

STATUTORY INSTRUMENTS

2008 No. 2833

The Transfer of Tribunal Functions Order 2008

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Transfer of Tribunal Functions Order 2008 and comes into force on 3rd November 2008.

(2) A reference in this Order to a Schedule by a number alone is a reference to the Schedule so numbered in this Order.

(3) Subject as follows, this Order extends to England and Wales, Scotland and Northern Ireland.

(4) Except as provided by paragraph (5) or (6), an amendment, repeal or revocation of any enactment by any provision of Schedule 3 extends to the part or parts of the United Kingdom to which the enactment extends.

(5) For the purposes of article 3(3)(a) and (b) the following amendments, repeals and revocations made by the provisions of that Schedule do not extend to Scotland—

- (a) paragraphs 145 to 147;
- (b) paragraph 150;
- (c) paragraph 151(d);
- (d) paragraph 152;
- (e) paragraph 154;
- (f) paragraphs 167 to 173; and
- (g) paragraph 228(h), (l), (n) and (r).

(6) The amendments and repeals made by paragraphs 198 to 201 of Schedule 3 do not extend to Scotland.

Additions to the list of tribunals in Schedule 6

2. In Part 4 of Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 (tribunals for the purposes of section 30), insert the following entries at the appropriate places—

“Claims Management Services Tribunal	Section 12 of the Compensation Act 2006 (c.29)”
“Gender Recognition Panel	Section 1(3) of the Gender Recognition Act 2004 (c.7)”
“Tribunal	Section 704 of the Income Tax Act 2007 (c.3)”

Transfer of functions of certain tribunals

3.—(1) Subject to paragraph (3), the functions of the tribunals listed in Table 1 of Schedule 1 are transferred to the First-tier Tribunal.

(2) Subject to paragraph (3), the functions of the tribunals listed in Table 2 of Schedule 1 are transferred to the Upper Tribunal.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (3) The following functions are not transferred—
- (a) the determination by an appeal tribunal constituted under Chapter 1 of Part 1 of the Social Security Act 1998⁽¹⁾ of an appeal which is referred to such tribunal by the Scottish Ministers, or the Secretary of State on their behalf, pursuant to section 158 (appeal tribunals) of the Health and Social Care (Community Health and Standards) Act 2003⁽²⁾ (“the 2003 Act”); and
 - (b) the determination by a Social Security Commissioner of an appeal made under section 159 (appeal to social security commissioner) of the 2003 Act against a decision falling within sub-paragraph (a).

Abolition of tribunals transferred under section 30(1)

4. The tribunals listed in Table 1 and Table 2 of Schedule 1 are abolished except for—
- (a) appeal tribunals constituted under Chapter 1 of Part 1 of the Social Security Act 1998 in respect of Scotland for the purposes of the function described in article 3(3)(a); and
 - (b) the Social Security Commissioners in respect of Scotland for the purposes of the function described in article 3(3)(b).

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

5.—(1) A person holding an office listed in a table in Schedule 2 who was, was a member of, or was an authorised decision-maker for, a tribunal listed in the corresponding table in Schedule 1 immediately before the functions of that tribunal were transferred under article 3 shall hold the corresponding office or offices.

(2) In paragraph (1) “corresponding” means appearing in the corresponding entry in the table below.

<i>Table in Schedule 1</i>	<i>Table in Schedule 2</i>	<i>Office or offices</i>
Table 1	Table 1	Transferred-in judge of the First-tier Tribunal
Table 1	Table 2	Transferred-in other member of the First-tier Tribunal
Table 1	Table 3	Transferred in judge of the First-tier Tribunal and deputy judge of the Upper Tribunal
Table 2	Table 4	Transferred-in judge of the Upper Tribunal
Table 1 or 2	Table 5	Transferred-in other member of the Upper Tribunal

Appeal to Upper Tribunal from tribunals in Wales

- 6.—(1) An appeal against a decision of a tribunal listed in paragraph (2) lies to the Upper Tribunal.
- (2) The tribunals referred to in paragraph (1) are—
- (a) the Mental Health Review Tribunal for Wales established under section 65 of the Mental Health Act 1983⁽³⁾; and

(1) 1998 c.14.

(2) 2003 c.43. This function of Scottish Ministers can be exercised by the Secretary of State pursuant to Scotland Act 1998 (Agency Arrangements) (Specifications) (No 3) Order 2006 (S.I. 2006/3338).

(3) 1983 c.20. Section 65 was amended by paragraph 107 of Schedule 1 to the Health Authorities Act 1995 (c.17), and is further amended by section 38 of the Mental Health Act 2007 (c.12) and by Schedule 3 to this Order.

- (b) the Special Educational Needs Tribunal for Wales established under section 336ZA of the Education Act 1996⁽⁴⁾.

Appeal to Upper Tribunal from tribunals in Scotland

7. An appeal against a decision of the Pensions Appeal Tribunal in Scotland under section 5 of the Pensions Appeal Tribunals Act 1943⁽⁵⁾ (assessment decision) lies to the Upper Tribunal.

Appeal to Upper Tribunal from tribunals in Northern Ireland

8. An appeal against a decision of the Pensions Appeal Tribunal in Northern Ireland under section 5 of the Pensions Appeal Tribunals Act 1943 (assessment decision) lies to the Upper Tribunal.

Minor, consequential and transitional provisions

9.—(1) Schedule 3 contains minor, consequential and supplemental amendments, and repeals and revocations as a consequence of those amendments.

(2) Schedule 4 contains transitional provisions.

By authority of the Lord Chancellor

29th October 2008

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

(4) 1996 c.56. Section 336ZA was inserted by paragraph 5 of Schedule 18 to the Education Act 2002 (c.32). Schedule 3 to this Order omits section 336ZA and amends section 333 so that it refers to the Special Educational Needs Tribunal to Wales.

(5) 1943 c.39. Section 5 was amended by section 23 of the Chronically Sick and Disabled Persons Act 1970 (c.44) and section 16(3) of the Social Security Act 1980 (c.30), and is further amended by Schedule 3 to this Order.