

2008 No. 2696 (C. 117)

TRIBUNALS AND INQUIRIES

JUDICIAL APPOINTMENTS AND DISCIPLINE

**The Tribunals, Courts and Enforcement Act 2007
(Commencement No. 6 and Transitional Provisions) Order 2008**

Made - - - - - *9th October 2008*

Laid before Parliament *15th October 2008*

Coming into force in accordance with article 2

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 31(9) and 148(5) of the Tribunals, Courts and Enforcement Act 2007^(a).

Citation and commencement

1. This Order may be cited as the Tribunals, Courts and Enforcement Act 2007 (Commencement No. 6 and Transitional Provisions) Order 2008.

2. Articles 4 and 6 come into force on 1st April 2009. All other provisions come into force on 3rd November 2008.

Transitional and savings provisions

3. Staff appointed to the following tribunals before the 3rd November 2008 are to be treated, 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)—

- (a) a tribunal listed under Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 whose functions are transferred to the First-tier Tribunal or Upper Tribunal by order under section 30(1) of that Act on 3rd November 2008;
- (b) the Employment Appeal Tribunal;
- (c) the employment tribunals; and
- (d) the Asylum and Immigration Tribunal.

4. Sections 2 to 3A of the Taxes Management Act 1970 shall continue to apply for the purpose of section 56 of the 1970 Act (statement of case for opinion of the High Court) arising from a decision of the General Commissioners made before 1st of April 2009 as if article 6(b)(i) and (c)(i) had not been commenced.

(a) 2007 c.15.

Provisions coming into force on 3rd November 2008

5. The following provisions of the Tribunals, Courts and Enforcement Act 2007 come into force on 3rd November 2008—

- (a) sections 3 to 6, 7(2) to (8), 8, 9(1), (2) and (4) to (11), 10(1), (2) and (4) to (9), 11(1) to (4) and (5)(a) to (e), 12, 13(1) to (5), (7), (8)(a) to (e) and (11) to (13), 14 to 17, 18(1) to (9) and (12), 19, 20(1), (2), (4), (5) and (8), 21(1) to (5), 23 to 26, 28, 29, 43 and 47;
- (b) section 46 to the extent that it is not already in force;
- (c) section 48(1) to the extent that it relates to the following paragraphs of Schedule 8—
 - (i) paragraphs 6, 16, 28, 31(4) to (6), 33(3), 40, 41, 42, 44 to 48, 54, 64(b), and 66;
 - (ii) paragraph 25 to the extent that it relates to paragraph 7(b) of Schedule 1 of the Tribunals and Inquiries Act 1992(a);
 - (iii) paragraphs 4 and 5 to the extent that they are not already in force; and
 - (iv) paragraph 65(3) to the extent that it is not already in force;
- (d) section 48(2) to the extent it relates to paragraphs 3 to 11, 12(1) and (3) to (7), and 13 to 19 of Schedule 9;
- (e) paragraphs 12 to 14 of Schedule 1;
- (f) Schedule 2;
- (g) Schedule 3;
- (h) paragraphs 1 to 14 of Schedule 4; and
- (i) in Part 1 of Schedule 23, the entries relating to—
 - (i) the Consumer Credit Act 1974(b);
 - (ii) the Judicial Pensions and Retirement Act 1993(c);
 - (iii) the Employment Tribunals Act 1996(d);
 - (iv) the Justice (Northern Ireland) Act 2002(e);
 - (v) the Nationality, Immigration and Asylum Act 2002(f);
 - (vi) Schedule 4 of the Constitutional Reform Act 2005(g); and
 - (vii) the Tribunals, Courts and Enforcement Act 2007(h); and
- (j) Part 2 of Schedule 23.

Provisions coming into force on 1st April 2009

6. The following provisions of the Tribunals, Courts and Enforcement Act 2007 come into force on 1st April 2009—

- (a) sections 27(1) to (4) and 142;
- (b) section 48(1) to the extent that it relates the following paragraphs of Schedule 8—
 - (i) paragraph 1; and
 - (ii) paragraphs 43 and 55; and
- (c) in Part 1 of Schedule 23 the entries relating to—
 - (i) the Taxes Management Act 1970(i);

(a) 1992 c.53.
(b) 1974 c.39.
(c) 1993 c.8.
(d) 1996 c.17.
(e) 2002 c.26.
(f) 2002 c.41.
(g) 2005 c.4.
(h) 2007 c.15.
(i) 1970 c.9.

- (ii) the Superannuation Act 1972**(a)**;
- (iii) the Finance Act 1972**(b)**;
- (iv) the Finance Act 1988**(c)**;
- (v) the Finance (No.2) Act 1992**(d)**;
- (vi) the Social Security Contributions (Transfer of Functions, etc.) Act 1999**(e)**;
- (vii) the Access to Justice Act 1999**(f)**;
- (viii) the Social Security Contributions (Transfer of Functions, Etc.) (Northern Ireland) Order 1999**(g)**;
- (ix) the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999**(h)**; and
- (x) Schedule 12 and Part 2 of Schedule 14 of the Constitutional Reform Act 2005**(i)**.

By authority of the Lord Chancellor

9th October 2008

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

(a) 1972 c.11.
(b) 1972 c.41.
(c) 1988 c.39.
(d) 1992 c.48.
(e) 1999 c.2.
(f) 1999 c.22.
(g) S.I.1999/671.
(h) S.I.1999/1750.
(i) 2005 c.4.

EXPLANATORY NOTE

(This note is not part of the Order)

Commencement

This Order is the sixth commencement order under the Tribunals, Courts and Enforcement Act 2007 (“the Act”) and brings into force on 3rd November 2008 and 1st April 2009 various provisions of the Act.

The Order brings into force on 3rd November 2008 most of Part 1 of the Act establishing the First-tier Tribunal and the Upper Tribunal and its functions.

The Order also brings into force on 3rd November 2008 consequential repeals in Schedule 23 in respect of Part 2 of the Act relating to judicial appointments.

The provisions commenced on 1st April 2009 apply to the transfer of the tax tribunals into the First-tier Tribunal and Upper Tribunal and the abolition of the existing tribunals and offices. The Order also brings into force on that date provisions relating to the enforcement of tribunal awards through the courts.

The effect of this Order (along with previous commencement orders), with the exception of some consequential amendments in Schedule 8 and some consequential repeals in Schedule 23, is to bring into force the whole of Parts 1 and 2 of the Act.

Transitional Provisions

The transitional provisions in article 3 provide for existing tribunal staff to be treated as if appointed under section 40 of the Act (tribunal staff and services) for the purposes of delegation of duties and functions under other enactments.

Article 4 saves the offices of General Commissioners and their clerks for the purpose of processing case stated appeals from the determinations made by the General Commissioners before abolition of their offices.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
ss 1, 2, 7(1) and (9), 9(3), 10(3), 11(5)(f) and (6) to (8), 13(6), (8)(f), (9), (10), (14) and (15), 18(10) and (11), 20(3), (6) and (7), 21(6), 22, 27(5) and (6), 30 to 42, 45(3), 46 (partially), 48 (partially), 49, 50(1) to (5) (partially) and (7) (partially), 51 (partially), 52 (partially), 54, 58, 59, 61, 144(1), (5) and (7) and 144(11) (partially), paras 1 to 11 of Sch 1, para 15 of Sch 4, Sch 5, Sch 6, paras 25(2) to (7) and 26 to 28 of Sch 7, paras 31(1) to (3), 62, 63, 65(1) and (2) and 65(3) (partially) of Sch 8 and paras 1, 2 and 12(2) of Sch 9	19.09.2007	S.I. 2007/2709
ss 44, 45(1) and (2), 48(1) (partially) and 146, paras 1 to 6, 10(1)(a) and (b), (2)(a) and (b), (3)(a) and (b) and (4), 11 (partially), 12, 13, 14(1), (2), (3)(a) and (4), 15 to 18, 20, 21(1), (2), (4) and (5), 21(6) (partially), 22(1)(a) and (b) and (2), 22(3) (partially), 23 and 25(1) of Sch 7, paras 2, 3, 4 (partially), 5 (partially), 7 (partially), 8 to 12, 14, 15, 17, 18 (partially), 19 to 23, 30(a) to (c), 32, 33(1) and (2), 49 to 52, 53 (partially) and 56 to 61 of Sch 8 and Part 1 of Sch 23 (partially)	01.11.2007	S.I. 2007/2709
s 48(1) (partially) and paras 35 to 39 of Sch 8	01.12.2007	S.I. 2007/2709
ss 139 and 140 and Sch 22	01.04.2008	S.I. 2007/2709
s 48(1) (partially), paras 7 to 9, 10(1)(c), (2)(c) and (3)(c), 11 (now fully), 14(3)(b), 19, 21(3) and (6) (now fully) and 22(1)(c) and (3) (now fully) of Sch 7, para 30(d) of Sch 8, paras 4 and 5 of Sch 8 (partially) and paras 7, 18 and 53 of Sch 8 (now fully)	01.06.2008	S.I. 2007/2709
s 141	06.04.2008	S.I. 2008/749
Part 6, in so far as it applies in relation to England	31.12.2007	S.I. 2007/3613
Part 6, in so far as it extends to Scotland	21.04.2008	S.S.I.2008/150
Part 6, in so far as it applies to Wales and extends to Northern Ireland	22.04.2008	S.I. 2008/1158
s 48(1) (partially), repeal in paragraph 27 of Sch 8 as it applies to the powers of a Minister, ss 50, 51, 52, para 24 Sch 7, and Sch 10.	21.07.2008	S.I. 2008/1653

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