Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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

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."

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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 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,
- (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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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 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—

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(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)),

(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).

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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).

(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)}

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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 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.

(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

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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.

(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

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(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;

(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)}

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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—
- (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,

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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)

C1 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**

C2 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)**)
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**)

C3 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)**)

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

C4 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**

C5 S. 11 modified (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), **Sch. 5 para. 5(a)**

C6 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**)

C7 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)**)
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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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—
- (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)

C8 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**

C9 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

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(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—

(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—

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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.

Modifications etc. (not altering text)

C10 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**

C11 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)**)

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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**)

C12 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)**)

C13 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**

C14 S. 13 modified (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), **Sch. 5 para. 5(b)**

C15 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**

C16 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)}

C17 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

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(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—

(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

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(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.

(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)

C18 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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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—
- (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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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.

(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).

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(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).

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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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—

"**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."

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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—

(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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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.

(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

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(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)

C19 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)**

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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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 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.

(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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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.

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,

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(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 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)**

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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 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.

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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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 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,
- (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—

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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.

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,

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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 section 41 of the Consumer Credit Act 1974 (c. 39)	Person who is a member of a panel under regulation 24 of the Consumer 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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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—
  (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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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.

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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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.

(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—

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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).

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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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;

"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—

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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

(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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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
   (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—

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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.

(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,

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

(c) cases coming before the Employment Appeal Tribunal, and
(d) cases coming before employment tribunals.

VALID FROM 01/11/2007

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.

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)**

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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);
(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)**

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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 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,

(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.

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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)*

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.

(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—

Status: *Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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) 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.

Status:
Point in time view as at 19/09/2007. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:
Tribunals, Courts and Enforcement Act 2007, Part 1 is up to date with all changes known to be in force on or before 14 June 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.