

SCHEDULE 1

Article 5(1)

Consequential provisions – primary legislation

Immigration Act 1971

1. Schedule 2 to the Immigration Act 1971(1) (administrative provisions as to control on entry etc.) is amended as follows.

2. In paragraphs 22(1A), (2), and (3), 23(1) and (2), 24(2)(a) and (3), 29(2), (3) and (6) and 33(3) for “the Asylum and Immigration Tribunal”, in each place, substitute “the First-tier Tribunal”.

3. For paragraph 25 substitute—

“25. Tribunal Procedure Rules may make provision with respect to applications to the First-tier Tribunal under paragraphs 22 to 24 and matters arising out of such applications.”.

House of Commons Disqualification Act 1975

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

Northern Ireland Assembly Disqualification Act 1975

5. In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975(3) (bodies of which all members are disqualified) omit the entry relating to the Asylum and Immigration Tribunal.

Race Relations Act 1976

6. In section 57A(5) of the Race Relations Act 1976(4) (claims under section 19B in immigration cases)—

(a) in the definition of “immigration appellate body”—

(i) for “the Asylum and Immigration Tribunal,” substitute “the First-tier Tribunal,”; and

(ii) after “the Special Immigration Appeals Commission,” insert “the Upper Tribunal,”;

(b) in paragraph (b) of the definition of “relevant decision” for “or Part 5 of the 2002 Act” substitute “, Part 5 of the 2002 Act or section 11 or 13 of the 2007 Act”;

(c) in the definition of “relevant immigration proceedings” for “or Part 5 of the 2002 Act” substitute “, Part 5 of the 2002 Act or section 11 or 13 of the 2007 Act”; and

(d) after the definition of “the 2002 Act” insert—

““the 2007 Act” means the Tribunals, Courts and Enforcement Act 2007;”.

(1) 1971 c.77. Paragraph 22(1A) was inserted by paragraph 11 of Schedule 2 to the Asylum and Immigration Act 1996 (c.49) and paragraphs 22(1A), (2) and (3), 23(1) and (2), 24(2) and (3), 25, 29(2), (3) and (6) and 33(3) of Schedule 2 were amended by paragraph 1(2) to (4) and (6) of Part 1 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19).

(2) 1975 c.24. The entry in Part 2 of Schedule 1 relating to the Asylum and Immigration Tribunal was substituted by paragraph 2(2) of Part 1 of Schedule 2 to the 2004 Act.

(3) 1975 c.25. The entry in Part 2 of Schedule 1 relating to the Asylum and Immigration Tribunal was substituted by paragraph 3(2) of Part 1 of Schedule 2 to the 2004 Act.

(4) 1976 c.74. Section 57A was inserted by section 6(2) of the Race Relations (Amendment) Act 2000 (c.34) and subsection (5) was amended by paragraph 12(c), (f) and (g) of Schedule 7 to the Nationality, Immigration and Asylum Act 2002 (c.41) and paragraph 12 of Schedule 1 to the Immigration, Asylum and Nationality Act 2006 (c.13).

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British Nationality Act 1981

7. In section 40A of the British Nationality Act 1981(5) (deprivation of citizenship: appeal)—
- (a) in subsection (1) for “the Asylum and Immigration Tribunal” substitute “the First-tier Tribunal”; and
 - (b) omit subsection (3)(b).

Courts and Legal Services Act 1990

8. In Schedule 11 to the Courts and Legal Services Act 1990(6) (judges etc barred from legal practice) omit the entry relating to the President or other member of the Asylum and Immigration Tribunal.

Tribunals and Inquiries Act 1992

9. In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992(7) (tribunals under direct supervision of Council) omit the entry at paragraph 22 relating to immigration and asylum.

Judicial Pensions and Retirement Act 1993

10. The Judicial Pensions and Retirement Act 1993(8) is amended as follows.
11. Omit section 26(12A)(g) (retirement date for holders of certain judicial offices etc).
12. In Part 2 of Schedule 1 (other offices whose holders are appointed by the Lord Chancellor) omit the entry relating to the President or other member of the Asylum and Immigration Tribunal.
13. In Schedule 5 (retirement provisions: the relevant offices) omit the entry relating to the President or other member of the Asylum and Immigration Tribunal.

Special Immigration Appeals Commission Act 1997

14. The Special Immigration Appeals Commission Act 1997(9) is amended as follows.
15. In section 5(2A) (procedure in relation to jurisdiction under sections 2 and 3) for the words from “rules under section 106” to the end substitute “Tribunal Procedure Rules”.
16. In paragraph 5(b) of Schedule 1 (proceedings) for “a legally qualified member of the Asylum and Immigration Tribunal” substitute “a judge of the First-tier Tribunal, or of the Upper Tribunal, who is assigned to a chamber with responsibility for immigration and asylum matters”.
17. In paragraphs 1(3)(a) and (b) and (4)(a) and (b) and 2(2)(a) and (b) and (3)(a) and (b) of Schedule 3 (bail: modifications of Schedule 2 to the Immigration Act 1971) for “the Asylum and Immigration Tribunal” substitute “the First-tier Tribunal”.

(5) 1981 c.61. Section 40A was substituted by section 4 of the 2002 Act. Section 40A(1) was amended, and section 40A(3) substituted, by paragraphs 4(a) and (b) of Part 1 of Schedule 2 to the 2004 Act.

(6) 1990 c.41. The entry in Schedule 11 relating to the Asylum and Immigration Tribunal was substituted by paragraph 6 of Part 1 of Schedule 2 to the 2004 Act.

(7) 1992 c.53. The entry in Part 1 of Schedule 1 relating to immigration and asylum was substituted by paragraph 7(3) of Part 1 of Schedule 2 to the 2004 Act.

(8) 1993 c.8. Section 26(12A) was inserted by section 54(3) of the Tribunals, Courts and Enforcement Act 2007 (c.15). The entries relating to the President or other member of the Asylum and Immigration Tribunal in Schedule 1 and Schedule 5 were substituted by paragraph 8 of Part 1 of Schedule 2 to the 2004 Act.

(9) 1997 c.68. Section 5(2A) was inserted by paragraph 23(b) of Schedule 7 to the 2002 Act. Paragraph 5(b) of Schedule 1 was substituted, and paragraphs 1 and 2 of Schedule 3 amended, by paragraphs 2(1) and 13(3) to (9) of Part 1 of Schedule 2 to the 2004 Act.

Access to Justice Act 1999

18. In paragraph 2(1) of Schedule 2 to the Access to Justice Act 1999(10) (community legal services: excluded services)—

(a) after paragraph (g) insert—

“(gza) the First-tier Tribunal under—

- (i) Schedule 2 to the Immigration Act 1971,
- (ii) section 40A of the British Nationality Act 1981,
- (iii) Part 5 of the Nationality, Immigration and Asylum Act 2002, or
- (iv) regulation 26 of the Immigration (European Economic Area) Regulations 2006.”;

(b) in paragraph (ga) after “paragraph (g)” insert “or (gza)”; and

(c) omit paragraph (h).

Immigration and Asylum Act 1999

19. In section 156(3) of the Immigration and Asylum Act 1999(11) (arrangements for the provision of escorts and custody) for paragraph (a) substitute—

“(a) the First-tier Tribunal;

(b) the Upper Tribunal; and”.

Nationality, Immigration and Asylum Act 2002

20. The Nationality, Immigration and Asylum Act 2002(12) is amended as follows.

21. In section 72 (serious criminal) after subsection (10) insert—

“(10A) Subsection (10) also applies in relation to the Upper Tribunal when it acts under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007.”.

22. For section 81 (the Asylum and Immigration Tribunal) substitute—

“Meaning of “the Tribunal”

81. In this Part “the Tribunal” means the First-tier Tribunal.”.

23. In section 85A (matters to be considered: new evidence: exceptions) at the end insert—

“(5) Tribunal Procedure Rules may make provision, for the purposes of subsection (4) (a), about the circumstances in which evidence is to be treated, or not treated, as submitted in support of, and at the time of making, an application.”.

24. In section 87 (successful appeal: direction)—

(10) 1999 c.22. Paragraph 2(1)(ga) was inserted by paragraph 178 of Schedule 3 to the Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833) and paragraph 2(1)(h) was inserted by regulation 3(a) of the Community Legal Service (Scope) Regulations 2000 (S.I. 2000/822) and substituted by paragraph 14 of Part 1 of Schedule 2 to the 2004 Act.

(11) 1999 c.33. Section 156(3)(a) and (b) were substituted by paragraph 15 of Part 1 of Schedule 2 to the 2004 Act.

(12) 2002 c.41. Section 81 and Schedule 4 were substituted, and sections 103A to 103E were inserted, by sections 26(1), (4) and (6) of 2004 Act. Section 85A was inserted by section 19(2) of the UK Borders Act 2007 (c.30). Sections 87(3), 104(2), 106, 107 and 112(4), (6) and (7) and parts of sections 87(4) and 106 were amended by paragraphs 19 to 22 and 24 of Part 1 of Schedule 2 to the 2004 Act. Section 87(4) is to be repealed (from a date to be appointed) by Schedule 4 of the 2004 Act. Section 106(4B) and (4C) were inserted by section 9 of the Immigration, Asylum and Nationality Act 2006 (c.13). Section 107 and Schedule 4 were amended by paragraph 54 of Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 (c.15). Schedule 4 was amended by paragraph 5 of Schedule 11 and paragraph 34 of Schedule 17 to the Constitutional Reform Act 2005 (c.4), paragraph 37 of Schedule 10 to the 2007 Act, and paragraphs 8 to 11 of Schedule 1 to the Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No. 2) Order 2006 (S.I. 2006/1016).

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- (a) for subsection (3) substitute—
 - “(3) But a direction under this section shall not have effect while—
 - (a) an application for permission to appeal under section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007 could be made or is awaiting determination,
 - (b) permission to appeal to the Upper Tribunal or a court under either of those sections has been granted and the appeal is awaiting determination, or
 - (c) an appeal has been remitted under section 12 or 14 of that Act and is awaiting determination.”; and
 - (b) in subsection (4) for “103A” substitute “11 of the Tribunals, Courts and Enforcement Act 2007”.
- 25.** Omit sections 103A to 103E (procedure).
- 26.** In section 104 (pending appeal)—
 - (a) for subsection (2) substitute—
 - “(2) An appeal under section 82(1) is not finally determined for the purpose of subsection (1)(b) while—
 - (a) an application for permission to appeal under section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007 could be made or is awaiting determination,
 - (b) permission to appeal under either of those sections has been granted and the appeal is awaiting determination, or
 - (c) an appeal has been remitted under section 12 or 14 of that Act and is awaiting determination.”; and
 - (b) in subsections (4B)(b) and (4C) for “any relevant procedure rules (which may include provision about timing)” substitute “Tribunal Procedure Rules”.
- 27.** In section 106 (rules)—
 - (a) omit subsections (1), (1A) and (2);
 - (b) for subsection (3) substitute—
 - “(3) In the case of an appeal under section 82, 83 or 83A or by virtue of section 109, Tribunal Procedure Rules may enable the Tribunal to certify that the appeal had no merit (and shall make provision for the consequences of the issue of a certificate).”; and
 - (c) in subsection (4) for “rules under subsection (1)” substitute “Tribunal Procedure Rules in connection with proceedings under section 82, 83 or 83A or by virtue of section 109”.
- 28.** In section 107 (practice directions)—
 - (a) omit subsections (1), (1A) and (4) to (7);
 - (b) for subsection (3) substitute—
 - “(3) In the case of proceedings under section 82, 83 or 83A or by virtue of section 109, or proceedings in the Upper Tribunal arising out of such proceedings, practice directions under section 23 of the Tribunals, Courts and Enforcement Act 2007—
 - (a) may require the Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter; and
 - (b) may require the Upper Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter.”; and
 - (c) after that subsection insert—
 - “(3A) In subsection (3) the reference to a decision of the Tribunal includes—

- (a) a decision of the Asylum and Immigration Tribunal, and
- (b) a decision of the Immigration Appeal Tribunal.”.

29. In section 112 (regulations, &c.)—

- (a) in subsection (2) omit “and rules” and “, other than regulations under section 103D(4),”;
- (b) in subsection (3) omit “and rules”; and
- (c) omit subsections (6) and (7).

30. Omit Schedule 4 (the Asylum and Immigration Tribunal).

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

31. The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**13**) is amended as follows.

32. In section 8 (claimant’s credibility)—

- (a) in subsection (7), in paragraph (c) of the definition of “deciding authority”, for “the Asylum and Immigration Tribunal” substitute “the First-tier Tribunal”;
- (b) after subsection (9) insert—
 - “(9A) In paragraph (c) of the definition of a “deciding authority” in subsection (7) the reference to the First-tier Tribunal includes a reference to the Upper Tribunal when acting under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007.”; and
- (c) omit subsection (13).

33. In section 36 (electronic monitoring)—

- (a) in subsection (1)(d)(ii) for “the Asylum and Immigration Tribunal” substitute “the First-tier Tribunal”; and
- (b) omit subsection (12).

Constitutional Reform Act 2005

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

- (a) a legally qualified member of the Asylum and Immigration Tribunal;
- (b) a member of the Asylum and Immigration Tribunal; and
- (c) the Deputy President of the Asylum and Immigration Tribunal.

Immigration, Asylum and Nationality Act 2006

35. In section 55 (refugee convention: certification) of the Immigration, Asylum and Nationality Act 2006(**15**) —

- (a) in subsection (3) for “Asylum and Immigration Tribunal” substitute “First-tier Tribunal”; and
- (b) after subsection (5) insert—

(13) 2004 c.19.

(14) 2005 c.4. The entries relating to the Asylum and Immigration Tribunal were inserted by article 2(4) of the Judicial Appointments and Discipline (Modification of Offices) Order 2006 (S.I. 2006/678).

(15) 2006 c.13.

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“(5A) Subsections (3) and (4) also apply in relation to the Upper Tribunal when it acts under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007.”.

Tribunals, Courts and Enforcement Act 2007

36. The Tribunals, Courts and Enforcement Act 2007(**16**) is amended as follows.

37. In section 2(4) (Senior President of Tribunals)—

- (a) at the end of paragraph (c) insert “and”; and
- (b) omit paragraph (e) (together with the “and” immediately before it).

38. In section 4(1) (judges and other members of the First-tier Tribunal) omit paragraph (d) (but not the “or” at the end of it).

39. In section 5 (judges and other members of the Upper Tribunal)—

- (a) omit subsection (1)(d); and
- (b) in subsection (2)—
 - (i) at the end of paragraph (b) insert “or”; and
 - (ii) omit paragraph (d) (together with the “or” immediately before it).

40. In section 39(1) (the general duty)—

- (a) at the end of paragraph (c) insert “and”; and
- (b) omit paragraph (e) (together with the “and” immediately before it).

41. Omit section 42(1)(c) (fees).

42. In section 43(3) (report by Senior President of Tribunals)—

- (a) at the end of paragraph (c) insert “and”; and
- (b) omit paragraph (e) (together with the “and” immediately before it).

43. In section 47(5)(c) (co-operation in relation to judicial training, guidance and welfare)—

- (a) at the end of sub-paragraph (ii) insert “or”; and
- (b) omit sub-paragraph (iv) (together with the “or” immediately before it).

44. Omit paragraph 12(1)(b) and (2)(c) of Schedule 1 (meaning of “tribunal member”).

45. In Schedule 2 (judges and other members of the First-tier Tribunal)—

- (a) in paragraph 6—
 - (i) omit sub-paragraph (1)(f) (but not the “and” at the end of it); and
 - (ii) in sub-paragraph (4)—
 - (aa) at the end of paragraph (a) insert “and”; and
 - (bb) omit paragraph (c) (together with the “and” immediately before it); and
- (b) in paragraph 7(1)—
 - (i) at the end of paragraph (a) insert “or”; and
 - (ii) omit paragraph (c) (together with the “or” immediately before it).

46. In Schedule 3 (judges and other members of the Upper Tribunal)—

- (a) omit paragraph 6(1)(d); and

(16) 2007 c.15. Section 43(3) was amended by section 56(1) of the UK Borders Act 2007 (c.30).

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- (b) omit paragraph 8(1)(b) (together with the “or” immediately before it).
- 47.** In Schedule 4 (Chambers and Chamber Presidents: further provision)—
- (a) in paragraph 5(4)(c) omit “section 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal),”; and
 - (b) omit paragraph 13(1)(b) (but not the “and” at the end of it).