

## SCHEDULE 1

Article 4(1)

### Consequential amendments to primary legislation

#### **House of Commons Disqualification Act 1975**

1. In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975(1) (bodies of which all members are disqualified) omit the entry relating to the Charity Tribunal.

#### **Northern Ireland Assembly Disqualification Act 1975**

2. In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975(2) (bodies of which all members are disqualified) omit the entry relating to the Charity Tribunal.

#### **Courts and Legal Services Act 1990**

3. In Schedule 11 to the Courts and Legal Services Act 1990(3) (judges etc barred from legal practice) omit the entry relating to the President or other member of the Charity Tribunal.

#### **Tribunals and Inquiries Act 1992**

4. In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992(4) (tribunals under direct supervision of Council) omit the entry at paragraph 6A relating to charities.

#### **Judicial Pensions and Retirement Act 1993**

5. In Part 2 of Schedule 1 to the Judicial Pensions and Retirement Act 1993(5) (other appointments – members of Tribunals) omit the entry relating to the President of the Charity Tribunal.

#### **Charities Act 1993**

6. The Charities Act 1993(6) is amended as follows.

7. In the heading for Part 1A omit “Charity”.

8. In section 2A (the Charity Tribunal)—

(a) in the heading omit “Charity”;

(b) omit subsections (1) to (3); and

(c) in subsection (5) for “section 2B below and rules made under that section” substitute “rules made under section 2B(2) and Tribunal Procedure Rules”.

9. In section 2B (practice and procedure)—

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- (1) 1975 c.24. The entry in Part 2 of Schedule 1 relating to the Charity Tribunal was inserted by paragraph 2 of Schedule 3 to the Charities Act 2006 (c.50).
- (2) 1975 c.25. The entry in Part 2 of Schedule 1 relating to the Charity Tribunal was inserted by paragraph 3 of Schedule 3 to the Charities Act 2006 (c.50).
- (3) 1990 c.41. The entry in Schedule 11 relating to the Charity Tribunal was inserted by paragraph 4 of Schedule 3 to the Charities Act 2006 (c.50).
- (4) 1992 c.53. Paragraph 6A was inserted by paragraph 5 of Schedule 3 to the Charities Act 2006 (c.50).
- (5) 1993 c.8. The entry relating to the President of the Charity Tribunal was inserted by article 2 of the Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2007 (S.I. 2007/675).
- (6) 1993 c.10. Sections 2A to 2D, and the definition of “the Tribunal” in section 97(1), were inserted by section 8(1) of, and paragraph 174 of Schedule 8 to, the Charities Act 2006 (c.50). Schedules 1B to 1D were inserted by Schedules 3 and 4 of the 2006 Act. Schedule 1B was amended by paragraph 23 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

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- (a) for subsections (1) to (3) substitute—
    - “(1) This section applies in relation to appeals, applications or references to the Tribunal which are mentioned in section 2A(4).
    - (2) The Lord Chancellor may make rules—
      - (a) specifying steps which must be taken before appeals, applications or references are made to the Tribunal (and the period within which any such steps must be taken);
      - (b) requiring the Commission to inform persons of their right to appeal or apply to the Tribunal following a final decision, direction or order of the Commission.
    - (3) Tribunal Procedure Rules may make any other provision regulating the exercise of rights to appeal or to apply to the Tribunal and matters relating to the making of references to it.”;
  - (b) in subsection (4)—
    - (i) for “subsection (1)(a) or (b)” substitute “subsection (2) or (3)”;
    - (ii) after paragraph (a) insert “or”; and
    - (iii) omit paragraph (b) and the following “or”; and
  - (c) omit subsections (5) to (7).
- 10.** In section 2C (appeal from Tribunal)—
- (a) omit subsections (1), (2) and (4);
  - (b) in subsection (3)—
    - (i) for “this section” substitute “section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007(7)”; and
    - (ii) for “High Court” substitute “tribunal or court hearing the appeal”; and
  - (c) in subsection (5)—
    - (i) for “subsection (1) above” substitute “sections 11(2) and 13(2) of the Tribunals, Courts and Enforcement Act 2007”;
    - (ii) in paragraph (a) for “all proceedings before the Tribunal” substitute “cases before the Tribunal in respect of any such appeal, application or reference as is mentioned in section 2A(4)”; and
    - (iii) omit paragraph (b) (and the “and” immediately before it).
- 11.** In section 2D (intervention by Attorney General)—
- (a) in subsection (2) for the words from the beginning to “the court” substitute “The appropriate body”;
  - (b) in subsections (3) and (4)(b) (in both places) for “Tribunal or court” substitute “appropriate body”;
  - (c) in subsection (5) for “the Tribunal or court has given a direction” substitute “a direction is given”; and
  - (d) at the end insert—
    - “(6) In this section “the appropriate body” means the Tribunal or, in the case of an appeal from the Tribunal, the tribunal or court hearing the appeal.”.
- 12.** In section 97(1) (general interpretation), for the definition of “the Tribunal” substitute—

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(7) 2007 c. 15.

““the Tribunal”, in relation to any appeal, application or reference, means—

- (a) the Upper Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the Upper Tribunal is to hear the appeal, application or reference; or
- (b) the First-tier Tribunal, in any other case;”.

**13.** Omit Schedule 1B (the Charity Tribunal).

**14.** In Schedule 1C (appeals and applications to Charity Tribunal) in the heading omit “Charity”.

**15.** In Schedule 1D (references to Charity Tribunal)—

- (a) in the heading omit “Charity”; and
- (b) omit paragraph 6(3).

### **Constitutional Reform Act 2005**

**16.** In Part 3 of Schedule 14 to the Constitutional Reform Act 2005(**8**) (appointments by the Lord Chancellor: offices to which paragraph 2(2)(d) of Schedule 12 applies) omit the entries relating to—

- (a) the President of the Charity Tribunal;
- (b) a legal member of the Charity Tribunal; and
- (c) an ordinary member of the Charity Tribunal.

### **Charities Act 2006**

**17.** In section 57 of the Charities Act 2006(**9**) (appeals against decisions of the Commission)—

- (a) in subsection (1) for “Charity Tribunal (“the Tribunal”)” substitute “Tribunal”; and
- (b) after subsection (7) insert—

“(8) In this section “the Tribunal”, in relation to any appeal under this section, means—

- (a) the Upper Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the Upper Tribunal is to hear the appeal; or
- (b) the First-tier Tribunal, in any other case;”.

## SCHEDULE 2

Article 4(2)

### Consequential amendment to secondary legislation

### **Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007**

**1.** In article 2 of the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007(**10**) (list of tribunals) omit the entry relating to the Charity Tribunal.

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(8) 2005 c.4. The entries relating to the Charity Tribunal were inserted by paragraph 208 of Schedule 8 to the Charities Act 2006 (c.50).

(9) 2006 c.50.

(10) S.I. 2007/2951.

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## SCHEDULE 3

Article 4(3)

## Repeals and revocations

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Act or instrument repealed or revoked</i>	<i>Reference</i>	<i>Extent of repeal or revocation</i>
Charities Act 2006	<a href="#">2006 c.50</a>	Section 8(2), Schedule 3 and paragraph 208 of Schedule 8
Tribunals, Courts and Enforcement Act 2007	<a href="#">2007 c.15</a>	Paragraph 23 of Schedule 10
Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2007	<a href="#">S.I. 2007/675</a>	Article 2
Charity Tribunal Rules 2008	<a href="#">S.I. 2008/221</a>	The whole of the Rules

## SCHEDULE 4

Article 4(4)

## Transitional and saving provisions

**Transitional and saving provisions**

1. Any proceedings before the Charity Tribunal which are pending immediately before 1st September 2009 shall continue on and after 1st September 2009 as proceedings before the First-tier Tribunal.

2.—(1) The following sub-paragraphs apply where proceedings are continued in the First-tier Tribunal by virtue of paragraph 1.

(2) Where a hearing began before 1st September 2009 but was not completed by that date, the First-tier Tribunal must be comprised for the continuation of that hearing of the person or persons who began it.

(3) The First-tier Tribunal may give any direction to ensure that proceedings are dealt with fairly and, in particular, may—

- (a) apply any provision in procedural rules which applied to the proceedings before 1st September 2009; or
- (b) disapply provisions of Tribunal Procedure Rules.

(4) In sub-paragraph (3) “procedural rules” means provision (whether called rules or not) regulating practice or procedure before a tribunal.

(5) Any direction or order given or made in proceedings which is in force immediately before 1st September 2009 remains in force on and after that date as if it were a direction or order of the First-tier Tribunal.

(6) A time period which has started to run before 1st September 2009 and which has not expired shall continue to apply.

(7) An order for costs may only be made if, and to the extent that, an order could have been made before 1st September 2009.

3. Where an appeal lies to a court from any decision made by the Charity Tribunal before 1st September 2009, that right of appeal has not been exercised, and the time to exercise that right of appeal has not expired prior to 1st September 2009, section 11 of the Tribunals, Courts and Enforcement Act 2007(11) (right to appeal to Upper Tribunal) shall apply as if the decision were a decision made on or after 1st September 2009 by the First-tier Tribunal, and any reference to the Charity Tribunal in an enactment relating to such an appeal, express or otherwise, is to be taken as a reference to the First-tier Tribunal.

4. Any case to be remitted by a court on or after 1st September 2009 and which, if it had been remitted before 1st September 2009, would have been remitted to the Charity Tribunal, shall be remitted to the First-tier Tribunal.

5. Staff appointed to the Charity Tribunal before 1st September 2009 are to be treated on and after that date, for the purpose of any enactment, as if they had been appointed by the Lord Chancellor under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (tribunal staff and services).

6. A decision made by the Charity Tribunal before 1st September 2009 is to be treated as a decision of the First-tier Tribunal on or after 1st September 2009.

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(11) 2007 c. 15.