked by a subsequent holder of the office of Senior President of Tribunals.

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(5) The delegation under this section of a function shall not prevent the exercise of the function by the Senior President of Tribunals.

Review of decisions and appeals

9 Review of decision of First-tier Tribunal

(1) The First-tier Tribunal may review a decision made by it on a matter in a case, other than a decision that is an excluded decision for the purposes of section 11(1) (but see subsection (9)).

(2) The First-tier Tribunal's power under subsection (1) in relation to a decision is exercisable—
  (a) of its own initiative, or
  (b) on application by a person who for the purposes of section 11(2) has a right of appeal in respect of the decision.

(3) Tribunal Procedure Rules may—
  (a) provide that the First-tier Tribunal may not under subsection (1) review (whether of its own initiative or on application under subsection (2)(b)) a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules;
  (b) provide that the First-tier Tribunal's power under subsection (1) to review a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules is exercisable only of the tribunal's own initiative;
  (c) provide that an application under subsection (2)(b) that is of a description specified for the purposes of this paragraph in Tribunal Procedure Rules may be made only on grounds specified for the purposes of this paragraph in Tribunal Procedure Rules;
  (d) provide, in relation to a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules, that the First-tier Tribunal's power under subsection (1) to review the decision of its own initiative is exercisable only on grounds specified for the purposes of this paragraph in Tribunal Procedure Rules.

(4) Where the First-tier Tribunal has under subsection (1) reviewed a decision, the First-tier Tribunal may in the light of the review do any of the following—
  (a) correct accidental errors in the decision or in a record of the decision;
  (b) amend reasons given for the decision;
  (c) set the decision aside.

(5) Where under subsection (4)(c) the First-tier Tribunal sets a decision aside, the First-tier Tribunal must either—
  (a) re-decide the matter concerned, or
  (b) refer that matter to the Upper Tribunal.

(6) Where a matter is referred to the Upper Tribunal under subsection (5)(b), the Upper Tribunal must re-decide the matter.

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(7) Where the Upper Tribunal is under subsection (6) re-deciding a matter, it may make any decision which the First-tier Tribunal could make if the First-tier Tribunal were re-deciding the matter.

(8) Where a tribunal is acting under subsection (5)(a) or (6), it may make such findings of fact as it considers appropriate.

(9) This section has effect as if a decision under subsection (4)(c) to set aside an earlier decision were not an excluded decision for the purposes of section 11(1), but the First-tier Tribunal's only power in the light of a review under subsection (1) of a decision under subsection (4)(c) is the power under subsection (4)(a).

(10) A decision of the First-tier Tribunal may not be reviewed under subsection (1) more than once, and once the First-tier Tribunal has decided that an earlier decision should not be reviewed under subsection (1) it may not then decide to review that earlier decision under that subsection.

(11) Where under this section a decision is set aside and the matter concerned is then re-decided, the decision set aside and the decision made in re-deciding the matter are for the purposes of subsection (10) to be taken to be different decisions.

Commencement Information

I2 S. 9 wholly in force at 3.11.2008; s. 9 not in force at Royal Assent see s. 148; s. 9(3) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(a)**; s. 9(1)(2)(4)-(11) in force at 3.11.2008 by S.I. 2008/2696, **art. 5(a)**

10 Review of decision of Upper Tribunal

(1) The Upper Tribunal may review a decision made by it on a matter in a case, other than a decision that is an excluded decision for the purposes of section 13(1) (but see subsection (7)).

(2) The Upper Tribunal's power under subsection (1) in relation to a decision is exercisable—

(a) of its own initiative, or

(b) on application by a person who for the purposes of section 13(2) has a right of appeal in respect of the decision.

(3) Tribunal Procedure Rules may—

(a) provide that the Upper Tribunal may not under subsection (1) review (whether of its own initiative or on application under subsection (2)(b)) a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules;

(b) provide that the Upper Tribunal's power under subsection (1) to review a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules is exercisable only of the tribunal's own initiative;

(c) provide that an application under subsection (2)(b) that is of a description specified for the purposes of this paragraph in Tribunal Procedure Rules may be made only on grounds specified for the purposes of this paragraph in Tribunal Procedure Rules;

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(d) provide, in relation to a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules, that the Upper Tribunal's power under subsection (1) to review the decision of its own initiative is exercisable only on grounds specified for the purposes of this paragraph in Tribunal Procedure Rules.

(4) Where the Upper Tribunal has under subsection (1) reviewed a decision, the Upper Tribunal may in the light of the review do any of the following—
(a) correct accidental errors in the decision or in a record of the decision;
(b) amend reasons given for the decision;
(c) set the decision aside.

(5) Where under subsection (4)(c) the Upper Tribunal sets a decision aside, the Upper Tribunal must re-decide the matter concerned.

(6) Where the Upper Tribunal is acting under subsection (5), it may make such findings of fact as it considers appropriate.

(7) This section has effect as if a decision under subsection (4)(c) to set aside an earlier decision were not an excluded decision for the purposes of section 13(1), but the Upper Tribunal's only power in the light of a review under subsection (1) of a decision under subsection (4)(c) is the power under subsection (4)(a).

(8) A decision of the Upper Tribunal may not be reviewed under subsection (1) more than once, and once the Upper Tribunal has decided that an earlier decision should not be reviewed under subsection (1) it may not then decide to review that earlier decision under that subsection.

(9) Where under this section a decision is set aside and the matter concerned is then re-decided, the decision set aside and the decision made in re-deciding the matter are for the purposes of subsection (8) to be taken to be different decisions.

Commencement Information

I3 S. 10 wholly in force at 3.11.2008; s. 10 not in force at Royal Assent see s. 148; s. 10(3) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(a)**; s. 10(1)(2)(4)-(9) in force at 3.11.2008 by S.I. 2008/2696, {art . 5(a)}

11 Right to appeal to Upper Tribunal

(1) For the purposes of subsection (2), the reference to a right of appeal is to a right to appeal to the Upper Tribunal on any point of law arising from a decision made by the First-tier Tribunal other than an excluded decision.

(2) Any party to a case has a right of appeal, subject to subsection (8).

(3) That right may be exercised only with permission (or, in Northern Ireland, leave).

(4) Permission (or leave) may be given by—
(a) the First-tier Tribunal, or
(b) the Upper Tribunal,
on an application by the party.

(5) For the purposes of subsection (1), an “excluded decision” is—

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(a) any decision of the First-tier Tribunal on an appeal made in exercise of a right conferred by the Criminal Injuries Compensation Scheme in compliance with section 5(1)(a) of the Criminal Injuries Compensation Act 1995 (c. 53) (appeals against decisions on reviews),

(b) any decision of the First-tier Tribunal on an appeal under section 28(4) or (6) of the Data Protection Act 1998 (c. 29) (appeals against national security certificate),

(c) any decision of the First-tier Tribunal on an appeal under section 60(1) or (4) of the Freedom of Information Act 2000 (c. 36) (appeals against national security certificate),

(d) a decision of the First-tier Tribunal under section 9—

(i) to review, or not to review, an earlier decision of the tribunal,

(ii) to take no action, or not to take any particular action, in the light of a review of an earlier decision of the tribunal,

(iii) to set aside an earlier decision of the tribunal, or

(iv) to refer, or not to refer, a matter to the Upper Tribunal,

(e) a decision of the First-tier Tribunal that is set aside under section 9 (including a decision set aside after proceedings on an appeal under this section have been begun), or

(f) any decision of the First-tier Tribunal that is of a description specified in an order made by the Lord Chancellor.

(6) A description may be specified under subsection (5)(f) only if—

(a) in the case of a decision of that description, there is a right to appeal to a court, the Upper Tribunal or any other tribunal from the decision and that right is, or includes, something other than a right (however expressed) to appeal on any point of law arising from the decision, or

(b) decisions of that description are made in carrying out a function transferred under section 30 and prior to the transfer of the function under section 30(1) there was no right to appeal from decisions of that description.

(7) Where—

(a) an order under subsection (5)(f) specifies a description of decisions, and

(b) decisions of that description are made in carrying out a function transferred under section 30,

the order must be framed so as to come into force no later than the time when the transfer under section 30 of the function takes effect (but power to revoke the order continues to be exercisable after that time, and power to amend the order continues to be exercisable after that time for the purpose of narrowing the description for the time being specified).

(8) The Lord Chancellor may by order make provision for a person to be treated as being, or to be treated as not being, a party to a case for the purposes of subsection (2).

Modifications etc. (not altering text)

C2 S.11 applied (1.9.2009) by The Transfer of Functions (Transport Tribunal and Appeal Panel) Order 2009 (S.I. 2009/1885), art. 4(4), **Sch. 4 para. 3**

C3 S. 11 excluded (1.4.2009) by 1970 c. 9, s. 19A(11) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 8(5)(b)**)

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S. 11 excluded (1.4.2009) by 1970 c. 9, s. 55(6A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 34(8)**)
S. 11 excluded (1.4.2009) by 1988 c. 39, s. 130(4) (as amended by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 164(b)**)
S. 11 excluded (1.4.2009) by 1994 c. 9, s. 60(4B) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 207(6)**)
S. 11 excluded (1.4.2009) by 1994 c. 23, s. 84(3C) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 221(5)**)
S. 11 excluded (1.4.2009) by 1996 c. 8, s. 55(3B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 236(6)**)
S. 11 excluded (1.4.2009) by 2000 c. 17, Sch. 6 para. 122(2B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 290(5)**)
S. 11 excluded (1.4.2009) by 2001 c. 9, s. 41(2B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 305(5)**)
S. 11 excluded (1.4.2009) by 2003 c. 14, Sch. 10 para. 15(6) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 377(5)**)
S. 11 excluded (1.4.2009) by 2003 c. 14, Sch. 11A para. 9(6) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 397(5)**)
S. 11 excluded (1.4.2009) by 2004 c. 12, s. 253(10) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 426(5)**)
S. 11 excluded (1.4.2009) by 2005 c. 5, s. 646(7) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 441**)
S. 11 excluded (1.4.2009) by 2008 c. 9, **Sch. 36 para. 32(5)** (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), **art. 3**, {Sch. 1 para. 471(10(c)})
S. 11 excluded (1.4.2009) by S.I. 2003/96, reg. 16(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 83(4)**)
S. 11 excluded (1.4.2009) by S.I. 2004/2622, reg. 9(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 130(4)**)
S. 11 excluded (1.4.2009) by S.I. 2007/1509, reg. 7(2) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 167**)

C4 S. 11 excluded (21.7.2009) by 2008 c. 9, Sch. 36 para. 6(4) (as inserted by Finance Act 2009 (c. 10), s. 95, **Sch. 47 para. 4**)
S. 11 excluded (21.7.2009) by 2008 c. 9 Sch. 36 para. 8(3) (as inserted by Finance Act 2009 (c. 10), ss. 95, **Sch. 47 para. 8(3)**)

C5 S. 11 modified (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(2), **Sch. 4 para. 4**

C6 S. 11 modified (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), **Sch. 5 para. 5(a)**

C7 S.11(2): power to apply (with modifications) conferred (1.4.2009) by 1999 c. 2, s. 13(2A) (as inserted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 3**)
S.11(2): power to apply (with modifications) conferred (1.4.2009) by S.I. 1999/671, art. 12(2A) (as inserted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 5**)
S. 11(2) modified (1.4.2009) by S.I. 1999/1027, reg. 12(2) (as substituted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 6**)

C8 S. 11(3)(4) applied (1.4.2009) by 1891 c. 39, s. 13A(7A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 3(6)**)
S. 11(3)(4) applied (1.4.2009) by 1970 c. 9, s. 100B(3A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 45(4)**)
S. 11(3)(4) applied (1.4.2009) by 1970 c. 9, s. 100B(4A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 46(7)**)

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S. 11(3)(4) applied (1.4.2009) by 1984 c. 51, s. 249(3A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 122(3)**)
S. 11(3)(4) applied (1.4.2009) by 1999 c. 16, Sch. 17 para. 12(2A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 283(3)**)
S. 11(3)(4) applied (1.4.2009) by 2002 c. 21, Sch. 2 para. 2(2A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 318(3)**)
S. 11(3)(4) applied (1.4.2009) by 2002 c. 21, Sch. 2 para. 4(1A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 320(2)**)
S. 11(3)(4) applied (1.4.2009) by 2002 c. 22, Sch. 1 para. 3(4A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 322(4)**)
S. 11(3)(4) applied (1.4.2009) by 2002 c. 22, Sch. 1 para. 4(4A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 323(4)**)
S. 11(3)(4) applied (1.4.2009) by 2003 c. 14, Sch. 14 para. 6(1A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 412(2)**)
S. 11(3)(4) applied (1.4.2009) by 2004 c. 6, s. 21(10A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 415(3)**)

Commencement Information

I4 S. 11 wholly in force at 3.11.2008; s. 11 not in force at Royal Assent see s. 148; s. 11(5)(f)(6)-(8) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(a)**; s. 11(1)-(4)(5)(a)-(e) in force at 3.11.2008 by S.I. 2008/2696, **art. 5(a)**

VALID FROM 03/11/2008

12 Proceedings on appeal to Upper Tribunal

(1) Subsection (2) applies if the Upper Tribunal, in deciding an appeal under section 11, finds that the making of the decision concerned involved the making of an error on a point of law.

(2) The Upper Tribunal—
- (a) may (but need not) set aside the decision of the First-tier Tribunal, and
- (b) if it does, must either—
  - (i) remit the case to the First-tier Tribunal with directions for its reconsideration, or
  - (ii) re-make the decision.

(3) In acting under subsection (2)(b)(i), the Upper Tribunal may also—
- (a) direct that the members of the First-tier Tribunal who are chosen to reconsider the case are not to be the same as those who made the decision that has been set aside;
- (b) give procedural directions in connection with the reconsideration of the case by the First-tier Tribunal.

(4) In acting under subsection (2)(b)(ii), the Upper Tribunal—

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(a) may make any decision which the First-tier Tribunal could make if the First-tier Tribunal were re-making the decision, and
(b) may make such findings of fact as it considers appropriate.

Modifications etc. (not altering text)

C9 S. 12 applied (with modifications) (3.11.2008) by 1996 c. 56, s. 336ZB(3) (as inserted by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 135**

C10 S. 12 applied (with modifications) (3.11.2008) by 1965 c. 50, s. 28JA(3) (as inserted by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 118**

13 Right to appeal to Court of Appeal etc.

(1) For the purposes of subsection (2), the reference to a right of appeal is to a right to appeal to the relevant appellate court on any point of law arising from a decision made by the Upper Tribunal other than an excluded decision.

(2) Any party to a case has a right of appeal, subject to subsection (14).

(3) That right may be exercised only with permission (or, in Northern Ireland, leave).

(4) Permission (or leave) may be given by—
(a) the Upper Tribunal, or
(b) the relevant appellate court,
on an application by the party.

(5) An application may be made under subsection (4) to the relevant appellate court only if permission (or leave) has been refused by the Upper Tribunal.

(6) The Lord Chancellor may, as respects an application under subsection (4) that falls within subsection (7) and for which the relevant appellate court is the Court of Appeal in England and Wales or the Court of Appeal in Northern Ireland, by order make provision for permission (or leave) not to be granted on the application unless the Upper Tribunal or (as the case may be) the relevant appellate court considers—
(a) that the proposed appeal would raise some important point of principle or practice, or
(b) that there is some other compelling reason for the relevant appellate court to hear the appeal.

(7) An application falls within this subsection if the application is for permission (or leave) to appeal from any decision of the Upper Tribunal on an appeal under section 11.

(8) For the purposes of subsection (1), an "excluded decision" is—
(a) any decision of the Upper Tribunal on an appeal under section 28(4) or (6) of the Data Protection Act 1998 (c. 29) (appeals against national security certificate),
(b) any decision of the Upper Tribunal on an appeal under section 60(1) or (4) of the Freedom of Information Act 2000 (c. 36) (appeals against national security certificate),
(c) any decision of the Upper Tribunal on an application under section 11(4)(b) (application for permission or leave to appeal),
(d) a decision of the Upper Tribunal under section 10—

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(i) to review, or not to review, an earlier decision of the tribunal,

(ii) to take no action, or not to take any particular action, in the light of a review of an earlier decision of the tribunal, or

(iii) to set aside an earlier decision of the tribunal,

(e) a decision of the Upper Tribunal that is set aside under section 10 (including a decision set aside after proceedings on an appeal under this section have been begun), or

(f) any decision of the Upper Tribunal that is of a description specified in an order made by the Lord Chancellor.

(9) A description may be specified under subsection (8)(f) only if—

(a) in the case of a decision of that description, there is a right to appeal to a court from the decision and that right is, or includes, something other than a right (however expressed) to appeal on any point of law arising from the decision, or

(b) decisions of that description are made in carrying out a function transferred under section 30 and prior to the transfer of the function under section 30(1) there was no right to appeal from decisions of that description.

(10) Where—

(a) an order under subsection (8)(f) specifies a description of decisions, and

(b) decisions of that description are made in carrying out a function transferred under section 30,

the order must be framed so as to come into force no later than the time when the transfer under section 30 of the function takes effect (but power to revoke the order continues to be exercisable after that time, and power to amend the order continues to be exercisable after that time for the purpose of narrowing the description for the time being specified).

(11) Before the Upper Tribunal decides an application made to it under subsection (4), the Upper Tribunal must specify the court that is to be the relevant appellate court as respects the proposed appeal.

(12) The court to be specified under subsection (11) in relation to a proposed appeal is whichever of the following courts appears to the Upper Tribunal to be the most appropriate—

(a) the Court of Appeal in England and Wales;

(b) the Court of Session;

(c) the Court of Appeal in Northern Ireland.

(13) In this section except subsection (11), “the relevant appellate court”, as respects an appeal, means the court specified as respects that appeal by the Upper Tribunal under subsection (11).

(14) The Lord Chancellor may by order make provision for a person to be treated as being, or to be treated as not being, a party to a case for the purposes of subsection (2).

(15) Rules of court may make provision as to the time within which an application under subsection (4) to the relevant appellate court must be made.

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Modifications etc. (not altering text)

C11 S. 13 applied (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(6), **Sch. 5 para. 3**
S. 13 applied (1.9.2009) by The Transfer of Functions (Transport Tribunal and Appeal Panel) Order 2009 (S.I. 2009/1885), art. 4(4), **Sch. 4 para. 4**

C12 S. 13 excluded (1.4.2009) by 1970 c. 9, s. 19A(11) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 8(5)(b)**)
S. 13 excluded (1.4.2009) by 1970 c. 9, s. 55(6A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 34(8)**)
S. 13 excluded (1.4.2009) by 1988 c. 39, s. 130(4) (as amended by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 164(b)**)
S. 13 excluded (1.4.2009) by 1994 c. 9, s. 60(4B) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 207(6)**)
S. 13 excluded (1.4.2009) by 1994 c. 23, s. 84(3C) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 221(5)**)
S. 13 excluded (1.4.2009) by 1996 c. 8, s. 55(3B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 236(6)**)
S. 13 excluded (1.4.2009) by 2000 c. 17, Sch. 6 para. 122(2B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 290(5)**)
S. 13 excluded (1.4.2009) by 2001 c. 9, s. 41(2B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 305(5)**)
S. 13 excluded (1.4.2009) by 2003 c. 14, Sch. 10 para. 15(6) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 377(5)**)
S. 13 excluded (1.4.2009) by 2003 c. 14, Sch. 11A para. 9(6) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 397(5)**)
S. 13 excluded (1.4.2009) by 2004 c. 12, s. 253(10) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 426(5)**)
S. 13 excluded (1.4.2009) by 2005 c. 5, s. 646(7) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 441**)
S. 13 excluded (1.4.2009) by 2008 c. 9, Sch. 36 para. 32(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 471(10)(c)**)
S. 13 excluded (1.4.2009) by S.I. 2003/96, reg. 16(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 83(4)**)
S. 13 excluded (1.4.2009) by S.I. 2004/2622, reg. 9(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 130(4)**)
S. 13 excluded (1.4.2009) by S.I. 2007/1509, reg. 7(2) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 167**)

C13 S. 13 excluded (21.7.2009) by 2008 c. 9, Sch. 36 para. 6(4) (as inserted by Finance Act 2009 (c. 10), s. 95, **Sch. 47 para. 4**)
S. 13 excluded (21.7.2009) by 2008 c. 9, Sch. 36 para. 8(3) (as inserted by Finance Act 2009 (c. 10), s. 95, **Sch. 47 para. 8(3)**)

C14 S. 13 modified (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(2), **Sch. 4 para. 5**

C15 S. 13 modified (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), **Sch. 5 para. 5(b)**

C16 S. 13 applied (N.I.) (6.4.2010) by Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4), ss. 3(3), 5(2), **Sch. 2 para. 3** (with Sch. 2); S.R. 2010/101, **art. 2**

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C17 S. 13 excluded (with effect as stated in Sch. 23 para. 65) by Finance Act 2011 (c. 11), **s. 86(1)**, {Sch. 23, para. 29(5)}

C18 S. 13(2): power to apply (with modifications) conferred (1.4.2009) by 1999 c. 2, s. 13(2A) (as inserted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 3**)
S. 13(2): power to apply (with modifications) conferred (1.4.2009) by S.I. 1999/761, art. 12(2A) (as inserted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 5**)
S. 13(2) modified (1.4.2009) by S.I. 1999/1027 reg. 12(2) (as substituted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 6**)

Commencement Information

I5 S. 13 wholly in force at 3.11.2008; s. 13 not in force at Royal Assent see s. 148; s. 13(6)(8)(f)(9)(10)(14)(15) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(a)**; s. 13(1)-(5)(7)(8)(a)-(e)(11)-(13) in force at 3.11.2008 by S.I. 2008/2696, **art. 5(a)**

VALID FROM 03/11/2008

14 Proceedings on appeal to Court of Appeal etc.

(1) Subsection (2) applies if the relevant appellate court, in deciding an appeal under section 13, finds that the making of the decision concerned involved the making of an error on a point of law.

(2) The relevant appellate court—
- (a) may (but need not) set aside the decision of the Upper Tribunal, and
- (b) if it does, must either—
  - (i) remit the case to the Upper Tribunal or, where the decision of the Upper Tribunal was on an appeal or reference from another tribunal or some other person, to the Upper Tribunal or that other tribunal or person, with directions for its reconsideration, or
  - (ii) re-make the decision.

(3) In acting under subsection (2)(b)(i), the relevant appellate court may also—
- (a) direct that the persons who are chosen to reconsider the case are not to be the same as those who—
  - (i) where the case is remitted to the Upper Tribunal, made the decision of the Upper Tribunal that has been set aside, or
  - (ii) where the case is remitted to another tribunal or person, made the decision in respect of which the appeal or reference to the Upper Tribunal was made;
- (b) give procedural directions in connection with the reconsideration of the case by the Upper Tribunal or other tribunal or person.

(4) In acting under subsection (2)(b)(ii), the relevant appellate court—
- (a) may make any decision which the Upper Tribunal could make if the Upper Tribunal were re-making the decision or (as the case may be) which the other tribunal or person could make if that other tribunal or person were re-making the decision, and
- (b) may make such findings of fact as it considers appropriate.

(5) Where—

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(a) under subsection (2)(b)(i) the relevant appellate court remits a case to the Upper Tribunal, and

(b) the decision set aside under subsection (2)(a) was made by the Upper Tribunal on an appeal or reference from another tribunal or some other person,

the Upper Tribunal may (instead of reconsidering the case itself) remit the case to that other tribunal or person, with the directions given by the relevant appellate court for its reconsideration.

(6) In acting under subsection (5), the Upper Tribunal may also—

(a) direct that the persons who are chosen to reconsider the case are not to be the same as those who made the decision in respect of which the appeal or reference to the Upper Tribunal was made;

(b) give procedural directions in connection with the reconsideration of the case by the other tribunal or person.

(7) In this section "the relevant appellate court", as respects an appeal under section 13, means the court specified as respects that appeal by the Upper Tribunal under section 13(11).

"Judicial review"

VALID FROM 03/11/2008

15 Upper Tribunal's "judicial review" jurisdiction

(1) The Upper Tribunal has power, in cases arising under the law of England and Wales or under the law of Northern Ireland, to grant the following kinds of relief—

(a) a mandatory order;

(b) a prohibiting order;

(c) a quashing order;

(d) a declaration;

(e) an injunction.

(2) The power under subsection (1) may be exercised by the Upper Tribunal if—

(a) certain conditions are met (see section 18), or

(b) the tribunal is authorised to proceed even though not all of those conditions are met (see section 19(3) and (4)).

(3) Relief under subsection (1) granted by the Upper Tribunal—

(a) has the same effect as the corresponding relief granted by the High Court on an application for judicial review, and

(b) is enforceable as if it were relief granted by the High Court on an application for judicial review.

(4) In deciding whether to grant relief under subsection (1)(a), (b) or (c), the Upper Tribunal must apply the principles that the High Court would apply in deciding whether to grant that relief on an application for judicial review.

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(5) In deciding whether to grant relief under subsection (1)(d) or (e), the Upper Tribunal must—

(a) in cases arising under the law of England and Wales apply the principles that the High Court would apply in deciding whether to grant that relief under section 31(2) of the Supreme Court Act 1981 (c. 54) on an application for judicial review, and

(b) in cases arising under the law of Northern Ireland apply the principles that the High Court would apply in deciding whether to grant that relief on an application for judicial review.

(6) For the purposes of the application of subsection (3)(a) in relation to cases arising under the law of Northern Ireland—

(a) a mandatory order under subsection (1)(a) shall be taken to correspond to an order of mandamus,

(b) a prohibiting order under subsection (1)(b) shall be taken to correspond to an order of prohibition, and

(c) a quashing order under subsection (1)(c) shall be taken to correspond to an order of certiorari.

Modifications etc. (not altering text)

C19 S. 15(1): functions transferred (3.11.2008) by virtue of The First-tier Tribunal and Upper Tribunal (Chambers) Order 2008 (S.I. 2008/2684), **art. 7(b)(i)**

VALID FROM 03/11/2008

16 Application for relief under section 15(1)

(1) This section applies in relation to an application to the Upper Tribunal for relief under section 15(1).

(2) The application may be made only if permission (or, in a case arising under the law of Northern Ireland, leave) to make it has been obtained from the tribunal.

(3) The tribunal may not grant permission (or leave) to make the application unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

(4) Subsection (5) applies where the tribunal considers—

(a) that there has been undue delay in making the application, and

(b) that granting the relief sought on the application would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.

(5) The tribunal may—

(a) refuse to grant permission (or leave) for the making of the application;

(b) refuse to grant any relief sought on the application.

(6) The tribunal may award to the applicant damages, restitution or the recovery of a sum due if—

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(a) the application includes a claim for such an award arising from any matter to which the application relates, and

(b) the tribunal is satisfied that such an award would have been made by the High Court if the claim had been made in an action begun in the High Court by the applicant at the time of making the application.

(7) An award under subsection (6) may be enforced as if it were an award of the High Court.

(8) Where—

(a) the tribunal refuses to grant permission (or leave) to apply for relief under section 15(1),

(b) the applicant appeals against that refusal, and

(c) the Court of Appeal grants the permission (or leave),

the Court of Appeal may go on to decide the application for relief under section 15(1).

(9) Subsections (4) and (5) do not prevent Tribunal Procedure Rules from limiting the time within which applications may be made.

VALID FROM 03/11/2008

17 Quashing orders under section 15(1): supplementary provision

(1) If the Upper Tribunal makes a quashing order under section 15(1)(c) in respect of a decision, it may in addition—

(a) remit the matter concerned to the court, tribunal or authority that made the decision, with a direction to reconsider the matter and reach a decision in accordance with the findings of the Upper Tribunal, or

(b) substitute its own decision for the decision in question.

(2) The power conferred by subsection (1)(b) is exercisable only if—

(a) the decision in question was made by a court or tribunal,

(b) the decision is quashed on the ground that there has been an error of law, and

(c) without the error, there would have been only one decision that the court or tribunal could have reached.

(3) Unless the Upper Tribunal otherwise directs, a decision substituted by it under subsection (1)(b) has effect as if it were a decision of the relevant court or tribunal.

18 Limits of jurisdiction under section 15(1)

(1) This section applies where an application made to the Upper Tribunal seeks (whether or not alone)—

(a) relief under section 15(1), or

(b) permission (or, in a case arising under the law of Northern Ireland, leave) to apply for relief under section 15(1).

(2) If Conditions 1 to 4 are met, the tribunal has the function of deciding the application.

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(3) If the tribunal does not have the function of deciding the application, it must by order transfer the application to the High Court.

(4) Condition 1 is that the application does not seek anything other than—
- (a) relief under section 15(1);
- (b) permission (or, in a case arising under the law of Northern Ireland, leave) to apply for relief under section 15(1);
- (c) an award under section 16(6);
- (d) interest;
- (e) costs.

(5) Condition 2 is that the application does not call into question anything done by the Crown Court.

(6) Condition 3 is that the application falls within a class specified for the purposes of this subsection in a direction given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 (c. 4).

(7) The power to give directions under subsection (6) includes—
- (a) power to vary or revoke directions made in exercise of the power, and
- (b) power to make different provision for different purposes.

(8) Condition 4 is that the judge presiding at the hearing of the application is either—
- (a) a judge of the High Court or the Court of Appeal in England and Wales or Northern Ireland, or a judge of the Court of Session, or
- (b) such other persons as may be agreed from time to time between the Lord Chief Justice, the Lord President, or the Lord Chief Justice of Northern Ireland, as the case may be, and the Senior President of Tribunals.

(9) Where the application is transferred to the High Court under subsection (3)—
- (a) the application is to be treated for all purposes as if it—
  - (i) had been made to the High Court, and
  - (ii) sought things corresponding to those sought from the tribunal, and
- (b) any steps taken, permission (or leave) given or orders made by the tribunal in relation to the application are to be treated as taken, given or made by the High Court.

(10) Rules of court may make provision for the purpose of supplementing subsection (9).

(11) The provision that may be made by Tribunal Procedure Rules about amendment of an application for relief under section 15(1) includes, in particular, provision about amendments that would cause the application to become transferrable under subsection (3).

(12) For the purposes of subsection (9)(a)(ii), in relation to an application transferred to the High Court in Northern Ireland—
- (a) an order of mandamus shall be taken to correspond to a mandatory order under section 15(1)(a),
- (b) an order of prohibition shall be taken to correspond to a prohibiting order under section 15(1)(b), and
- (c) an order of certiorari shall be taken to correspond to a quashing order under section 15(1)(c).

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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

I6 S. 18 wholly in force at 3.11.2008; s. 18 not in force at Royal Assent see s. 148; s. 18(10)(11) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(a)**; s. 18(1)-(9)(12) in force at 3.11.2008 by S.I. 2008/2696, **art. 5(a)**

VALID FROM 03/11/2008

19 Transfer of judicial review applications from High Court

(1) In the Supreme Court Act 1981 (c. 54), after section 31 insert—

"31A Transfer of judicial review applications to Upper Tribunal

(1) This section applies where an application is made to the High Court—
- (a) for judicial review, or
- (b) for permission to apply for judicial review.

(2) If Conditions 1, 2, 3 and 4 are met, the High Court must by order transfer the application to the Upper Tribunal.

(3) If Conditions 1, 2 and 4 are met, but Condition 3 is not, the High Court may by order transfer the application to the Upper Tribunal if it appears to the High Court to be just and convenient to do so.

(4) Condition 1 is that the application does not seek anything other than—
- (a) relief under section 31(1)(a) and (b);
- (b) permission to apply for relief under section 31(1)(a) and (b);
- (c) an award under section 31(4);
- (d) interest;
- (e) costs.

(5) Condition 2 is that the application does not call into question anything done by the Crown Court.

(6) Condition 3 is that the application falls within a class specified under section 18(6) of the Tribunals, Courts and Enforcement Act 2007.

(7) Condition 4 is that the application does not call into question any decision made under—
- (a) the Immigration Acts,
- (b) the British Nationality Act 1981 (c. 61),
- (c) any instrument having effect under an enactment within paragraph (a) or (b), or
- (d) any other provision of law for the time being in force which determines British citizenship, British overseas territories citizenship, the status of a British National (Overseas) or British Overseas citizenship."

(2) In the Judicature (Northern Ireland) Act 1978 (c. 23), after section 25 insert—

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

"**25A Transfer of judicial review applications to Upper Tribunal**

(1) This section applies where an application is made to the High Court—
  (a) for judicial review, or
  (b) for leave to apply for judicial review.

(2) If Conditions 1, 2, 3 and 4 are met, the High Court must by order transfer the application to the Upper Tribunal.

(3) If Conditions 1, 2 and 4 are met, but Condition 3 is not, the High Court may by order transfer the application to the Upper Tribunal if it appears to the High Court to be just and convenient to do so.

(4) Condition 1 is that the application does not seek anything other than—
  (a) relief under section 18(1)(a) to (e);
  (b) leave to apply for relief under section 18(1)(a) to (e);
  (c) an award under section 20;
  (d) interest;
  (e) costs.

(5) Condition 2 is that the application does not call into question anything done by the Crown Court.

(6) Condition 3 is that the application falls within a class specified under section 18(6) of the Tribunals, Courts and Enforcement Act 2007.

(7) Condition 4 is that the application does not call into question any decision made under—
  (a) the Immigration Acts,
  (b) the British Nationality Act 1981,
  (c) any instrument having effect under an enactment within paragraph (a) or (b), or
  (d) any other provision of law for the time being in force which determines British citizenship, British overseas territories citizenship, the status of a British National (Overseas) or British Overseas citizenship."

(3) Where an application is transferred to the Upper Tribunal under 31A of the Supreme Court Act 1981 (c. 54) or section 25A of the Judicature (Northern Ireland) Act 1978 (transfer from the High Court of judicial review applications)—
  (a) the application is to be treated for all purposes as if it—
    (i) had been made to the tribunal, and
    (ii) sought things corresponding to those sought from the High Court,
  (b) the tribunal has the function of deciding the application, even if it does not fall within a class specified under section 18(6), and
  (c) any steps taken, permission given, leave given or orders made by the High Court in relation to the application are to be treated as taken, given or made by the tribunal.

(4) Where—

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Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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) an application for permission is transferred to the Upper Tribunal under section 31A of the Supreme Court Act 1981 (c. 54) and the tribunal grants permission, or

(b) an application for leave is transferred to the Upper Tribunal under section 25A of the Judicature (Northern Ireland) Act 1978 (c. 23) and the tribunal grants leave,

the tribunal has the function of deciding any subsequent application brought under the permission or leave, even if the subsequent application does not fall within a class specified under section 18(6).

(5) Tribunal Procedure Rules may make further provision for the purposes of supplementing subsections (3) and (4).

(6) For the purposes of subsection (3)(a)(ii), in relation to an application transferred to the Upper Tribunal under section 25A of the Judicature (Northern Ireland) Act 1978—

(a) a mandatory order under section 15(1)(a) shall be taken to correspond to an order of mandamus,

(b) a prohibiting order under section 15(1)(b) shall be taken to correspond to an order of prohibition, and

(c) a quashing order under section 15(1)(c) shall be taken to correspond to an order of certiorari.

20 Transfer of judicial review applications from the Court of Session

(1) Where an application is made to the supervisory jurisdiction of the Court of Session, the Court—

(a) must, if Conditions 1, 2 and 4 are met, and

(b) may, if Conditions 1, 3 and 4 are met, but Condition 2 is not,

by order transfer the application to the Upper Tribunal.

(2) Condition 1 is that the application does not seek anything other than an exercise of the supervisory jurisdiction of the Court of Session.

(3) Condition 2 is that the application falls within a class specified for the purposes of this subsection by act of sederunt made with the consent of the Lord Chancellor.

(4) Condition 3 is that the subject matter of the application is not a devolved Scottish matter.

(5) Condition 4 is that the application does not call into question any decision made under—

(a) the Immigration Acts,

(b) the British Nationality Act 1981 (c. 61),

(c) any instrument having effect under an enactment within paragraph (a) or (b), or

(d) any other provision of law for the time being in force which determines British citizenship, British overseas territories citizenship, the status of a British National (Overseas) or British Overseas citizenship.

(6) There may not be specified under subsection (3) any class of application which includes an application the subject matter of which is a devolved Scottish matter.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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) For the purposes of this section, the subject matter of an application is a devolved Scottish matter if it—

(a) concerns the exercise of functions in or as regards Scotland, and

(b) does not relate to a reserved matter within the meaning of the Scotland Act 1998 (c. 46).

(8) In subsection (2), the reference to the exercise of the supervisory jurisdiction of the Court of Session includes a reference to the making of any order in connection with or in consequence of the exercise of that jurisdiction.

Commencement Information

I7 S. 20 wholly in force at 3.11.2008; s. 20 not in force at Royal Assent see s. 148; s. 20(3)(6)(7) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(a)**; s. 20(1)(2)(4)(5)(8) in force at 3.11.2008 by S.I. 2008/2696, **art. 5(a)**

21 Upper Tribunal's "judicial review" jurisdiction: Scotland

(1) The Upper Tribunal has the function of deciding applications transferred to it from the Court of Session under section 20(1).

(2) The powers of review of the Upper Tribunal in relation to such applications are the same as the powers of review of the Court of Session in an application to the supervisory jurisdiction of that Court.

(3) In deciding an application by virtue of subsection (1), the Upper Tribunal must apply principles that the Court of Session would apply in deciding an application to the supervisory jurisdiction of that Court.

(4) An order of the Upper Tribunal by virtue of subsection (1)—

(a) has the same effect as the corresponding order granted by the Court of Session on an application to the supervisory jurisdiction of that Court, and

(b) is enforceable as if it were an order so granted by that Court.

(5) Where an application is transferred to the Upper Tribunal by virtue of section 20(1), any steps taken or orders made by the Court of Session in relation to the application (other than the order to transfer the application under section 20(1)) are to be treated as taken or made by the tribunal.

(6) Tribunal Procedure Rules may make further provision for the purposes of supplementing subsection (5).

Modifications etc. (not altering text)

C20 S. 21(2): functions transferred (3.11.2008) by virtue of The First-tier Tribunal and Upper Tribunal (Chambers) Order 2008 (S.I. 2008/2684), **art. 7(b)(ii)**

Commencement Information

I8 S. 21 wholly in force at 3.11.2008; s. 21 not in force at Royal Assent see s. 148; s. 21(6) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(a)**; s. 21(1)-(5) in force at 3.11.2008 by S.I. 2008/2696, **art. 5(a)**

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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Miscellaneous

22 Tribunal Procedure Rules

(1) There are to be rules, to be called "Tribunal Procedure Rules", governing—
- (a) the practice and procedure to be followed in the First-tier Tribunal, and
- (b) the practice and procedure to be followed in the Upper Tribunal.

(2) Tribunal Procedure Rules are to be made by the Tribunal Procedure Committee.

(3) In Schedule 5—

Part 1 makes further provision about the content of Tribunal Procedure Rules,

Part 2 makes provision about the membership of the Tribunal Procedure Committee,

Part 3 makes provision about the making of Tribunal Procedure Rules by the Committee, and

Part 4 confers power to amend legislation in connection with Tribunal Procedure Rules.

(4) Power to make Tribunal Procedure Rules is to be exercised with a view to securing—
- (a) that, in proceedings before the First-tier Tribunal and Upper Tribunal, justice is done,
- (b) that the tribunal system is accessible and fair,
- (c) that proceedings before the First-tier Tribunal or Upper Tribunal are handled quickly and efficiently,
- (d) that the rules are both simple and simply expressed, and
- (e) that the rules where appropriate confer on members of the First-tier Tribunal, or Upper Tribunal, responsibility for ensuring that proceedings before the tribunal are handled quickly and efficiently.

(5) In subsection (4)(b) "the tribunal system" means the system for deciding matters within the jurisdiction of the First-tier Tribunal or the Upper Tribunal.

VALID FROM 03/11/2008

23 Practice directions

(1) The Senior President of Tribunals may give directions—
- (a) as to the practice and procedure of the First-tier Tribunal;
- (b) as to the practice and procedure of the Upper Tribunal.

(2) A Chamber President may give directions as to the practice and procedure of the chamber over which he presides.

(3) A power under this section to give directions 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).

(4) Directions under subsection (1) may not be given without the approval of the Lord Chancellor.

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(5) Directions under subsection (2) may not be given without the approval of—
  (a) the Senior President of Tribunals, and
  (b) the Lord Chancellor.

(6) Subsections (4) and (5)(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 First-tier Tribunal or Upper Tribunal.

(7) Subsections (4) and (5)(b) do not apply to directions to the extent that they consist of criteria for determining which members of the First-tier Tribunal or Upper 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.

VALID FROM 03/11/2008

24 Mediation

(1) A person exercising power to make Tribunal Procedure Rules or give practice directions must, when making provision in relation to mediation, have regard to the following principles—
  (a) mediation of matters in dispute between parties to proceedings is to take place only by agreement between those parties;
  (b) where parties to proceedings fail to mediate, or where mediation between parties to proceedings fails to resolve disputed matters, the failure is not to affect the outcome of the proceedings.

(2) Practice directions may provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings.

(3) The provision that may be made by virtue of subsection (2) includes provision for a member to act as a mediator in relation to disputed matters in a case even though the member has been chosen to decide matters in the case.

(4) Once a member has begun to act as a 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.

(5) Staff appointed under section 40(1) may, subject to their terms of appointment, act as mediators in relation to disputed matters in a case that is the subject of proceedings.

(6) In this section—

"member" means a judge or other member of the First-tier Tribunal or a judge or other member of the Upper Tribunal;

"practice direction" means a direction under section 23(1) or (2);

"proceedings" means proceedings before the First-tier Tribunal or proceedings before the Upper Tribunal.

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VALID FROM 03/11/2008

25 Supplementary powers of Upper Tribunal

(1) In relation to the matters mentioned in subsection (2), the Upper Tribunal—
- (a) has, in England and Wales or in Northern Ireland, the same powers, rights, privileges and authority as the High Court, and
- (b) has, in Scotland, the same powers, rights, privileges and authority as the Court of Session.

(2) The matters are—
- (a) the attendance and examination of witnesses,
- (b) the production and inspection of documents, and
- (c) all other matters incidental to the Upper Tribunal's functions.

(3) Subsection (1) shall not be taken—
- (a) to limit any power to make Tribunal Procedure Rules;
- (b) to be limited by anything in Tribunal Procedure Rules other than an express limitation.

(4) A power, right, privilege or authority conferred in a territory by subsection (1) is available for purposes of proceedings in the Upper Tribunal that take place outside that territory (as well as for purposes of proceedings in the tribunal that take place within that territory).

VALID FROM 03/11/2008

26 First-tier Tribunal and Upper Tribunal: sitting places

Each of the First-tier Tribunal and the Upper Tribunal may decide a case—
- (a) in England and Wales,
- (b) in Scotland, or
- (c) in Northern Ireland,

even though the case arises under the law of a territory other than the one in which the case is decided.

27 Enforcement

(1) A sum payable in pursuance of a decision of the First-tier Tribunal or Upper Tribunal made in England and Wales—
- (a) shall be recoverable as if it were payable under an order of a county court in England and Wales;
- (b) shall be recoverable as if it were payable under an order of the High Court in England and Wales.

(2) An order for the payment of a sum payable in pursuance of a decision of the First-tier Tribunal or Upper Tribunal made in Scotland (or a copy of such an order certified in accordance with Tribunal Procedure Rules) may be enforced as if it were an extract

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registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(3) A sum payable in pursuance of a decision of the First-tier Tribunal or Upper Tribunal made in Northern Ireland—

(a) shall be recoverable as if it were payable under an order of a county court in Northern Ireland;

(b) shall be recoverable as if it were payable under an order of the High Court in Northern Ireland.

(4) This section does not apply to a sum payable in pursuance of—

(a) an award under section 16(6), or

(b) an order by virtue of section 21(1).

(5) The Lord Chancellor may by order make provision for subsection (1) or (3) to apply in relation to a sum of a description specified in the order with the omission of one (but not both) of paragraphs (a) and (b).

(6) Tribunal Procedure Rules—

(a) may make provision as to where, for purposes of this section, a decision is to be taken to be made;

(b) may provide for all or any of subsections (1) to (3) to apply only, or not to apply except, in relation to sums of a description specified in Tribunal Procedure Rules.

Commencement Information

I9 S. 27 wholly in force at 1.4.2009; s. 27 not in force at Royal Assent see s. 148; s. 27(5)(6) in force at 19.9.2007 by S.I. 2007/2709, **art. 2**; s. 27(1)-(4) in force at 1.4.2009 by S.I. 2008/2696, **art. 6(a)**

VALID FROM 03/11/2008

28 Assessors

(1) If it appears to the First-tier Tribunal or the Upper Tribunal that a matter before it requires special expertise not otherwise available to it, it may direct that in dealing with that matter it shall have the assistance of a person or persons appearing to it to have relevant knowledge or experience.

(2) The remuneration of a person who gives assistance to either tribunal as mentioned in subsection (1) shall be determined and paid by the Lord Chancellor.

(3) The Lord Chancellor may—

(a) establish panels of persons from which either tribunal may (but need not) select persons to give it assistance as mentioned in subsection (1);

(b) under paragraph (a) establish different panels for different purposes;

(c) after carrying out such consultation as he considers appropriate, appoint persons to a panel established under paragraph (a);

(d) remove a person from such a panel.

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VALID FROM 03/11/2008

29 Costs or expenses

(1) The costs of and incidental to—
  (a) all proceedings in the First-tier Tribunal, and
  (b) all proceedings in the Upper Tribunal,
shall be in the discretion of the Tribunal in which the proceedings take place.

(2) The relevant Tribunal shall have full power to determine by whom and to what extent the costs are to be paid.

(3) Subsections (1) and (2) have effect subject to Tribunal Procedure Rules.

(4) In any proceedings mentioned in subsection (1), the relevant Tribunal may—
  (a) disallow, or
  (b) (as the case may be) order the legal or other representative concerned to meet,
the whole of any wasted costs or such part of them as may be determined in accordance with Tribunal Procedure Rules.

(5) In subsection (4) "wasted costs" means any costs incurred by a party—
  (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative, or
  (b) which, in the light of any such act or omission occurring after they were incurred, the relevant Tribunal considers it is unreasonable to expect that party to pay.

(6) In this section "legal or other representative", in relation to a party to proceedings, means any person exercising a right of audience or right to conduct the proceedings on his behalf.

(7) In the application of this section in relation to Scotland, any reference in this section to costs is to be read as a reference to expenses.

CHAPTER 3

TRANSFER OF TRIBUNAL FUNCTIONS

30 Transfer of functions of certain tribunals

(1) The Lord Chancellor may by order provide for a function of a scheduled tribunal to be transferred—
  (a) to the First-tier Tribunal,
  (b) to the Upper Tribunal,
  (c) to the First-tier Tribunal and the Upper Tribunal with the question as to which of them is to exercise the function in a particular case being determined by a person under provisions of the order,
  (d) to the First-tier Tribunal to the extent specified in the order and to the Upper Tribunal to the extent so specified,

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(e) to the First-tier Tribunal and the Upper Tribunal with the question as to which of them is to exercise the function in a particular case being determined by, or under, Tribunal Procedure Rules,

(f) to an employment tribunal,

(g) to the Employment Appeal Tribunal,

(h) to an employment tribunal and the Employment Appeal Tribunal with the question as to which of them is to exercise the function in a particular case being determined by a person under provisions of the order, or

(i) to an employment tribunal to the extent specified in the order and to the Employment Appeal Tribunal to the extent so specified.

(2) In subsection (1) "scheduled tribunal" means a tribunal in a list in Schedule 6 that has effect for the purposes of this section.

(3) The Lord Chancellor may, as respects a function transferred under subsection (1) or this subsection, by order provide for the function to be further transferred as mentioned in any of paragraphs (a) to (i) of subsection (1).

(4) An order under subsection (1) or (3) may include provision for the purposes of or in consequence of, or for giving full effect to, a transfer under that subsection.

(5) A function of a tribunal may not be transferred under subsection (1) or (3) if, or to the extent that, the provision conferring the function—

(a) would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, or

(b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly.

(6) Subsection (5) does not apply to—

(a) the Secretary of State's function of deciding appeals under section 41 of the Consumer Credit Act 1974 (c. 39),

(b) functions of the Consumer Credit Appeals Tribunal,

(c) the Secretary of State's function of deciding appeals under section 7(1) of the Estate Agents Act 1979 (c. 38), or

(d) functions of an adjudicator under section 5 of the Criminal Injuries Compensation Act 1995 (c. 53) (but see subsection (7)).

(7) Functions of an adjudicator under section 5 of the Criminal Injuries Compensation Act 1995 (c. 53), so far as they relate to Scotland, may be transferred under subsection (1) or (3) only with the consent of the Scottish Ministers.

(8) A function of a tribunal may be transferred under subsection (1) or (3) only with the consent of the Welsh Ministers if any relevant function is exercisable in relation to the tribunal by the Welsh Ministers (whether by the Welsh Ministers alone, or by the Welsh Ministers jointly or concurrently with any other person).

(9) In subsection (8) "relevant function", in relation to a tribunal, means a function which relates—

(a) to the operation of the tribunal (including, in particular, its membership, administration, staff, accommodation and funding, and payments to its members or staff), or

(b) to the provision of expenses and allowances to persons attending the tribunal or attending elsewhere in connection with proceedings before the tribunal.

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31 Transfers under section 30: supplementary powers

(1) The Lord Chancellor may by order make provision for abolishing the tribunal by whom a function transferred under section 30(1) is exercisable immediately before its transfer.

(2) The Lord Chancellor may by order make provision, where functions of a tribunal are transferred under section 30(1), for a person—
- (a) who is the tribunal (but is not the Secretary of State), or
- (b) who is a member of the tribunal, or
- (c) who is an authorised decision-maker for the tribunal,

to (instead or in addition) be the holder of an office specified in subsection (3).

(3) Those offices are—
- (a) transferred-in judge of the First-tier Tribunal,
- (b) transferred-in other member of the First-tier Tribunal,
- (c) transferred-in judge of the Upper Tribunal,
- (d) transferred-in other member of the Upper Tribunal, and
- (e) deputy judge of the Upper Tribunal.

(4) Where functions of a tribunal are transferred under section 30(1), the Lord Chancellor must exercise the power under subsection (2) so as to secure that each person who immediately before the end of the tribunal's life—
- (a) is the tribunal,
- (b) is a member of the tribunal, or
- (c) is an authorised decision-maker for the tribunal,

becomes the holder of an office specified in subsection (3) with effect from the end of the tribunal's life (if the person is not then already the holder of such an office).

(5) Subsection (4) does not apply in relation to a person—
- (a) by virtue of the person's being the Secretary of State, or
- (b) by virtue of the person's being a Commissioner for the general purposes of the income tax;

and a reference in subsection (4) to the end of a tribunal's life is to when the tribunal is abolished or (without being abolished) comes to have no functions.

(6) For the purposes of this section, a person is an "authorised decision-maker" for a tribunal if—
- (a) the tribunal is listed in column 1 of an entry in the following Table, and
- (b) the person is of the description specified in column 2 of that entry.

(1)	*(2)*
Tribunal	***Authorised decision-maker***
Adjudicator to Her Majesty's Land Registry	Member of the Adjudicator's staff who is authorised by the Adjudicator to carry out functions of the Adjudicator which are not of an administrative character
The Secretary of State as respects his function of deciding appeals under	Person who is a member of a panel under regulation 24 of the Consumer

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section 41 of the Consumer Credit Act 1974 (c. 39)	Credit Licensing (Appeals) Regulations 1998 (S.I. 1998/1203)
The Secretary of State as respects his function of deciding appeals under section 7(1) of the Estate Agents Act 1979 (c. 38)	Person appointed, at any time after 2005, under regulation 19(1) of the Estate Agents (Appeals) Regulations 1981 (S.I. 1981/1518) to hear an appeal on behalf of the Secretary of State

(7) Where a function of a tribunal is transferred under section 30(1), the Lord Chancellor may by order provide for procedural rules in force immediately before the transfer to have effect, or to have effect with appropriate modifications, after the transfer (and, accordingly, to be capable of being varied or revoked) as if they were—

(a) Tribunal Procedure Rules, or

(b) employment tribunal procedure regulations, or Appeal Tribunal procedure rules, within the meaning given by section 42(1) of the Employment Tribunals Act 1996 (c. 17).

(8) In subsection (7)—

"procedural rules" means provision (whether called rules or not)—

(a) regulating practice or procedure before the tribunal, and

(b) applying for purposes connected with the exercise of the function;

"appropriate modifications" means modifications (including additions and omissions) that appear to the Lord Chancellor to be necessary to secure, or expedient in connection with securing, that the procedural rules apply in relation to the exercise of the function after the transfer.

(9) The Lord Chancellor may, in connection with provision made by order under section 30 or the preceding provisions of this section, make by order such incidental, supplemental, transitional or consequential provision, or provision for savings, as the Lord Chancellor thinks fit, including provision applying only in relation to cases selected by a member—

(a) of the First-tier Tribunal,

(b) of the Upper Tribunal,

(c) of the Employment Appeal Tribunal, or

(d) of a panel of members of employment tribunals.

(10) Subsections (1), (2) and (7) are not to be taken as prejudicing the generality of subsection (9).

32 Power to provide for appeal to Upper Tribunal from tribunals in Wales

(1) Subsection (2) applies if—

(a) a function is transferred under section 30(1)(a), (c), (d) or (e) in relation to England but is not transferred under section 30(1) in relation to Wales, or

(b) a function that is not exercisable in relation to Wales is transferred under section 30(1)(a), (c), (d) or (e) in relation to England and, although there is a corresponding function that is exercisable in relation to Wales, that corresponding function is not transferred under section 30(1) in relation to Wales.

(2) The Lord Chancellor may by order—

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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(a) provide for an appeal against a decision to be made to the Upper Tribunal instead of to the court to which an appeal would otherwise fall to be made where the decision is made in exercising, in relation to Wales, the function mentioned in subsection (1)(a) or (as the case may be) the corresponding function mentioned in subsection (1)(b);

(b) provide for a reference of any matter to be made to the Upper Tribunal instead of to the court to which a reference would otherwise fall to be made where the matter arises in exercising, in relation to Wales, the function mentioned in subsection (1)(a) or (as the case may be) the corresponding function mentioned in subsection (1)(b).

(3) The Lord Chancellor may by order provide for an appeal against a decision of a scheduled tribunal to be made to the Upper Tribunal, instead of to the court to which an appeal would otherwise fall to be made, where the decision is made by the tribunal in exercising a function in relation to Wales.

(4) In subsection (3) "scheduled tribunal" means a tribunal in a list in Schedule 6 that has effect for the purposes of that subsection.

(5) An order under subsection (2) or (3)—

(a) may include provision for the purposes of or in consequence of, or for giving full effect to, provision made by the order;

(b) may include such incidental, supplemental, transitional or consequential provision or savings as the Lord Chancellor thinks fit.

33 Power to provide for appeal to Upper Tribunal from tribunals in Scotland

(1) Subsection (2) applies if—

(a) a function is transferred under section 30(1)(a), (c), (d) or (e) in relation to England (whether or not also in relation to Wales) but is not transferred under section 30(1) in relation to Scotland,

(b) an appeal may be made to the Upper Tribunal against any decision, or any decision of a particular description, made in exercising the transferred function in relation to England, and

(c) no appeal may be made against a corresponding decision made in exercising the function in relation to Scotland.

(2) The Lord Chancellor may by order provide for an appeal against any such corresponding decision to be made to the Upper Tribunal.

(3) An order under subsection (2)—

(a) may include provision for the purposes of or in consequence of, or for giving full effect to, provision made by the order;

(b) may include such incidental, supplemental, transitional or consequential provision or savings as the Lord Chancellor thinks fit.

(4) An order under subsection (2) does not cease to have effect, and power to vary or revoke the order does not cease to be exercisable, just because either or each of the conditions in subsection (1)(b) and (c) ceases to be satisfied in relation to the function and decisions concerned.

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34 Power to provide for appeal to Upper Tribunal from tribunals in Northern Ireland

(1) Subsection (2) applies if—

(a) a function is transferred under section 30(1)(a), (c), (d) or (e) in relation to England (whether or not also in relation to Wales) but is not transferred under section 30(1) in relation to Northern Ireland,

(b) an appeal may be made to the Upper Tribunal against any decision, or any decision of a particular description, made in exercising the transferred function in relation to England, and

(c) no appeal may be made against a corresponding decision made in exercising the function in relation to Northern Ireland.

(2) The Lord Chancellor may by order provide for an appeal against any such corresponding decision to be made to the Upper Tribunal.

(3) An order under subsection (2)—

(a) may include provision for the purposes of or in consequence of, or for giving full effect to, provision made by the order;

(b) may include such incidental, supplemental, transitional or consequential provision or savings as the Lord Chancellor thinks fit.

(4) An order under subsection (2) does not cease to have effect, and power to vary or revoke the order does not cease to be exercisable, just because either or each of the conditions in subsection (1)(b) and (c) ceases to be satisfied in relation to the function and decisions concerned.

35 Transfer of Ministerial responsibilities for certain tribunals

(1) The Lord Chancellor may by order—

(a) transfer any relevant function, so far as that function is exercisable by a Minister of the Crown—

(i) to the Lord Chancellor, or

(ii) to two (or more) Ministers of the Crown of whom one is the Lord Chancellor;

(b) provide for any relevant function that is exercisable by a Minister of the Crown other than the Lord Chancellor to be exercisable by the other Minister of the Crown concurrently with the Lord Chancellor;

(c) provide for any relevant function that is exercisable by the Lord Chancellor concurrently with another Minister of the Crown to cease to be exercisable by the other Minister of the Crown.

(2) In this section "relevant function" means a function, in relation to a scheduled tribunal, which relates—

(a) to the operation of the tribunal (including, in particular, its membership, administration, staff, accommodation and funding, and payments to its members or staff), or

(b) to the provision of expenses and allowances to persons attending the tribunal or attending elsewhere in connection with proceedings before the tribunal.

(3) In subsection (2) "scheduled tribunal" means a tribunal in a list in Schedule 6 that has effect for the purposes of this section.

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(4) A relevant function may not be transferred under subsection (1) if, or to the extent that, the provision conferring the function—
  (a) would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, or
  (b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly.

(5) Subsection (4) does not apply to any relevant function of the Secretary of State—
  (a) under section 41 of the Consumer Credit Act 1974 (c. 39) (appeals), or
  (b) under section 7 of the Estate Agents Act 1979 (c. 38) (appeals).

(6) Any reference in subsection (1) to a Minister of the Crown includes a reference to a Minister of the Crown acting jointly.

(7) An order under subsection (1)—
  (a) may relate to a function either wholly or in cases (including cases framed by reference to areas) specified in the order;
  (b) may include provision for the purposes of, or in consequence of, or for giving full effect to, the transfer or (as the case may be) other change as regards exercise;
  (c) may include such incidental, supplementary, transitional or consequential provision or savings as the Lord Chancellor thinks fit;
  (d) may include provision for the transfer of any property, rights or liabilities of the person who loses functions or whose functions become shared with the Lord Chancellor.

(8) An order under subsection (1), so far as it—
  (a) provides under paragraph (a) for the transfer of a function, or
  (b) provides under paragraph (b) for a function to become exercisable by the Lord Chancellor, or
  (c) provides under paragraph (c) for a function to cease to be exercisable by a Minister of the Crown other than the Lord Chancellor,

  may not, after that transfer or other change has taken place, be revoked by another order under that subsection.

(9) Section 1 of the 1975 Act (power to transfer Ministerial functions) does not apply to a function of the Lord Chancellor—
  (a) so far as it is a function transferred to the Lord Chancellor under subsection (1)(a),
  (b) so far as it is a function exercisable by the Lord Chancellor as a result of provision under subsection (1)(b), or
  (c) so far as it is a function that has become exercisable by the Lord Chancellor alone as a result of provision under subsection (1)(c).

(10) In this section—

"Minister of the Crown" has the meaning given by section 8(1) of the 1975 Act but includes the Commissioners for Her Majesty's Revenue and Customs;

"the 1975 Act" means the Ministers of the Crown Act 1975 (c. 26).

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36 Transfer of powers to make procedural rules for certain tribunals

(1) The Lord Chancellor may by order transfer any power to make procedural rules for a scheduled tribunal to—
  (a) himself, or
  (b) the Tribunal Procedure Committee.

(2) A power may not be transferred under subsection (1) if, or to the extent that, the provision conferring the power—
  (a) would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, or
  (b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly.

(3) Subsection (2) does not apply to—
  (a) power conferred by section 40A(3) or 41(2) of the Consumer Credit Act 1974 (c. 39) (power to make provision with respect to appeals), or
  (b) power conferred by section 7(3) of the Estate Agents Act 1979 (c. 38) (duty of Secretary of State to make regulations with respect to appeals under section 7(1) of that Act).

(4) An order under subsection (1)(b)—
  (a) may not alter any parliamentary procedure relating to the making of the procedural rules concerned, but
  (b) may otherwise include provision for the purpose of assimilating the procedure for making them to the procedure for making Tribunal Procedure Rules.

(5) An order under subsection (1)(b) may include provision requiring the Tribunal Procedure Committee to make procedural rules for purposes notified to it by the Lord Chancellor.

(6) An order under this section—
  (a) may relate to a power either wholly or in cases (including cases framed by reference to areas) specified in the order;
  (b) may include provision for the purposes of or in consequence of, or for giving full effect to, the transfer;
  (c) may include such incidental, supplementary, transitional or consequential provision or savings as the Lord Chancellor thinks fit.

(7) A power to make procedural rules for a tribunal that is exercisable by the Tribunal Procedure Committee by virtue of an order under this section must be exercised by the committee with a view to securing—
  (a) that the system for deciding matters within the jurisdiction of that tribunal is accessible and fair,
  (b) that proceedings before that tribunal are handled quickly and efficiently,
  (c) that the rules are both simple and simply expressed, and
  (d) that the rules where appropriate confer on persons who are, or who are members of, that tribunal responsibility for ensuring that proceedings before that tribunal are handled quickly and efficiently.

(8) In this section—

"procedural rules", in relation to a tribunal, means provision (whether called rules or not) regulating practice or procedure before the tribunal;

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"scheduled tribunal" means a tribunal in a list in Schedule 6 that has effect for the purposes of this section.

37 Power to amend lists of tribunals in Schedule 6

(1) The Lord Chancellor may by order amend Schedule 6—
- (a) for the purpose of adding a tribunal to a list in the Schedule;
- (b) for the purpose of removing a tribunal from a list in the Schedule;
- (c) for the purpose of removing a list from the Schedule;
- (d) for the purpose of adding to the Schedule a list of tribunals that has effect for the purposes of any one or more of sections 30, 32(3), 35 and 36.

(2) The following rules apply to the exercise of power under subsection (1)—
- (a) a tribunal may not be added to a list, or be in an added list, if the tribunal is established otherwise than by or under an enactment;
- (b) a tribunal established by an enactment passed or made after the last day of the Session in which this Act is passed must not be added to a list, or be in an added list, that has effect for the purposes of section 30;
- (c) if any relevant function is exercisable in relation to a tribunal by the Welsh Ministers (whether by the Welsh Ministers alone, or by the Welsh Ministers jointly or concurrently with any other person), the tribunal may be added to a list, or be in an added list, only with the consent of the Welsh Ministers;
- (d) a tribunal may be in more than one list.

(3) In subsection (2)(c) "relevant function", in relation to a tribunal, means a function which relates—
- (a) to the operation of the tribunal (including, in particular, its membership, administration, staff, accommodation and funding, and payments to its members or staff), or
- (b) to the provision of expenses and allowances to persons attending the tribunal or attending elsewhere in connection with proceedings before the tribunal.

(4) In subsection (1) "tribunal" does not include an ordinary court of law.

(5) In this section "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)).

38 Orders under sections 30 to 36: supplementary

(1) Provision in an order under any of sections 30 to 36 may take the form of amendments, repeals or revocations of enactments.

(2) In this section "enactment" means any enactment whenever passed or made, including an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

(3) Any power to extend enactments to a territory outside the United Kingdom shall have effect as if it included—
- (a) power to extend those enactments as they have effect with any amendments and repeals made in them by orders under any of sections 30 to 36, and

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(b) power to extend those enactments as if any amendments and repeals made in them under those sections had not been made.

CHAPTER 4

ADMINISTRATIVE MATTERS IN RESPECT OF CERTAIN TRIBUNALS

39 The general duty

(1) The Lord Chancellor is under a duty to ensure that there is an efficient and effective system to support the carrying on of the business of—

(a) the First-tier Tribunal,

(b) the Upper Tribunal,

(c) employment tribunals,

(d) the Employment Appeal Tribunal, and

(e) the Asylum and Immigration Tribunal,

and that appropriate services are provided for those tribunals (referred to in this section and in sections 40 and 41 as "the tribunals").

(2) Any reference in this section, or in section 40 or 41, to the Lord Chancellor's general duty in relation to the tribunals is to his duty under subsection (1).

(3) The Lord Chancellor must annually prepare and lay before each House of Parliament a report as to the way in which he has discharged his general duty in relation to the tribunals.

40 Tribunal staff and services

(1) The Lord Chancellor may appoint such staff as appear to him appropriate for the purpose of discharging his general duty in relation to the tribunals.

(2) Subject to subsections (3) and (4), the Lord Chancellor may enter into such contracts with other persons for the provision, by them or their sub-contractors, of staff or services as appear to him appropriate for the purpose of discharging his general duty in relation to the tribunals.

(3) The Lord Chancellor may not enter into contracts for the provision of staff to discharge functions which involve making judicial decisions or exercising any judicial discretion.

(4) The Lord Chancellor may not enter into contracts for the provision of staff to carry out the administrative work of the tribunals unless an order made by the Lord Chancellor authorises him to do so.

(5) Before making an order under subsection (4) the Lord Chancellor must consult the Senior President of Tribunals as to what effect (if any) the order might have on the proper and efficient administration of justice.

(6) An order under subsection (4) may authorise the Lord Chancellor to enter into contracts for the provision of staff to discharge functions—

(a) wholly or to the extent specified in the order,

(b) generally or in cases or areas specified in the order, and

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(c) unconditionally or subject to the fulfilment of conditions specified in the order.

41 Provision of accommodation

(1) The Lord Chancellor may provide, equip, maintain and manage such tribunal buildings, offices and other accommodation as appear to him appropriate for the purpose of discharging his general duty in relation to the tribunals.

(2) The Lord Chancellor may enter into such arrangements for the provision, equipment, maintenance or management of tribunal buildings, offices or other accommodation as appear to him appropriate for the purpose of discharging his general duty in relation to the tribunals.

(3) The powers under—

(a) section 2 of the Commissioners of Works Act 1852 (c. 28) (acquisition by agreement), and

(b) section 228(1) of the Town and Country Planning Act 1990 (c. 8) (compulsory acquisition),

to acquire land necessary for the public service are to be treated as including power to acquire land for the purpose of its provision under arrangements entered into under subsection (2).

(4) In this section "tribunal building" means any place where any of the tribunals sits, including the precincts of any building in which it sits.

42 Fees

(1) The Lord Chancellor may by order prescribe fees payable in respect of—

(a) anything dealt with by the First-tier Tribunal,

(b) anything dealt with by the Upper Tribunal,

(c) anything dealt with by the Asylum and Immigration Tribunal,

(d) anything dealt with by an added tribunal, and

(e) mediation conducted by staff appointed under section 40(1).

(2) An order under subsection (1) may, in particular, contain provision as to—

(a) scales or rates of fees;

(b) exemptions from or reductions in fees;

(c) remission of fees in whole or in part.

(3) In subsection (1)(d) "added tribunal" means a tribunal specified in an order made by the Lord Chancellor.

(4) A tribunal may be specified in an order under subsection (3) only if—

(a) it is established by or under an enactment, whenever passed or made, and

(b) is not an ordinary court of law.

(5) Before making an order under this section, the Lord Chancellor must consult—

(a) the Senior President of Tribunals, and

(b) the Administrative Justice and Tribunals Council.

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(6) The making of an order under subsection (1) requires the consent of the Treasury except where the order contains provision only for the purpose of altering amounts payable by way of fees already prescribed under that subsection.

(7) The Lord Chancellor must take such steps as are reasonably practicable to bring information about fees under subsection (1) to the attention of persons likely to have to pay them.

(8) Fees payable under subsection (1) are recoverable summarily as a civil debt.

(9) Subsection (8) does not apply to the recovery in Scotland of fees payable under this section.

(10) 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 subsection (5) is to be read as a reference to the Council on Tribunals.

43 Report by Senior President of Tribunals

(1) Each year the Senior President of Tribunals must give the Lord Chancellor a report covering, in relation to relevant tribunal cases—
  (a) matters that the Senior President of Tribunals wishes to bring to the attention of the Lord Chancellor, and
  (b) matters that the Lord Chancellor has asked the Senior President of Tribunals to cover in the report.

(2) The Lord Chancellor must publish each report given to him under subsection (1).

(3) In this section "relevant tribunal cases" means—
  (a) cases coming before the First-tier Tribunal,
  (b) cases coming before the Upper Tribunal,
  (c) cases coming before the Employment Appeal Tribunal, and
  (d) cases coming before employment tribunals.

CHAPTER 5

OVERSIGHT OF ADMINISTRATIVE JUSTICE SYSTEM, TRIBUNALS AND INQUIRIES

44 The Administrative Justice and Tribunals Council

(1) There is to be a council to be known as the Administrative Justice and Tribunals Council.

(2) In Schedule 7—

Part 1 makes provision about membership and committees of the Council,

Part 2 makes provision about functions of the Council,

Part 3 requires the Council to be consulted before procedural rules for certain tribunals are made, confirmed etc., and

Part 4 contains interpretative provisions.

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45 Abolition of the Council on Tribunals

(1) The following are abolished—
- (a) the Council on Tribunals, and
- (b) the Scottish Committee of the Council on Tribunals.

(2) In consequence of subsection (1), sections 1 to 4 of the Tribunals and Inquiries Act 1992 (c. 53) cease to have effect.

(3) The Lord Chancellor may by order transfer to the Administrative Justice and Tribunals Council the property, rights and liabilities of—
- (a) the Council on Tribunals;
- (b) the Scottish Committee of the Council on Tribunals.

Commencement Information

I10 S. 45 wholly in force at 1.11.2007; s. 45 not in force at Royal Assent see s. 148; s. 45(3) in force at 19.9.2007 and s. 45(1)(2) in force at 1.11.2007 by S.I. 2007/2709, **arts. 2(a)**, **3(a)**

CHAPTER 6

SUPPLEMENTARY

46 Delegation of functions by Lord Chief Justice etc.

(1) 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 any of his functions under the provisions listed in subsection (2).

(2) The provisions are—

paragraphs 3(4) and 6(3)(a) of Schedule 2;
paragraphs 3(4) and 6(3)(a) of Schedule 3;
paragraphs 2(2) and 5(5) of Schedule 4;
paragraphs 21(2), 22, 24 and 25(2)(a) of Schedule 5.

(3) The Lord President of the Court of Session may nominate any of the following to exercise any of his functions under the provisions listed in subsection (4)—
- (a) a judge who is a member of the First or Second Division of the Inner House of the Court of Session;
- (b) the Senior President of Tribunals.

(4) The provisions are—

paragraphs 3(2) and 6(3)(b) of Schedule 2;
paragraphs 3(2) and 6(3)(b) of Schedule 3;
paragraphs 2(3) and 5(6) of Schedule 4;
paragraphs 23, 24, 25(2)(b) and (c) and 28(1)(b) of Schedule 5.

(5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise any of his functions under the provisions listed in subsection (6)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);

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(b) a Lord Justice of Appeal (as defined in section 88 of that Act);
(c) the Senior President of Tribunals.

(6) The provisions are—
paragraphs 3(3) and 6(3)(c) of Schedule 2;
paragraphs 3(3) and 6(3)(c) of Schedule 3;
paragraphs 2(4) and 5(7) of Schedule 4;
paragraphs 24 and 25(2)(c) of Schedule 5.

Commencement Information

I11 S. 46 wholly in force at 3.11.2008; s. 46 not in force at Royal Assent see s. 148; s. 46 in force at 19.9.2007 by S.I. 2007/2709, **art. 2(b)**; s. 46 in force at 3.11.2008 otherwise by S.I. 2008/2696, **art. 5(b)**

VALID FROM 03/11/2008

47 Co-operation in relation to judicial training, guidance and welfare

(1) Persons with responsibilities in connection with a courts-related activity, and persons with responsibilities in connection with the corresponding tribunals activity, must co-operate with each other in relation to the carrying-on of those activities.

(2) In this section "courts-related activity" and "corresponding tribunals activity" are to be read as follows—
(a) making arrangements for training of judiciary of a territory is a courts-related activity, and the corresponding tribunals activity is making arrangements for training of tribunal members;
(b) making arrangements for guidance of judiciary of a territory is a courts-related activity, and the corresponding tribunals activity is making arrangements for guidance of tribunal members;
(c) making arrangements for the welfare of judiciary of a territory is a courts-related activity, and the corresponding tribunals activity is making arrangements for the welfare of tribunal members.

(3) Subsection (1) applies to a person who has responsibilities in connection with a courts-related activity only if—
(a) the person is the chief justice of the territory concerned, or
(b) what the person does in discharging those responsibilities is done (directly or indirectly) on behalf of the chief justice of that territory.

(4) Subsection (1) applies to a person who has responsibilities in connection with a corresponding tribunals activity only if—
(a) the person is the Senior President of Tribunals, or
(b) what the person does in discharging those responsibilities is done (directly or indirectly) on behalf of the Senior President of Tribunals.

(5) For the purposes of this section—
(a) "territory" means—
(i) England and Wales,

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(ii) Scotland, or
(iii) Northern Ireland;

(b) the "chief justice"—
(i) of England and Wales is the Lord Chief Justice of England and Wales,
(ii) of Scotland is the Lord President of the Court of Session, and
(iii) of Northern Ireland is the Lord Chief Justice of Northern Ireland;

(c) a person is a "tribunal member" if the person is—
(i) a judge, or other member, of the First-tier Tribunal or Upper Tribunal,
(ii) a judge, or other member, of the Employment Appeal Tribunal,
(iii) a member of a panel of members of employment tribunals (whether or not a panel of chairmen), or
(iv) any member of the Asylum and Immigration Tribunal.

48 Consequential and other amendments, and transitional provisions

(1) Schedule 8, which makes—
amendments consequential on provisions of this Part, and
other amendments in connection with tribunals and inquiries,
has effect.

(2) Schedule 9, which contains transitional provisions, has effect.

Commencement Information

I12 S. 48 partly in force; s. 48 not in force at Royal Assent see s. 148; s. 48(1) in force for certain purposes at 19.9.2007, 1.11.2007, 1.12.2007 and 1.6.2008 and s. 48(2) in force for certain further purposes at 19.9.2007 by S.I. 2007/2709, **arts. 2(c)(d)**, **3(b)**, **4**, **6(b)**; s. 48(1) in force for certain further purposes at 21.7.2008 by S.I. 2008/1653, **art. 2(a)** (with arts. 3, 4); s. 48(1)(2) in force at 3.8.2008 and at 1.4.2009 for certain further purposes by S.I. 2008/2696, **arts. 5(c)(d)**, **6(b)**

49 Orders and regulations under Part 1: supplemental and procedural provisions

(1) Power—
(a) of the Lord Chancellor to make an order, or regulations, under this Part,
(b) of the Senior President of Tribunals to make an order under section 7(9), or
(c) of the Scottish Ministers, or the Welsh Ministers, to make an order under paragraph 25(2) of Schedule 7,
is exercisable by statutory instrument.

(2) The Statutory Instruments Act 1946 (c. 36) shall apply in relation to the power to make orders conferred on the Senior President of Tribunals by section 7(9) as if the Senior President of Tribunals were a Minister of the Crown.

(3) Any power mentioned in subsection (1) includes power to make different provision for different purposes.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

(4) Without prejudice to the generality of subsection (3), power to make an order under section 30 or 31 includes power to make different provision in relation to England, Scotland, Wales and Northern Ireland respectively.

(5) No order mentioned in subsection (6) is to be made unless a draft of the statutory instrument containing it (whether alone or with other provision) has been laid before, and approved by a resolution of, each House of Parliament.

(6) Those orders are—

(a) an order under section 11(8), 13(6) or (14), 30, 31(1), 32, 33, 34, 35, 36, 37 or 42(3);

(b) an order under paragraph 15 of Schedule 4;

(c) an order under section 42(1)(a) to (d) that provides for fees to be payable in respect of things for which fees have never been payable;

(d) an order under section 31(2), (7) or (9), or paragraph 30(1) of Schedule 5, that contains provision taking the form of an amendment or repeal of an enactment comprised in an Act.

(7) A statutory instrument that—

(a) contains—

(i) an order mentioned in subsection (8), or

(ii) regulations under Part 3 of Schedule 9, and

(b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,

is subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Those orders are—

(a) an order made by the Lord Chancellor under this Part;

(b) an order made by the Senior President of Tribunals under section 7(9).

(9) A statutory instrument that contains an order made by the Scottish Ministers under paragraph 25(2) of Schedule 7 is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(10) A statutory instrument that contains an order made by the Welsh Ministers under paragraph 25(2) of Schedule 7 is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

PART 2

JUDICIAL APPOINTMENTS

Modifications etc. (not altering text)

C21 2007 c. 15, Pt. 2 applied (E.W.) (prosp.) by Welsh Language (Wales) Measure 2011 (nawm 1), ss. 120, 156, **Sch. 11 para. 3(3)**

C22 2007 c. 15, Pt. 2 applied (E.W.) (prosp.) by Welsh Language (Wales) Measure 2011 (nawm 1), ss. 120, 156, **Sch. 11 para. 4(3)**

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

50 Judicial appointments: "judicial-appointment eligibility condition"

(1) Subsection (2) applies for the purposes of any statutory provision that—

(a) relates to an office or other position, and

(b) refers to a person who satisfies the judicial-appointment eligibility condition on an N-year basis (where N is the number stated in the provision).

(2) A person satisfies that condition on an N-year basis if—

(a) the person has a relevant qualification, and

(b) the total length of the person's qualifying periods is at least N years.

(3) In subsection (2) "qualifying period", in relation to a person, means a period during which the person—

(a) has a relevant qualification, and

(b) gains experience in law (see section 52).

(4) For the purposes of subsections (2) and (3), a person has a relevant qualification if the person—

(a) is a solicitor or a barrister (but see section 51), or

(b) holds a qualification that under section 51(1) is a relevant qualification in relation to the office, or other position, concerned.

(5) In this section—

"barrister" means barrister in England and Wales;

"solicitor" means solicitor of the Senior Courts of England and Wales;

"statutory provision" means—

(a) a provision of an Act, or

(b) a provision of subordinate legislation (within the meaning given by section 21(1) of the Interpretation Act 1978 (c. 30)).

(6) Schedule 10, which makes amendments—

for the purpose of substituting references to satisfying the judicial-appointment eligibility condition in place of references to having a qualification mentioned in section 71 of the Courts and Legal Services Act 1990 (c. 41),

for the purpose of reducing qualifying periods for eligibility for appointment to certain judicial offices from ten and seven years to seven and five years respectively, and

for connected purposes,

has effect.

(7) 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 subsection (5) is to be read as a reference to the Supreme Court.

Commencement Information

I13 S. 50 wholly in force at 21.7.2008; s. 50 not in force at Royal Assent see s. 148; s. 50(1)(5)(7) in force at 19.9.2007 by S.I. 2007/2709, **art. 2(e)** and s. 50 in force 21.7.2008 otherwise by S.I. 2008/1653, **art. 2(b)** (with arts. 3, 4)

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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51 "Relevant qualification" in section 50: further provision

(1) The Lord Chancellor may by order provide for a qualification specified in the order to be a relevant qualification for the purposes of section 50(2) and (3) in relation to an office or other position specified in the order.

(2) A qualification may be specified under subsection (1) only if it is one awarded—
- (a) by the Institute of Legal Executives, or
- (b) by a body other than the Institute of Legal Executives that, when the qualification is specified, is designated by Order in Council as an authorised body for the purposes of section 27 or 28 of the Courts and Legal Services Act 1990 (bodies authorised to confer rights of audience or rights to conduct litigation).

(3) An order under subsection (1) may, in relation to a qualification specified in the order, include provision as to when a person who holds the qualification is, for the purposes of section 50, to be taken first to have held it.

(4) Where—
- (a) a qualification is specified under subsection (1),
- (b) the qualification is one awarded by a body such as is mentioned in subsection (2)(b), and
- (c) after the qualification is specified under subsection (1), it becomes the case that the body —
  - (i) is not designated for the purposes of section 27 of the Courts and Legal Services Act 1990, and
  - (ii) is not designated for the purposes of section 28 of that Act,

the provision under subsection (1) specifying the qualification ceases to have effect, subject to any provision made under paragraph 33(1) of Schedule 4 to that Act (transitional and incidental provision in connection with revocation of authorised body's designation).

(5) For the purposes of section 50 and this section, a person shall be taken first to become a solicitor when the person's name is entered on the roll kept under section 6 of the Solicitors Act 1974 (c. 47) (Law Society to keep list of all solicitors) for the first time after the person's admission as a solicitor.

(6) For the purposes of section 50 and this section, a person shall be taken first to become a barrister—
- (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 section 50—
- (a) a barrister,
- (b) a solicitor, or
- (c) a person who holds a qualification specified under subsection (1),

shall be taken not to have a relevant qualification at times when, as a result of disciplinary proceedings, he is prevented from practising as a barrister or (as the case may be) as a solicitor or as a holder of the specified qualification.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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(8) The Lord Chancellor may by order make provision supplementing or amending subsections (5) to (7).

(9) Before making an order under subsection (1) or (8), the Lord Chancellor must consult—

(a) the Lord Chief Justice of England and Wales, and

(b) the Judicial Appointments Commission.

(10) 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 (c. 4)) to exercise his function under subsection (9)(a).

(11) In this section—

"barrister" means barrister in England and Wales;

"solicitor" means solicitor of the Senior Courts of England and Wales.

(12) Power to make an order under this section is exercisable by statutory instrument.

(13) An order under this section may make different provision for different purposes.

(14) No order may be made under this section unless a draft of the statutory instrument containing it (whether alone or with other provision) has been laid before, and approved by a resolution of, each House of Parliament.

(15) At any time before the coming into force of section 59(1) of the Constitutional Reform Act 2005 (renaming of Supreme Court), the reference to the Senior Courts in subsection (11) is to be read as a reference to the Supreme Court.

Modifications etc. (not altering text)

C23 S. 51(2)-(4) applied (with modifications) (21.7.2008) by 1939 c. xcvii, s. 109(5) (as inserted by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, **Sch. 10 para. 2(3)**); S.I. 2008/1653, **art. 2(d)** (with arts. 3, 4)

C24 S. 51(2)-(4) applied (with modifications) (21.7.2008) by 1998 c. 14, s. 7(6B) (as inserted by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, **Sch. 10 para. 29(4)**); S.I. 2008/1653, **art. 2(d)** (with arts. 3, 4)

C25 S. 51(9)(10) applied (with modifications) (21.7.2008) by 1998 c. 14, s. 7(6B) (as inserted by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, **Sch. 10 para. 29(4)**); S.I. 2008/1653, **art. 2(d)** (with arts. 3, 4)

C26 S. 51(9)(10) applied (with modifications) (21.7.2008) by 1939 c. xcvii, s. 109(5) (as inserted by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, **Sch. 10 para. 2(3)**); S.I. 2008/1653, **art. 2(d)** (with arts. 3, 4)

C27 S. 51(12)-(14) applied (with modifications) (21.7.2008) by 1939 c. xcvii, s. 109(5) (as inserted by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, **Sch. 10 para. 2(3)**); S.I. 2008/1653, **art. 2(d)** (with arts. 3, 4)

Commencement Information

I14 S. 51 wholly in force at 21.7.2008; s. 51 not in force at Royal Assent see s. 148; s. 51 in force for certain purposes at 19.9.2007 by S.I. 2007/2709, **art. 2** and s. 51 in force at 21.7.2008 otherwise by S.I. 2008/1653, **art. 2(a)** (with arts. 3, 4)

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

52 Meaning of "gain experience in law" in section 50

(1) This section applies for the purposes of section 50.

(2) A person gains experience in law during a period if the period is one during which the person is engaged in law-related activities.

(3) For the purposes of subsection (2), a person's engagement in law-related activities during a period is to be disregarded if the engagement is negligible in terms of the amount of time engaged.

(4) For the purposes of this section, each of the following is a "law-related activity"—

- (a) the carrying-out of judicial functions of any court or tribunal;
- (b) acting as an arbitrator;
- (c) practice or employment as a lawyer;
- (d) advising (whether or not in the course of practice or employment as a lawyer) on the application of the law;
- (e) assisting (whether or not in the course of such practice) persons involved in proceedings for the resolution of issues arising under the law;
- (f) acting (whether or not in the course of such practice) as mediator in connection with attempts to resolve issues that are, or if not resolved could be, the subject of proceedings;
- (g) drafting (whether or not in the course of such practice) documents intended to affect persons' rights or obligations;
- (h) teaching or researching law;
- (i) any activity that, in the relevant decision-maker's opinion, is of a broadly similar nature to an activity within any of paragraphs (a) to (h).

(5) For the purposes of this section, an activity mentioned in subsection (4) is a "law-related activity" whether it—

- (a) is done on a full-time or part-time basis;
- (b) is or is not done for remuneration;
- (c) is done in the United Kingdom or elsewhere.

(6) In subsection (4)(i) "the relevant decision-maker", in relation to determining whether a person satisfies the judicial-appointment eligibility condition on an N-year basis in a particular case, means—

- (a) where the condition applies in respect of appointment by Her Majesty to an office or other position, the person whose function it is to recommend the exercise of Her Majesty's function of making appointments to that office or position;
- (b) where the condition applies in respect of appointment, by any person other than Her Majesty, to an office or other position, that person.

(7) In subsection (6) "appointment", in relation to an office or position, includes any form of selection for that office or position (whether called appointment or selection, or not).

Commencement Information

I15 S. 52 wholly in force at 21.7.2008; s. 52 not in force at Royal Assent see s. 148; s. 52 in force for certain purposes at 19.9.2007 by S.I. 2007/2709, **art. 2** and s. 52 in force at 21.7.2008 otherwise by S.I. 2008/1653, **art. 2(b)** (with arts. 3, 4)

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

53 Transfer from salaried to fee-paid judicial office

(1) The Constitutional Reform Act 2005 (c. 4) is amended as follows.

(2) After section 94 insert—

"94A Appointments not subject to section 85: courts

(1) Where this section applies to an appointment—
- (a) section 85 does not apply, but
- (b) the Lord Chancellor may not make the appointment without the concurrence of the Lord Chief Justice.

(2) This section applies to the appointment of a person, on a fee-paid basis, to an office in the table below (the "proposed appointment") if the person—
- (a) holds the corresponding qualifying office (or one of them) on a salaried basis, or
- (b) ceased to hold the corresponding qualifying office (or one of them) within two years ending with the date when the proposed appointment takes effect and, immediately before ceasing to hold that office, held it on a salaried basis.

Proposed appointment (fee-paid)	*Qualifying office (salaried)*
An office listed in Part 2 of Schedule 14.	The same office.
Deputy District Judge (Magistrates' Courts).	District Judge (Magistrates' Courts), Senior District Judge (Chief Magistrate), or Deputy Senior District Judge (Chief Magistrate).
Assistant Judge Advocate General, or a person appointed temporarily to assist the Judge Advocate General.	Judge Advocate of Her Majesty's Fleet, Judge Advocate General, Vice Judge Advocate General, or Assistant Judge Advocate General.

(3) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4)) to exercise his function under subsection (1)(b).

(4) In this section "salaried" and "fee-paid" have the meaning given by paragraph 1(2) of Schedule 7 to the Judicial Pensions and Retirement Act 1993 (c. 8).

94B Appointments not subject to section 85: tribunals

(1) Where this section applies to a recommendation or appointment—
- (a) section 85 does not apply, but
- (b) the Lord Chancellor may not make the recommendation or appointment without the concurrence of the Senior President of Tribunals.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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) In the case of the appointment of a person as a deputy judge of the Upper Tribunal, if the person holds or has held an office listed in section 6(1) of the Tribunals, Courts and Enforcement Act 2007, the Lord Chancellor must also consult the Lord Chief Justice before making the appointment.

(3) This section applies to, or to a recommendation to Her Majesty for, the appointment of a person, on a fee-paid basis, to an office in the table below (the "proposed appointment") if the person—

(a) holds the corresponding qualifying office (or one of them) on a salaried basis, or

(b) subject to subsection (4), ceased to hold the corresponding qualifying office (or one of them) within two years ending with the date when the proposed appointment takes effect and, immediately before ceasing to hold that office, held it on a salaried basis.

Proposed appointment (fee-paid)	***Qualifying office (salaried)***
An office listed in Part 3 of Schedule 14 (other than the office of Chamber President or Deputy Chamber President of a chamber of the Upper Tribunal or the First-tier Tribunal).	The same office, or a more senior office, listed in Part 3 of Schedule 14, in the same tribunal or body (but excluding the Upper Tribunal and the First-tier Tribunal).
Deputy Child Support Commissioner.	Chief Child Support Commissioner, or Child Support Commissioner.
Deputy Social Security Commissioner.	Chief Social Security Commissioner, or Social Security Commissioner.
Deputy judge of the Upper Tribunal.	Ordinary judge of the Court of Appeal in England and Wales, Lord Justice of Appeal in Northern Ireland, Judge of the Court of Session, Puisne judge of the High Court in England and Wales or Northern Ireland, Circuit judge, Sheriff in Scotland, County court judge in Northern Ireland, District judge in England and Wales or Northern Ireland, District Judge (Magistrates' Courts), or Judge of the Upper Tribunal by virtue of any of paragraphs (a) to (f) or (i) of section 5(1) of the Tribunals, Courts and Enforcement Act 2007.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

Judge of the First-tier Tribunal by appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007.	Transferred-in judge of the First-tier Tribunal (see section 31(2) of that Act).
Other member of the First-tier Tribunal by appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007.	Transferred-in other member of the First-tier Tribunal (see section 31(2) of that Act).
Judge of the Upper Tribunal by appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007.	Transferred-in judge of the Upper Tribunal (see section 31(2) of that Act).
Other member of the Upper Tribunal by appointment under paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007.	Transferred-in other member of the Upper Tribunal (see section 31(2) of that Act).
Deputy judge of the Upper Tribunal by appointment under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007.	Deputy judge of the Upper Tribunal under section 31(2) of that Act.

(4) In subsection (3)(b) the words "within two years ending with the date when the proposed appointment takes effect" do not apply if—

(a) the proposed appointment is to the office of deputy judge of the Upper Tribunal, and

(b) the corresponding qualifying office is—

(i) ordinary judge of the Court of Appeal in England and Wales,

(ii) Lord Justice of Appeal in Northern Ireland,

(iii) judge of the Court of Session, or

(iv) puisne judge of the High Court in England and Wales or Northern Ireland.

(5) In this section "salaried" and "fee-paid" have the meaning given by paragraph 1(2) of Schedule 7 to the Judicial Pensions and Retirement Act 1993."

(3) After section 85(2) (restriction on recommendations and appointments) insert—

"(2A) This section is subject to—

(a) section 30(4) of the Courts-Martial (Appeals) Act 1951,

(b) sections 91(1ZB) and 102(1C) of the Supreme Court Act 1981,

(c) section 8(1ZC) of the County Courts Act 1984, and

(d) sections 94A and 94B below."

(4) After section 85(3) (power to amend Schedule 14) add—

"(4) The Lord Chancellor may by order amend section 94A or 94B if he thinks that the amendment is consequential on an amendment made to Schedule 14 by an order under subsection (3)."

(5) Section 97 (Scotland and Northern Ireland) is amended as follows.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

(6) In subsection (1)—

(a) for "This section applies" substitute " Subsections (2) and (3) apply ", and

(b) after paragraph (c) insert—

"(ca) section 94B(2);".

(7) After subsection (3) add—

"(4) Subsections (2) and (3) apply to the reference in section 94A(1) to the Lord Chancellor obtaining the concurrence of the Lord Chief Justice as they apply to a reference in a provision specified in subsection (1) to the Lord Chancellor consulting the Lord Chief Justice.

(5) The Lord President of the Court of Session may nominate any of the following to exercise his function under section 94A(1)(b)—

(a) a judge who is a member of the First or Second Division of the Inner House of the Court of Session;

(b) the Senior President of Tribunals.

(6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his function under section 94A(1)(b)—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act);

(c) the Senior President of Tribunals."

54 Continuation of judicial office after normal retirement date

(1) Section 26 of the Judicial Pensions and Retirement Act 1993 (c. 8) (retirement date for holders of certain judicial offices etc.) is amended as follows.

(2) In subsection (12), in the definition of "the appropriate person", after paragraph (c) insert ";

(d) the Senior President of Tribunals in the case of a person who holds a judicial office that—

(i) is specified in subsection (12A) below, and

(ii) is not in the person's case an office to which any of paragraphs (a) to (c) above applies;

(e) the Lord Chief Justice of England and Wales in the case of a person who holds a judicial office that is not in the person's case an office to which any of paragraphs (a) to (d) applies;".

(3) After subsection (12) insert—

"(12A) The judicial offices mentioned in paragraph (d) of the definition of "appropriate person" in subsection (12) above are—

(a) Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal;

(b) judge, or other member, of the First-tier Tribunal or of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 or 3 to the Tribunals, Courts and Enforcement Act 2007 ("the 2007 Act");

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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(c) deputy judge of the Upper Tribunal appointed under paragraph 7(1) of Schedule 3 to the 2007 Act, except in a case where the holding of the office by the person in question falls within subsection (7)(ga) above;

(d) transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the 2007 Act);

(e) deputy judge of the Upper Tribunal by virtue of an order under section 31(2) of the 2007 Act;

(f) an office held by a person if the person's holding of the office results in the person being a member of, or person who is, a tribunal in a list in Schedule 6 to the 2007 Act that has effect for the purposes of section 30 of that Act (but only if the office is specified in Schedule 5 to this Act);

(g) President or other member of the Asylum and Immigration Tribunal;

(h) member of the Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996;

(i) member of a panel of chairmen of employment tribunals.

(12B) Neither paragraph (d) nor paragraph (e) of the definition of "appropriate person" in subsection (12) above applies to an office held by a person if provision about that person's continuation in the office after the compulsory retirement date for the office—

(a) would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, or

(b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly."

(4) In subsection (13) (Lord Chief Justices to exercise functions under section with concurrence of Lord Chancellor), after "Northern Ireland" insert " or the Senior President of Tribunals ".

55 Appointment of deputy Circuit judges

In section 24(1) of the Courts Act 1971 (c. 23) (appointment of deputy Circuit judges and assistant recorders) for paragraph (a) substitute—

"(a) the Lord Chancellor may, with the concurrence of the Lord Chief Justice, appoint to be a deputy Circuit judge, during such period or on such occasions as the Lord Chancellor thinks fit, any person who has held office as a judge of the Court of Appeal or of the High Court or as a Circuit judge;".

56 Appointment of deputy district judges, etc.

Schedule 11 (which makes amendments to the Supreme Court Act 1981 (c. 54) and the County Courts Act 1984 (c. 28) in connection with the appointment and assignment of deputy district judges and the assignment of district judges) has effect.

57 Deputy, and temporary additional, Masters etc.

(1) Section 91 of the Supreme Court Act 1981 (which provides for persons to be appointed as deputies for holders of, or as temporary additional officers in, certain judicial offices) is amended as set out in subsections (2) to (5).

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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(2) In subsection (1)—

(a) for "the Lord Chief Justice, after consulting the Lord Chancellor," substitute " the Lord Chancellor ", and

(b) for "the Lord Chief Justice may, after consulting the Lord Chancellor," substitute " the Lord Chancellor may ".

(3) After subsection (1) insert—

"(1ZA) The Lord Chancellor may not appoint a holder of relevant office under subsection (1) without the concurrence of the Lord Chief Justice.

(1ZB) Section 85 of the Constitutional Reform Act 2005 (selection of certain office holders) does not apply to an appointment to which subsection (1ZA) applies.

(1ZC) In this section a "holder of relevant office" means a person who holds, or has held within two years ending with the date when his appointment under this section takes effect—

(a) any office listed in column 1 of Part 2 or 3 of Schedule 2, or

(b) the office of district judge."

(4) For subsection (3) substitute—

"(3) An appointment under this section may extend until the day on which a person attains the age of seventy-five years if it is an appointment of a holder of relevant office."

(5) In subsection (7) for "subsection (1)" substitute " subsection (1ZA) ".

(6) In section 92(1) of the Supreme Court Act 1981 after "this section" insert " , to section 91(3) ".

(7) In Part 2 of Schedule 14 to the Constitutional Reform Act 2005 (c. 4) (which lists appointments to certain offices in relation to which the procedure in sections 86 to 93, and section 96, of that Act applies), after the entry for an assistant recorder appointed under section 24(1) of the Courts Act 1971 (c. 23), insert the following entry—

"Person appointed by the Lord Chancellor as a deputy for a holder of, or as a temporary additional officer in, an office listed in column 1 of Part 2 of Schedule 2 to the Supreme Court Act 1981	Section 91(1) of the Supreme Court Act 1981, unless subsection (1ZA) of that section applies to the appointment"

58 Appointment of temporary assistants to Judge Advocate General

After section 30(2) of the Courts-Martial (Appeals) Act 1951 (c. 46) (temporary assistants to Judge Advocate General) insert—

"(3) The Lord Chancellor may not appoint a holder of relevant office under subsection (2) without the concurrence of the Lord Chief Justice of England and Wales.

(4) Section 85 of the Constitutional Reform Act 2005 (selection of certain office holders) does not apply to an appointment to which subsection (3) applies.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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) In subsection (3) "holder of relevant office" means a person who has, within the two years ending with the day on which this subsection comes into force, been appointed as judge advocate to a court-martial under—

(a) section 84B of the Army Act 1955,

(b) section 84B of the Air Force Act 1955, or

(c) section 53B of the Naval Discipline Act 1957."

59 Members and chairmen of certain Appeals Commissions

In Part 3 of Schedule 14 to the Constitutional Reform Act 2005 (c. 4) (which lists appointments to certain offices in relation to which the procedure in sections 86 to 93, and section 96, of that Act applies), omit the entries relating to—

Member of the Special Immigration Appeals Commission (appointed under paragraph 1(1) of Schedule 1 to the Special Immigration Appeals Commission Act 1997 (c. 68));

Chairman of the Special Immigration Appeals Commission (appointed under paragraph 2 of that Schedule);

Member of the Proscribed Organisations Appeal Commission (appointed under paragraph 1(1) of Schedule 3 to the Terrorism Act 2000 (c. 11));

Chairman of the Proscribed Organisations Appeal Commission (appointed under paragraph 1(2) of that Schedule);

Member of the Pathogens Access Appeal Commission (appointed under paragraph 1(1) of Schedule 6 to the Anti-terrorism, Crime and Security Act 2001 (c. 24));

Chairman of the Pathogens Access Appeal Commission (appointed under paragraph 1(2) of that Schedule).

PROSPECTIVE

60 Appointment as Chairman of Law Commission

(1) Section 1 of the Law Commissions Act 1965 (c. 22) is amended as follows.

(2) After subsection (1) insert—

"(1A) The person appointed to be the Chairman shall be a person who holds office as a judge of the High Court or Court of Appeal in England and Wales."

(3) In subsection (2) before "Commissioners" insert " the other ".

61 Orders permitting disclosures to Judicial Appointments Commission

In section 90(5)(a) of the Justice (Northern Ireland) Act 2002 (c. 26) (which provides that certain orders under that Act are subject to annulment in pursuance of a resolution of either House of Parliament), after "section 2(2)(a) or (c)," insert " 5A(6), ".

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VALID FROM 15/07/2013

PART 3

ENFORCEMENT BY TAKING CONTROL OF GOODS

CHAPTER 1

PROCEDURE

62 Enforcement by taking control of goods

(1) Schedule 12 applies where an enactment, writ or warrant confers power to use the procedure in that Schedule (taking control of goods and selling them to recover a sum of money).

(2) The power conferred by a writ or warrant of control to recover a sum of money, and any power conferred by a writ or warrant of possession or delivery to take control of goods and sell them to recover a sum of money, is exercisable only by using that procedure.

(3) Schedule 13—

(a) amends some powers previously called powers to distrain, so that they become powers to use that procedure;

(b) makes other amendments relating to Schedule 12 and to distress or execution.

(4) The following are renamed—

(a) writs of fieri facias, except writs of fieri facias de bonis ecclesiasticis, are renamed writs of control;

(b) warrants of execution are renamed warrants of control;

(c) warrants of distress, unless the power they confer is exercisable only against specific goods, are renamed warrants of control.

VALID FROM 06/04/2014

63 Enforcement agents

(1) This section and section 64 apply for the purposes of Schedule 12.

(2) An individual may act as an enforcement agent only if one of these applies—

(a) he acts under a certificate under section 64;

(b) he is exempt;

(c) he acts in the presence and under the direction of a person to whom paragraph (a) or (b) applies.

(3) An individual is exempt if he acts in the course of his duty as one of these—

(a) a constable;

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(b) an officer of Revenue and Customs;
(c) a person appointed under section 2(1) of the Courts Act 2003 (c. 39) (court officers and staff).

(4) An individual is exempt if he acts in the course of his duty as an officer of a government department.

(5) For the purposes of an enforcement power conferred by a warrant, an individual is exempt if in relation to the warrant he is a civilian enforcement officer, as defined in section 125A of the Magistrates' Courts Act 1980 (c. 43).

(6) A person is guilty of an offence if, knowingly or recklessly, he purports to act as an enforcement agent without being authorised to do so by subsection (2).

(7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

64 Certificates to act as an enforcement agent

(1) A certificate may be issued under this section—
(a) by a judge assigned to a county court district;
(b) in prescribed circumstances, by a district judge.

(2) The Lord Chancellor must make regulations about certificates under this section.

(3) The regulations may in particular include provision—
(a) for fees to be charged for applications;
(b) for certificates to be issued subject to conditions, including the giving of security;
(c) for certificates to be limited to purposes specified by or under the regulations;
(d) about complaints against holders of certificates;
(e) about suspension and cancellation of certificates;
(f) to modify or supplement Schedule 12 for cases where a certificate is suspended or cancelled or expires;
(g) requiring courts to make information available relating to certificates.

(4) A certificate under section 7 of the Law of Distress Amendment Act 1888 (c. 21) which is in force on the coming into force of this section has effect as a certificate under this section, subject to any provision made by regulations.

VALID FROM 06/04/2014

65 Common law rules replaced

(1) This Chapter replaces the common law rules about the exercise of the powers which under it become powers to use the procedure in Schedule 12.

(2) The rules replaced include—
(a) rules distinguishing between an illegal, an irregular and an excessive exercise of a power;

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(b) rules that would entitle a person to bring proceedings of a kind for which paragraph 66 of Schedule 12 provides (remedies available to the debtor);

(c) rules of replevin;

(d) rules about rescuing goods.

VALID FROM 06/04/2014

66 Pre-commencement enforcement not affected

Where—

(a) by any provision of this Part a power becomes a power to use the procedure in Schedule 12, and

(b) before the commencement of that provision, goods have been distrained or executed against, or made subject to a walking possession agreement, under the power,

this Part does not affect the continuing exercise of the power in relation to those goods.

VALID FROM 06/04/2014

67 Transfer of county court enforcement

In section 85(2) of the County Courts Act 1984 (c. 28) (under which writs of control give the district judge, formerly called the registrar, power to execute judgments or orders for payment of money) for "the registrar shall be" substitute " any person authorised by or on behalf of the Lord Chancellor is ".

VALID FROM 06/04/2014

68 Magistrates' courts warrants of control

In the Magistrates' Courts Act 1980 (c. 43) after section 125 insert—

"**125ZA Warrants of control**

(1) This section applies to a warrant of control issued by a justice of the peace.

(2) The person to whom it is directed must endorse the warrant as soon as possible after receiving it.

(3) For the purposes of this section a person endorses a warrant by inserting on the back the date and time when he received it.

(4) No fee may be charged for endorsing a warrant under this section."

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VALID FROM 06/04/2014

69 County court warrants of control etc.

For section 99 of the County Courts Act 1984 substitute—

"**99 Endorsement of warrants of control etc.**

(1) This section applies to—
  (a) a warrant of control issued under section 85(2);
  (b) a warrant of delivery or of possession, but only if it includes a power to take control of and sell goods to recover a sum of money and only for the purposes of exercising that power.

(2) The person to whom the warrant is directed must, as soon as possible after receiving it, endorse it by inserting on the back the date and time when he received it.

(3) No fee may be charged for endorsing a warrant under this section."

VALID FROM 06/04/2014

70 Power of High Court to stay execution

(1) If, at any time, the High Court is satisfied that a party to proceedings is unable to pay—
  (a) a sum recovered against him (by way of satisfaction of the claim or counterclaim in the proceedings or by way of costs or otherwise), or
  (b) any instalment of such a sum,

  the court may stay the execution of any writ of control issued in the proceedings, for whatever period and on whatever terms it thinks fit.

(2) The court may act under subsection (1) from time to time until it appears that the cause of the inability to pay has ceased.

(3) In this section a party to proceedings includes every person, whether or not named as a party, who is served with notice of the proceedings or attends them.

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CHAPTER 2

RENT ARREARS RECOVERY

VALID FROM 06/04/2014

Abolition of common law right

71 Abolition of common law right

The common law right to distrain for arrears of rent is abolished.

Commercial rent arrears recovery

VALID FROM 06/04/2014

72 Commercial rent arrears recovery (CRAR)

(1) A landlord under a lease of commercial premises may use the procedure in Schedule 12 (taking control of goods) to recover from the tenant rent payable under the lease.

(2) A landlord's power under subsection (1) is referred to as CRAR (commercial rent arrears recovery).

Modifications etc. (not altering text)

C28 S. 72(1) applied (prosp.) by 1925 c. 20 s. 190(5) (as substituted by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 86, 148, **Sch. 14 para. 27(3)**)

73 Landlord

(1) In this Chapter "landlord", in relation to a lease, means the person for the time being entitled to the immediate reversion in the property comprised in the lease.

(2) That is subject to the following.

(3) In the case of a tenancy by estoppel, a person is "entitled to the immediate reversion" if he is entitled to it as between himself and the tenant.

(4) If there are joint tenants of the immediate reversion, or if a number of persons are entitled to the immediate reversion as between themselves and the tenant—

(a) "landlord" means any one of them;

(b) CRAR may be exercised to recover rent due to all of them.

(5) If the immediate reversion is mortgaged, "landlord" means—

(a) the mortgagee, if he has given notice of his intention to take possession or enter into receipt of rents and profits;

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(b) otherwise, the mortgagor.

(6) Subsection (5) applies whether the lease is made before or after the mortgage is created, but CRAR is not exercisable by a mortgagee in relation to a lease that does not bind him.

(7) Where a receiver is appointed by a court in relation to the immediate reversion, CRAR is exercisable by the receiver in the name of the landlord.

(8) Any authorisation of a person to exercise CRAR on another's behalf must be in writing and must comply with any prescribed requirements.

(9) This Chapter applies to any other person entitled to exercise CRAR as it applies to a landlord.

VALID FROM 06/04/2014

74 Lease

(1) "Lease" means a tenancy in law or in equity, including a tenancy at will, but not including a tenancy at sufferance.

(2) A lease must be evidenced in writing.

(3) References to a lease are to a lease as varied from time to time (whether or not the variation is in writing).

(4) This section applies for the purposes of this Chapter.

VALID FROM 06/04/2014

75 Commercial premises

(1) A lease (A) is of commercial premises if none of the demised premises is—
(a) let under lease A as a dwelling,
(b) let under an inferior lease (B) as a dwelling, or
(c) occupied as a dwelling.

(2) The "demised premises" in this section include anything on them.

(3) "Let as a dwelling" means let on terms permitting only occupation as a dwelling or other use combined with occupation as a dwelling.

(4) Premises are not within subsection (1)(b) if letting them as a dwelling is a breach of a lease superior to lease B.

(5) Premises are not within subsection (1)(c) if occupying them as a dwelling is a breach of lease A or a lease superior to lease A.

(6) This section applies for the purposes of this Chapter.

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VALID FROM 06/04/2014

76 Rent

(1) "Rent" means the amount payable under a lease (in advance or in arrear) for possession and use of the demised premises, together with—
  (a) any interest payable on that amount under the lease, and
  (b) any value added tax chargeable on that amount or interest.

(2) "Rent" does not include any sum in respect of rates, council tax, services, repairs, maintenance, insurance or other ancillary matters (whether or not called "rent" in the lease).

(3) The amount payable for possession and use of the demised premises, where it is not otherwise identifiable, is to be taken to be so much of the total amount payable under the lease as is reasonably attributable to possession and use.

(4) Where a rent is payable under or by virtue of Part 2 of the Landlord and Tenant Act 1954 (c. 56), the amount payable under the lease for possession and use of those premises is to be taken to be that rent.

(5) This section applies for the purposes of this Chapter except sections 71 and 85.

77 The rent recoverable

(1) CRAR is not exercisable except to recover rent that meets each of these conditions—
  (a) it has become due and payable before notice of enforcement is given;
  (b) it is certain, or capable of being calculated with certainty.

(2) The amount of any rent recoverable by CRAR is reduced by any permitted deduction.

(3) CRAR is exercisable only if the net unpaid rent is at least the minimum amount immediately before each of these—
  (a) the time when notice of enforcement is given;
  (b) the first time that goods are taken control of after that notice.

(4) The minimum amount is to be calculated in accordance with regulations.

(5) The net unpaid rent is the amount of rent that meets the conditions in subsection (1), less—
  (a) any interest or value added tax included in that amount under section 76(1)(a) or (b), and
  (b) any permitted deductions.

(6) Regulations may provide for subsection (5)(a) not to apply in specified cases.

(7) Permitted deductions, against any rent, are any deduction, recoupment or set-off that the tenant would be entitled to claim (in law or equity) in an action by the landlord for that rent.

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78 Intervention of the court

(1) If notice of enforcement is given in exercise (or purported exercise) of CRAR the court may make either or both of these orders on the application of the tenant—
- (a) an order setting aside the notice;
- (b) an order that no further step may be taken under CRAR, without further order, in relation to the rent claimed.

(2) Regulations may make provision about—
- (a) the further orders that may be made for the purposes of subsection (1)(b);
- (b) grounds of which the court must be satisfied before making an order or further order.

(3) In this section "the court" means the High Court or a county court, as rules of court may provide.

VALID FROM 06/04/2014

79 Use of CRAR after end of lease

(1) When the lease ends, CRAR ceases to be exercisable, with these exceptions.

(2) CRAR continues to be exercisable in relation to goods taken control of under it—
- (a) before the lease ended, or
- (b) under subsection (3).

(3) CRAR continues to be exercisable in relation to rent due and payable before the lease ended, if the conditions in subsection (4) are met.

(4) These are the conditions—
- (a) the lease did not end by forfeiture;
- (b) not more than 6 months has passed since the day when it ended;
- (c) the rent was due from the person who was the tenant at the end of the lease;
- (d) that person remains in possession of any part of the demised premises;
- (e) any new lease under which that person remains in possession is a lease of commercial premises;
- (f) the person who was the landlord at the end of the lease remains entitled to the immediate reversion.

(5) In deciding whether a person remains in possession under a new lease, section 74(2) (lease to be evidenced in writing) does not apply.

(6) In the case of a tenancy by estoppel, the person who was the landlord remains "entitled to the immediate reversion" if the estoppel with regard to the tenancy continues.

(7) A lease ends when the tenant ceases to be entitled to possession of the demised premises under the lease together with any continuation of it by operation of an enactment or of a rule of law.

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VALID FROM 06/04/2014

80 Agricultural holdings

(1) This section applies to the exercise of CRAR where the premises concerned are an agricultural holding.

(2) CRAR is not exercisable to recover rent that became due more than a year before notice of enforcement is given.

(3) For the purposes of subsection (2), deferred rent becomes due at the time to which payment is deferred.

(4) "Deferred rent" means rent the payment of which has been deferred, according to the ordinary course of dealing between the landlord and the tenant, to the end of a quarter or half-year after it legally became due.

(5) The permitted deductions under section 77(7) at any time include any compensation due to the tenant in respect of the holding, under the 1986 Act or under custom or agreement, that has been ascertained at that time.

(6) In this section—

the "1986 Act" means the Agricultural Holdings Act 1986 (c. 5);

"agricultural holding" has the meaning given by section 1 of the 1986 Act.

Right to rent from sub-tenant

81 Right to rent from sub-tenant

(1) This section applies where CRAR is exercisable by a landlord to recover rent due and payable from a tenant (the immediate tenant).

(2) The landlord may serve a notice on any sub-tenant.

(3) The notice must state the amount of rent that the landlord has the right to recover from the immediate tenant by CRAR (the "notified amount").

(4) When it takes effect the notice transfers to the landlord the right to recover, receive and give a discharge for any rent payable by the sub-tenant under the sub-lease, until—

(a) the notified amount has been paid (by payments under the notice or otherwise), or

(b) the notice is replaced or withdrawn.

(5) A notice under this section takes effect at the end of a period to be determined by regulations.

(6) Regulations may state—

(a) the form of a notice under this section;

(b) what it must contain;

(c) how it must be served;

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(d) what must be done to withdraw it.

(7) In determining for the purposes of this section whether CRAR is exercisable, section 77 applies with these modifications—

(a) if notice of enforcement has not been given, references to that notice are to be read as references to the notice under this section;

(b) if goods have not been taken control of, section 77(3)(b) does not apply.

(8) In this section and sections 82 to 84—

(a) "sub-tenant" means a tenant (below the immediate tenant) of any of the premises comprised in the headlease (and "sub-lease" is to be read accordingly);

(b) "headlease" means the lease between the landlord and the immediate tenant.

VALID FROM 06/04/2014

82 Off-setting payments under a notice

(1) For any amount that a sub-tenant pays under a notice under section 81, he may deduct an equal amount from the rent that would be due to his immediate landlord under the sub-lease.

(2) If an amount is deducted under subsection (1) or this subsection from rent due to a superior sub-tenant, that sub-tenant may deduct an equal amount from any rent due from him under his sub-lease.

(3) Subsection (1) applies even if the sub-tenant's payment or part of it is not due under the notice, if it is not due because—

(a) the notified amount has already been paid (wholly or partly otherwise than under the notice), or

(b) the notice has been replaced by a notice served on another sub-tenant.

(4) That is subject to the following.

(5) Subsection (1) does not apply if the landlord withdraws the notice before the payment is made.

(6) Where the notified amount has already been paid (or will be exceeded by the payment), subsection (1) does not apply (or does not apply to the excess) if the sub-tenant has notice of that when making the payment.

(7) Subsection (1) does not apply if, before the payment is made, payments under the notice at least equal the notified amount.

(8) Subsection (1) does not apply to a part of the payment if, with the rest of the payment, payments under the notice at least equal the notified amount.

(9) Where the notice has been replaced by one served on another sub-tenant, subsection (1) does not apply if the sub-tenant has notice of that when making the payment.

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VALID FROM 06/04/2014

83 Withdrawal and replacement of notices

(1) A notice under section 81 is replaced if the landlord serves another notice on the same sub-tenant for a notified amount covering the same rent or part of that rent.

(2) A notice under section 81 served on one sub-tenant is also replaced if—
- (a) the landlord serves a notice on another sub-tenant for a notified amount covering the same rent or part of that rent, and
- (b) in relation to any of the premises comprised in the first sub-tenant's sub-lease, the second sub-tenant is an inferior or superior sub-tenant.

(3) The landlord must withdraw a notice under section 81 if any of these happens—
- (a) the notice is replaced;
- (b) the notified amount is paid, unless it is paid wholly by the sub-tenant.

VALID FROM 06/04/2014

84 Recovery of sums due and overpayments

(1) For the purposes of the recovery of sums payable by a sub-tenant under a notice under section 81 (including recovery by CRAR), the sub-tenant is to be treated as the immediate tenant of the landlord, and the sums are to be treated as rent accordingly.

(2) But those sums (as opposed to rent due from the immediate tenant) are not recoverable by notice under section 81 served on an inferior sub-tenant.

(3) Any payment received by the landlord that the sub-tenant purports to make under a notice under section 81, and that is not due under the notice for any reason, is to be treated as a payment of rent by the immediate tenant, for the purposes of the retention of the payment by the landlord and (if no rent is due) for the purposes of any claim by the immediate tenant to recover the payment.

(4) But subsection (3) does not affect any claim by the sub-tenant against the immediate tenant.

VALID FROM 06/04/2014

Supplementary

85 Contracts for similar rights to be void

(1) A provision of a contract is void to the extent that it would do any of these—
- (a) confer a right to seize or otherwise take control of goods to recover amounts within subsection (2);
- (b) confer a right to sell goods to recover amounts within subsection (2);

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(c) modify the effect of section 72(1), except in accordance with subsection (3).

(2) The amounts are any amounts payable—

(a) as rent;

(b) under a lease (other than as rent);

(c) under an agreement collateral to a lease;

(d) under an instrument creating a rentcharge;

(e) in respect of breach of a covenant or condition in a lease, in an agreement collateral to a lease or in an instrument creating a rentcharge;

(f) under an indemnity in respect of a payment within paragraphs (a) to (e).

(3) A provision of a contract is not void under subsection (1)(c) to the extent that it prevents or restricts the exercise of CRAR.

(4) In this section—

"lease" also includes a licence to occupy land;

"rent" and "rentcharge" have the meaning given by section 205(1) of the Law of Property Act 1925 (c. 20).

86 Amendments

Schedule 14 makes minor and consequential amendments (including repeals of powers to distrain for rentcharges and other amounts within section 85(2)).

87 Interpretation of Chapter

In this Chapter—

"landlord" has the meaning given by section 73;

"lease" has the meaning given by section 74 (subject to section 85(4));

"notice of enforcement" means notice under paragraph 7 of Schedule 12;

"rent" (except in sections 71 and 85) has the meaning given by section 76;

"tenant", in relation to a lease, means the tenant for the time being under the lease.

VALID FROM 17/12/2009

CHAPTER 3

GENERAL

88 Abolition of Crown preference

Crown preference for the purposes of execution against goods is abolished.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 06/04/2014

89 Application to the Crown

(1) This Part binds the Crown.

(2) But the procedure in Schedule 12 may not be used—
- (a) to recover debts due from the Crown,
- (b) to take control of or sell goods of the Crown (including goods owned by the Crown jointly or in common with another person), or
- (c) to enter premises occupied by the Crown.

VALID FROM 15/07/2013

90 Regulations

(1) In this Part—

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Lord Chancellor.

(2) The following apply to regulations under this Part.

(3) Any power to make regulations is exercisable by statutory instrument.

(4) A statutory instrument containing regulations under paragraph 24(2) or 31(5) of Schedule 12 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(5) In any other case a statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Regulations may include any of these that the Lord Chancellor considers necessary or expedient—
- (a) supplementary, incidental or consequential provision;
- (b) transitory, transitional or saving provision.

(7) Regulations may make different provision for different cases.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

VALID FROM 17/05/2012

PART 4

ENFORCEMENT OF JUDGMENTS AND ORDERS

PROSPECTIVE

Attachment of earnings orders

91 Attachment of earnings orders: deductions at fixed rates

(1) Schedule 15 makes amendments to the Attachment of Earnings Act 1971 (c. 32).

(2) Those amendments are about the basis on which periodical deductions are to be made under an attachment of earnings order.

(3) In particular, they provide that deductions under certain orders are to be made in accordance with a fixed deductions scheme made by the Lord Chancellor (rather than in accordance with Part I of Schedule 3 to the 1971 Act).

92 Attachment of earnings orders: finding the debtor's current employer

(1) After section 15 of the Attachment of Earnings Act 1971 insert—

"**15A Finding the debtor's current employer**

(1) If an attachment of earnings order lapses under section 9(4), the proper authority may request the Commissioners—
  (a) to disclose whether it appears to the Commissioners that the debtor has a current employer, and
  (b) if it appears to the Commissioners that the debtor has a current employer, to disclose the name and address of that employer.

(2) The proper authority may make a request under subsection (1) only for the purpose of enabling the lapsed order to be directed to the debtor's current employer.

(3) The proper authority may not make a request under subsection (1) unless regulations under section 15B(5) and (8) are in force.

(4) The proper authority may disclose such information (including information identifying the debtor) as it considers necessary to assist the Commissioners to comply with a request under subsection (1).

(5) The Commissioners may disclose to the proper authority any information (whether held by the Commissioners or on their behalf) that the Commissioners consider is necessary to comply with a request under subsection (1).

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

(6) A disclosure under subsection (4) or (5) is not to be taken to breach any restriction on the disclosure of information (however imposed).

(7) Nothing in this section is to be taken to prejudice any power to request or disclose information that exists apart from this section.

(8) The reference in subsection (5) to information held on behalf of the Commissioners includes a reference to any information which—
  (a) is held by a person who provides services to the Commissioners, and
  (b) is held by that person in connection with the provision of those services.

15B Offence of unauthorised use or disclosure

(1) This section applies if the Commissioners make a disclosure of information ("debtor information") under section 15A(5).

(2) A person to whom the debtor information is disclosed commits an offence if—
  (a) he uses or discloses the debtor information, and
  (b) the use or disclosure is not authorised by subsection (3), (5), (6) or (7).

(3) The use or disclosure of the debtor information is authorised if it is—
  (a) for a purpose connected with the enforcement of the lapsed order (including the direction of the order to the debtor's current employer), and
  (b) with the consent of the Commissioners.

(4) Consent for the purposes of subsection (3) may be given—
  (a) in relation to particular use or a particular disclosure, or
  (b) in relation to use, or a disclosure made, in such circumstances as may be specified or described in the consent.

(5) The use or disclosure of the debtor information is authorised if it is—
  (a) in accordance with an enactment or an order of court, or
  (b) for the purposes of any proceedings before a court,

  and it is in accordance with regulations.

(6) The use or disclosure of the debtor information is authorised if the information has previously been lawfully disclosed to the public.

(7) The use or disclosure of the debtor information is authorised if it is in accordance with rules of court that comply with regulations under subsection (8).

(8) Regulations may make provision about the circumstances, if any, in which rules of court may allow any of the following—
  (a) access to, or the supply of, debtor information;
  (b) access to, or the supply of copies of, any attachment of earnings order which has been directed to an employer using debtor information.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

(9) It is a defence for a person charged with an offence under subsection (2) to prove that he reasonably believed that the disclosure was lawful.

(10) A person guilty of an offence under subsection (2) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both;

(b) on summary conviction, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum, or to both.

15C Regulations

(1) It is for the Lord Chancellor to make regulations under section 15B.

(2) But the Lord Chancellor may make regulations under section 15B only with the agreement of the Commissioners.

(3) Regulations under section 15B are to be made by statutory instrument.

(4) A statutory instrument containing regulations under section 15B may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

15D Interpretation

(1) For the purposes of sections 15A to 15C (and this section)—

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"information" means information held in any form;

"the lapsed order" means the attachment of earnings order referred to in section 15A(1);

"the proper authority" is determined in accordance with subsections (2) to (5).

(2) If the lapsed order was made by the High Court, the proper authority is the High Court.

(3) If the lapsed order was made by **[**[F1]the county court**]**, the proper authority is **[**[F1]the county court**]**.

(4) If the lapsed order was made by a magistrates' court under this Act, the proper authority is—

(a) a magistrates' court, or

(b) the designated officer for a magistrates' court.

(5) If the lapsed order was made by a magistrates' court or a fines officer under Schedule 5 to the Courts Act 2003, the proper authority is—

(a) a magistrates' court, or

(b) a fines officer."

(2) This section applies in relation to any attachment of earnings order, whether made before or after the commencement of this section.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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 relation to an offence committed before **[**[F2]2 May 2022**]**, the reference in section 15B(10)(b) of the Attachment of Earnings Act 1971 (c. 32) to 12 months is to be read as a reference to 6 months.

Textual Amendments

F1 Words in s. 92(1) 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)

F2 Words in s. 92(3) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), **Sch. Pt. 1**

Charging orders

VALID FROM 01/10/2012

93 Payment by instalments: making and enforcing charging orders

(1) Subsections (2), (3) and (4) make amendments to the Charging Orders Act 1979 (c. 53).

(2) In section 1 (charging orders), after subsection (5) insert—

"(6) Subsections (7) and (8) apply where, under a judgment or order of the High Court or a county court, a debtor is required to pay a sum of money by instalments.

(7) The fact that there has been no default in payment of the instalments does not prevent a charging order from being made in respect of that sum.

(8) But if there has been no default, the court must take that into account when considering the circumstances of the case under subsection (5)."

(3) In section 3 (provisions supplementing sections 1 and 2), after subsection (4) insert—

"(4A) Subsections (4C) to (4E) apply where—

(a) a debtor is required to pay a sum of money in instalments under a judgment or order of the High Court or a county court (an "instalments order"), and

(b) a charge has been imposed by a charging order in respect of that sum.

(4B) In subsections (4C) to (4E) references to the enforcement of a charge are to the making of an order for the enforcement of the charge.

(4C) The charge may not be enforced unless there has been default in payment of an instalment under the instalments order.

(4D) Rules of court may—

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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) provide that, if there has been default in payment of an instalment, the charge may be enforced only in prescribed cases, and

(b) limit the amounts for which, and the times at which, the charge may be enforced.

(4E) Except so far as otherwise provided by rules of court under subsection (4D) —

(a) the charge may be enforced, if there has been default in payment of an instalment, for the whole of the sum of money secured by the charge and the costs then remaining unpaid, or for such part as the court may order, but

(b) the charge may not be enforced unless, at the time of enforcement, the whole or part of an instalment which has become due under the instalments order remains unpaid."

(4) In section 6(2) (meaning of references to judgment or order of High Court or county court), for "section 1" substitute " sections 1 and 3 ".

(5) In section 313(4) of the Insolvency Act 1986 (c. 45) (charge on bankrupt's home: certain provisions of section 3 of Charging Orders Act 1979 to apply), for the words before "section 3" substitute " Subsection (1), (2), (4), (5) and (6) of ".

(6) This section does not apply in a case where a judgment or order of the High Court or a county court under which a debtor is required to pay a sum of money by instalments was made, or applied for, before the coming into force of this section.

94 Charging orders: power to set financial thresholds

In the Charging Orders Act 1979 (c. 53), after section 3 there is inserted—

"**3A Power to set financial thresholds**

(1) The Lord Chancellor may by regulations provide that a charge may not be imposed by a charging order for securing the payment of money of an amount below that determined in accordance with the regulations.

(2) The Lord Chancellor may by regulations provide that a charge imposed by a charging order may not be enforced by way of order for sale to recover money of an amount below that determined in accordance with the regulations.

(3) Regulations under this section may—

(a) make different provision for different cases;

(b) include such transitional provision as the Lord Chancellor thinks fit.

(4) The power to make regulations under this section is exercisable by statutory instrument.

(5) The Lord Chancellor may not make the first regulations under subsection (1) or (2) unless (in each case) a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

(6) A statutory instrument containing any subsequent regulations under those subsections is subject to annulment in pursuance of a resolution of either House of Parliament."

PROSPECTIVE

Information requests and orders

95 Application for information about action to recover judgment debt

(1) A person who is the creditor in relation to a judgment debt may apply to the High Court **[**[F3], the family court**]** or **[**[F4]the county court**]** for information about what kind of action it would be appropriate to take in court to recover that particular debt.

(2) An application under subsection (1) must comply with any provision made in regulations about the making of such applications.

Textual Amendments

F3 Words in s. 95 inserted (22.4.2014) by The Crime and Courts Act 2013 (Family Court: Consequential Provision) Order 2014 (S.I. 2014/605), arts. 1, **23**

F4 Words in s. 95(1) 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)

96 Action by the court

(1) This section applies if the creditor in relation to a judgment debt makes an application for information under section 95.

(2) The relevant court may make one or more of the following in relation to the debtor—
  (a) a departmental information request;
  (b) an information order.

(3) The relevant court may exercise its powers under subsection (2) only if it is satisfied that to do so will help it to deal with the creditor's application.

(4) Before exercising its powers under subsection (2), the relevant court must give notice to the debtor that the court intends to make a request or order.

(5) The relevant court may not make a departmental information request to the Commissioners unless regulations are in force that have been made under section 102(4) and (7) and relate to the use or disclosure of debtor information disclosed by the Commissioners.

(6) The relevant court may disclose such information (including information identifying the debtor) as it considers necessary to assist the recipient of a request or order to comply with the request or order.

(7) A disclosure under subsection (6) is not to be taken to breach any restriction on the disclosure of information (however imposed).

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

(8) Nothing in this section is to be taken to prejudice any power that exists apart from this section to request or order the disclosure of information.

97 Departmental information requests

(1) A departmental information request is a request for the disclosure of information held by, or on behalf of, a government department.

(2) The request is to be made to the Minister of the Crown, or other person, who is in charge of the department.

(3) In the case of a request made to the designated Secretary of State, the disclosure of some or all of the following information may be requested—
- (a) the full name of the debtor;
- (b) the address of the debtor;
- (c) the date of birth of the debtor;
- (d) the national insurance number of the debtor;
- (e) prescribed information.

(4) In the case of a request made to the Commissioners, the disclosure of some or all of the following information may be requested—
- (a) whether or not the debtor is employed;
- (b) the name and address of the employer (if the debtor is employed);
- (c) the national insurance number of the debtor;
- (d) prescribed information.

(5) In the case of any other request, the disclosure of prescribed information may be requested.

(6) In this section—

"designated Secretary of State" means the Secretary of State designated for the purpose of this section by regulations;

"government department" does not include the following—
- (a) any part of the Scottish Administration;
- (b) a Northern Ireland department;
- (c) the Welsh Assembly Government or any member of staff appointed under section 52 of the Government of Wales Act 2006 (c. 32);

"prescribed information", in relation to a departmental information request, means information that falls within the category or categories of information (if any) prescribed by regulations in relation to the department to which the request relates.

98 Information orders

(1) An information order is an order of the relevant court which—
- (a) specifies a prescribed person ("the information discloser"),
- (b) specifies prescribed information relating to the debtor ("the required information"), and
- (c) orders the information discloser to disclose the required information to the relevant court.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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) In subsection (1) "prescribed" means prescribed in regulations.

(3) Regulations under this section may be made by reference to—
- (a) particular persons or particular descriptions of person (or both);
- (b) particular information or particular descriptions of information (or both).

(4) Regulations may, in particular, be made under this section so as to ensure that—
- (a) an information order made against a particular person, or a person of a particular description, may order that person to disclose only particular information, or information of a particular description;
- (b) an information order that orders the disclosure of particular information, or information of a particular description, may only be made against a particular person, or a person of a particular description.

(5) Regulations under this section must not make provision that would allow the relevant court to order—
- (a) the disclosure of information by the debtor, or
- (b) the disclosure of information held by, or on behalf of, a government department.

99 Responding to a departmental information request

(1) This section applies if the relevant court makes a departmental information request.

(2) The recipient of the request may disclose to the relevant court any information (whether held by the department or on its behalf) that the recipient considers is necessary to comply with the request.

(3) A disclosure under subsection (2) is not to be taken to breach any restriction on the disclosure of information (however imposed).

(4) Nothing in this section is to be taken to prejudice any power that exists apart from this section to disclose information.

100 Information order: required information not held etc.

(1) An information discloser is not to be regarded as having breached an information order because of a failure to disclose some or all of the required information, if that failure is for one of the permitted reasons.

(2) These are the permitted reasons—
- (a) the information provider does not hold the information;
- (b) the information provider is unable to ascertain whether the information is held, because of the way in which the information order identifies the debtor;
- (c) the disclosure of the information would involve the information discloser in unreasonable effort or expense.

(3) It is to be presumed that a failure to disclose required information is for a permitted reason if—
- (a) the information discloser gives the relevant court a certificate that complies with subsection (4), and
- (b) there is no evidence that the failure is not for a permitted reason.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

(4) The certificate must state—
  (a) which of the required information is not being disclosed;
  (b) what the permitted reason is, or permitted reasons are, for the failure to disclose that information.

(5) Any reference in this section to the information discloser holding, or not holding, information includes a reference to the information being held, or not being held, on the information discloser's behalf.

101 Using the information about the debtor

(1) This section applies if—
  (a) the creditor in relation to a judgment debt makes an application for information under section 95, and
  (b) information ("debtor information") is disclosed to the relevant court in compliance with a request or order made under section 96.

(2) The relevant court may use the debtor information for the purpose of making another request or order under section 96 in relation to the debtor.

(3) The relevant court may use the debtor information for the purpose of providing the creditor with information about what kind of action (if any) it would be appropriate to take in court (whether the relevant court or another court) to recover the judgment debt.

(4) If the creditor takes any action in the relevant court to recover the judgment debt, the relevant court may use the debtor information in carrying out functions in relation to that action.

(5) If the creditor takes any action in another court to recover the judgment debt—
  (a) the relevant court may disclose the debtor information to the other court, and
  (b) the other court may use that information in carrying out functions in relation to that action.

(6) Debtor information may be used or disclosed under any of subsections (3) to (5) only if—
  (a) regulations about such use or disclosure of information are in force, and
  (b) the use or disclosure complies with those regulations.

(7) In addition, if the debtor information was disclosed by the Commissioners, the information may be used or disclosed under any of subsections (3) to (5) only with the consent of the Commissioners.

(8) Consent for the purposes of subsection (7) may be given—
  (a) in relation to particular use or a particular disclosure, or
  (b) in relation to use, or a disclosure made, in such circumstances as may be specified or described in the consent.

(9) The use or disclosure of information in accordance with this section is not to be taken to breach any restriction on the use or disclosure of information (however imposed).

(10) Nothing in this section is to be taken to prejudice any power that exists apart from this section to use or disclose information.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

102 Offence of unauthorised use or disclosure

(1) This section applies if—

(a) an application is made under section 95 in relation to recovery of a judgment debt ("the relevant judgment debt"),

(b) a departmental information request or an information order is made in consequence of that application, and

(c) information ("debtor information") is disclosed in accordance with the request or order.

(2) A person to whom the debtor information is disclosed commits an offence if he—

(a) uses or discloses the debtor information, and

(b) the use or disclosure is not authorised by any of subsections (3) to (6).

(3) The use or disclosure of the debtor information is authorised if it is in accordance with section 101.

(4) The use or disclosure of the debtor information is authorised if it is—

(a) in accordance with an enactment or order of court, or

(b) for the purposes of any proceedings before a court,

and it is in accordance with regulations.

(5) The use or disclosure of the debtor information is authorised if the information has previously been lawfully disclosed to the public.

(6) The use or disclosure of the debtor information is authorised if it is in accordance with rules of court that comply with regulations under subsection (7).

(7) Regulations may make provision about the circumstances, if any, in which rules of court may allow access to, or the supply of, information disclosed in accordance with a department information request or an information order.

(8) It is a defence for a person charged with an offence under subsection (2) to prove that he reasonably believed that the use or disclosure was lawful.

(9) A person guilty of an offence under subsection (2) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding **[**[F5]the general limit in a magistrates' court**]**, to a fine not exceeding the statutory maximum, or to both.

Textual Amendments

F5 Words in s. 102(9)(b) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**

103 Regulations

(1) It is for the Lord Chancellor to make information regulations.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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) But the Lord Chancellor may make the following regulations only with the agreement of the Commissioners—

(a) regulations under section 97(4)(d);

(b) regulations under section 102(4) or (7) so far as the regulations relate to the use or disclosure of debtor information disclosed by the Commissioners.

(3) Information regulations are to be made by statutory instrument.

(4) A statutory instrument containing information regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(5) But subsection (4) does not apply in the case of a statutory instrument that contains only—

(a) regulations under section 95, or

(b) regulations under section 97 which designate a Secretary of State for the purpose of that section.

(6) In such a case, the statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section "information regulations" means regulations under any of sections 95 to 102.

104 Interpretation

(1) This section applies for the purposes of sections 95 to 103.

(2) In those provisions—

"Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"creditor", in relation to a judgment debt, means—

(a) the person to whom the debt is payable (whether directly or through **[**[F6]any court,**]** an officer of any court or another person);

(b) where the debt is payable under an administration order (within the meaning of Part 6 of the County Courts Act 1984 (c. 28)), any one of the creditors scheduled to the order;

"debtor", in relation to a judgment debt, means the person by whom the debt is payable;

"departmental information request" has the meaning given by section 97;

"information" means information held in any form;

"information discloser", in relation to an information order, has the meaning given by section 98(1)(a);

"information order" has the meaning given by section 98;

"judgment debt" means either of the following—

(a) a sum which is payable under a judgment or order enforceable by the High Court **[**[F7], the family court**]** or **[**[F8]the county court**]**;

(b) a sum which, by virtue of an enactment, is recoverable as if it were payable under a judgment or order of the High Court **[**[F7], the family court**]** or of **[**[F8]the county court**]** (including a sum which is so recoverable because a court so orders);

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"required information", in relation to an information order, has the meaning given by section 98(1)(b);

"relevant court", in relation to an application under section 95, means the court to which the application is made.

(3) Any reference to information held on behalf of a government department, or on behalf of an information discloser, includes a reference to any information which—

(a) is held by a person who provides services to the department or to the information discloser, and

(b) is held by that person in connection with the provision of those services.

Textual Amendments

F6 Words in s. 104 inserted (22.4.2014) by The Crime and Courts Act 2013 (Family Court: Consequential Provision) Order 2014 (S.I. 2014/605), arts. 1, **24(a)**

F7 Words in s. 104 inserted (22.4.2014) by The Crime and Courts Act 2013 (Family Court: Consequential Provision) Order 2014 (S.I. 2014/605), arts. 1, **24(b)**

F8 Words in s. 104(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)

105 Application and transitional provision

(1) Sections 95 to 104 apply in relation to any judgment debt, whether it became payable, or recoverable, before or after the commencement of those sections.

(2) In relation to an offence committed before **[**[F9]2 May 2022**]**, the reference in section 102(9)(b) to 12 months is to be read as a reference to 6 months.

Textual Amendments

F9 Words in s. 105(2) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), **Sch. Pt. 1**

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VALID FROM 24/02/2009

PART 5

DEBT MANAGEMENT AND RELIEF

PROSPECTIVE

CHAPTER 1

ADMINISTRATION ORDERS

106 Administration orders

(1) For Part 6 of the County Courts Act 1984 (c. 28) (administration orders) substitute—

"PART 6

ADMINISTRATION ORDERS

Administration orders

112A **Administration orders**

An administration order is an order—

(a) to which certain debts are scheduled in accordance with section 112C, 112D or 112Y(3) or (4),

(b) which imposes the requirement specified in section 112E on the debtor, and

(c) which imposes the requirements specified in sections 112F to 112I on certain creditors.

112B **Power to make order**

(1) **[**[F10]The county court**]** may make an administration order if the conditions in subsections (2) to (7) are met.

(2) The order must be made in respect of an individual who is a debtor under two or more qualifying debts.

(3) That individual ("the debtor") must not be a debtor under any business debts.

(4) The debtor must not be excluded under any of the following—

(a) the AO exclusion;

(b) the voluntary arrangement exclusion;

(c) the bankruptcy exclusion.

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(5) The debtor must be unable to pay one or more of his qualifying debts.

(6) The total amount of the debtor's qualifying debts must be less than, or the same as, the prescribed maximum.

(7) The debtor's surplus income must be more than the prescribed minimum.

(8) Before making an administration order, the county court must have regard to any representations made—
  (a) by any person about why the order should not be made, or
  (b) by a creditor under a debt about why the debt should not be taken into account in calculating the total amount of the debtor's qualifying debts.

Scheduling debts

112C **Scheduling declared debts**

(1) This section applies to a qualifying debt ("the declared debt") if—
  (a) an administration order is made, and
  (b) when the order is made, the debt is taken into account in calculating the total amount of the debtor's qualifying debts for the purposes of section 112B(6).

(2) If the declared debt is already due at the time the administration order is made, the [F11]... county court must schedule the debt to the order when the order is made.

(3) If the declared debt becomes due after the administration order is made, the [F11]... county court must schedule the debt to the order if the debtor, or the creditor under the debt, applies to the court for the debt to be scheduled.

(4) This section is subject to section 112AG(5).

112D **Scheduling new debts**

(1) This section applies to a qualifying debt ("the new debt") if the debt—
  (a) arises after an administration order is made, and
  (b) becomes due during the currency of the order.

(2) The [F11]... county court may schedule the new debt to the administration order if these conditions are met—
  (a) the debtor, or the creditor under the new debt, applies to the court for the debt to be scheduled;
  (b) the total amount of the debtor's qualifying debts (including the new debt) is less than, or the same as, the prescribed maximum.

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Requirements imposed by order

112E **Repayment requirement**

(1) An administration order must, during the currency of the order, impose a repayment requirement on the debtor.

(2) A repayment requirement is a requirement for the debtor to repay the scheduled debts.

(3) The repayment requirement may provide for the debtor to repay a particular scheduled debt in full or to some other extent.

(4) The repayment requirement may provide for the debtor to repay different scheduled debts to different extents.

(5) In the case of a new debt scheduled to the order in accordance with section 112D, the repayment requirement may provide that no due repayment in respect of the new debt is to be made until the debtor has made all due repayments in respect of declared debts.

(6) The repayment requirement must provide that the due repayments are to be made by instalments.

(7) It is for the [F11]... county court to decide when the instalments are to be made.

(8) But the [F11]... county court is to determine the amount of the instalments in accordance with repayment regulations.

(9) Repayment regulations are regulations which make provision for instalments to be determined by reference to the debtor's surplus income.

(10) The repayment requirement may provide that the due repayments are to be made by other means (including by one or more lump sums) in addition to the instalments required in accordance with subsection (6).

(11) The repayment requirement may include provision in addition to any that is required or permitted by this section.

(12) In this section—

"declared debt" has the same meaning as in section 112C (and for this purpose it does not matter whether a declared debt is scheduled to the administration order when it is made, or afterwards);

"due repayments" means repayments which the repayment requirement requires the debtor to make;

"new debt" has the same meaning as in section 112D.

112F **Presentation of bankruptcy petition**

(1) An administration order must, during the currency of the order, impose the following requirement.

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(2) The requirement is that no qualifying creditor of the debtor is to present a bankruptcy petition against the debtor in respect of a qualifying debt, unless the creditor has the permission of the [F11]... county court.

(3) The [F11]... county court may give permission for the purposes of subsection (2) subject to such conditions as it thinks fit.

112G **Remedies other than bankruptcy**

(1) An administration order must, during the currency of the order, impose the following requirement.

(2) The requirement is that no qualifying creditor of the debtor is to pursue any remedy for the recovery of a qualifying debt unless—
  (a) regulations under subsection (3) provide otherwise, or
  (b) the creditor has the permission of the [F11]... county court.

(3) Regulations may specify classes of debt which are exempted (or exempted for specified purposes) from the restriction imposed by subsection (2).

(4) The [F11]... county court may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.

(5) This section does not have any effect in relation to bankruptcy proceedings.

112H **Charging of interest etc**

(1) An administration order must, during the currency of the order, impose the following requirement.

(2) The requirement is that no creditor under a scheduled debt is to charge any sum by way of interest, fee or other charge in respect of that debt.

112I **Stopping supplies of gas or electricity**

(1) An administration order must, during the currency of the order, impose the requirement in subsection (3).

(2) In relation to that requirement, a domestic utility creditor is any person who—
  (a) provides the debtor with a supply of mains gas or mains electricity for the debtor's own domestic purposes, and
  (b) is a creditor under a qualifying debt that relates to the provision of that supply.

(3) The requirement is that no domestic utility creditor is to stop the supply of gas or electricity, or the supply of any associated services, except in the cases in subsections (4) to (6).

(4) The first case is where the reason for stopping a supply relates to the non-payment by the debtor of charges incurred in connection with that supply after the making of the administration order.

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(5) The second case is where the reason for stopping a supply is unconnected with the non-payment by the debtor of any charges incurred in connection with—
  (a) that supply, or
  (b) any other supply of mains gas or mains electricity, or of associated services, that is provided by the domestic utility creditor.

(6) The third case is where the [F11]... county court gives permission to stop a supply.

(7) The [F11]... county court may give permission for the purposes of subsection (6) subject to such conditions as it thinks fit.

(8) A supply of mains gas is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986.

(9) A supply of mains electricity is a supply of the kind mentioned in section 4(1)(c) of the Electricity Act 1989.

Making an order

112J **Application for an order**

(1) **[**[F10]The county court**]** may make an administration order only on the application of the debtor.

(2) The debtor may make an application for an administration order whether or not a judgment has been obtained against him in respect of any of his debts.

112K **Duration**

(1) **[**[F10]The county court**]** may, at the time it makes an administration order, specify a day on which the order will cease to have effect.

(2) The court may not specify a day which falls after the last day of the maximum permitted period.

(3) If the court specifies a day under this section, the order ceases to have effect on that day.

(4) If the court does not specify a day under this section, the order ceases to have effect at the end of the maximum permitted period.

(5) The maximum permitted period is the period of five years beginning with the day on which the order is made.

(6) This section is subject to—
  (a) section 112S (variation of duration);
  (b) section 112W (effect of revocation).

(7) This section is also subject to the following (effect of enforcement restriction order or debt relief order on administration order)—
  (a) section 117I of this Act;
  (b) section 251F of the Insolvency Act 1986.

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Effects of order

112L **Effect on other debt management arrangements**

(1) This section applies if—
  (a) an administration 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 administration order is made.

(3) If the [F11]... county court is aware of the other debt management arrangements, the court must give the relevant authority notice that the order has been made.

(4) In a case where the [F11]... county court is aware of other debt management arrangements at the time it makes the order, it must give the notice as soon as practicable after making the order.

(5) In a case where the [F11]... county court becomes aware of those arrangements after it makes the order, it must give the notice as soon as practicable after becoming aware of them.

(6) "Other debt management arrangements" means any of the following—
  (a) an enforcement restriction order under Part 6A of this Act;
  (b) a debt relief order under Part 7A of the Insolvency Act 1986;
  (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.

(7) "The relevant authority" means—
  (a) in relation to an enforcement restriction order: the [F11]... county court [F12]...;
  (b) in relation to a debt relief order: the official receiver;
  (c) in relation to a debt repayment plan: the operator of the debt management scheme in accordance with which the plan is arranged.

(8) For the purposes of this section a debt relief order is "in force" if the moratorium applicable to the order under section 251H of the Insolvency Act 1986 has not yet ended.

112M **Duty to provide information**

(1) This section applies if, and for as long as, an administration order has effect in respect of a debtor.

(2) The debtor must, at the prescribed times, provide the [F11]... county court with particulars of his—
  (a) earnings,
  (b) income,
  (c) assets, and
  (d) outgoings.

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(3) The debtor must provide particulars of those matters—
  (a) as the matters are at the time the particulars are provided, and
  (b) as the debtor expects the matters to be at such times in the future as are prescribed.

(4) If the debtor intends to dispose of any of his property he must, within the prescribed period, provide the [F11]... county court with particulars of the following matters—
  (a) the property he intends to dispose of;
  (b) the consideration (if any) he expects will be given for the disposal;
  (c) such other matters as may be prescribed;
  (d) such other matters as the court may specify.

(5) But subsection (4) does not apply if the disposal is of—
  (a) goods that are exempt goods for the purposes of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007,
  (b) goods that are protected under any other enactment from being taken control of under that Schedule, or
  (c) prescribed property.

(6) The duty under subsection (4) to provide the [F11]... county court with particulars of a proposed disposal of property applies whether the debtor is the sole owner, or one of several owners, of the property.

(7) In any provision of this section "prescribed" means prescribed in regulations for the purposes of that provision.

112N **Offence if information not provided**

(1) A person commits an offence if he fails to comply with—
  (a) section 112M(2) and (3), or
  (b) section 112M(4).

(2) A person who commits an offence under subsection (1) may be ordered by a judge of the [F11]... county court to pay a fine of not more than £250 or to be imprisoned for not more than 14 days.

(3) Where under subsection (2) a person is ordered to be imprisoned by a judge of the [F11]... county court, **[**[F13]a judge of the county court**]** may at any time—
  (a) revoke the order, and
  (b) if the person is already in custody, order his discharge.

(4) Section 129 of this Act (enforcement of fines) applies to payment of a fine imposed under subsection (2).

(5) For the purposes of section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), subsection (2) is to be treated as an enactment enabling a county court to deal with an offence under subsection (1) as if it were a contempt of court.

[F14](6) . . . . . .

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112O **Existing county court proceedings to be stayed**

(1) This section applies if these conditions are met—
- (a) an administration order is made;
- (b) proceedings in **[**[F15]the county court**]** (other than bankruptcy proceedings) are pending against the debtor in respect of a qualifying debt;
- (c) by virtue of a requirement included in the order by virtue of section 112G, the creditor under the qualifying debt is not entitled to continue the proceedings in respect of the debt;
- (d) the county court receives notice of the administration order.

(2) The county court must stay the proceedings.

(3) The court may allow costs already incurred by the creditor.

(4) If the court allows such costs, it may on application or of its motion add them—
- (a) to the debt, or
- (b) if the debt is a scheduled debt, to the amount scheduled to the order in respect of the debt.

(5) But the court may not add the costs under subsection (4)(b) if the court is under a duty under section 112U(6)(b) to revoke the order because the total amount of the debtor's qualifying debts (including the costs) is more than the prescribed maximum.

112P **Appropriation of money paid**

(1) Money paid into court under an administration order is to be appropriated—
- (a) first in satisfaction of any relevant court fees, and
- (b) then in liquidation of debts.

(2) Relevant court fees are any fees under an order made under section 92 of the Courts Act 2003 which are payable by the debtor in respect of the administration order.

112Q **Discharge from debts**

(1) If the debtor repays a scheduled debt to the extent provided for by the administration order, the [F11]... county court must—
- (a) order that the debtor is discharged from the debt, and
- (b) de-schedule the debt.

(2) If the debtor repays all of the scheduled debts to the extent provided for by the administration order, the [F11]... county court must revoke the order.

(3) Subsections (1) and (2) apply to all scheduled debts, including any which, under the administration order, are to be repaid other than to their full extent.

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Variation

112R **Variation**

(1) The [F11]... county court may vary an administration order.

(2) The power under this section is exercisable—
  (a) on the application of the debtor;
  (b) on the application of a qualifying creditor;
  (c) of the court's own motion.

112S **Variation of duration**

(1) The power under section 112R includes power to vary an administration order so as to specify a day, or (if a day has already been specified under section 112K or this subsection) a different day, on which the order will cease to have effect.

(2) But the new termination day must fall on or before the last day of the maximum permitted period.

(3) If the [F11]... county court varies an administration under subsection (1), the order ceases to have effect on the new termination day.

(4) In this section—
  (a) "new termination day" means the day on which the order will cease to have effect in accordance with the variation under subsection (1);
  (b) "maximum permitted period" means the period of five years beginning with the day on which the order was originally made.

(5) This section is subject to section 112W (effect of revocation).

112T **De-scheduling debts**

(1) The power under section 112R includes power to vary an administration order by de-scheduling a debt.

(2) But the debt may be de-scheduled only if it appears to the [F11]... county court that it is just and equitable to do so.

Revocation

112U **Duty to revoke order**

(1) The [F11]... county court must revoke an administration order in either of these cases—
  (a) where it becomes apparent that, at the time the order was made, the condition in subsection 112B(2) was not met (debtor in fact did not have two or more qualifying debts);
  (b) where the debtor is no longer a debtor under any qualifying debts.

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(2) The [F11]... county court must revoke an administration order in either of these cases—

(a) where it becomes apparent that, at the time the order was made, the condition in subsection 112B(3) was not met (debtor in fact had business debt), and he is still a debtor under the business debt, or any of the business debts, in question;

(b) where the debtor subsequently becomes a debtor under a business debt, and he is still a debtor under that debt.

(3) The [F11]... county court must revoke an administration order where it becomes apparent that, at the time the order was made, the condition in section 112B(4) was not met (debtor in fact excluded under AO, voluntary arrangement or bankruptcy exclusion).

(4) The [F11]... county court must revoke an administration order where, after the order is made—

(a) the debtor becomes excluded under the voluntary arrangement exclusion, or

(b) a bankruptcy order is made against the debtor, and is still in force.

(5) The [F11]... county court must revoke an administration order in either of these cases—

(a) where it becomes apparent that, at the time the order was made, the condition in section 112B(5) was not met (debtor in fact able to pay qualifying debts);

(b) where the debtor is now able to pay all of his qualifying debts.

(6) The [F11]... county court must revoke an administration order in either of these cases—

(a) where it becomes apparent that, at the time the order was made, the condition in section 112B(6) was not met (debtor's qualifying debts in fact more than prescribed maximum);

(b) where the total amount of the debtor's qualifying debts is now more than the prescribed maximum.

(7) The [F11]... county court must revoke an administration order in either of these cases—

(a) where it becomes apparent that, at the time the order was made, the condition in section 112B(7) was not met (debtor's surplus income in fact less than, or the same as, the prescribed minimum);

(b) where the debtor's surplus income is now less than, or the same as, the prescribed minimum.

112V **Power to revoke order**

(1) The [F11]... county court may revoke an administration order in any case where there is no duty under this Part to revoke it.

(2) The power of revocation under this section may, in particular, be exercised in any of the following cases—

(a) where the debtor has failed to make two payments (whether consecutive or not) required by the order;

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(b) where the debtor has failed to provide the [F11]... county court with the particulars required by—
(i) section 112M(2) and (3), or
(ii) section 112M(4).

(3) The power of revocation under this section is exercisable—
(a) on the application of the debtor;
(b) on the application of a qualifying creditor;
(c) of the court's own motion.

112W **Effect of revocation**

(1) This section applies if, under any duty or power in this Part, the [F11]... county court revokes an administration order.

(2) The order ceases to have effect in accordance with the terms of the revocation.

Notification of certain events

112X **Notice when order made, varied, revoked etc**

(1) If a notifiable event occurs in relation to an administration order, the [F11]... county court must send notice of the event to the creditor under every scheduled debt.

(2) There is a notifiable event in any of the following cases—
(a) when the administration order is made;
(b) when a debt is scheduled to the administration order at any time after the making of the order;
(c) when the administration order is varied;
(d) when the administration order is revoked;
(e) when the [F11]... county court is given notice under any of the provisions listed in section 112K(7) (effect of enforcement restriction order or debt relief order on administration order).

Total amount of qualifying debts not properly calculated

112Y **Failure to take account of all qualifying debts**

(1) This section applies if—
(a) an administration order has been made, but
(b) it becomes apparent that the total amount of the debtor's qualifying debts was not properly calculated for the purposes of section 112B(6), because of an undeclared debt.

(2) A debt is undeclared if it ought to have been, but was not, taken into account in the calculation for the purposes of section 112B(6).

(3) If these conditions are met—

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(a) the undeclared debt is due (whether it became due before or after the making of the order);

(b) the total debt is less than, or the same as, the prescribed maximum;

the [F11]... county court must schedule the undeclared debt to the order.

(4) If these conditions are met—

(a) the undeclared debt is not due;

(b) the total debt is less than, or the same as, the prescribed maximum;

the [F11]... county court must schedule the undeclared debt to the order when the debt becomes due.

(5) If the total debt is more than the prescribed maximum, the [F11]... county court must revoke the administration order (whether or not the undeclared debt is due).

(6) In this section "total debt" means the total amount of the debtor's qualifying debts (including the undeclared debt).

(7) Subsections (3) and (4) are subject to section 112AG(5).

Interpretation

112Z **Introduction**

Sections 112AA to 112AH apply for the purposes of this Part.

112AA **Main definitions**

(1) In this Part—

"administration order" has the meaning given by section 112A;

"debtor" has the meaning given by section 112B;

"prescribed maximum" means the amount prescribed in regulations for the purposes of section 112B(6);

"prescribed minimum" means the amount prescribed in regulations for the purposes of section 112B(7);

"qualifying creditor" means a creditor under a qualifying debt.

(2) References to the currency of an administration order are references to the period which—

(a) begins when the order first has effect, and

(b) ends when the order ceases to have effect.

[F16](3) . . . . . .

[F16](4) . . . . . .

112AB **Expressions relating to debts**

(1) All debts are qualifying debts, except for the following—

(a) any debt secured against an asset;

(b) any debt of a description specified in regulations.

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(2) A business debt is any debt (whether or not a qualifying debt) which is incurred by a person in the course of a business.

(3) Only debts that have already arisen are included in references to debts; and accordingly such references do not include any debt that will arise only on the happening of some future contingency.

112AC **Inability to pay debts**

(1) In a case where an individual is the debtor under a debt that is repayable by a single payment, the debtor is to be regarded as unable to pay the debt only if—
  (a) the debt has become due,
  (b) the debtor has failed to make the single payment, and
  (c) the debtor is unable to make that payment.

(2) In a case where an individual is the debtor under a debt that is repayable by a number of payments, the debtor is to be regarded as unable to pay the debt only if—
  (a) the debt has become due,
  (b) the debtor has failed to make one or more of the payments, and
  (c) the debtor is unable to make all of the missed payments.

112AD **Calculating the debtor's qualifying debts**

(1) The total amount of a debtor's qualifying debts is to be calculated in accordance with subsections (2) and (3).

(2) All of the debtor's qualifying debts which have arisen before the calculation must be taken into account (whether or not the debts are already due at the time of the calculation).

(3) Regulations must make further provision about how the total amount of a debtor's qualifying debts is to be calculated.

(4) Regulations may make provision about how the amount of any particular qualifying debt is to be calculated.

(5) That includes the calculation of the amount of a debt for these purposes—
  (a) calculating the total amount of the debtor's qualifying debts;
  (b) scheduling the debt to an administration order.

112AE **Calculating the debtor's surplus income**

(1) The debtor's surplus income is to be calculated in accordance with regulations.

(2) Regulations under this section must, in particular, make the following provision—
  (a) provision about what is surplus income;
  (b) provision about the period by reference to which the debtor's surplus income is to be calculated.

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(3) Regulations under this section may, in particular, provide for the debtor's assets to be taken account of when calculating his surplus income.

112AF **Debts becoming due**

(1) A debt that is repayable by a single payment becomes due when the time for making that payment is reached.

(2) A debt that is repayable by a number of payments becomes due when the time for making the first of the payments is reached.

112AG **Scheduling and de-scheduling debts**

(1) A debt is scheduled to an administration order if the relevant information is included in a schedule to the order.

(2) A debt is de-scheduled if the relevant information is removed from a schedule in which it was included as mentioned in subsection (1).

(3) In relation to a debt, the relevant information is—
  (a) the amount of the debt, and
  (b) the name of the creditor under the debt.

(4) A scheduled debt is a debt that is scheduled to an administration order.

(5) The [F11]... county court must not schedule a debt to an administration order unless the court has had regard to any representations made by any person about why the debt should not be scheduled.

(6) But subsection (5) does not apply to any representations which are made by the debtor in relation to the scheduling of a debt under section 112Y.

(7) The [F11]... county court must not de-schedule a debt unless the court has had regard to any representations made by any person about why the debt should not be de-scheduled.

(8) But subsection (7) does not apply in relation to the de-scheduling of a debt under section 112Q.

(9) A court must not schedule a debt to an administration order, or de-schedule a debt, except in accordance with the provisions of this Part.

112AH **The AO, voluntary arrangement and bankruptcy exclusions**

(1) The debtor is excluded under the AO exclusion if—
  (a) an administration order currently has effect in respect of him, or
  (b) an administration order has previously had effect in respect of him, and the period of 12 months — beginning with the day when that order ceased to have effect — has yet to finish.

(2) But in a case that falls within subsection (1)(b), the debtor is not excluded under the AO exclusion if the previous administration order—

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(a) ceased to have effect in accordance with any of the provisions listed in section 112K(7) (effect of enforcement restriction order or debt relief order on administration order), or

(b) was revoked in accordance with section 112U(1)(b) (debtor no longer has any qualifying debts).

(3) The debtor is excluded under the voluntary arrangement exclusion if—

(a) an interim order under section 252 of the Insolvency Act 1986 has effect in respect of him (interim order where debtor intends to make proposal for voluntary arrangement), or

(b) he is bound by a voluntary arrangement approved under Part 8 of the Insolvency Act 1986.

(4) The debtor is excluded under the bankruptcy exclusion if—

(a) a petition for a bankruptcy order to be made against him has been presented but not decided, or

(b) he is an undischarged bankrupt.

Regulations

112AI **Regulations under this Part**

(1) It is for the Lord Chancellor to make regulations under this Part.

(2) Any power to make regulations under this Part is exercisable by statutory instrument.

(3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament."

(2) Schedule 16 makes amendments consequential on the substitution of the new Part 6 in the 1984 Act.

(3) This section does not apply to any case in which an administration order was made, or an application for such an order was made, before the day on which this section comes into force.

Textual Amendments

F10 Words in s. 106 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 47(3)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F11 Words in s. 106 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 47(2)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F12 Words in s. 106 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 47(4)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F13 Words in s. 106 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 47(5)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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F14 Words in s. 106 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 47(6)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F15 Words in s. 106 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 47(7)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F16 Words in s. 106 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 47(8)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

PROSPECTIVE

CHAPTER 2

ENFORCEMENT RESTRICTION ORDERS

107 Enforcement restriction orders

(1) After Part 6 of the County Courts Act 1984 (c. 28) (administration orders) insert—

"PART 6A

ENFORCEMENT RESTRICTION ORDERS

Enforcement restriction orders

117A **Enforcement restriction orders**

(1) An enforcement restriction order is an order that imposes the requirements specified in sections 117C to 117E on certain creditors.

(2) An enforcement restriction order may also impose a requirement in accordance with section 117F on the debtor.

117B **Power to make order**

(1) **[**[F17]The county court**]** may make an enforcement restriction order if the conditions in subsections (2) to (8) are met.

(2) The order must be made in respect of an individual who is a debtor under two or more qualifying debts.

(3) That individual ("the debtor") must not be a debtor under any business debts.

(4) The debtor must not be excluded under any of the following—
- (a) the ERO exclusion;
- (b) the voluntary arrangement exclusion;
- (c) the bankruptcy exclusion.

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(5) The debtor must be unable to pay one or more of his qualifying debts.

(6) The debtor must be suffering from a sudden and unforeseen deterioration in his financial circumstances.

(7) There must be a realistic prospect that the debtor's financial circumstances will improve within the period of six months beginning when the order is made.

(8) It must be fair and equitable to make the order.

(9) Before making an enforcement restriction order, the county court must have regard to any representations made by any person about why the order should not be made.

(10) Subsection (9) is subject to Civil Procedure Rules.

Requirements imposed by order

117C **Presentation of bankruptcy petition**

(1) An enforcement restriction order must, during the currency of the order, impose the following requirement.

(2) The requirement is that no qualifying creditor of the debtor is to present a bankruptcy petition against the debtor in respect of a qualifying debt, unless the creditor has the permission of the [F18]... county court.

(3) The [F18]... county court may give permission for the purposes of subsection (2) subject to such conditions as it thinks fit.

117D **Remedies other than bankruptcy**

(1) An enforcement restriction order must, during the currency of the order, impose the following requirement.

(2) The requirement is that no qualifying creditor of the debtor is to pursue any remedy for the recovery of a qualifying debt unless—
   (a) regulations under subsection (3) provide otherwise, or
   (b) the creditor has the permission of the [F18]... county court.

(3) Regulations may specify classes of debt which are exempted (or exempted for specified purposes) from any requirement imposed by subsection (2).

(4) The [F18]... county court may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.

(5) This section does not have any effect in relation to bankruptcy proceedings.

117E **Stopping supplies of gas or electricity**

(1) An enforcement restriction order must, during the currency of the order, impose the requirement in subsection (3).

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(2) In relation to that requirement, a domestic utility creditor is any person who—
  (a) provides the debtor with a supply of mains gas or mains electricity for the debtor's own domestic purposes, and
  (b) is a creditor under a qualifying debt that relates to the provision of that supply.

(3) The requirement is that no domestic utility creditor is to stop the supply of gas or electricity, or the supply of any associated services, except in the cases in subsections (4) to (6).

(4) The first case is where the reason for stopping a supply relates to the non-payment by the debtor of charges incurred in connection with that supply after the making of the enforcement restriction order.

(5) The second case is where the reason for stopping a supply is unconnected with the non-payment by the debtor of any charges incurred in connection with—
  (a) that supply, or
  (b) any other supply of mains gas or mains electricity, or of associated services, that is provided by the domestic utility creditor.

(6) The third case is where the [F18]... county court gives permission to stop a supply.

(7) The [F18]... county court may give permission for the purposes of subsection (6) subject to such conditions as it thinks fit.

(8) A supply of mains gas is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986.

(9) A supply of mains electricity is a supply of the kind mentioned in section 4(1)(c) of the Electricity Act 1989.

117F **Repayment requirement**

(1) An enforcement restriction order may impose a repayment requirement on the debtor.

(2) The county court may include the requirement in the order at the time it makes the order.

(3) The [F18]... county court may, at any time after an enforcement restriction order has been made, vary the order so as to include a repayment requirement.

(4) The [F18]... county court may, at any time when an enforcement restriction order includes a repayment requirement, vary the order so as to—
  (a) remove the repayment requirement, or
  (b) include a different repayment requirement.

(5) A repayment requirement is a requirement that the debtor make payments, in respect of one or more of his qualifying debts, to the person or persons to whom he owes the debt or debts.

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(6) **[**[F17]The county court**]** may include a repayment requirement in an order only if—

(a) the debtor has surplus income at the time of the inclusion of the requirement, and

(b) the inclusion of the requirement would be fair and equitable.

(7) The debtor's surplus income is to be calculated in accordance with regulations.

(8) Regulations under subsection (7) must make the following provision—

(a) provision about what is surplus income;

(b) provision about the period by reference to which the debtor's surplus income is to be calculated.

(9) Regulations under subsection (7) may, in particular, provide for the debtor's assets to be taken account of for the purpose of calculating his surplus income.

(10) The [F18]... county court may vary an enforcement restriction order under this section—

(a) of its own motion;

(b) on the application of the debtor;

(c) on the application of a qualifying creditor.

Making an order

117G **Application for order**

(1) **[**[F17]The county court**]** may make an enforcement restriction order only on the application of the debtor.

(2) The debtor may make an application for an enforcement restriction order whether or not a judgment has been obtained against him in respect of any of his debts.

117H **Duration**

(1) **[**[F17]The county court**]** may, at the time it makes an enforcement restriction order, specify a day on which the order will cease to have effect.

(2) The court may not specify a day which falls after the last day of the maximum permitted period.

(3) If the court specifies a day under this section, the order ceases to have effect on that day.

(4) If the court does not specify a day under this section, the order ceases to have effect at the end of the maximum permitted period.

(5) The maximum permitted period is the period of 12 months beginning with the day on which the order is made.

(6) This section is subject to—

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(a) section 117N (variation of duration);
(b) section 117Q (effect of revocation);

(7) This section is also subject to the following (effect of administration order or debt relief order on enforcement restriction order)—
(a) section 112L of this Act;
(b) section 251F of the Insolvency Act 1986.

Effects of order

117I **Effect on other debt management arrangements**

(1) This section applies if—
(a) an enforcement restriction 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 enforcement restriction order is made.

(3) If the [F18]... county court is aware of the other debt management arrangements, the court must give the relevant authority notice that the order has been made.

(4) In a case where the [F18]... county court is aware of those arrangements at the time it makes the order, it must give the notice as soon as practicable after making the order.

(5) In a case where the [F18]... county court only becomes aware of those arrangements after it makes the order, it must give the notice as soon as practicable after becoming aware of them.

(6) "Other debt management arrangements" means any of the following—
(a) an administration order under Part 6 of this Act;
(b) a debt relief order under Part 7A of the Insolvency Act 1986;
(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.

(7) "The relevant authority" means—
(a) in relation to an administration order: the [F18]... county court [F19]...;
(b) in relation to a debt relief order: the official receiver;
(c) in relation to a debt repayment plan: the operator of the debt management scheme in accordance with which the plan is arranged.

(8) For the purposes of this section a debt relief order is "in force" if the moratorium applicable to the order under section 251H of the Insolvency Act 1986 has not yet ended.

117J **Duty to provide information**

(1) This section applies if, and for as long as, an enforcement restriction order has effect in respect of a debtor.

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(2) The debtor must, at the prescribed times, provide the [F18]... county court with particulars of his—
  (a) earnings,
  (b) income,
  (c) assets, and
  (d) outgoings.

(3) The debtor must provide particulars of those matters—
  (a) as the matters are at the time the particulars are provided, and
  (b) as the debtor expects the matters to be at such times in the future as may be prescribed.

(4) If the debtor intends to dispose of any of his property he must, within the prescribed period, provide the [F18]... county court with particulars of the following matters—
  (a) the property he intends to dispose of;
  (b) the consideration (if any) he expects will be given for the disposal;
  (c) such other matters as may be prescribed;
  (d) such other matters as the court may specify.

(5) But subsection (4) does not apply if the disposal is of—
  (a) goods that are exempt goods for the purposes of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007,
  (b) goods that are protected under any other enactment from being taken control of under that Schedule, or
  (c) prescribed property.

(6) The duty under subsection (4) to provide the [F18]... county court with particulars of a proposed disposal of property applies whether the debtor is the sole owner, or one of several owners, of the property.

(7) In any provision of this section "prescribed" means prescribed in regulations for the purposes of that provision.

117K **Offence if information not provided**

(1) A person commits an offence if he fails to comply with—
  (a) section 117J(2) and (3), or
  (b) section 117J(4).

(2) A person who commits an offence under subsection (1) may be ordered by a judge of the [F18]... county court to pay a fine of not more than £250 or to be imprisoned for not more than 14 days.

(3) Where under subsection (2) a person is ordered to be imprisoned by a judge of the [F18]... county court, **[**[F20]a judge of the county court**]** may at any time—
  (a) revoke the order, and
  (b) if the person is already in custody, order his discharge.

(4) Section 129 of this Act (enforcement of fines) applies to payment of a fine imposed under subsection (2).

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(5) For the purposes of section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), subsection (2) is to be treated as an enactment enabling **[**[F21]the county court**]** to deal with an offence under subsection (1) as if it were a contempt of court.

[F22](6) . . . . . .

117L **Existing county court proceedings to be stayed**

(1) This section applies if these conditions are met—
  (a) an enforcement restriction order is made;
  (b) proceedings in **[**[F21]the county court**]** (other than bankruptcy proceedings) are pending against the debtor in respect of a qualifying debt;
  (c) by virtue of a requirement included in the order by virtue of section 117D, the creditor under the qualifying debt is not entitled to continue the proceedings in respect of the debt;
  (d) the county court receives notice of the enforcement restriction order.

(2) The county court must stay the proceedings.

(3) The county court—
  (a) may allow costs already incurred by the creditor, and
  (b) if the court allows such costs, may on application or of its own motion add them to the debt owed to the creditor.

117M **Charges**

(1) This section applies during, and after, the currency of an enforcement restriction order.

(2) A qualifying creditor may not make any charge in respect of a protected qualifying debt, unless the charge—
  (a) is interest, or
  (b) is not interest but relates to a time before or after the currency of the order.

(3) A charge made in breach of subsection (2) is not recoverable.

(4) In subsection (2) "protected qualifying debt" means any qualifying debt under which the debtor was a debtor at some time during the currency of the enforcement restriction order.

Variation of duration

117N **Variation of duration**

(1) The [F18]... county court may vary an enforcement restriction order so as to specify a day, or (if a day has already been specified under section 117H or this section) a different day, on which the order will cease to have effect.

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(2) But the new termination day must fall on or before the last day of the maximum permitted period.

(3) If the [F18]... county court varies an enforcement restriction order under subsection (1), the order ceases to have effect on the new termination day.

(4) The power under this section is exercisable—
- (a) on the application of the debtor;
- (b) on the application of a qualifying creditor;
- (c) of the court's own motion.

(5) In this section—
- (a) "new termination day" means the day on which the order will cease to have effect in accordance with the variation under subsection (1);
- (b) "maximum permitted period" means the period of 12 months beginning with the day on which the order was originally made.

(6) This section is subject to section 117Q (effect of revocation).

Revocation of order

117O **Duty to revoke order**

(1) The [F18]... county court must revoke an enforcement restriction order in either of these cases—
- (a) where it becomes apparent that, at the time the order was made, the condition in subsection 117B(2) was not met (debtor in fact did not have two or more qualifying debts);
- (b) where the debtor is no longer a debtor under any qualifying debts.

(2) The [F18]... county court must revoke an enforcement restriction order in either of these cases—
- (a) where it becomes apparent that, at the time the order was made, the condition in subsection 117B(3) was not met (debtor in fact had business debt), and he is still a debtor under the business debt, or any of the business debts, in question;
- (b) where the debtor subsequently becomes a debtor under a business debt, and he is still a debtor under that debt.

(3) The [F18]... county court must revoke an enforcement restriction order where it becomes apparent that, at the time the order was made, the condition in section 117B(4) was not met (debtor in fact excluded under ERO, voluntary arrangement or bankruptcy exclusion).

(4) The [F18]... county court must revoke an enforcement restriction order where, after the order is made—
- (a) the debtor becomes excluded under the voluntary arrangement exclusion, or
- (b) a bankruptcy order is made against the debtor, and is still in force.

(5) The [F18]... county court must revoke an enforcement restriction order in either of these cases—

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(a) where it becomes apparent that, at the time the order was made, the condition in section 117B(5) was not met (debtor in fact able to pay qualifying debts);

(b) where the debtor is now able to pay all of his qualifying debts.

(6) The [F18]... county court must revoke an enforcement restriction order in either of these cases—

(a) where it becomes apparent that, at the time the order was made, the condition in section 117B(6) was not met (debtor in fact not suffering from sudden and unforeseen deterioration in financial circumstances);

(b) where the debtor is no longer suffering from the deterioration in financial circumstances which was taken into account for the purposes of section 117B(6) (even if he is suffering from some other sudden and unforeseen deterioration in his financial circumstances).

(7) The [F18]... county court must revoke an enforcement restriction order in either of these cases—

(a) where it becomes apparent that, at the time the order was made, the condition in section 117B(7) was not met (in fact no realistic prospect of improvement in debtor's financial circumstances);

(b) where there is no longer a realistic prospect that the debtor's financial circumstances will improve during the period within which the order would continue to have effect (if not revoked).

(8) The [F18]... county court must revoke an enforcement restriction order in either of these cases—

(a) where it becomes apparent that, at the time the order was made, the condition in section 117B(8) was not met (not in fact fair and equitable to make order);

(b) where it is not fair and equitable for the order to continue to have effect.

117P **Power to revoke order**

(1) The [F18]... county court may revoke an enforcement restriction order in any case where there is no duty under this Part to revoke it.

(2) The power of revocation under this section may, in particular, be exercised in any of the following cases—

(a) where the order includes, or has previously included, a repayment requirement, and the debtor has failed to comply with that requirement;

(b) where the debtor has failed to provide the [F18]... county court with the particulars required by—

(i) section 117J(2) and (3), or

(ii) section 117J(4).

(3) The power of revocation under this section is exercisable—

(a) on the application of the debtor;

(b) on the application of a qualifying creditor;

(c) of the court's own motion.

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117Q **Effect of revocation**

(1) This section applies if, under any duty or power in this Part, the [F18]... county court revokes an enforcement restriction order.

(2) The order ceases to have effect in accordance with the terms of the revocation.

Notification of certain events

117R **Notice when order made, varied, revoked etc.**

(1) If a notifiable event occurs in relation to an enforcement restriction order, the [F18]... county court must give notice of the event to every identified qualifying creditor of the debtor.

(2) There is a notifiable event in any of the following cases—
- (a) when the enforcement restriction order is made;
- (b) when the enforcement restriction order is varied;
- (c) when the enforcement restriction order is revoked;
- (d) when the [F18]... county court is given notice under any of the provisions listed in section 117H(7) (effect of administration order or debt relief order on enforcement restriction order).

(3) A person is an identified qualifying creditor of the debtor if—
- (a) the debtor has notified the [F18]... county court[F23]...[F23]...[F23]...that the person is a qualifying creditor, or
- (b) the [F18]... county court is satisfied that the person is a qualifying creditor.

Interpretation

117S **Introduction**

Sections 117T to 117W apply for the purposes of this Part.

117T **Main definitions**

(1) In this Part—

"enforcement restriction order" has the meaning given by section 117A;

"debtor" has the meaning given by section 117B;

"qualifying creditor" means a creditor under a qualifying debt.

(2) References to the currency of an enforcement restriction order are references to the period which—
- (a) begins when the order first has effect, and
- (b) ends when the order ceases to have effect.

[F24](3) . . . . . .

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[F24](4) . . . . . .

117U **Expressions relating to debts**

(1) All debts are qualifying debts, except for the following—
  (a) any debt secured against an asset;
  (b) any debt of a description specified in regulations.

(2) A business debt is any debt (whether or not a qualifying debt) which is incurred by a person in the course of a business.

(3) Only debts that have already arisen are included in references to debts; and accordingly such references do not include any debt that will arise only on the happening of some future contingency.

117V **Inability to pay debts**

(1) In a case where an individual is the debtor under a debt that is repayable by a single payment, the debtor is to be regarded as unable to pay the debt only if—
  (a) the time for making the payment has been reached,
  (b) the debtor has failed to make the single payment, and
  (c) the debtor is unable to make that payment.

(2) In a case where an individual is the debtor under a debt that is repayable by a number of payments, the debtor is to be regarded as unable to pay the debt only if—
  (a) the time for making the first of the payments has been reached,
  (b) the debtor has failed to make one or more of the payments, and
  (c) the debtor is unable to make all of the missed payments.

117W **The ERO, voluntary arrangement and bankruptcy exclusions**

(1) The debtor is excluded under the ERO exclusion if—
  (a) an enforcement restriction order currently has effect in respect of him, or
  (b) an enforcement restriction order has previously had effect in respect of him, and the period of 12 months — beginning with the day when that order ceased to have effect — has yet to finish.

(2) But in a case that falls within subsection (1)(b), the debtor is not excluded under the ERO exclusion if the previous enforcement restriction order—
  (a) ceased to have effect in accordance with any of the provisions listed in section 117H(7) (effect of administration order or debt relief order on enforcement restriction order), or
  (b) was revoked in accordance with section 117O(1)(b) (debtor no longer has any qualifying debts).

(3) The debtor is excluded under the voluntary arrangement exclusion if—

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(a) an interim order under section 252 of the Insolvency Act 1986 has effect in respect of him (interim order where debtor intends to make proposal for voluntary arrangement), or

(b) he is bound by a voluntary arrangement approved under Part 8 of the Insolvency Act 1986.

(4) The debtor is excluded under the bankruptcy exclusion if—

(a) a petition for a bankruptcy order to be made against him has been presented but not decided, or

(b) he is an undischarged bankrupt.

Regulations

117X **Power to make regulations**

(1) It is for the Lord Chancellor to make regulations under this Part.

(2) Any power to make regulations under this Part is exercisable by statutory instrument.

(3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In Schedule 6A to the Magistrates' Courts Act 1980 (c. 43) (fines that may be altered under section 143 of the 1980 Act) insert the following entry at the appropriate place in the entries relating to the County Courts Act 1984 (c. 28)—

"Section 117K(1) (enforcement restriction orders: failure to provide information)	£250"

(3) In section 98 of the Courts Act 2003 (c. 39) (register of judgments and orders etc.), in subsection (1), for paragraph (d) substitute—

"(d) enforcement restriction orders under Part 6A of that Act (power of county courts to make enforcement restriction orders);".

Textual Amendments

F17 Words in s. 107 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 48(2)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F18 Words in s. 107 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 48(3)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F19 Words in s. 107 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 48(4)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F20 Words in s. 107 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 48(5)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F21 Words in s. 107 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 48(6)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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F22 Words in s. 107 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 48(7)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F23 Words in s. 107 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 48(8)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F24 Words in s. 107 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 48(9)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

CHAPTER 3

DEBT RELIEF ORDERS

108 Debt relief orders and debt relief restrictions orders etc.

(1) In the Second Group of Parts of the Insolvency Act 1986 (c. 45) (insolvency of individuals), before Part 8 there is inserted, as Part 7A, the Part set out in Schedule 17.

(2) After Schedule 4 to that Act there is inserted, as Schedules 4ZA and 4ZB, the Schedules set out in Schedules 18 and 19.

(3) Schedule 20 (which makes amendments consequential on provisions contained in Schedule 17) has effect.

Commencement Information

I16 S. 108 wholly in force at 6.4.2009; s. 108 not in force at Royal assent see s. 148(2); s. 108 in force at 24.2.2009 for certain purposes and at 6.4.2009 otherwise by S.I. 2009/382, **art. 2**

PROSPECTIVE

CHAPTER 4

DEBT MANAGEMENT SCHEMES

Introductory

109 Debt management schemes

(1) A debt management scheme is a scheme that meets the conditions in this section.

(2) The scheme must be open to some or all non-business debtors.

(3) A scheme is open to a non-business debtor if it allows him to make a request to the scheme operator for a debt repayment plan to be arranged for him.

(4) The scheme must provide that, if such a request is made—

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(a) a decision must be made about whether a debt repayment plan is to be arranged for the non-business debtor, and
(b) such a plan must be arranged (if that is the decision made).

(5) The scheme must be operated by a body of persons (whether a body corporate or not).

110 Debt repayment plans

(1) A debt repayment plan is a plan that meets the conditions in this section.

(2) The plan must specify all of the debtor's qualifying debts.

(3) The plan must require the debtor to make payments in respect of each of the specified debts.

(4) It does not matter if—
(a) the plan requires payments of different amounts to be made in respect of a specified debt at different times;
(b) the payments that the plan requires to be made in respect of a specified debt would, if all made, repay the debt only in part.

Approval of schemes

111 Approval by supervising authority

(1) The supervising authority may approve one or more debt management schemes.

(2) Regulations may make provision about any or all of the following—
(a) conditions that must be met before the supervising authority may approve a debt management scheme;
(b) considerations that the supervising authority must, or must not, take into account in deciding whether to approve a debt management scheme.

(3) Regulations under this section may, in particular, make provision about conditions or considerations that relate to any matter listed in Schedule 21.

(4) The supervising authority may approve a debt management scheme whether a body is—
(a) operating the scheme at the time of the approval, or
(b) proposing to operate the scheme from a time in the future.

112 Applications for approval

(1) Regulations may specify a procedure for making an application for approval of a debt management scheme.

(2) Regulations under this section may, in particular, specify a procedure that requires any or all of the following—
(a) an application to be made in a particular form;
(b) information to be supplied in support of an application;
(c) a fee to be paid in respect of an application.

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113 Terms of approval

(1) The approval of a debt management scheme has effect subject to any relevant terms.

(2) Relevant terms are—
- (a) the terms (if any) specified in regulations that relate to the approval, and
- (b) the terms (if any) that the supervising authority includes in the approval.

(3) Relevant terms may, in particular, deal with all or any of the following—
- (a) the start of the approval;
- (b) the expiry of the approval;
- (c) the termination of the approval, including termination because of the breach of some other term.

(4) Relevant terms may, in particular, impose requirements on the scheme operator.

(5) Relevant terms may, in particular, relate to any matter listed in Schedule 21.

(6) Regulations may make provision about terms that the supervising authority must, or must not, include in an approval.

Effect of plans etc.

114 Discharge from specified debts

(1) This section applies if—
- (a) a debt repayment plan is arranged for a non-business debtor in accordance with an approved scheme, and
- (b) the plan comes into effect.

(2) The debtor is discharged from the debts that are specified in the plan.

(3) The discharge from a particular specified debt takes effect at the time when all the required payments have been made.

(4) The required payments are the payments in respect of the debt that are required by the provision included in the plan in accordance with section 110(3).

115 Presentation of bankruptcy petition

(1) This section applies during the currency of a debt repayment plan arranged in accordance with an approved scheme.

(2) No qualifying creditor of the debtor is to present a bankruptcy petition against the debtor in respect of a qualifying debt, unless—
- (a) regulations provide otherwise, or
- (b) the creditor has the permission of **[**[F25]the county court**]**.

(3) **[**[F25]The county court**]** may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.

(4) The reference to the currency of a debt repayment plan is a reference to the period which—
- (a) begins when the plan first has effect, and

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(b) ends when the plan ceases to have effect.

Textual Amendments

F25 Words in ss. 115-118 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)

116 Remedies other than bankruptcy

(1) This section applies in relation to a non-business debtor during a period of protection.

(2) No qualifying creditor of the debtor is to pursue any remedy for the recovery of a qualifying debt, unless—

(a) regulations provide otherwise, or

(b) the creditor has the permission of **[**[F25]the county court**]**.

(3) **[**[F25]The county court**]** may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.

(4) This section does not have any effect in relation to bankruptcy proceedings.

Textual Amendments

F25 Words in ss. 115-118 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)

117 Charging of interest etc.

(1) This section applies in relation to a non-business debtor during a period of protection.

(2) No qualifying creditor is to charge any sum by way of interest, fee or other charge in respect of a qualifying debt, unless—

(a) regulations provide otherwise, or

(b) the creditor has the permission of **[**[F25]the county court**]**.

(3) **[**[F25]The county court**]** may give permission for the purposes of subsection (2)(b) subject to such conditions as it thinks fit.

Textual Amendments

F25 Words in ss. 115-118 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)

118 Stopping supplies of gas or electricity

(1) This section applies in relation to a non-business debtor during a period of protection.

(2) In relation to the debtor, a domestic utility creditor is any person who—

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(a) provides the debtor with a supply of mains gas or mains electricity for the debtor's own domestic purposes, and

(b) is a creditor under a qualifying debt that relates to the provision of that supply.

(3) No domestic utility creditor is to stop the supply of gas or electricity, or the supply of any associated services, except in the cases in subsections (4) to (7).

(4) The first case is where the reason for stopping a supply relates to the non-payment by the debtor of charges incurred in connection with that supply after the start of the period of protection.

(5) The second case is where the reason for stopping a supply is unconnected with the non-payment by the debtor of any charges incurred in connection with—

(a) that supply, or

(b) any other supply of mains gas or mains electricity, or of associated services, that is provided by the domestic utility creditor.

(6) The third case is where regulations allow the supply to be stopped.

(7) The fourth case is where **[**[F25]the county court**]** gives permission to stop a supply.

(8) **[**[F25]The county court**]** may give permission for the purposes of subsection (7) subject to such conditions as it thinks fit.

(9) A supply of mains gas is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986 (c. 44).

(10) A supply of mains electricity is a supply of the kind mentioned in section 4(1)(c) of the Electricity Act 1989 (c. 29).

Textual Amendments

F25 Words in ss. 115-118 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)

119 Existing county court proceedings to be stayed

(1) This section applies if these conditions are met—

(a) a debt repayment plan is arranged for a non-business debtor in accordance with an approved scheme;

(b) proceedings in **[**[F26]the county court**]** (other than bankruptcy proceedings) are pending against the debtor in respect of a qualifying debt;

(c) by virtue of section 116, the creditor under the qualifying debt is not entitled to continue the proceedings in respect of the debt;

(d) the county court receives notice of the debt repayment plan.

(2) The county court must stay the proceedings.

(3) The court may allow costs already incurred by the creditor.

(4) Subsection (5) applies if—

(a) the court allows such costs, and

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(b) the qualifying debt is a specified debt.

(5) The operator of the approved scheme may, if requested to do so by—
(a) the non-business debtor, or
(b) the creditor under the qualifying debt,
add the costs to the amount specified in the plan in respect of the debt.

(6) But the operator may not add the costs under subsection (5) if, under the terms of the approved scheme, the operator is under a duty to terminate the plan.

Textual Amendments

F26 Words in s. 119(1)(b) 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)

120 Registration of plans

(1) Regulations may make provision about the registration of either or both of the following—
(a) any request made to the operator of an approved scheme for a debt repayment plan to be arranged in accordance with the scheme;
(b) any debt repayment plan arranged for a non-business debtor in accordance with an approved scheme.

(2) In subsection (1) "registration" means registration in the register maintained under section 98 of the Courts Act 2003 (c. 39) (the register of judgments and orders etc).

(3) Regulations under this section may amend section 98 of the 2003 Act.

121 Other debt management arrangements in force

(1) This section applies if—
(a) a debt repayment plan is arranged for a debtor in accordance with an approved scheme, and
(b) immediately before the plan is arranged, other debt management arrangements are in force in respect of the debtor.

(2) The plan is not to come into effect unless the other debt management arrangements cease to be in force.

(3) Any provision (whether in the plan or elsewhere) about when the plan is to come into effect is subject to subsection (2).

(4) If the operator of the approved scheme is aware of the other debt management arrangements, the operator must give the relevant authority notice that the plan has been arranged.

(5) In a case where the operator is aware of other debt management arrangements at the time the plan is arranged, it must give the notice as soon as practicable after the plan is arranged.

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(6) In a case where the operator becomes aware of those arrangements after the plan is arranged, it must give the notice as soon as practicable after becoming aware of them.

(7) "Other debt management arrangements" means any of the following—

(a) an administration order under Part 6 of the County Courts Act 1984 (c. 28);

(b) an enforcement restriction order under Part 6A of the County Courts Act 1984;

(c) a debt relief order under Part 7A of the Insolvency Act 1986 (c. 45).

(8) "The relevant authority" means—

[[F27](aa) in relation to an administration order or an enforcement restriction order: the county court;**]**

(c) in relation to a debt relief order: the official receiver.

(9) For the purposes of this section a debt relief order is "in force" if the moratorium applicable to the order under section 251H of the Insolvency Act 1986 has not yet ended.

Textual Amendments

F27 S. 121(8)(aa) substituted for (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 136(a)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Appeals

122 Right of appeal

(1) This section applies if a debt repayment plan is arranged for a debtor in accordance with an approved scheme.

(2) An affected creditor may appeal to **[**[F28]the county court**]** against any of the following—

(a) the fact that the plan has been arranged;

(b) the fact that a debt owed to the affected creditor has been specified in the plan;

(c) the terms of the plan (including any provision included in the plan in accordance with section 110(3)).

(3) Subsection (2)(c) does not allow an affected creditor to appeal against the fact that a debt owed to any other creditor has been specified in the plan.

(4) In this section "affected creditor" means the creditor under any debt which is specified in the plan.

Textual Amendments

F28 Words in s. 122(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)

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123 Dealing with appeals

(1) This section applies if an appeal is made to **[**[F29]the county court**]** under section 122.

(2) The county court may determine the appeal in any way that it thinks fit.

(3) The county court may make such orders as may be necessary to give effect to the determination of the appeal.

(4) The county court may, in particular, order the scheme operator to do any of the following—

(a) to reconsider the decision to arrange the plan;

(b) to reconsider any decision about the terms of the plan;

(c) to modify the debt repayment plan;

(d) to revoke the debt repayment plan.

(5) The county court may make such interim provision as it thinks fit in relation to the period before the appeal is determined.

[F30](6) . . . . . .

Textual Amendments

F29 Words in s. 123(1) 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)

F30 S. 123(6) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 136(b)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Approved schemes: charging

124 Charges by operator of approved scheme

(1) The operator of an approved scheme may recover its costs by charging debtors or affected creditors (or both).

(2) In this section—

"costs" means the costs which the operator incurs, taking one year with another, in connection with the approved scheme, so far as those costs are reasonable;

"debtors" means—

(a) debtors who make requests for debt repayment plans to be arranged in accordance with the approved scheme, and

(b) debtors for whom debt repayment plans are arranged in accordance with the approved scheme.

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Termination of approval

125 Procedure for termination

(1) Regulations may specify a procedure for terminating the approval of a debt management scheme.

(2) Regulations under this section may, in particular, specify a procedure that requires any or all of the following—
- (a) notice of, or the reasons for, an intended termination to be given (whether to the supervising authority, the scheme operator, the Lord Chancellor or any other person);
- (b) conditions to be met before a termination takes effect;
- (c) a particular period of time to elapse before a termination takes effect.

126 Terminating an approval

The approval of a debt management scheme may be terminated only if the termination is in accordance with all of the following (so far as they are relevant)—
- (a) any terms to which the approval is subject by virtue of section 113;
- (b) any provision made in regulations under section 125;
- (c) any other provision made in other regulations under this Chapter.

127 Alternatives to termination

(1) Regulations may make provision to allow the supervising authority to deal with a termination case other than by terminating the approval.

(2) A termination case is a case in which the supervising authority would be entitled to terminate the approval of a debt management scheme.

(3) Regulations under this section may, in particular, make provision to allow the supervising authority to transfer the operation of the scheme—
- (a) to itself, or
- (b) to any other body.

Effects of end of approval

128 Effects of end of approval

(1) Regulations may make provision about the effects if the approval of a debt management scheme comes to an end.

(2) Regulations under this section may, in particular, make provision about the treatment of debt repayment plans arranged for non-business debtors before the scheme came to an end.

(3) That includes provision to treat a plan—
- (a) as though the approval had not come to an end, or
- (b) as though the plan had been made in accordance with a different approved scheme.

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(4) Regulations under this section may, in particular, make provision about cases where, at the time the scheme comes to an end, the scheme operator is in breach of a relevant obligation.

(5) That includes provision to ensure that the operator is not released from the relevant obligation by virtue of the termination.

(6) In subsections (4) and (5) "relevant obligation" means any obligation (including a requirement or condition) however arising, that relates to—
- (a) the scheme in question (including its operation),
- (b) the approval of that scheme, or
- (c) the termination of that approval.

The supervising authority

129 The supervising authority

(1) The supervising authority is—
- (a) the Lord Chancellor, or
- (b) any person that the Lord Chancellor has authorised to approve debt management schemes under section 111.

(2) Subsections (3) and (4) apply in any case where an authorisation under subsection (1)(b) starts or ends.

(3) The start or end of the authorisation does not affect the validity of an approval that is in force at the relevant time.

(4) The new supervising authority may exercise all of its functions in relation to an approval that is in force at the relevant time as though it had given the approval itself.

(5) In this section—

"approval" means an approval of a debt management scheme given under section 111;

"relevant time" means the time when an authorisation starts or ends.

Various

130 Regulations

(1) It is for the Lord Chancellor to make regulations.

(2) The power to make regulations is exercisable by statutory instrument.

(3) A statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) But subsection (3) does not apply in the case of a statutory instrument that contains either or both of the following—
- (a) the first regulations under a particular section of this Chapter;
- (b) any regulations under section 118(6);

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(c) any regulations under section 120 that amend section 98 of the Courts Act 2003 (c. 39);

(d) any regulations that amend section 122 or 123.

(5) In such a case the statutory instrument may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(6) Regulations may make different provision in relation to different cases.

(7) Regulations may make any or all of the following provision if the Lord Chancellor thinks it is necessary or expedient—

(a) supplementary, incidental or consequential provision;

(b) transitory, transitional or saving provision.

(8) Provision under subsection (7) may, in particular, amend section 122 or 123 (including by making provision for further grounds of appeal).

(9) In this section (except in subsection (4)(a) to (c)) "regulations" means regulations under any provision of this Chapter.

131 Main definitions

(1) In this Chapter—

"affected creditor" has the meaning given by section 122;

"approved scheme" means a debt management scheme that is approved under section 111;

"debt management scheme" has the meaning given by section 109;

"debt repayment plan" has the meaning given by section 110;

"non-business debtor" means any individual who—

(a) is a debtor under one or more qualifying debts, but

(b) is not a debtor under any business debts;

"period of protection" has the meaning given by section 133;

"qualifying creditor" means a creditor under a qualifying debt;

"scheme operator" means the body that operates a debt management scheme;

"specified debt" means a debt specified in a debt repayment plan;

"supervising authority" has the meaning given by section 129.

[F31](2) . . . . . .

Textual Amendments

F31 S. 131(2) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 136(b)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

132 Expressions relating to debts

(1) All debts are qualifying debts, except the following—

(a) any debt secured against an asset;

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(b) in relation to a debt repayment plan which has been requested or arranged, any debt which could not, by virtue of the terms of the debt management scheme, be specified in the plan.

(2) A business debt is any debt (whether or not a qualifying debt) which is incurred by a person in the course of a business.

133 Periods of protection

(1) A "period of protection", in relation to a non-business debtor, is a period which begins and ends as specified in this section.

(2) The period begins if, and when, the debtor makes a request to the operator of an approved scheme for a debt repayment plan to be arranged in accordance with the scheme.

(3) The period ends as follows—
- (a) if a debt repayment plan is not arranged in consequence of the request: when the decision is made not to arrange the plan;
- (b) if a debt repayment plan is arranged in consequence of the request: when that plan ceases to have effect.

(4) But if other debt management arrangements are in force in relation to debtor immediately before he makes the request, the period does not begin unless, and until, a debt repayment plan—
- (a) is arranged in consequence of the request, and
- (b) comes into effect in accordance with section 121(2).

(5) In this section the reference to other debt management arrangements which are in force has the same meaning as such references in section 121.

VALID FROM 31/12/2007

PART 6

PROTECTION OF CULTURAL OBJECTS ON LOAN

134 Protected objects

(1) An object is protected under section 135 if the conditions in subsection (2) are met when it enters the United Kingdom.

(2) The conditions are—
- (a) the object is usually kept outside the United Kingdom,
- (b) it is not owned by a person resident in the United Kingdom,
- (c) its import does not contravene a prohibition or restriction on the import of goods, imposed by or under any enactment, that applies to the object, a part of it or anything it conceals,
- (d) it is brought to the United Kingdom for public display in a temporary exhibition at a museum or gallery, and

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(e) the museum or gallery has complied with any requirements prescribed by regulations made by the Secretary of State under this paragraph about the publication of specified information about the object.

(3) A person owns an object for the purposes of subsection (2)(b) whether he owns it beneficially or not and whether alone or with others.

(4) The protection continues—

(a) only so long as the object is in the United Kingdom for any of the purposes in subsection (7), and

(b) unless subsection (5) applies, for not more than 12 months beginning with the day when the object enters the United Kingdom.

(5) The protection continues after the end of the period specified in subsection (4)(b) if the object has suffered damage while protected, and—

(a) it is undergoing repair, conservation or restoration in the United Kingdom because of the damage, or

(b) it is leaving the United Kingdom following repair, conservation or restoration because of the damage.

(6) A new period of protection begins each time an object enters the United Kingdom and the conditions in subsection (2) are met.

(7) The purposes mentioned in subsection (4)(a) are—

(a) public display in a temporary exhibition at a museum or gallery;

(b) going to or returning from public display in a temporary exhibition at a museum or gallery;

(c) related repair, conservation or restoration;

(d) going to or returning from related repair, conservation or restoration;

(e) leaving the United Kingdom.

(8) Repair, conservation or restoration is related if it is carried out in the United Kingdom and is done—

(a) to prepare the object for public display in a temporary exhibition at a museum or gallery, or

(b) because of damage suffered in the course of something within subsection (7).

(9) The Secretary of State may make regulations requiring a museum or gallery to provide persons with specified information about an object in specified circumstances (which may include in particular compliance with conditions imposed by or under the regulations).

(10) Regulations under this section—

(a) may not be made without the consent of the Scottish Ministers, the Welsh Ministers and the Department for Culture, Art and Leisure in Northern Ireland, and

(b) must be made by statutory instrument.

(11) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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

I17 Pt. 6 wholly in force at 22.4.2008; Pt. 6 not in force at Royal Assent see s. 148; Pt. 6 in force for E. at 31.12.2007 by S.I. 2007/3613, **art. 2**; Pt. 6 in force for S. at 21.4.2008 by S.S.I. 2008/150, **art. 2**; Pt. 6 in force for N.I. and in application to W. at 22.4.2008 by S.I. 2008/1158, **art. 2**

135 Effect of protection

(1) While an object is protected under this section it may not be seized or forfeited under any enactment or rule of law, unless—

(a) it is seized or forfeited under or by virtue of an order made by a court in the United Kingdom, and

(b) the court is required to make the order under, or under provision giving effect to, a Community obligation or any international treaty.

(2) Protection under this section does not affect liability for an offence of importing, exporting or otherwise dealing with the object, but (subject to subsection (1)) any power of arrest or otherwise to prevent such an offence is not exercisable so as to prevent the object leaving the United Kingdom.

(3) In this section, references to seizure or forfeiture in relation to an object include references to—

(a) taking control of the object under Schedule 12 (in England and Wales);

(b) execution or distress (in England and Wales or Northern Ireland);

(c) diligence or sequestration (in Scotland);

(d) seizure, confiscation or forfeiture, or any other measure relating to the custody or control of the object, in the course of a criminal investigation or criminal proceedings (against the owner, the museum or gallery or any other person);

(e) the making or enforcement of an order relating to the custody or control of the object in civil proceedings (against the owner, the museum or gallery or any other person).

Commencement Information

I18 Pt. 6 wholly in force at 22.4.2008; Pt. 6 not in force at Royal Assent see s. 148; Pt. 6 in force for E. at 31.12.2007 by S.I. 2007/3613, **art. 2**; Pt. 6 in force for S. at 21.4.2008 by S.S.I. 2008/150, **art. 2**; Pt. 6 in force for N.I. and in application to W. at 22.4.2008 by S.I. 2008/1158, **art. 2**

136 Relevant museums and galleries

(1) In this Part "museum or gallery" means an institution in the United Kingdom approved under this section by the appropriate authority.

(2) The matters that the appropriate authority must have regard to when deciding whether to approve an institution include—

(a) the institution's procedures for establishing the provenance and ownership of objects, and

(b) in particular, compliance by the institution with guidance about such procedures published by the Secretary of State from time to time.

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(3) The appropriate authority may withdraw approval from an institution if it thinks fit, and, in particular, if—

(a) it thinks that the institution's procedures for establishing the provenance or ownership of objects are inadequate (because of the institution's failure to comply with guidance published by the Secretary of State or for some other reason), or

(b) the institution has failed to comply with a requirement of regulations under section 134(9).

(4) The withdrawal of approval from an institution does not affect the application of sections 134 and 135 to any object which is a protected object immediately before the withdrawal.

(5) In this section "the appropriate authority" means—

(a) the Secretary of State, in relation to an institution in England,

(b) the Welsh Ministers, in relation to an institution in Wales,

(c) the Scottish Ministers, in relation to an institution in Scotland, and

(d) the Department for Culture, Art and Leisure, in relation to an institution in Northern Ireland.

Commencement Information

I19 Pt. 6 wholly in force at 22.4.2008; Pt. 6 not in force at Royal Assent see s. 148; Pt. 6 in force for E. at 31.12.2007 by S.I. 2007/3613, **art. 2**; Pt. 6 in force for S. at 21.4.2008 by S.S.I. 2008/150, **art. 2**; Pt. 6 in force for N.I. and in application to W. at 22.4.2008 by S.I. 2008/1158, **art. 2**

137 Interpretation

(1) The following apply for the purposes of this Part.

(2) "Enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

(3) "Public display" means display to which the public are admitted, on payment or not, but does not include display with a view to sale.

(4) "Temporary exhibition" means an exhibition of one or more objects which is open to the public for a period of less than twelve months, whether at a single location or at a succession of locations.

(5) A temporary exhibition is at a museum or gallery if it is held at or under the direction of the museum or gallery.

(6) An individual is resident in the United Kingdom if he is ordinarily resident in the United Kingdom for the purposes of income tax, or would be if he were receiving income on which tax is payable.

(7) The trustees of a settlement (or, in Scotland, the trustees of a trust) are resident in the United Kingdom if they are resident and ordinarily resident in the United Kingdom for the purposes of income tax, or would be if they were receiving income on which tax is payable.

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(8) A partnership (including a limited partnership) or unincorporated association is resident in the United Kingdom if it is established under the law of any part of the United Kingdom.

(9) A body corporate is resident in the United Kingdom if it is incorporated under the law of any part of the United Kingdom.

(10) "United Kingdom" includes the territorial sea adjacent to the United Kingdom (within the meaning given by section 1 of the Territorial Sea Act 1987 (c. 49)).

Commencement Information

I20 Pt. 6 wholly in force at 22.4.2008; Pt. 6 not in force at Royal Assent see s. 148; Pt. 6 in force for E. at 31.12.2007 by S.I. 2007/3613, **art. 2**; Pt. 6 in force for S. at 21.4.2008 by S.S.I. 2008/150, **art. 2**; Pt. 6 in force for N.I. and in application to W. at 22.4.2008 by S.I. 2008/1158, **art. 2**

138 Crown application

This Part binds the Crown.

Commencement Information

I21 Pt. 6 wholly in force at 22.4.2008; Pt. 6 not in force at Royal Assent see s. 148; Pt. 6 in force for E. at 31.12.2007 by S.I. 2007/3613, **art. 2**; Pt. 6 in force for S. at 21.4.2008 by S.S.I. 2008/150, **art. 2**; Pt. 6 in force for N.I. and in application to W. at 22.4.2008 by S.I. 2008/1158, **art. 2**

VALID FROM 01/04/2008

PART 7

MISCELLANEOUS

Compulsory purchase

139 Enforcement by enforcement officers

(1) In section 3 of the Lands Clauses Consolidation Act 1845 (c. 18) (interpretations in this and the special Act), at the end insert— " Where any matter in relation to any lands is required to be done by an enforcement officer, the expression "the enforcement officer" means the officer or officers identified for that purpose in paragraph 3A of Schedule 7 to the Courts Act 2003. "

(2) In section 91 of that Act (proceedings in case of refusal to deliver possession of lands)—

(a) after "the sheriff" in the first place insert " or the enforcement officer ";

(b) for "the sheriff" in the second place substitute " the person to whom it is issued ";

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(c) for "the sheriff" in the third place substitute " the person executing the warrant ";

(d) after the existing words, which (as amended) become subsection (1), insert—

"(2) If, by virtue of paragraph 3A of Schedule 7 to the Courts Act 2003, the warrant is issued to two or more persons collectively, the duty in subsection (1) to deliver possession of lands shall apply to the person to whom the warrant is allocated in accordance with the approved arrangements mentioned in that Schedule."

(3) Subsections (1) and (2) extend only to England and Wales.

(4) Section 13 of the Compulsory Purchase Act 1965 (c. 56) (refusal to give possession to acquiring authority) is amended as follows.

(5) In subsection (1), for the words from "the sheriff" to the end substitute "—

(a) the sheriff, or

(b) the enforcement officer,

to deliver possession of it to the person appointed in the warrant to receive it. "

(6) In subsection (2), for "the sheriff" substitute " the person to whom it is issued ".

(7) After subsection (2) insert—

"(2A) If, by virtue of paragraph 3A of Schedule 7 to the Courts Act 2003, the warrant is issued to two or more persons collectively, the duty in subsection (2) of this section shall apply to the person to whom the warrant is allocated in accordance with the approved arrangements mentioned in that Schedule."

(8) In subsection (3), for "the sheriff" substitute " the person executing the warrant ".

(9) In subsection (6), after "In this section" insert "—

"the enforcement officer", in relation to a warrant to deliver possession of land under this section, means the officer or officers identified for that purpose in paragraph 3A of Schedule 7 to the Courts Act 2003, and".

(10) Schedule 22 makes consequential amendments.

140 Supplementary

(1) Schedule 7 to the Courts Act 2003 (c. 39) (High Court writs of execution) is amended as follows.

(2) After paragraph 3 insert—

3A "**Issue of certain warrants to enforcement officers**

(1) Sub-paragraph (2) applies for the purpose of identifying the enforcement officer to whom a warrant may be issued under—

(a) section 91(1) of the Lands Clauses Consolidation Act 1845 (proceedings in case of refusal to deliver possession of lands), or

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(b) section 13(1) of the Compulsory Purchase Act 1965 (refusal to give possession to acquiring authority).

(2) The enforcement officer, in relation to such a warrant, is—

(a) the enforcement officer assigned to a relevant district or, if two or more enforcement officers are assigned to that district, those officers collectively, or

(b) a named enforcement officer who, whether or not assigned to a relevant district, has undertaken to execute the warrant.

(3) In sub-paragraph (2), "a relevant district", in relation to a warrant, means—

(a) the district where the land in respect of which the warrant was issued is situated, or

(b) if that land (being land in one ownership) is not situated wholly in one district, a district where any part of that land is situated."

(3) Paragraph 4 is amended as set out in subsections (4) to (7).

(4) In sub-paragraph (1), at the end insert " and warrants issued to one or more enforcement officers under an enactment mentioned in paragraph 3A(1)(a) or (b) ".

(5) After sub-paragraph (2) insert—

"(2A) The relevant officer has, in relation to the warrant, the duties, powers, rights, privileges and liabilities that a sheriff of a county would have had at common law if—

(a) the warrant had been issued to him, and

(b) the district in which it is to be executed had been within his county."

(6) For sub-paragraph (3) substitute—

"(3) "The relevant officer" means—

(a) in relation to a writ—

(i) if the writ is directed to a single enforcement officer under paragraph 3(1)(a) or (c), that officer;

(ii) if the writ is directed to two or more enforcement officers collectively under paragraph 3(1)(b), the officer to whom, in accordance with approved arrangements, the execution of the writ is allocated,

(b) in relation to a warrant—

(i) if the warrant is issued to a single enforcement officer in accordance with paragraph 3A(2)(a) or (b), that officer;

(ii) if the warrant is issued to two or more enforcement officers collectively in accordance with paragraph 3A(2)(a), the officer to whom, in accordance with approved arrangements, the execution of the warrant is allocated."

(7) For sub-paragraph (4) substitute—

"(4) Sub-paragraphs (2) and (2A) apply to a person acting under the authority of the relevant officer as they apply to the relevant officer."

(8) In paragraph 5, after "writ" insert " or warrant ".

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(9) In paragraph 12(2)(d)(ii), after "officers" insert " , or warrants issued to enforcement officers under an enactment mentioned in paragraph 3A(1)(a) or (b), ".

(10) Accordingly—

(a) in section 99 of that Act (High Court writs of execution), in subsection (1) at the end insert " and about warrants issued in connection with the compulsory acquisition of land ";

(b) in Schedule 7 to that Act—

(i) for the heading "High Court Writs of Execution" substitute " Enforcement of Certain Writs and Warrants ";

(ii) in the heading immediately preceding paragraph 1, for "of execution" substitute " and warrants ".

VALID FROM 06/04/2008

Judicial review

141 Judicial review: power to substitute decision

In section 31 of the Supreme Court Act 1981 (c. 54) (application for judicial review), for subsection (5) substitute—

"(5) If, on an application for judicial review, the High Court quashes the decision to which the application relates, it may in addition—

(a) remit the matter to the court, tribunal or authority which made the decision, with a direction to reconsider the matter and reach a decision in accordance with the findings of the High Court, or

(b) substitute its own decision for the decision in question.

(5A) But the power conferred by subsection (5)(b) is exercisable only if—

(a) the decision in question was made by a court or tribunal,

(b) the decision is quashed on the ground that there has been an error of law, and

(c) without the error, there would have been only one decision which the court or tribunal could have reached.

(5B) Unless the High Court otherwise directs, a decision substituted by it under subsection (5)(b) has effect as if it were a decision of the relevant court or tribunal."

VALID FROM 01/04/2009

Employment tribunals: ACAS

142 Recovery of sums payable under compromises involving ACAS

In the Employment Tribunals Act 1996 (c. 17), after section 19 insert—

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"19A Conciliation: recovery of sums payable under compromises

(1) Subsections (3) to (6) apply if—
- (a) a conciliation officer—
  - (i) has taken action under section 18 in a case, and
  - (ii) issues a certificate in writing stating that a compromise has been reached in the case, and
- (b) all of the terms of the compromise are set out—
  - (i) in a single relevant document, or
  - (ii) in a combination of two or more relevant documents.

(2) A document is a "relevant document" for the purposes of subsection (1) if—
- (a) it is the certificate, or
- (b) it is a document that is referred to in the certificate or that is referred to in a document that is within this paragraph.

(3) Any sum payable by a person under the terms of the compromise (a "compromise sum") shall, subject to subsections (4) to (7), be recoverable—
- (a) in England and Wales, by execution issued from a county court or otherwise as if the sum were payable under an order of that court;
- (b) in Scotland, by diligence as if the certificate were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(4) A compromise sum is not recoverable under subsection (3) if—
- (a) the person by whom it is payable applies for a declaration that the sum would not be recoverable from him under the general law of contract, and
- (b) that declaration is made.

(5) If rules of court so provide, a compromise sum is not recoverable under subsection (3) during the period—
- (a) beginning with the issue of the certificate, and
- (b) ending at such time as may be specified in, or determined under, rules of court.

(6) If the terms of the compromise provide for the person to whom a compromise sum is payable to do anything in addition to discontinuing or not starting proceedings, that sum is recoverable by him under subsection (3)—
- (a) in England and Wales, only if a county court so orders;
- (b) in Scotland, only if the sheriff so orders.

(7) Once an application has been made for a declaration under subsection (4) in relation to a sum, no further reliance may be placed on subsection (3) for the recovery of the sum while the application is pending.

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(8) An application for a declaration under subsection (4) may be made to an employment tribunal, a county court or the sheriff.

(9) Employment tribunal procedure regulations may (in particular) make provision as to the time within which an application to an employment tribunal for a declaration under subsection (4) is to be made.

(10) Rules of court may make provision as to—

(a) the time within which an application to a county court for a declaration under subsection (4) is to be made;

(b) the time within which an application to the sheriff for a declaration under subsection (4) is to be made;

(c) when an application (whether made to a county court, the sheriff or an employment tribunal) for a declaration under subsection (4) is pending for the purposes of subsection (7).

(11) Nothing in this section shall be taken to prejudice any rights or remedies that a person has apart from this section.

(12) In this section "compromise" (except in the phrase "compromise sum") means a settlement, or compromise, to avoid proceedings or bring proceedings to an end."

PROSPECTIVE

Design rights: appeals

[F32]143 Appeals in relation to design rights

. . . . . .

Textual Amendments

F32 S. 143 repealed (6.4.2015) by Intellectual Property Act 2014 (c. 18), **ss. 10(11)**, 24(1); S.I. 2015/165, art. 3

PART 8

GENERAL

144 Protected functions of the Lord Chancellor

(1) In Schedule 7 to the Constitutional Reform Act 2005 (c. 4) (protected functions of the Lord Chancellor) Part A of the list in paragraph 4 is amended as follows.

(2) In the entry for the London Building Acts (Amendment) Act 1939 (c. xcvii) after "109(2)" insert " and (4) ".

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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(3) Insert in the appropriate place—

"Attachment of Earnings Act 1971 (c. 32)

Section 6A

Section 15B

Schedule 3A".

(4) Insert in the appropriate place—

"Charging Orders Act 1979 (c. 53)

Section 3A".

(5) In the entries for the Supreme Court Act 1981 (c. 54) for "Section 91(6)" substitute " Section 91(1), (1A) and (6) ".

(6) In the entries for the County Courts Act 1984 (c. 28) insert in the appropriate place—

"Section 85(2)

Part 6

Part 6A".

(7) In the entry for section 26(5), (6) and (9) of the Judicial Pensions and Retirement Act 1993 (c. 8), for "and (9)" substitute

", (9) and (13)".

(8) In the entries for the Employment Tribunals Act 1996 (c. 17) insert in the appropriate place—

"Section 5A

Section 7A"

"Section 29A".

(9) In the entry for the Social Security Act 1998 (c. 14) insert in the appropriate place—

"Section 7(6A)".

(10) In the entries for the Nationality, Immigration and Asylum Act 2002 (c. 41)—

(a) insert in the appropriate place—

"Section 107";

(b) in the entry for Schedule 4, for "and 7" substitute " , 7 and 14 ".

(11) Insert in the appropriate place—

"Tribunals, Courts and Enforcement Act 2007

Part 1

Section 51

Part 3

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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Sections 95 to 102".

Commencement Information

I22 S. 144 partly in force; s. 144 not in force at Royal Assent see s. 148; s. 144(1)(5)(7) in force at 19.9.2007 by S.I. 2007/2709, **art. 2**

145 Power to make supplementary or other provision

(1) The Lord Chancellor (or, in relation to Chapter 3 of Part 5 only, the Secretary of State) may by order make any supplementary, incidental, consequential, transitory, transitional or saving provision which he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.

(2) An order under this section may in particular—

(a) provide for any provision of this Act which comes into force before another to have effect, until that other provision has come into force, with modifications specified in the order;

(b) amend, repeal or revoke any enactment other than one contained in an Act or instrument passed or made after the Session in which this Act is passed.

(3) The amendments that may be made by an order under this section are in addition to those made by or under any other provision of this Act.

(4) An order under this section may make different provision for different purposes.

(5) The power to make an order under this section is exercisable by statutory instrument.

(6) A statutory instrument containing an order under this section, unless it is an order to which subsection (7) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) No order amending or repealing an enactment contained in an Act may be made under this section unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

146 Repeals

Schedule 23 contains repeals.

147 Extent

(1) Parts 1, 2 and 6 and this Part extend to England and Wales, Scotland and Northern Ireland.

(2) The other provisions of this Act extend only to England and Wales.

(3) Subsections (1) and (2) are subject to subsections (4) and (5).

(4) Unless provided otherwise, amendments, repeals and revocations in this Act extend to any part of the United Kingdom to which the provisions amended, repealed or revoked extend.

(5) The following extend also to the Isle of Man—

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(a) section 143(1) and (2),

(b) the repeal by this Act of any provision specified in Part 6 of Schedule 23 that extends to the Isle of Man,

(c) sections 145 and 148(5) to (7) so far as relating to—

(i) section 143(1) and (2), and

(ii) the provisions of this Act by which the repeals mentioned in paragraph (b) are effected, and

(d) this section and section 149.

148 Commencement

(1) Section 60 comes into force at the end of the period of two months beginning with the day on which this Act is passed.

(2) The provisions of Chapter 3 of Part 5 come into force in accordance with provision made by the Lord Chancellor or the Secretary of State by order.

(3) The provisions of Part 6 come into force, except as provided by subsection (4), in accordance with provision made by the Secretary of State by order.

(4) The provisions of Part 6 come into force, in so far as they extend to Scotland, in accordance with provision made by the Scottish Ministers by order.

(5) The remaining provisions of this Act, except sections 53, 55, 56, 57, 145, 147, 149, this section and Schedule 11, come into force in accordance with provision made by the Lord Chancellor by order.

(6) An order under this section may make different provision for different purposes.

(7) The power to make an order under this section is exercisable by statutory instrument.

Subordinate Legislation Made

P1 S. 148(3) power fully exercised; 31.12.2007 appointed by {S.I. 2007/3613}, art. 2

P2 S. 148(5) power partly exercised; different dates appointed for specified provsions by {S.I. 2007/2709}, arts. 2-6; 6.4.2008 appointed for a specified provision by {S.I. 2008/749}, art. 2; 22.4.2008 appointed for specified provisions and areas by {S.I. 2008/1158}, art. 2; 21.7.2008 appointed for specfied provisions and purposes by S.I. 2008/1653, **art. 2** (with arts. 3, 4); different dates appointed for specified provisions by {S.I. 2009/382}, art. 2

149 Short title

This Act may be cited as the Tribunals, Courts and Enforcement Act 2007.

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SCHEDULES

SCHEDULE 1

Section 2

SENIOR PRESIDENT OF TRIBUNALS

PART 1

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

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—

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

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).

VALID FROM 03/11/2008

PART 4

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,

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(b) any member of the Asylum and Immigration Tribunal,
(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.

VALID FROM 03/11/2008

SCHEDULE 2

Section 4

JUDGES AND OTHER MEMBERS OF THE FIRST-TIER TRIBUNAL

. . . . . .

VALID FROM 03/11/2008

SCHEDULE 3

Section 5

JUDGES AND OTHER MEMBERS OF THE UPPER TRIBUNAL

. . . . . .

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SCHEDULE 4

Section 7

CHAMBERS AND CHAMBER PRESIDENTS: FURTHER PROVISION

VALID FROM 03/11/2008

PART 1

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).

(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.

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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.

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)),

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(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.

(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.

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(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.

(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).

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(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

JUDGES AND OTHER MEMBERS OF CHAMBERS: ASSIGNMENT AND JURISDICTION

VALID FROM 03/11/2008

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.

VALID FROM 03/11/2008

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.

(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.

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VALID FROM 03/11/2008

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.

VALID FROM 03/11/2008

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

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(e) he is a transferred-in other member of the Upper Tribunal.

(2) Each person to whom this sub-paragraph applies—
(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.

VALID FROM 03/11/2008

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—

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(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.

(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.

VALID FROM 03/11/2008

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—

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(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.

(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

Section 22

PROCEDURE IN FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

PART 1

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.

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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—
(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.

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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).

(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;

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(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.

(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.

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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.

PART 2

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

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(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.

(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.

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Committee members' expenses

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

PART 3

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 sub-paragraph (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.

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

PART 4

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

Sections 30 to 37

TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 TO 36

PART 1

TRIBUNALS FOR THE PURPOSES OF SECTIONS 30, 35 AND 36

Tribunal	***Enactment***
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)

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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)
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

TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 AND 35

Tribunal	*Enactment*
Adjudicator	Section 5 of the Criminal Injuries Compensation Act 1995 (c. 53)

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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PART 3

TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 AND 36

Tribunal	***Enactment***
Adjudicator to Her Majesty's Land Registry	Section 107 of the Land Registration Act 2002 (c. 9)
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)

PART 4

TRIBUNALS FOR THE PURPOSES OF SECTION 30

Tribunal	***Enactment***
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)

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Family Health Services Appeal Authority	Section 49S of the National Health Service Act 1977 (c. 49)
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)
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)
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)

PART 5

TRIBUNALS FOR THE PURPOSES OF SECTIONS 35 AND 36

Tribunal	*Enactment*
Employment Appeal Tribunal	Section 20 of the Employment Tribunals Act 1996 (c. 17)

PART 6

TRIBUNALS FOR THE PURPOSES OF SECTION 35

Tribunal	*Enactment*
Employment tribunal	Section 1 of the Employment Tribunals Act 1996

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PART 7

TRIBUNALS FOR THE PURPOSES OF SECTION 32(3)

Tribunal	***Enactment***
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)

SCHEDULE 7

Section 44

ADMINISTRATIVE JUSTICE AND TRIBUNALS COUNCIL

Modifications etc. (not altering text)

C29 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)**

C30 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)

C31 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)

C32 Sch. 7 modified (16.1.2012) by The Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), **reg. 37(5)** (with reg. 3)

PART 1

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,

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(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.

(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

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(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.

VALID FROM 01/06/2008

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.

VALID FROM 01/06/2008

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

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(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).

VALID FROM 01/06/2008

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

I23 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—

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

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Commencement Information

I24 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

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—
  - (i) of listed tribunals in general, and
  - (ii) of each listed tribunal,
- (b) consider, and report on, any other matter—

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(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

I25 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).

(2) The referral of any matter falls within this paragraph if it is referred to the Council jointly by—

(a) the Lord Chancellor,

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(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.

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—

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(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).

VALID FROM 01/06/2008

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—
(a) has referred the matter of the report for consideration, and report to the Council, by the Welsh Committee, and

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(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.

(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,

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(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

I26 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.

(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.

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Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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. 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.

VALID FROM 21/07/2008

PART 3

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

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

I28 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 (5) 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 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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

Section 48(1)

TRIBUNALS AND INQUIRIES: CONSEQUENTIAL AND OTHER AMENDMENTS

VALID FROM 01/04/2009

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 ".

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Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

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—

"(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

I29 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

I30 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)**

VALID FROM 03/11/2008

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,".

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Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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 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,".

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

I31 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)."

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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);".

VALID FROM 03/11/2008

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 ".

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Social Security Administration Act 1992 (c. 5)

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

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

I32 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).

VALID FROM 03/11/2008

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

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committee, to be selected from panels appointed by Lord Chancellor or Lord President of the Court of Session) cease to have effect.

Commencement Information

I33 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 In section 8 (procedural rules for tribunals), after subsection (1) insert—

"(1A) Subsection (1) does not apply with respect to any procedural rules made or to be made by the Tribunal Procedure Committee."

VALID FROM 21/07/2008

27 Omit section 8 (procedural rules for tribunals).

Commencement Information

I34 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)

VALID FROM 03/11/2008

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—

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""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."

Commencement Information

I35 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 2007Judge 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 2007Transferred-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 2007Senior President of TribunalsDeputy 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 Actj011sDeputy judge of the Upper Tribunal

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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by virtue of an order under section 31(2) of the Tribunals, Courts and Enforcement Act 2007Clauses.rtf_j012aChamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal ".

Commencement Information

I36 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

I37 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,

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as set out in the Promissory Oaths Act 1868.

(2) The adjudicator must take the 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 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".

VALID FROM 03/11/2008

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).

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

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.

(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.

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(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.

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;

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(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—
(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."

VALID FROM 03/11/2008

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)—

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(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).

(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 ".

VALID FROM 03/11/2008

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.

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(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."

VALID FROM 01/04/2009

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. "

VALID FROM 03/11/2008

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—

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(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."

VALID FROM 03/11/2008

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

VALID FROM 03/11/2008

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 ".

(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."

VALID FROM 03/11/2008

47 After section 29 insert—

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"**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.

(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)."

VALID FROM 03/11/2008

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) ".

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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

I38 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)**

PROSPECTIVE

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

54 [F33] . . . . . .

Textual Amendments

F33 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)

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VALID FROM 01/04/2009

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

(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 ".

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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;".

VALID FROM 03/11/2008

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

I39 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."

Commencement Information

I40 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)**

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VALID FROM 03/11/2008

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	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

Section 48(2)

TRIBUNALS: TRANSITIONAL PROVISION

PART 1

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.

VALID FROM 03/11/2008

PART 2

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;

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(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;

(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.

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(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.

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

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(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.

(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

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

VALID FROM 03/11/2008

Interpretation of Part 3 of Schedule

10 For the purposes of this Part of this Schedule—

(a) "new office" means—

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(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

(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).

VALID FROM 03/11/2008

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).

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(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 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

I41 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)**

VALID FROM 03/11/2008

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

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(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,
(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).

VALID FROM 03/11/2008

PART 4

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.

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(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—

(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—

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"**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.

(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 persons'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

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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—

(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 ".

VALID FROM 21/07/2008

SCHEDULE 10

Section 50

AMENDMENTS RELATING TO JUDICIAL APPOINTMENTS

. . . . . .

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SCHEDULE 11

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—

(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.

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(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)."

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."

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(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 ".

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.

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Changes to legislation: *Tribunals, Courts and Enforcement Act 2007 is up to date with all changes known to be in force on or before 18 May 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)*

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

(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

Section 62(1)

TAKING CONTROL OF GOODS

Modifications etc. (not altering text)

C33 Sch. 12 applied (prosp.) by Finance Act 2008 (c. 9), **ss. 127(2)**, 129(4)

. . . . . .

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VALID FROM 06/04/2014

SCHEDULE 13

Section 62(3)

TAKING CONTROL OF GOODS: AMENDMENTS

. . . . . .

VALID FROM 06/04/2014

SCHEDULE 14

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.

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

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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—

"(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) ".

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(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 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.

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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.

(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

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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

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.

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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.

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.

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PROSPECTIVE

SCHEDULE 15

Section 91

ATTACHMENT OF EARNINGS ORDERS: DEDUCTIONS AT FIXED RATES

PART 1

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 [F49the 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 [F49the 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."

(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

F49 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

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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) **[**[F50]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;

(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) **[**[F50]The county court**]**—

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(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 **[**[F50]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

F50 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;";

""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—

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"SCHEDULE
3A

CHANGING THE BASIS OF DEDUCTIONS

PART 1

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 **[**[F51]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) **[**[F51]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) **[**[F51]The county court**]** must vary a Schedule 3 judgment debt order by changing the basis of deductions if—

(a) the order lapses, and

(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 **[**[F51]the county court**]** had varied them by changing the basis of deductions.

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(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

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.

Fixed deductions order directed to secure payments under an administration order

11 (1) **[**[F51]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.

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(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

F51 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

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 **[**[F52]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."

Textual Amendments

F52 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—

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(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 ".

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 **[**[F53]the county court**]** makes to secure the payment of two or more judgment debts

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even if, immediately before the order is made, one or more of those debts is secured by a Schedule 3 deductions order."

Textual Amendments

F53 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 **[**[F54]the county court**]** to make, vary or suspend an attachment of earnings order;

(b) notice that **[**[F54]the county court**]** is, of its own motion, to consider making, varying or suspending an attachment of earnings order."

Textual Amendments

F54 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 ".

PROSPECTIVE

SCHEDULE 16

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.

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(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: failure to provide information)	£250"

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 **[**[F55]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;

(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 ".

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Textual Amendments

F55 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)

F56 7 . . . . . .

Textual Amendments

F56 Sch. 16 para. 7 repealed (14.3.2012) by Charities Act 2011 (c. 25), s. 355, **Sch. 10** (with s. 20(2), Sch. 8)

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

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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.

[F57](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

F57 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.

(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); ".

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(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 ".

VALID FROM 24/02/2009

SCHEDULE 17

Section 108(1)

PART 7A OF THE INSOLVENCY ACT 1986

Commencement Information

I44 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)**

"PART 7A

DEBT RELIEF ORDERS

Preliminary

Debt relief orders

251A (1) 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.

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(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(1) 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(1) This section applies where an application for a debt relief order is made.

(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;

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(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

(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—

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(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 (1) 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.

(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

251F (1) 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—

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(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

251G (1) 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

251H (1) 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—
(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.

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(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(1) 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.

Duties of debtor

Providing assistance to official receiver etc

251J(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.

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(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

251K (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;
  (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.

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(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

251L (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;
  (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

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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(1) 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—

(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;

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(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 (1) 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 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

251O (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

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(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

251K (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.

(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—

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(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

251Q(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).

Fraudulent dealing with property obtained on credit

251R(1) 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.

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(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

251G(1) 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—

(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.

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Offences: supplementary

251(1) 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(1) 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;

(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.

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(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

251X (1) 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;

"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."

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VALID FROM 24/02/2009

SCHEDULE 18

Section 108(2)

SCHEDULE 4ZA TO THE INSOLVENCY ACT 1986

Commencement Information

I45 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

CONDITIONS FOR MAKING A DEBT RELIEF ORDER

PART 1

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.

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

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(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

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.”

VALID FROM 24/02/2009

SCHEDULE 19

Section 108(2)

SCHEDULE 4ZB TO THE INSOLVENCY ACT 1986

Commencement Information

I46 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)**

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"SCHEDULE 4ZB

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—
(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.

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(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;

"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.

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(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.

(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

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(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."

VALID FROM 24/02/2009

SCHEDULE 20

Section 108(3)

DEBT RELIEF ORDERS: CONSEQUENTIAL AMENDMENTS

. . . . . .

PROSPECTIVE

SCHEDULE 21

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:	***Including these aspects:***
1. The scheme operator.	(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.
2. The terms of a debt management scheme.	(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.
3. The operation of a debt management scheme.	(a) How decisions are made about whether debt repayment plans are to be arranged.

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	(b) How debt repayment plans are arranged. (c) How decisions are made about the terms of debt repayment plans, including decisions about— (i) what payments will be required in relation to the specified debts; (ii) the amounts, times and recipients of payments; (iii) the duration of the plan. (d) The format of debt repayment plans. (e) When debt repayment plans begin to have effect. (f) How changes are to be made to debt repayment plans (including the specification of debts after a plan has been arranged). (g) How decisions are made about whether debt repayment plans are to be terminated. (h) How debt repayment plans are terminated.
4. Changes that affect the scheme operator.	
5. Changes to— (i) the terms of a debt management scheme; (ii) the operation of a debt management scheme.	(a) Whether changes may be made. (b) How changes are made.
6. The transfer of the operation of a debt management scheme to another body.	(a) Whether the operation of the scheme may be transferred. (b) How the operation of the scheme is transferred.

VALID FROM 01/04/2008

SCHEDULE 22

Section 139

COMPULSORY PURCHASE: CONSEQUENTIAL AMENDMENTS

. . . . . .

Status: *Point in time view as at 01/11/2007. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 23

Section 146

REPEALS

PART 1

TRIBUNALS AND INQUIRIES

Commencement Information

I64 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.
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

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	(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)".
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.

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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. 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.

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VALID FROM 03/11/2008

PART 2

JUDICIAL APPOINTMENTS

Reference	*Extent of repeal*
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". 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;

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	(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

ENFORCEMENT BY TAKING CONTROL OF GOODS

Reference	*Extent of repeal*
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. 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".

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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

RENT ARREARS RECOVERY

Reference	*Extent of repeal*
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.
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.

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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.

PROSPECTIVE

PART 5

ADMINISTRATION ORDERS

Reference	*Extent of repeal*
Company Directors Disqualification Act 1986 (c. 46)	Section 12(1).
Courts and Legal Services Act 1990 (c. 41)	Section 13.

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PROSPECTIVE

PART 6

APPEAL TRIBUNAL UNDER SECTION 28 OF THE REGISTERED DESIGNS ACT 1949: ABOLITION

Reference	***Extent of repeal***
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:
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Changes to legislation:
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