

SCHEDULES

SCHEDULE 3

TRANSITIONAL PROVISION

PART 2

CLOSED MATERIAL PROCEDURE

- 2 Sections 6 to 14, and paragraphs 7, 8 and 11 of Schedule 2 (other than paragraph 11(3)(b)(i) and (ii)), apply in relation to proceedings begun, but not finally determined, before the coming into force of section 6 (in addition to proceedings begun on or after the coming into force of that section).
- 3 (1) The first time after the passing of this Act that rules of court are made in exercise of the powers conferred by sections 6 to 14 in relation to proceedings in England and Wales or in Northern Ireland before a court of a particular description, the rules (together with any related rules of court) may be made by the Lord Chancellor instead of by the person who would otherwise make them.
- (2) Sub-paragraph (1) does not apply to rules of court in relation to proceedings before the Supreme Court.
- (3) Before making rules of court under sub-paragraph (1), the Lord Chancellor must consult—
- (a) in relation to rules applicable to proceedings in England and Wales, the Lord Chief Justice of England and Wales, and
 - (b) in relation to rules applicable to proceedings in Northern Ireland, the Lord Chief Justice of Northern Ireland.
- (4) But the Lord Chancellor is not required to undertake any other consultation before making the rules.
- (5) A requirement to consult under sub-paragraph (3) may be satisfied by consultation that took place wholly or partly before the passing of this Act.
- (6) Rules of court made by the Lord Chancellor under sub-paragraph (1)—
- (a) must be laid before Parliament, and
 - (b) if not approved by a resolution of each House before the end of 40 days beginning with the day on which they were made, cease to have effect at the end of that period.
- (7) In determining that period of 40 days no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (8) If rules cease to have effect in accordance with sub-paragraph (6)—
- (a) that does not affect anything done in previous reliance on the rules, and

Status: This is the original version (as it was originally enacted).

- (b) sub-paragraph (1) applies again as if the rules had not been made.
- (9) The following provisions do not apply to rules of court made by the Lord Chancellor under this paragraph—
 - (a) section 3(6) of the Civil Procedure Act 1997 (Parliamentary procedure for civil procedure rules),
 - (b) section 56(1), (2) and (4) of the Judicature (Northern Ireland) Act 1978 (statutory rules procedure).
- (10) Until the coming into force of section 85 of the Courts Act 2003, the reference in sub-paragraph (9)(a) to section 3(6) of the Civil Procedure Act 1997 is to be read as a reference to section 3(2) of that Act.
- (11) In this paragraph “related rules of court” means rules of court that—
 - (a) are contained in the same instrument as the rules mentioned in sub-paragraph (1), and
 - (b) relate specifically to the same kind of proceedings as those rules.
- 4 (1) An order under section 19(2) may, in particular, make provision about the application of section 15, and paragraphs 9, 10 and 12 of Schedule 2, to any direction or decision of the Secretary of State which—
 - (a) is of a kind falling within section 2C(1)(a) and (b) or (as the case may be) 2D(1)(a) of the Special Immigration Appeals Commission Act 1997, and
 - (b) was made before the section 15 commencement day.
- (2) Provision of the kind mentioned in sub-paragraph (1) may, in particular, provide for—
 - (a) the Secretary of State to certify under section 2C(1)(c) or (as the case may be) 2D(1)(b) of the Special Immigration Appeals Commission Act 1997, on or after the section 15 commencement day, any direction or decision falling within sub-paragraph (1),
 - (b) the termination of any judicial review proceedings, or proceedings on appeal from such proceedings, which relate to a direction or decision which is so certified (whether such proceedings began before, on or after the section 15 commencement day).
- (3) In this paragraph “the section 15 commencement day” means the day on which section 15 comes into force.