*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

# 2009 No. XXX

# TRIBUNALS AND INQUIRIES

## The Transfer of Functions of the Asylum and Immigration Tribunal Order 2009

| | |
|---|---|
| *Made - - - -* | ***** |
| *Coming into force - -* | *15 February 2010* |

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 30(1) and (4), 31(1), (2), (7) and (9) and 38 of the Tribunals, Courts and Enforcement Act 2007(**a**).

The Lord Chancellor has consulted the Administrative Justice and Tribunals Council in accordance with paragraph 24(1) of Schedule 7 to that Act.

A draft of this Order was laid before Parliament and approved by resolution of each House of Parliament in accordance with section 49(5) of that Act.

**Citation and commencement**

**1.** This Order may be cited as the Transfer of Functions of the Asylum and Immigration Tribunal Order 2009 and comes into force on 15 February 2010.

**Transfer of functions and abolition of tribunal**

**2.**—(1) The functions of the Asylum and Immigration Tribunal are transferred to the First-tier Tribunal.

(2) The Asylum and Immigration Tribunal is abolished.

**Transfer of persons into the First-tier Tribunal and the Upper Tribunal**

**3.** A person who, immediately before this Order comes into force, holds an office listed in column (1) of the following table is to hold the office or offices listed in the corresponding entry in column (2) of the table.

| *(1) Office held* | *(2) Office to be held* |
|---|---|
| Deputy President of the Asylum and Immigration Tribunal appointed under paragraph 5(1)(b) of Schedule 4 to the Nationality, | Transferred-in judge of the Upper Tribunal |

(**a**) 2007 c.15.

| | |
|---|---|
| Immigration and Asylum Act 2002(**a**) | |
| Legally qualified member of the Asylum and Immigration Tribunal appointed under paragraphs 1 and 2(1)(a) to (d) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 and specified by the Lord Chancellor as a Senior Immigration Judge pursuant to the Asylum and Immigration Tribunal (Judicial Titles) Order 2005(**b**) | Transferred-in judge of the Upper Tribunal |
| Legally qualified member of the Asylum and Immigration Tribunal appointed under paragraphs 1 and 2(1)(a) to (d) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 and specified by the Lord Chancellor as a Designated Immigration Judge pursuant to the Asylum and Immigration Tribunal (Judicial Titles) Order 2005 | Transferred-in deputy judge of the Upper Tribunal; transferred-in judge of the First-tier Tribunal |
| Legally qualified member of the Asylum and Immigration Tribunal appointed under paragraphs 1 and 2(1)(a) to (d) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 | Transferred-in judge of the First-tier Tribunal |
| Other member of the Asylum and Immigration Tribunal appointed under paragraphs 1 and 2(1)(e) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 | Transferred-in other member of the Upper Tribunal |

**Transfer of Rules**

**4.** The Asylum and Immigration Tribunal (Procedure) Rules 2005(**c**) and the Asylum and Immigration Tribunal (Procedure) (Fast-track) Rules 2005(**d**) have effect as if they were Tribunal Procedure Rules.

**Consequential and transitional provisions**

**5.**—(1) Schedule 1 contains consequential amendments to primary legislation as a consequence of the transfers effected by this Order.

(2) Schedule 2 contains consequential amendments to secondary legislation as a consequence of the transfers effected by this Order.

(3) Schedule 3 contains repeals and revocations as a consequence of the amendments in Schedules 1 and 2.

(4) Schedule 4 contains transitional and saving provisions.

By the authority of the Lord Chancellor

Parliamentary Under-Secretary of State,
Ministry of Justice

Date

(**a**) 2002 c.41.
(**b**) S.I. 2005/227.
(**c**) S.I. 2005/230.
(**d**) S.I. 2005/560.

# SCHEDULE 1

Article 5(1)

## Consequential provisions – primary legislation

### Immigration Act 1971

**1.** Schedule 2 to the Immigration Act 1971(**a**) (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(**b**) (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(**c**) (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(**d**) (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;".

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(**a**) 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).

(**b**) 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.

(**c**) 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.

(**d**) 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).

**British Nationality Act 1981**

**7.** In section 40A of the British Nationality Act 1981(**a**) (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(**b**) (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(**c**) (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(**d**) 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(**e**) 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".

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(**a**) 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.

(**b**) 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.

(**c**) 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.

(**d**) 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.

(**e**) 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(**a**) (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(**b**) (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(**c**) 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)—

(a) for subsection (3) substitute—

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(**a**) 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.

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

(**c**) 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).

"(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(**a**) 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(**b**) (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(**c**) —

(a) in subsection (3) for "Asylum and Immigration Tribunal" substitute "First-tier Tribunal"; and

(b) after subsection (5) insert—

"(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(**d**) is amended as follows.

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

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(**a**) 2004 c.19.

(**b**) 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).

(**c**) 2006 c.13.

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

(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

(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).

# SCHEDULE 2

Article 5(2)

## Consequential provisions – secondary legislation

**Detention Centre Rules 2001**

**1.** In rule 27(6) of the Detention Centre Rules 2001(**a**) (correspondence) for "or the Asylum and Immigration Tribunal" substitute ", the First-tier Tribunal or the Upper Tribunal".

**Asylum and Immigration Tribunal (Procedure) Rules 2005**

**2.** The Asylum and Immigration Tribunal (Procedure) Rules 2005(**b**) are amended as follows.

**3.** In rule 2 (interpretation)—

(a) after the definition of "the 2004 Act" insert—

""appeal to the Upper Tribunal" means the exercise of a right of appeal on a point of law under section 11 of the Tribunals, Courts and Enforcement Act 2007;";

(b) omit the definitions of—

(i) "appropriate appellate court";

(ii) "appropriate court";

(iii) "order for reconsideration";

(iv) "President";

(v) "section 103A"; and

(vi) "section 103A application"; and

(c) in the definition of "Tribunal" for "Asylum and Immigration Tribunal" substitute "First-tier Tribunal".

**4.** For rule 3 (scope of these Rules) substitute—

"**Scope of these Rules**

**3.** These Rules apply to proceedings before the Tribunal which have been allocated to the Immigration and Asylum Chamber by the First-tier Tribunal and Upper Tribunal (Chambers) Order 2008(**c**).".

**5.** In rule 8(1) (form and contents of notice of appeal) for "President" substitute "Senior President".

**6.** For rule 23(5)(a)(i) (special procedures and time limits in asylum appeals) substitute—

"(i) if the respondent makes an application for permission to appeal against a decision of the Tribunal, by sending, delivering or personally serving the

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(**a**) S.I. 2001/238. Rule 27(6) was amended by rule 3 of the Detention Centre (Amendment) Rules 2005 (S.I. 2005/673).

(**b**) S.I. 2005/230. Rule 3 was amended by rule 4 of the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2005 (S.I. 2005/569). Rules 28A and 33(4A) were inserted by rule 4 of the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2005 (S.I. 2005/569). Rules 8, 27, 28A 33, 34, 38 and 60 were amended by rules 3, 9 to 13 and 15 of the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2006 (S.I. 2006/2778). Rule 62 was amended by the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2007 (S.I. 2007/835). Rule 27 was amended by rule 2 of the Asylum and Immigration Tribunal (Procedure) (Amendment No 2) Rules 2007 (S.I. 2007/3170). Rules 30, 31, 33, 36 were amended by rules 5 to 8 of the Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2008 (S.I. 2008/1088).

(**c**) S.I. 2008/2684. Amended by the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2009 (S.I. 2009/196), the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment No. 2) Order 2009 (S.I. 2009/1021), and the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment No. 3) Order 2009 (S.I. 2009/1590).

determination not later than the date on which the respondent makes that application;".

**7.** After rule 23 insert—

"**No power to award costs**

**23A.** The Tribunal may not make any order in respect of costs (or, in Scotland, expenses) pursuant to section 29 of the Tribunals, Courts and Enforcement Act 2007 (power to award costs).".

**8.** For Part 3 substitute —

# "PART 3

## Appeals to the Upper Tribunal

**Application for permission to appeal to the Upper Tribunal**

**24.**—(1) A party seeking permission to appeal to the Upper Tribunal must make a written application to the Tribunal for permission to appeal.

(2) Subject to paragraph (3), an application under paragraph (1) must be sent or delivered to the Tribunal so that it is received no later than 5 days after the date on which the party making the application is deemed to have been served with the later of the following—

(a) written reasons for the decision; or

(b) notification of the outcome of a review under rule 60(1A).

(3) Where an appellant is outside the UK, the time limit for sending or delivering an application under paragraph (1) is 28 days.

(4) If a person makes an application under paragraph (1) later than the time required by paragraph (2)—

(a) the Tribunal may extend the time for appealing if satisfied that by reason of special circumstances it would be unjust not to do so; and

(b) unless the Tribunal extends time under sub-paragraph (a), the Tribunal must not admit the application.

(5) An application under paragraph (1) must—

(a) identify the decision of the Tribunal to which it relates;

(b) identify the alleged error or errors of law in the decision; and

(c) state the result the party making the application is seeking.

**Tribunal's consideration of an application for permission to appeal to the Upper Tribunal**

**25.**—(1) On receiving an application for permission to appeal the Tribunal must first consider whether to review the decision in accordance with rule 26.

(2) If the Tribunal decides not to review the decision, or reviews the decision and decides to take no action in relation to the decision, or part of it, the Tribunal must consider whether to give permission to appeal in relation to the decision or that part of it.

(3) The Tribunal must make a decision under paragraph (1) and, where relevant, paragraph (2), no later than 10 days after receiving the application.

(4) Subject to rule 27, if the Tribunal refuses permission to appeal it must send to the parties—

(a) a statement of its reasons for such refusal; and

(b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the method by which, such application must be made.

(5) The Tribunal may give permission to appeal on limited grounds, but must comply with paragraph (4) in relation to any grounds on which it has refused permission.

**Review of a decision**

**26.**—(1) The Tribunal may only undertake a review of a decision pursuant to rule 25(2) if it is satisfied that there was an error of law in the decision.

(2) Subject to rule 27, the Tribunal must notify the parties in writing of the outcome of any review, and of any right of appeal in relation to the outcome.

(3) If the Tribunal takes any action in relation to a decision following a review without first giving every party an opportunity to make representations, the notice under paragraph (2) must state that any party that did not have an opportunity to make representations may apply for such action to be set aside and for the decision to be reviewed again.

**Special procedure for providing notice of a decision relating to an asylum case**

**27.**—(1) This Rule applies to an application to the Tribunal for permission to appeal to the Upper Tribunal where—

(a) the appellant is in the United Kingdom at the time the application is made; and

(b) the appeal relates, in whole or in part, to an asylum claim.

(2) In cases to which this paragraph applies—

(a) the Tribunal must send the documents mentioned in rule 25(4), or, where appropriate, rule 26(2), to the Secretary of State for the Home Department;

(b) the Secretary of State for the Home Department must serve those documents on the appellant not later than 28 days after receiving them from the Tribunal;

(c) the Secretary of State for the Home Department must, as soon as practicable after serving the documents mentioned in sub-paragraph (b), notify the Tribunal on what date and by what means they were served; and

(d) if the Secretary of State for the Home Department does not give the Tribunal notification under sub-paragraph (c) within 29 days after the Tribunal sends the documents mentioned in rule 25(4), or, where appropriate, rule 26(2) on it, the Tribunal must serve those documents on the appellant as soon as reasonably practicable thereafter.".

**9.** In rule 38(1) (applications for bail) for "President" substitute "Senior President".

**10.** Omit rule 44 (constitution of the Tribunal).

**11.** In rule 45(6) (directions) for "President" substitute "Tribunal".

**12.** In rule 60 (correction of orders and determinations)—

(a) in paragraph (1A)—

(i) for "President" substitute "Tribunal"; and

(ii) for "his" substitute "its";

(b) omit paragraph (1D); and

(c) in paragraph (2)(b) for ", rule 23(5) and (6) or rule 27(5)(b)-(d)" substitute "or rule 23(5) and (6)".

**13.** Omit Part 6 (revocation and transitional provisions).

**Asylum and Immigration Tribunal (Procedure) (Fast-track) Rules 2005**

**14.** The Asylum and Immigration Tribunal (Procedure) (Fast-track) Rules 2005(**a**) are amended as follows.

**15.** For rule 3(2) (scope of these Rules) substitute—

"(2) Part 3 applies to applications to appeal to the Upper Tribunal in the circumstances specified in rule 15.".

**16.** In rule 4(2) (application of the Principal Rules) omit ", 20, 24".

**17.** In rule 6 (application of Part 2 of the Principal Rules) after sub-paragraph (g) insert—

"(h) rule 23A.".

**18.** For Part 3 (reconsideration of appeals etc.) substitute—

# "PART 3

## Appeals to the Upper Tribunal

### Scope of this Part

**15.**—(1) This Part applies to applications for permission to appeal to the Upper Tribunal made pursuant to rule 25 of the Principal Rules, where—

(a) Part 2 of these Rules applied at all times to the appeal to the Tribunal; and

(b) the appellant has been continuously in detention under the Immigration Acts at a place or places specified in Schedule 2 to these Rules since being served with notice of the immigration decision that is the subject of the appeal.

(2) This Part shall cease to apply if the Tribunal makes an order under rule 30(1).

### Application of the Principal Rules to this Part

**16.** The following provisions of the Principal Rules apply to proceedings to which this Part applies—

(a) rule 24 except for paragraph (2); and

(b) rule 25 except for paragraph (1).

### Time limits for making an application for permission to appeal

**17.** An application under rule 25(1) of the Principal Rules must be sent or delivered to the Tribunal so that it is received no later than 2 days after the later of the dates on which the party is served with—

(a) written reasons for the decision; or

(b) notification that an application for the decision to be set aside has been unsuccessful.

### Service of permission application decision

**18.** The Tribunal must send to the parties written reasons for its decision in relation to an application for permission to appeal not later than 1 business day after the application was received by the Tribunal.".

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(**a**) S.I. 2005/560. Rule 6(g) was inserted by rule 2 of the Asylum and Immigration Tribunal (Procedure) (Fast-track) (Amendment) Rules 2008 (S.I. 2008/1089). Rule 29A was inserted by rule 5 of the Asylum and Immigration Tribunal (Fast Track Procedure) (Amendment) Rules 2006 (S.I. 2006/2789).

**19.** In rule 29A (correction of administrative errors) for "President, Deputy President or senior immigration judge" substitute "Tribunal".

**20.** Omit Part 6 (revocation and transitional provisions).

**Immigration (European Economic Area) Regulations 2006**

**21.** The Immigration (European Economic Area) Regulations 2006(**a**) are amended as follows.

**22.** In regulation 25(1) (interpretation of Part 6) omit the definition of "Asylum and Immigration Tribunal".

**23.** In regulation 26(6) and (7) (appeal rights) for "Asylum and Immigration Tribunal" substitute "First-tier Tribunal".

**24.** In regulation 28(6) (appeals to the Commission) for "Asylum and Immigration Tribunal" substitute "First-tier Tribunal or Upper Tribunal".

**25.** In regulation 29(1) and the heading (effect of appeals to the Asylum and Immigration Tribunal) for "Asylum and Immigration Tribunal" substitute "First-tier Tribunal or Upper Tribunal".

**26.** In Schedule 1 (appeals to the Asylum and Immigration Tribunal)—

(a) Schedule 1 shall stand as paragraph 1 of Schedule 1;

(b) in each place (including the heading) for "Asylum and Immigration Tribunal" substitute "First-tier Tribunal";

(c) omit "sections 103A to 103E"; and

(d) after paragraph 1 insert—

"**2.** Tribunal Procedure Rules have effect in relation to appeals under these Regulations.".

**27.** In paragraph 4(3) of Schedule 2 (appeals under the 2002 Act and previous immigration Acts) for "Asylum and Immigration Tribunal" substitute "First-tier Tribunal".

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

**28.** In article 2 of the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007(**b**) (list of tribunals) omit the entry relating to the Asylum and Immigration Tribunal.

**Contracting Out (Administrative Work of Tribunals) Order 2009**

**29.** In article 2 of the Contracting Out (Administrative Work of Tribunals) Order 2009(**c**) omit paragraph (e) (together with the "and" immediately before it).

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(**a**) S.I. 2006/1003.
(**b**) S.I. 2007/2951.
(**c**) S.I. 2009/121.

# SCHEDULE 3

Article 5(3)

## Repeals and revocations

| *Enactment repealed/revoked* | *Reference* | *Extent of repeal/ revocation* |
|---|---|---|
| Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 | 2004 c.19 | Section 26(4), (6) and (8) to (10). Schedule 1. In Schedule 2, paragraphs 1(2) and (4)(a), (b)(i) and (d)(i), 2(2), 3(2), 4(a), 6, 7(3), 8, 13(3) to (9), 14, 15, 19(a), 20(a), 21, 22(1)(a), (c) and (2), 24 and 30. |
| Immigration, Asylum and Nationality Act 2006 | 2006 c.13 | In Schedule 1, paragraphs 7 to 9 and 12. |
| Tribunals, Courts and Enforcement Act 2007 | 2007 c.15 | In Schedule 8, paragraph 54. In Schedule 10, paragraph 37. |
| UK Borders Act 2007 | 2007 c.30 | Sections 19(3) and 56(1). |
| Asylum and Immigration Tribunal (Judicial Titles) Order 2005 | S.I. 2005/227 | The whole of the Order. |
| Asylum and Immigration (Fast Track Time Limits) Order 2005 | S.I. 2005/561 | The whole of the Order. |
| Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2005 | S.I. 2005/569 | The whole of the Rules. |
| Detention Centre (Amendment) Rules 2005 | S.I. 2005/673 | The whole of the Rules. |
| Community Legal Service (Asylum and Immigration Appeals) Regulations 2005 | S.I. 2005/966 | The whole of the Regulations. |
| Judicial Appointments and Discipline (Modification of Offices) Order 2006 | S.I. 2006/678 | Article 2(4). |
| Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No. 2) Order 2006 | S.I. 2006/1016 | Paragraphs 8 to 11 of Schedule 1. |
| Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2006 | S.I. 2006/2788 | Rules 9 to 11. |
| Community Legal Service (Asylum and Immigration Appeals) (Amendment) Regulations 2007 | S.I. 2007/1317 | The whole of the Regulations. |
| Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2007 | S.I. 2007/835 | Rule 3. |
| Asylum and Immigration Tribunal (Procedure) (Amendment No. 2) Rules 2007 | S.I. 2007/3170 | Rule 2. |
| Asylum and Immigration Tribunal (Procedure) (Amendment) Rules 2008 | S.I. 2008/1088 | Rules 5 to 8. |

# SCHEDULE 4

Article 5(4)

## Transitional and saving provisions

**Appeals and applications for bail**

**1.** An appeal under section 40A of the British Nationality Act 1981(**a**), section 82, 83 or 83A of the 2002 Act or regulation 26 of the Immigration (European Economic Area) Regulations 2006(**b**), or an application for bail under Schedule 2 to the Immigration Act 1971(**c**), made to the Asylum and Immigration Tribunal before 15 February 2010 but not determined before that date shall continue as an appeal or application before the First-tier Tribunal.

**Section 103A applications**

**2.** An application for review made to the Asylum and Immigration Tribunal under section 103A of the 2002 Act and Schedule 2 to the 2004 Act before 15 February 2010 but not determined before that date shall continue as an application to the First-tier Tribunal for permission to appeal to the Upper Tribunal under section 11 of the 2007 Act.

**3.** Where the Asylum and Immigration Tribunal or the appropriate court has made an order for reconsideration under section 103A of the 2002 Act before 15 February 2010, but reconsideration has not taken place before that date, the order for reconsideration shall be treated as an order granting permission to appeal to the Upper Tribunal under section 11 of the 2007 Act and sections 12 and 13 of the 2007 Act shall apply.

**4.** Where the reconsideration of an appeal by the Asylum and Immigration Tribunal under section 103A of the 2002 Act has commenced before 15 February 2010 but has not been determined, the reconsideration shall continue as an appeal to the Upper Tribunal under section 12 of the 2007 Act and section 13 of the 2007 Act shall apply.

**5.** An application for review made to the appropriate court under section 103A of the 2002 Act before 15 February 2010 but not determined before that date shall continue as an application for review under section 103A of the 2002 Act.

**6.** An order for reconsideration made by the appropriate court on or after 15 February 2010 which, if it had been made before that date would have been for reconsideration by the Asylum and Immigration Tribunal, shall be treated as an order granting permission to appeal to the Upper Tribunal under section 11 of the 2007 Act and sections 12 and 13 of the 2007 Act shall apply.

**Section 103C references**

**7.** A reference made by the appropriate court to the appropriate appellate court under section 103C of the 2002 Act before 15 February 2010 shall continue to be considered as a reference under section 103C of the 2002 Act.

**8.** A case remitted or restored by the appropriate appellate court on or after 15 February 2010 which, if it had been remitted or restored before that date would have been remitted to the Asylum and Immigration Tribunal or restored to the appropriate court, shall be remitted to the Upper Tribunal and sections 12 and 13 of the 2007 Act shall apply.

**Section 103B and 103E applications**

**9.** An application for permission to appeal to the appropriate appellate court made to the Asylum and Immigration Tribunal under section 103B or 103E of the 2002 Act before 15 February 2010

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(**a**) 1981 c.61.
(**b**) S.I. 2006/1003.
(**c**) 1971 c.77.

but not determined before that date shall continue as an application to the Upper Tribunal for permission to appeal to the relevant appellate court under section 13 of the 2007 Act.

**10.** An application for permission to appeal to the appropriate appellate court made to that court under section 103B or 103E of the 2002 Act before 15 February 2010 but not determined before that date shall continue as an application for permission to appeal to the appropriate appellate court under section 103B or 103E of the 2002 Act.

**11.** An appeal which is proceeding before the appropriate appellate court under section 103B or 103E of the 2002 Act before 15 February 2010 but which is not determined before that date shall continue as an appeal to the appropriate appellate court under section 103B or 103E of the 2002 Act.

**12.** A case remitted by the appropriate appellate court on or after 15 February 2010 which, if it had been remitted before that date would have been remitted to the Asylum and Immigration Tribunal, shall be remitted to the Upper Tribunal and sections 12 and 13 of the 2007 Act shall apply.

**Time limits**

**13.**—(1) Where the time period for making an appeal or application has begun but not expired before 15 February 2010, in the case of—

(a) an appeal to the Asylum and Immigration Tribunal under section 40A of the British Nationality Act 1981**,** section 82, 83 or 83A of the 2002 Act or regulation 26 of the Immigration (European Economic Area) Regulations 2006, an appeal may be made within that period to the First-tier Tribunal;

(b) an application to the Asylum and Immigration Tribunal for review under section 103A of the 2002 Act and Schedule 2 to the 2004 Act, an application for permission to appeal to the Upper Tribunal under section 11 of the 2007 Act may be made within that period to the First-tier Tribunal;

(c) an application to the appropriate court for review under section 103A of the 2002 Act, an application may be made within that period under section 103A of the 2002 Act to the appropriate court;

(d) an application to the Asylum and Immigration Tribunal for permission to appeal to the appropriate appellate court under section 103B or 103E of the 2002 Act, an application for permission to appeal to the relevant appellate court under section 13 of the 2007 Act may be made within that period to the Upper Tribunal; and

(e) an application to the appropriate appellate court for permission to appeal to that court under section 103B or 103E of the 2002 Act, an application for permission to appeal to the relevant appellate court under section 13 of the 2007 Act may be made within that period to that court.

(2) Where an appeal or application mentioned in sub-paragraphs (1)(a) to (e) is made after the time period in question has expired, it must be made and decided in accordance with the relevant procedural rules or other enactments, as they apply on and after the transfer date.

(3) Where an appeal or application has been determined by the Asylum and Immigration Tribunal before the transfer date but the determination has not been served on the parties before that date, the determination shall be treated as if it were a determination of the First-tier Tribunal or (if it follows reconsideration) a determination of the Upper Tribunal, as the case may be, and the determination may be served accordingly.

(4) Sub-paragraph (3) applies, subject to any necessary modifications, to any other decision of the Asylum and Immigration Tribunal that has been made but not served before the transfer date.

**General**

**14.**—(1) This paragraph applies where proceedings are commenced or continued in the First-tier Tribunal or the Upper Tribunal by virtue of the provisions of this Schedule.

(2) The First-tier Tribunal or Upper Tribunal, as the case may be, may give any direction to ensure that the proceedings are dealt with fairly and, in particular, may apply any provision in procedural rules which applied to the proceedings before 15 February 2010.

(3) In sub-paragraph (2) "procedural rules" includes any provision (whether called rules or not) regulating practice or procedure before the Asylum and Immigration Tribunal.

(4) Any direction or order given or made in the proceedings which is in force immediately before 15 February 2010 remains in force on and after that date as if it were a direction or order of the First-tier Tribunal or Upper Tribunal, as the case may be, and may be varied accordingly.

(5) A time period which has started to run before15 February 2010 and which has not expired shall continue to apply.

**15.** Any procedural, ancillary or preliminary matter before the Asylum and Immigration Tribunal before 15 February 2010 may, on or after that date, be considered by the First-tier Tribunal or the Upper Tribunal, as the case may be, as appropriate.

**16.**—(1) This paragraph applies when—

(a) the Asylum and Immigration Tribunal has started to reconsider or has reconsidered an appeal before 15 February 2010, but has not produced a determination before that date; and

(b) the reconsideration of the appeal continues as an appeal to the Upper Tribunal by virtue of paragraph 4.

(2) A member of the Asylum and Immigration Tribunal who was hearing or otherwise considering the appeal may take all such steps as the member considers necessary to determine the appeal and produce a determination on or after 15 February 2010.

**17.** In any judicial review proceedings before the High Court, the Court of Session or the High Court of Northern Ireland before 15 February 2010 where a matter could be remitted to the Asylum and Immigration Tribunal, on or after that date the matter may be remitted to the First-tier Tribunal or the Upper Tribunal as the court considers appropriate.

**18.** Staff appointed to the Asylum and Immigration Tribunal before 15 February 2010 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).

**Saving provisions**

**19.** In accordance with the provisions of this Schedule, sections 87(3) and (4), 103A, 103B, 103C and 103E of the 2002 Act, shall continue to apply to proceedings to which paragraphs 5, 7, 10 to 12 and 13(1)(c) and (2) (in relation to sub-paragraph (1)(c)) apply as if the repeals in Schedule 1 in respect of those sections of the 2002 Act had not been made.

**20.** Section 103D of the 2002 Act and the Community Legal Service (Asylum and Immigration Appeals) Regulations 2005(**a**) ("the 2005 Regulations") (legal aid funding arrangements) shall continue to apply to proceedings to which paragraphs 2 to 8 and 13(1)(b), (c) and (2) (in relation to sub-paragraphs (1)(b) to (e)) apply until the proceedings are finally determined —

(a) as if the repeals in Schedule 1 in respect of sections 103A and 103D of the 2002 Act and rule 33 of the Asylum and Immigration Tribunal (Procedure) Rules 2005(**b**) ("the 2005 Rules"), and the repeals and revocations in Schedule 3 in respect of paragraph 30 of Schedule 2 to the 2004 Act and the 2005 Regulations had not been made;

(b) as if the references to the Tribunal in section 103D of the 2002 Act, paragraph 30 of Schedule 2 to the 2004 Act, the 2005 Regulations and rule 33 of the 2005 Rules

(**a**) S.I. 2005/966 was amended by the Community Legal Service (Asylum and Immigration Appeals) (Amendment) Regulations 2007 (S.I. 2007/1317).
(**b**) S.I. 2005/230.

were references to the First-tier Tribunal or the Upper Tribunal as appropriate, and the references to the appropriate court and the High Court were references to the Upper Tribunal where appropriate; and

(c) subject to any necessary modifications to the 2005 Regulations and the 2005 Rules.

**Interpretation**

**21.** In this Schedule—

"appropriate court" means—

(i) in relation to an appeal decided in England or Wales, the High Court;

(ii) in relation to an appeal decided in Scotland, the Outer House of the Court of Session; and

(iii) in relation to an appeal decided in Northern Ireland, the High Court of Northern Ireland;

"appropriate appellate court" means—

(iv) in relation to an appeal decided in England or Wales, the Court of Appeal;

(v) in relation to an appeal decided in Scotland, the Inner House of the Court of Session; and

(vi) in relation to an appeal decided in Northern Ireland, the Court of Appeal of Northern Ireland;

"the 2002 Act" means the Nationality, Immigration and Asylum Act 2002(**a**);

"the 2004 Act" means the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**b**); and

"the 2007 Act" means the Tribunals, Courts and Enforcement Act 2007(**c**).

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under the Tribunals, Courts and Enforcement Act 2007 ("the 2007 Act"). Part 1 of the 2007 Act creates a new two-tier tribunal structure; the First-tier Tribunal and the Upper Tribunal are established under section 3 of the 2007 Act. Order making powers are provided under Part 1 of the 2007 Act to enable the functions of existing tribunals to be transferred into the new structure. This Order transfers the functions of the Asylum and Immigration Tribunal to the First-tier Tribunal.

**Transfer of functions of tribunals**

Article 2 transfers the functions of the Asylum and Immigration Tribunal to the First-tier Tribunal and abolishes the Asylum and Immigration Tribunal.

**Transfer of members of tribunals**

Article 3 provides for members of the Asylum and Immigration Tribunal to hold offices in the First-tier Tribunal and Upper Tribunal, and sets out which tribunal members hold which offices.

(**a**) 2002 c.41.
(**b**) 2004 c.19.
(**c**) 2007 c.15.

**Transfer of rules**

Article 4 effects the transfer of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and the Asylum and Immigration Tribunal (Procedure) (Fast-track) Rules 2005 so they will have effect as if they are Tribunal Procedure Rules.

**Consequential provisions**

Article 5(1) to (3) brings Schedules 1 to 3 into effect. Schedule 1 contains consequential amendments to primary legislation, Schedule 2 contains consequential amendments to secondary legislation and Schedule 3 contains consequential repeals and revocations of legislation. These amendments, repeals and revocations are made in consequence of the transfer of the functions of the Asylum and Immigration Tribunal to the First-tier Tribunal.

**Transitional and saving provisions**

Article 5(4) brings Schedule 4 into effect. Schedule 4 makes transitional and saving provisions for the treatment of cases, which would previously have been dealt with by the Asylum and Immigration Tribunal, following the coming into force of this Order.

The Schedule provides for proceedings which have been started in the Asylum and Immigration Tribunal to be transferred to the First-tier Tribunal or the Upper Tribunal, as the case may be; new proceedings will be started in the First-tier Tribunal or the Upper Tribunal, as the case may be. In transferred cases the following provisions apply:

—directions and orders made prior to this Order coming into force will continue in force as if they were directions or orders of the First-tier Tribunal or the Upper Tribunal, as the case may be;

—the First-tier Tribunal and the Upper Tribunal will be able to disapply Tribunal Procedure Rules, or apply the Asylum and Immigration Tribunal (Procedure) Rules 2005 or, as the case may be, the Asylum and Immigration Tribunal (Procedure) (Fast-track) Rules 2005 as they applied to the Asylum and Immigration Tribunal, to ensure that proceedings are dealt with fairly; and

—time limits which begin to run before this Order comes into force continue to apply after the Order comes into force.

A Regulatory Impact Assessment was prepared for the Tribunals, Courts and Enforcement Act 2007. This can be found at: http://www.justice.gov.uk/publications/tribunalscourtsandenforcementact.htm

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