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## SCHEDULES

### SCHEDULE 8 U.K.

Section 48(1)

#### TRIBUNALS AND INQUIRIES: CONSEQUENTIAL AND OTHER AMENDMENTS

VALID FROM 01/04/2009

##### *Taxes Management Act 1970 (c. 9)*

- 1 (1) The following offices are abolished—  
General Commissioner;  
clerk to the General Commissioners for a division;  
assistant clerk to the General Commissioners for a division.
- (2) In consequence of sub-paragraph (1), sections 2 and 3 of the Taxes Management Act 1970 cease to have effect.
- (3) In this paragraph—  
“division” has the meaning given by section 2(1) and (6) of that Act;  
“General Commissioner” means a Commissioner for the general purposes of the income tax.

##### *Chronically Sick and Disabled Persons Act 1970 (c. 44)*

- 2 In section 21(7E) of the Chronically Sick and Disabled Persons Act 1970 (procedural regulations in connection with appeals against refusal of application for disabled person's badge), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

##### *Health and Safety at Work etc. Act 1974 (c. 37)*

- 3 In section 44 of the Health and Safety at Work etc. Act 1974 (appeals in connection with licensing provisions), after subsection (4) insert—  
“(4A) A hearing held by a person appointed in pursuance of subsection (2) above shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

##### *House of Commons Disqualification Act 1975 (c. 24)*

- 4 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified), in the appropriate places insert— “ The Administrative Justice and Tribunals Council. ” “ The First-tier Tribunal. ” “ The Scottish Committee of the Administrative Justice and Tribunals Council. ”

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The Upper Tribunal. ”“ The Welsh Committee of the Administrative Justice and Tribunals Council. ”

**Commencement Information**

- I1** Sch. 8 para. 4 wholly in force at 3.11.2008; Sch. 8 para. 4 not in force at Royal Assent see s. 148(5); Sch. 8 para. 4 in force for certain purposes at 1.1.2007 and for certain further purposes at 1.6.2008 by S.I. 2007/2709, arts. 3(b)(ii), {(6)(b)(i)} and Sch. 8 para. 4 in force at 3.11.2008 otherwise by S.I. 2008/2696, art. 5(c)(iii)

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 5 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified), in the appropriate places insert—  
 “ The Administrative Justice and Tribunals Council. ”“ The First-tier Tribunal. ”“ The Scottish Committee of the Administrative Justice and Tribunals Council. ”“ The Upper Tribunal. ”“ The Welsh Committee of the Administrative Justice and Tribunals Council. ”

**Commencement Information**

- I2** Sch. 8 para. 5 wholly in force at 3.11.2008; Sch. 8 para. 5 not in force at Royal Assent see s. 148(5); Sch. 8 para. 5 in force for certain purposes at 1.1.2007 and for certain further purposes at 1.6.2008 by S.I. 2007/2709, arts. 3(b)(ii), 6(b)(i) and Sch. 8 para. 5 in force at 3.11.2008 otherwise by S.I. 2008/2696, art. 5(c)(iii)

*Litigants in Person (Costs and Expenses) Act 1975 (c. 47)*

- 6 (1) The Litigants in Person (Costs and Expenses) Act 1975 is amended as follows.
- (2) In section 1(1) and (2) (costs, expenses and losses of litigant in person to be recoverable), before the word “or” at the end of paragraph (b) insert—  
 “(ba) before the First-tier Tribunal or the Upper Tribunal.”.
- (3) In section 1(4) (meaning of “rules of court”), before the word “and” at the end of paragraph (b) insert—  
 “(ba) in relation to the First-tier Tribunal or the Upper Tribunal, means Tribunal Procedure Rules.”.

*Race Relations Act 1976 (c. 74)*

- 7 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty), under the heading “Other bodies, etc.” insert the following entries in the appropriate places— “ The Administrative Justice and Tribunals Council. ”“ The Scottish Committee of the Administrative Justice and Tribunals Council. ”“ The Welsh Committee of the Administrative Justice and Tribunals Council. ”

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#### Commencement Information

- I3** Sch. 8 para. 7 wholly in force at 1.6.2008; Sch. 8 para. 7 not in force at Royal Assent see s. 148(5); Sch. 8 para. 7 in force for certain purposes at 1.1.2007 and at 1.6.2008 otherwise by S.I. 2007/2709, arts. 3(b)(ii), 6(b)(ii)

#### *Estate Agents Act 1979 (c. 38)*

- 8 Omit section 24(2) of the Estate Agents Act 1979 (Council on Tribunals' right to attend hearings etc.).

#### *Town and Country Planning Act 1990 (c. 8)*

- 9 The Town and Country Planning Act 1990 is amended as follows.
- 10 In paragraph 8 of Schedule 6 (appeals determined by appointed persons: supplementary provision), after sub-paragraph (1) insert—
- “(1A) A local inquiry or hearing held in pursuance of this Schedule shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”
- 11 In paragraph 8 of Schedule 7 (objections to simplified planning zone schemes), after sub-paragraph (6) insert—
- “(7) A local inquiry or other hearing held under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”
- 12 In paragraph 5 of Schedule 8 (local inquiries held by Planning Inquiry Commission), after sub-paragraph (3) insert—
- “(3A) An inquiry held by a commission under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

PROSPECTIVE

#### *Food Safety Act 1990 (c. 16)*

- 13 (1) The Food Safety Act 1990 is amended as follows.
- (2) In section 26(2)(e) (regulations may provide for appeals, including appeals to a tribunal set up by the regulations)—
- (a) after “to the sheriff,” insert “ or to the First-tier Tribunal or the Upper Tribunal, ” and
- (b) omit “or to a tribunal constituted in accordance with the regulations,”.

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- (3) In section 37(2) (subsection (1)(c) does not apply where appeal may be made to a tribunal set up by regulations under Part 2), for the words from “provide for an appeal” onwards substitute “provide for an appeal—
- (a) to a tribunal constituted in accordance with the regulations, or
  - (b) to the First-tier Tribunal or the Upper Tribunal.”

*Courts and Legal Services Act 1990 (c. 41)*

- 14 The Courts and Legal Services Act 1990 is amended as follows.
- 15 In section 119(1) (interpretation), in the definition of “court”, for paragraph (a) (any tribunal kept under review by the Council on Tribunals) substitute—
- “(a) a tribunal that is (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council);”.
- 16 In Schedule 11 (full-time judges etc barred from legal practice), at the end insert—
- “Judge or other member of the First-tier Tribunal—
  - (a) appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007, or
  - (b) who is a transferred-in judge, or a transferred-in other member, of the First-tier Tribunal (see section 31(2) of that Act)
- Judge or other member of the Upper Tribunal—
- (a) appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, or
  - (b) who is a transferred-in judge, or a transferred-in other member, of the Upper Tribunal (see section 31(2) of that Act)
- Senior President of Tribunals Chamber President, or Acting Chamber President or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal ”.

*Social Security Administration Act 1992 (c. 5)*

- 17 The Social Security Administration Act 1992 is amended as follows.
- 18 In Schedule 4 (persons employed in social security administration or adjudication), in paragraph 3(b) of Part 2, for “Council on Tribunals or the” substitute “Administrative Justice and Tribunals Council or the Welsh or”.

**Commencement Information**

- I4** Sch. 8 para. 18 wholly in force at 1.6.2008; Sch. 8 para. 18 not in force at Royal Assent see s. 148(5); Sch. 8 para. 18 in force for certain purposes at 1.1.2007 and at 1.6.2008 otherwise by S.I. 2007/2709, arts. 3(b)(iii), 6(b)(ii)

- 19 In Schedule 7 (regulations not requiring prior submission), in paragraphs 9 and 14, for the words from “Council on Tribunals” onwards substitute “Administrative

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Justice and Tribunals Council is required by paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007. ”

*Transport and Works Act 1992 (c. 42)*

- 20 The Transport and Works Act 1992 is amended as follows.
- 21 In section 22 (validity of orders authorising works), in subsections (1)(b) and (2)(b), for “1971” substitute “ 1992 ”.
- 22 (1) Section 23 (inquiries etc. held by person appointed to determine application) is amended as follows.
- (2) In subsection (9)—
- (a) for “1971” substitute “ 1992 ”, and
- (b) for “section 12(1)” substitute “ section 10(1) ”.
- (3) After that subsection insert—
- “(9A) A local inquiry or other hearing held by a person appointed under this section shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

*Tribunals and Inquiries Act 1992 (c. 53)*

- 23 The Tribunals and Inquiries Act 1992 is amended as follows.

VALID FROM 19/08/2013

- 24 Omit section 5 (recommendations of Council as to appointment of members of tribunals).

- 25 In section 6, subsections (1) to (3) (chairman of a tribunal presided over by a Child Support Commissioner, and chairman of a reserve forces reinstatement committee, to be selected from panels appointed by Lord Chancellor or Lord President of the Court of Session) cease to have effect.

**Commencement Information**

- I5** Sch. 8 para. 25 partly in force; Sch. 8 para. 25 not in force at Royal Assent see s. 148(5); Sch. 8 para. 25 in force for certain purposes at 3.11.2008 by S.I. 2008/2696, art. 5(c)(ii)

- 26 <sup>F1</sup> .....

**Textual Amendments**

- F1** Sch. 8 para. 26 repealed (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 146, 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 5(i)(vii) (with arts. 3, 4)

- 27 Omit section 8 (procedural rules for tribunals).

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#### Commencement Information

**I6** Sch. 8 para. 27 partly in force; Sch. 8 para. 27 not in force at Royal Assent see s. 148(5); Sch. 8 para. 27 in force for certain purposes by S.I. 2008/1653, art. 2(a) (with arts. 3, 4)

28 In section 9 (power of Lord Chancellor, after consulting the Council, to make rules of procedure for statutory inquiries), after subsection (3) insert—

“(3A) The Council, in exercising their functions under this section in relation to inquiries to be held in Wales, shall consult with the Welsh Committee.”

#### PROSPECTIVE

29 In section 14(1) (restricted application of Act in relation to certain tribunals)—

(a) for “the working or a decision of, or procedural rules for,” substitute “ a decision of ”, and

(b) for “working, decisions or procedure” substitute “ decisions ”.

30 In section 16(1) (interpretation)—

(a) for the definition of “Council” substitute—

““Council” means the Administrative Justice and Tribunals Council,”

(b) after the definition of “Council” insert—

““enactment” includes an Act of the Scottish Parliament,”

(c) for the definition of “Scottish Committee” substitute—

““Scottish Committee” means the Scottish Committee of the Administrative Justice and Tribunals Council,” and

(d) after the definition of “statutory provision” insert—

““Welsh Committee” means the Welsh Committee of the Administrative Justice and Tribunals Council.”

#### Commencement Information

**I7** Sch. 8 para. 30 wholly in force at 1.6.2008; Sch. 8 para. 30 not in force at Royal Assent see s. 148; Sch. 8 para. 30(a)-(c) in force at 1.11.2007 and Sch. 8 para. 30(d) in force at 1.6.2008 by S.I. 2007/2709, art. 3(b)(i)

#### *Judicial Pensions and Retirement Act 1993 (c. 8)*

31 (1) The Judicial Pensions and Retirement Act 1993 is amended as follows.

(2) In section 26 (retirement date for holders of certain judicial offices etc.), subsection (7) is amended as follows.

(3) In paragraph (f), for the words from “(persons” to the end substitute “ (holders of relevant office); ”.

(4) After paragraph (g) insert—

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- “(ga) hold office as a deputy judge of the Upper Tribunal if—
- (i) section 94B of the Constitutional Reform Act 2005 applied to the appointment, and
  - (ii) his corresponding qualifying office was listed in section 6(1) of the Tribunals, Courts and Enforcement Act 2007;”.

- (5) In Part 2 of Schedule 1 (offices which may be qualifying judicial offices for purposes of the pensions provisions), at the end of the part dealing with the members of tribunals insert— “Judge or other member of the First-tier Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007 Judge or other member of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007 Transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the Tribunals, Courts and Enforcement Act 2007) Senior President of Tribunals Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal ”.
- (6) In Schedule 5 (retirement provisions: the relevant offices), at the end insert— “ Judge or other member of the First-tier Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007 Judge or other member of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007 Transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the Tribunals, Courts and Enforcement Act 2007 Senior President of Tribunals Deputy judge of the Upper Tribunal appointed under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, except in a case where the holding of the office by the person in question falls within section 26(7)(ga) of this Act Deputy judge of the Upper Tribunal by virtue of an order under section 31(2) of the Tribunals, Courts and Enforcement Act 2007 Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal ”.

#### Commencement Information

- 18** Sch. 8 para. 31 wholly in force at 3.11.2008; Sch. 8 para. 31 not in force at Royal Assent see s. 148; Sch. 8 para. 31(1)-(3) in force at 19.9.2007 by S.I. 2007/2709, art. 2(c)(i); Sch. 8 para. 31(4)-(6) in force at 3.11.2008 by S.I. 2008/2696, art. 5(c)(i)

#### *Pension Schemes Act 1993 (c. 48)*

- 32 In section 185(8) of the Pension Schemes Act 1993 (consultation about regulations), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

#### *Law of Property (Miscellaneous Provisions) Act 1994 (c. 36)*

- 33 (1) Section 17(3) of the Law of Property (Miscellaneous Provisions) Act 1994 (notices affecting land where recipient has died: exceptions where relating to court or tribunal etc. proceedings) is amended as follows.
- (2) For paragraph (b) substitute—

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“(b) any tribunal that is (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council), or”.

(3) For “within the meaning of section 8 of the Tribunals and Inquiries Act 1992” substitute “within the meaning given by paragraph 28 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007”.

#### Commencement Information

**I9** Sch. 8 para. 33 wholly in force at 3.11.2008; Sch. 8 para. 33 not in force at Royal Assent see s. 148; Sch. 8 para. 33(1)(2) in force at 1.11.2007 by S.I. 2007/2709, art. 3(b)(i); Sch. 8 para. 33(3) in force at 3.11.2008 by S.I. 2008/2696, art. 5(c)(i)

PROSPECTIVE

#### *Criminal Injuries Compensation Act 1995 (c. 53)*

34 In the Criminal Injuries Compensation Act 1995, after section 5 insert—

#### “5A Oaths to be taken by adjudicators

- (1) A person appointed as an adjudicator under section 5 (“the adjudicator”) must take—
  - (a) the oath of allegiance, and
  - (b) the judicial oath,
 as set out in the Promissory Oaths Act 1868.
- (2) The adjudicator must take the oaths before—
  - (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the adjudicator.
- (3) A person is eligible for the purposes of subsection (2)(b) if any one or more of the following paragraphs applies to him—
  - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (4) In relation to a person who is an adjudicator appointed before the coming into force of this section, the requirement in subsection (1) applies from the coming into force of this section.”

#### *Employment Tribunals Act 1996 (c. 17)*

35 The Employment Tribunals Act 1996 is amended as follows.

36 Before section 4 insert—



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### **Meaning of “Employment Judge”**

“3A A person who is a member of a panel of chairmen of employment tribunals which is appointed in accordance with regulations under section 1(1) may be referred to as an Employment Judge.”

37 In section 4 (composition of employment tribunals), in each of subsections (2), (6), (6A) and (6B)(a) (which refer to the person who is the chairman of an employment tribunal), after “the person mentioned in subsection (1)(a) alone” insert “ or alone by any Employment Judge who, in accordance with regulations made under section 1(1), is a member of the tribunal ”.

38 In sections 4(4), 18(8) and 40(1), after “The Secretary of State” insert “ and the Lord Chancellor, acting jointly, ”.

39 In section 5(1) (pay), for paragraph (c) substitute—  
“(c) any person who is an Employment Judge on a full-time basis, and”.

40 After section 5 insert—

### **“5A Training etc.**

The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of members of panels of members of employment tribunals (in their capacities as members of such panels, whether or not panels of chairmen).

### **5B Members of employment tribunals: removal from office**

(1) Any power by which the President of the Employment Tribunals (England and Wales) may be removed from that office may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.

(2) Any power by which the President of the Employment Tribunals (Scotland) may be removed from that office may be exercised only with the concurrence of the Lord President of the Court of Session.

(3) Any power by which a member of a panel may be removed from membership of the panel—

(a) may, if the person exercises functions wholly or mainly in Scotland, be exercised only with the concurrence of the Lord President of the Court of Session;

(b) may, if paragraph (a) does not apply, be exercised only with the concurrence of the Lord Chief Justice of England and Wales.

(4) In subsection (3) “panel” means—

(a) a panel of chairmen of employment tribunals, or

(b) any other panel of members of employment tribunals,

which is appointed in accordance with regulations made under section 1(1).

(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.

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- (6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

### 5C Oaths

- (1) Subsection (2) applies to a person (“the appointee”)—
- (a) who is appointed—
    - (i) as President of the Employment Tribunals (England and Wales),
    - (ii) as President of the Employment Tribunals (Scotland), or
    - (iii) as a member of a panel (as defined in section 5B(4)), and
  - (b) who has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
- (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) If the appointee is a President or panel member appointed before the coming into force of this section, the requirement in subsection (2) applies in relation to the appointee from the coming into force of this section.
- (4) A person is eligible for the purposes of subsection (2)(b) if one or more of the following paragraphs applies to him—
- (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (5) In this section “the required oaths” means—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.

### 5D Judicial assistance

- (1) Subsection (2) applies where regulations under section 1(1) make provision for a relevant tribunal judge, or a relevant judge, to be able by virtue of his office to act as a member of a panel of members of employment tribunals.
- (2) The provision has effect only if—
- (a) the persons in relation to whom the provision operates have to be persons nominated for the purposes of the provision by the Senior President of Tribunals,
  - (b) its operation in relation to a panel established for England and Wales in any particular case requires the consent of the President of Employment Tribunals (England and Wales),

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- (c) its operation in relation to a panel established for Scotland in any particular case requires the consent of the President of Employment Tribunals (Scotland),
  - (d) its operation as respects a particular relevant judge requires—
    - (i) the consent of the relevant judge, and
    - (ii) the appropriate consent (see subsection (3)), and
  - (e) it operates as respects a relevant tribunal judge or a relevant judge only for the purpose of enabling him to act as a member of a panel of chairmen of employment tribunals.
- (3) In subsection (2)(d)(ii) “the appropriate consent” means—
- (a) the consent of the Lord Chief Justice of England and Wales where the relevant judge is—
    - (i) an ordinary judge of the Court of Appeal in England and Wales,
    - (ii) a puisne judge of the High Court in England and Wales,
    - (iii) a circuit judge,
    - (iv) a district judge in England and Wales, or
    - (v) a District Judge (Magistrates' Courts);
  - (b) the consent of the Lord President of the Court of Session where the relevant judge is—
    - (i) a judge of the Court of Session, or
    - (ii) a sheriff;
  - (c) the consent of the Lord Chief Justice of Northern Ireland where the relevant judge is—
    - (i) a Lord Justice of Appeal in Northern Ireland,
    - (ii) a puisne judge of the High Court in Northern Ireland,
    - (iii) a county court judge in Northern Ireland, or
    - (iv) a district judge in Northern Ireland.
- (4) In this section—
- (a) “relevant tribunal judge” means—
    - (i) a person who is a judge of the First-tier Tribunal by virtue of appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007,
    - (ii) a transferred-in judge of the First-tier Tribunal,
    - (iii) a person who is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to that Act,
    - (iv) a transferred-in judge of the Upper Tribunal,
    - (v) a deputy judge of the Upper Tribunal, or
    - (vi) a person who is the Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, and does not fall within any of sub-paragraphs (i) to (v);
  - (b) “relevant judge” means a person who—
    - (i) is an ordinary judge of the Court of Appeal in England and Wales (including the vice-president, if any, of either division of that Court),
    - (ii) is a Lord Justice of Appeal in Northern Ireland,

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- (iii) is a judge of the Court of Session,
- (iv) is a puisne judge of the High Court in England and Wales or Northern Ireland,
- (v) is a circuit judge,
- (vi) is a sheriff in Scotland,
- (vii) is a county court judge in Northern Ireland,
- (viii) is a district judge in England and Wales or Northern Ireland, or
- (ix) is a District Judge (Magistrates' Courts).

(5) References in subsection (4)(b)(iii) to (ix) to office-holders do not include deputies or temporary office-holders.”

41 (1) Section 7A (practice directions) is amended as follows.

(2) Before subsection (1) insert—

“(A1) The Senior President of Tribunals may make directions about the procedure of employment tribunals.”

(3) In subsection (1)—

- (a) in paragraph (a), before “President” insert “ territorial ”, and
- (b) in paragraphs (b) and (c), for “such directions” substitute “ directions under subsection (A1) or paragraph (a) ”.

(4) In subsection (2), for “by the President” substitute “ under subsection (A1) or (1)(a) ”.

(5) After subsection (2) insert—

“(2A) The power under subsection (A1) includes—

- (a) power to vary or revoke directions made in exercise of the power, and
- (b) power to make different provision for different purposes (including different provision for different areas).

(2B) Directions under subsection (A1) may not be made without the approval of the Lord Chancellor.

(2C) Directions under subsection (1)(a) may not be made without the approval of—

- (a) the Senior President of Tribunals, and
- (b) the Lord Chancellor.

(2D) Subsections (2B) and (2C)(b) do not apply to directions to the extent that they consist of guidance about any of the following—

- (a) the application or interpretation of the law;
- (b) the making of decisions by members of an employment tribunal.

(2E) Subsections (2B) and (2C)(b) do not apply to directions to the extent that they consist of criteria for determining which members of employment tribunals may be selected to decide particular categories of matter; but the directions may, to that extent, be made only after consulting the Lord Chancellor.”

(6) In subsection (3), after “references to the” insert “ territorial ”.

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42 After section 7A insert—

#### “7B Mediation

- (1) Employment tribunal procedure regulations may include provision enabling practice directions to provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (2) The provision that may be included in employment tribunal procedure regulations by virtue of subsection (1) includes provision for enabling practice directions to provide for a member to act as mediator in relation to disputed matters in a case even though the member has been selected to decide matters in the case.
- (3) Once a member has begun to act as mediator in relation to a disputed matter in a case that is the subject of proceedings, the member may decide matters in the case only with the consent of the parties.
- (4) Staff appointed under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (staff for employment and other tribunals) may, subject to their terms of appointment, act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (5) Before making a practice direction that makes provision in relation to mediation, the person making the direction must consult the Advisory, Conciliation and Arbitration Service.
- (6) In this section—
  - “member” means a member of a panel of members of employment tribunals (whether or not a panel of chairmen);
  - “practice direction” means a direction under section 7A;
  - “proceedings” means proceedings before an employment tribunal.”

VALID FROM 01/04/2009

43 In section 15(1) (enforcement in England and Wales as an order of a county court), for the words from “shall, if a county court so orders,” to the end substitute “ shall be recoverable by execution issued from a county court or otherwise as if it were payable under an order of a county court. ”

44 After section 24 insert—

#### “24A Training etc. of members of Appeal Tribunal

The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of judges, and other members, of the Appeal Tribunal (in their capacities as members of the Appeal Tribunal).

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## 24B Oaths

- (1) Subsection (2) applies to a person (“the appointee”)—
  - (a) who is appointed under section 22(1)(c) or 23(3), or
  - (b) who is appointed under section 24(1A) and—
    - (i) falls when appointed within paragraph (a), but not paragraph (b), of section 24(2), and
    - (ii) has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
  - (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) If the appointee is a member of the Appeal Tribunal appointed before the coming into force of this section, the requirement in subsection (2) applies in relation to the appointee from the coming into force of this section.
- (4) A person is eligible for the purposes of subsection (2)(b) if one or more of the following paragraphs applies to him—
  - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (5) In this section “the required oaths” means—
  - (a) the oath of allegiance, and
  - (b) the judicial oath,
 as set out in the Promissory Oaths Act 1868.”

45 In section 27(1)(a) (payment of appointed members of Employment Appeal Tribunal), after “members,” insert “ and ”.

- 46 (1) Section 28 (composition of Employment Appeal Tribunal) is amended as follows.
- (2) In subsection (4) (appeals from employment tribunal consisting of chairman alone), for the words from “question” to “section 4(1)(a) alone” substitute “ chairman-alone question ”.

(3) After subsection (4) insert—

- “(4A) In subsection (4) “chairman-alone question” means—
- (a) a question arising from any decision of an employment tribunal that is a decision of—
    - (i) the person mentioned in section 4(1)(a) acting alone, or
    - (ii) any Employment Judge acting alone, or
  - (b) a question arising in any proceedings before an employment tribunal that are proceedings before—
    - (i) the person mentioned in section 4(1)(a) alone, or
    - (ii) any Employment Judge alone.”

47 After section 29 insert—

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## “29A Practice directions

- (1) Directions about the procedure of the Appeal Tribunal may be given—
  - (a) by the Senior President of Tribunals, or
  - (b) by the President of the Appeal Tribunal.
- (2) A power under subsection (1) includes—
  - (a) power to vary or revoke directions given in exercise of the power, and
  - (b) power to make different provision for different purposes.
- (3) Directions under subsection (1)(a) may not be given without the approval of the Lord Chancellor.
- (4) Directions under subsection (1)(b) may not be given without the approval of—
  - (a) the Senior President of Tribunals, and
  - (b) the Lord Chancellor.
- (5) Subsection (1) does not prejudice any power apart from that subsection to give directions about the procedure of the Appeal Tribunal.
- (6) Directions may not be given in exercise of any such power as is mentioned in subsection (5) without the approval of—
  - (a) the Senior President of Tribunals, and
  - (b) the Lord Chancellor.
- (7) Subsections (3), (4)(b) and (6)(b) do not apply to directions to the extent that they consist of guidance about any of the following—
  - (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the Appeal Tribunal.
- (8) Subsections (3), (4)(b) and (6)(b) do not apply to directions to the extent that they consist of criteria for determining which members of the Appeal Tribunal may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Lord Chancellor.
- (9) Subsections (4) and (6) do not apply to directions given in a particular case for the purposes of that case only.
- (10) Subsection (6) does not apply to directions under section 28(1).”

48 In section 30(3) (Employment Appeal Tribunal to regulate its own procedure, subject to procedure rules), after the words “Appeal Tribunal procedure rules” insert “ and directions under section 28(1) or 29A(1) ”.

## *Town and Country Planning (Scotland) Act 1997 (c. 8)*

49 The Town and Country Planning (Scotland) Act 1997 is amended as follows.

50 In paragraph 5 of Schedule 6 (local inquiries held by Planning Inquiry Commission), after sub-paragraph (4) insert—

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“(4A) An inquiry held by a commission under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

- 51 In paragraph 8 of Schedule 7 (local inquiries held by Joint Planning Inquiry Commission), after sub-paragraph (4) insert—

“(4A) A local inquiry held by a joint commission shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

*Greater London Authority Act 1999 (c. 29)*

- 52 In section 338 of the Greater London Authority Act 1999 (spatial development strategy: examination in public), for subsection (10) substitute—

“(10) An examination in public shall constitute a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (Administrative Justice and Tribunals Council).”

*Freedom of Information Act 2000 (c. 36)*

- 53 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public bodies and offices), insert in the appropriate places— “ The Administrative Justice and Tribunals Council. ” “ The Scottish Committee of the Administrative Justice and Tribunals Council. ” “ The Welsh Committee of the Administrative Justice and Tribunals Council. ”

**Commencement Information**

- I10** Sch. 8 para. 53 wholly in force at 1.6.2008; Sch. 8 para. 53 not in force at Royal Assent see s. 148(5); Sch. 8 para. 53 in force for certain purposes at 1.1.2007 and at 1.6.2008 otherwise by S.I. 2007/2709, arts. 3(b)(ii), 6(b)(ii)

PROSPECTIVE

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

- 54 <sup>F2</sup> .....

**Textual Amendments**

- F2** Sch. 8 para. 54 repealed (15.2.2010) by The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), Sch. 3 (with Sch. 4)



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*Courts Act 2003 (c. 39)*

- 55 (1) Section 98 of the Courts Act 2003 (register of judgments and orders etc.) is amended as follows.
- (2) In subsection (1) (registrable orders etc.), after paragraph (e) insert—
- “ (f) a decision or award of—
- (i) the First-tier Tribunal,
- (ii) the Upper Tribunal,
- (iii) an employment tribunal, or
- (iv) the Employment Appeal Tribunal,
- in pursuance of which any sum is payable.”
- (3) In subsection (3) (regulations)—
- (a) in each of paragraphs (a) and (b) (exemption), after “orders” insert “ , decisions, awards ”, and
- (b) in paragraph (d) (power to provide for certain sums only to be registered), after “magistrates’ court” insert “ or in the case of sums payable in pursuance of decisions or awards of a tribunal mentioned in subsection (1) (f) ”.

*Title Conditions (Scotland) Act 2003 (asp 9)*

- 56 The Title Conditions (Scotland) Act 2003 is amended as follows.
- 57 In section 104(1) (rules as to when certain orders of Lands Tribunal take effect), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.
- 58 In section 126 (rules as to fees chargeable by Lands Tribunal in relation to functions under Act), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

*Planning and Compulsory Purchase Act 2004 (c. 5)*

- 59 In section 8 of the Planning and Compulsory Purchase Act 2004 (regional spatial strategy: examination in public), for subsection (7) substitute—
- “(7) An examination in public—
- (a) is a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (Administrative Justice and Tribunals Council), but
- (b) is not a statutory inquiry for the purposes of the Tribunals and Inquiries Act 1992.”

*Gender Recognition Act 2004 (c. 7)*

- 60 In paragraph 6(5) of Schedule 1 to the Gender Recognition Act 2004 (directions about practice and procedure of Gender Recognition Panels), for “Council on Tribunals” substitute “ Administrative Justice and Tribunals Council ”.

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*Civil Contingencies Act 2004 (c. 36)*

- 61 In section 25 of the Civil Contingencies Act 2004 (consultation in connection with establishment of tribunal), in each of subsections (1), (2)(b), (3) and (6), for “Council on Tribunals” substitute “Administrative Justice and Tribunals Council”.

*Constitutional Reform Act 2005 (c. 4)*

- 62 The Constitutional Reform Act 2005 is amended as follows.
- 63 In section 109(5) (disciplinary powers: meaning of “senior judge”), after paragraph (d) insert—
- “(da) Senior President of Tribunals;”.
- 64 In Schedule 7 (protected functions of Lord Chancellor), in Part A (general) of the list in paragraph 4—
- (a) omit the entry for section 6(2), (8) and (9) of the Tribunals and Inquiries Act 1992 (c. 53), and
- (b) omit the entry for paragraph 7(4) of Schedule 5 to that Act.

**Commencement Information**

**I11** Sch. 8 para. 64 partly in force; Sch. 8 para. 64 not in force at Royal Assent see s. 148; Sch. 8 para. 64(b) in force at 3.11.2008 by S.I. 2007/2696, art. 5(c)

- 65 (1) In Schedule 12 (the Judicial Appointments Commission), paragraph 2 (members) is amended as follows.
- (2) In sub-paragraph (2)(d) (one member must be holder of an office listed in Part 3 of Schedule 14), after “listed in Part 3 of Schedule 14” insert “ or of an office listed in sub-paragraph (2A) ”.
- (3) After sub-paragraph (2) insert—
- “(2A) The offices referred to in sub-paragraph (2)(d) are—
- (a) Senior President of Tribunals;
- (b) judge of the Upper Tribunal appointed under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007;
- (c) transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of that Act);
- (d) deputy judge of the Upper Tribunal under section 31(2) of that Act;
- (e) member of the Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996.”

**Commencement Information**

**I12** Sch. 8 para. 65 wholly in force at 3.11.2008; Sch. 8 para. 65 not in force at Royal Assent see s. 148; Sch. 8 para. 65(1)(2) in force and Sch. 8 para. 65(3) in force for certain purposes at 19.9.2007 by S.I. 2007/2709, art. 2(c)(i)(ii) and Sch. 8 para. 65(3) in force at 3.11.2008 otherwise by S.I. 2008/2696, art. 5(c)(iv)

- 66 (1) Schedule 14 (Judicial Appointments Commission: relevant offices and enactments) is amended as follows.
- (2) In Part 1 (appointments by Her Majesty), at the end insert—

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“Judge of the Upper Tribunal by appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007”

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(3) In Part 3 (appointments by Lord Chancellor to offices to which paragraph 2(2)(d) of Schedule 12 applies), at the end insert—

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“Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, by appointment under section 7(7) of the Tribunals, Courts and Enforcement Act 2007, but not where appointed in accordance with paragraph 2(2) to (5) of Schedule 4 to that Act

Section 7(7) of the Tribunals, Courts and Enforcement Act 2007

Judge of the First-tier Tribunal by appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Other member of the First-tier Tribunal by appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Other member of the Upper Tribunal by appointment under paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Deputy judge of the Upper Tribunal by appointment under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Deputy Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, but not where appointed in accordance with paragraph 5(5) to (8) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007

Paragraph 5(1) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007”

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