

**EXPLANATORY MEMORANDUM TO THE
ASYLUM AND IMMIGRATION TRIBUNAL (JUDICIAL TITLES) ORDER
2005**

2005 No 227

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 This instrument makes provision for the titles of legally qualified members of the Asylum and Immigration Tribunal (“AIT”).

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

- 3.1 None.

4. **Legislative Background**

- 4.1 Section 26 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (“the AITC Act”) establishes a single tier Tribunal for asylum and immigration appeals called the Asylum and Immigration Tribunal (“AIT”). Section 26(4) of the AITC Act substitutes a new Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (“the NIA Act”), which deals with matters such as the membership and proceedings of the Tribunal.

- 4.2 Paragraph 4 of the new Schedule 4 to the NIA Act allows the Lord Chancellor to make provisions for the title of members of the Tribunal by order. Paragraph 24 of Schedule 2 to the AITC Act amends section 112 of the NIA Act, so that section 112(7) provides that the order is subject to the negative resolution procedure.

- 4.3 This is the first Order be made under paragraph 4 of Schedule 4 to the NIA Act. It is related to the Asylum and Immigration Tribunal (Procedure) Rules 2005, which refer to some of the titles provided for in the Order.

5. **Extent**

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 The AITC Act contains measures to support the Government's proposals on asylum reform. This includes unifying the immigration and asylum appeals system into a single tier of appeal with limited onward review or appeal. This Order is one of a number of pieces of secondary legislation implementing the changes to the appeals system.

7.2 Article 3 of the Order provides that all legally qualified members of the AIT (whether salaried or fee-paid) shall be known as Immigration Judges. The Government believes that the title "Immigration Judge" will accurately reflect the complexity and importance of legally qualified members work. Current fee-paid, legal members of the IAT and current salaried and fee-paid adjudicators will transfer across to the AIT as Immigration Judges.

7.3 In addition, the Lord Chancellor may appoint legally qualified members as Senior Immigration Judges or Designated Immigration Judges. Current Deputy Regional Adjudicators will transfer across to the AIT as Designated Immigration Judges. Additional Designated Immigration Judges will be appointed from the pool of salaried adjudicators.

7.4 Current Vice-Presidents of the IAT and Regional Adjudicators will, subject to their agreement, transfer across to the AIT as Senior Immigration Judges. Certain AIT functions will be limited to Senior or Designated Immigration Judges. Article 4 of the Order provides that the President and Deputy President of the AIT will be able to exercise those functions.

7.5 A draft of the Order with the proposed titles for members of the AIT judiciary was included in the Consultation Paper Asylum and Immigration Tribunal – Procedure Rules and Judicial Titles Order (CP(L)27/04). The consultation paper was published on 25 October 2004, and consultation ended on 6 December. 30 responses were received, including those received after the end of the consultation period. The overwhelming majority of responses to the paper expressed no opinion on the proposals.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There will be no impact on the public sector apart from the use of the titles specified in the Order.

9. Contact

- 9.1 Andrew Moseley at the Department for Constitutional Affairs Tel: 020 7210 8546 or e-mail Andrew.Moseley@dca.gsi.gov.uk can answer any queries regarding the instrument.