Draft Order laid before Parliament under section 49(5) of the Tribunals, Courts and Enforcement Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No.

TRIBUNALS AND INQUIRIES

The First-tier Tribunal and Upper Tribunal (Composition of Tribunal) (Amendment) Order 2018

Made - - - -	***
Coming into force - -	***

The Lord Chancellor, in exercise of the powers conferred by section 145(1) of, and paragraph 15 of Schedule 4 to, the Tribunals, Courts and Enforcement Act 2007(**a**), makes the following Order.

In accordance with paragraph 15(8) of Schedule 4 to that Act the Lord Chancellor has consulted the Senior President of Tribunals.

In accordance with section 49(5) of that Act a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) (Amendment) Order 2018 and comes into force on the day after the day on which it is made.

Interpretation

2. After article 1 of the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008(**b**) insert—

"**Interpretation**

1A. In this Order—

"practice direction" means a direction made under section 23 of the Tribunals, Courts and Enforcement Act 2007 as to the practice and procedure of the First-tier Tribunal or the Upper Tribunal that contains criteria for determining which members of the First-tier Tribunal or Upper Tribunal may be chosen to decide particular categories of matter.
".

(**a**) 2007 c. 15.
(**b**) S.I. 2008/2835.

Substitution of article 2

3. For article 2 of the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008 (number of members of the First-tier Tribunal) substitute—

"**2.**—(1) The number of members of the tribunal who are to decide any matter that falls to be decided by the First-tier Tribunal must be determined by the Senior President of Tribunals in a practice direction in accordance with paragraphs (2) and (3) below.

(2) The Senior President of Tribunals must determine whether the tribunal consists of one, two or three members.

(3) The Senior President of Tribunals must have regard to—

(a) the nature of the matter that falls to be decided and the means by which it is to be decided; and

(b) the need for members of tribunals to have particular expertise, skills or knowledge. "

Amendment of article 3

4. In article 3(2) of the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008 (number of members of the Upper Tribunal) insert "in a practice direction" after "so determines".

Saving provision

5. Any arrangement for the determination of the number of members of the tribunal who are to decide any matter that falls to be decided by the First-tier Tribunal or Upper Tribunal which was made under paragraph 2(1) or 3(1) of the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008 by the Senior President of Tribunals before the coming into force of this Order continues to apply to the extent it is not superseded by a practice direction made under this Order.

Name
Parliamentary Under-Secretary of State
Ministry of Justice

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the First-tier Tribunal and Upper Tribunal (Composition of Tribunal) Order 2008/2835 (the 2008 Order).

Article 2 inserts a definition of practice direction.

Article 3 substitutes a new article 2 to provide that the number of members of tribunal panels in the First-tier Tribunal is to be one, two or three, as determined by the Senior President of Tribunals by practice direction; provide that the Senior President of Tribunals has to have with regard to the nature of the matter that falls to be decided and the means by which it is to be determined; provide (as already was the case) that the Senior President of Tribunals has to have regard to the need for tribunal members to have particular expertise, skills or knowledge; and omit the need to have regard to historic panel composition (previously in article 2(2)(a) of the 2008 Order).

Article 4 amends article 3 of the 2008 Order to ensure that panel composition in the Upper Tribunal is set by way of a practice direction when the Senior President of Tribunals sets panel composition at two or three members.

Article 5 ensures that practice statements published by the Senior President of Tribunals which set out arrangements for panel composition continue to apply until such time as they are superseded.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available at https://legislation.gov.uk.

© Crown copyright 2018

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.25

UK201802221012 02/2018 19585

http://www.legislation.gov.uk/id/ukdsi/2018/9780111166109

ISBN 978-0-11-116610-9

9 780111 166109