2010 No. 2655

TRIBUNALS AND INQUIRIES

The First-tier Tribunal and Upper Tribunal (Chambers) Order 2010

Made - - - -	*28th October 2010*
Laid before Parliament	*2nd November 2010*
Coming into force -	*29th November 2010*

The Lord Chancellor, with the concurrence of the Senior President of Tribunals, makes the following Order in exercise of the power conferred by section 7(1) and (9) of the Tribunals, Courts and Enforcement Act 2007**(a)**.

Citation, commencement and revocations

1.—(1) This Order may be cited as the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 and comes into force on 29th November 2010.

(2) The Orders listed in the first column of the Schedule to this Order are revoked to the extent specified in the second column.

First-tier Tribunal Chambers

2. The First-tier Tribunal shall be organised into the following chambers–

(a) the General Regulatory Chamber;

(b) the Health, Education and Social Care Chamber;

(c) the Immigration and Asylum Chamber;

(d) the Social Entitlement Chamber;

(e) the Tax Chamber;

(f) the War Pensions and Armed Forces Compensation Chamber.

Functions of the General Regulatory Chamber

3. To the General Regulatory Chamber are allocated all functions related to–

(a) proceedings in respect of the decisions and actions of regulatory bodies which are not allocated to the Health, Education and Social Care Chamber by article 4 or to the Tax Chamber by article 7;

(b) matters referred to the First-tier Tribunal under Schedule 1D to the Charities Act 1993**(b)** (references to Tribunal);

(c) the determination of remuneration for carrying mail-bags in a ship or aircraft.

Functions of the Health, Education and Social Care Chamber

4. To the Health, Education and Social Care Chamber are allocated all functions related to–

(a) an appeal against a decision related to children with special educational needs;

(a) 2007 c. 15.

(b) 1993 c. 10. Schedule 1D was inserted by Schedule 4 to the Charities Act 2006 (c. 50).

(b) a claim of disability discrimination in the education of a child;

(c) an application or an appeal against a decision or determination related to work with children or vulnerable adults;

(d) an appeal against a decision related to registration in respect of the provision of health or social care;

(e) an application in respect of, or an appeal against a decision related to, the provision of health care or health services;

(f) an appeal against a decision related to registration in respect of social workers and social care workers;

(g) an appeal against a decision related to the provision of childcare;

(h) an appeal against a decision related to an independent school or other independent educational institution;

(i) applications and references by and in respect of patients under the provisions of the Mental Health Act 1983**(a)** or paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984**(b)**.

Functions of the Immigration and Asylum Chamber of the First-tier Tribunal

5. To the Immigration and Asylum Chamber of the First-tier Tribunal are allocated all functions related to immigration and asylum matters, with the exception of matters allocated to–

(a) the Social Entitlement Chamber by article 6(a);

(b) the General Regulatory Chamber by article 3(a).

Functions of the Social Entitlement Chamber

6. To the Social Entitlement Chamber are allocated all functions related to appeals–

(a) in cases regarding support for asylum seekers, failed asylum seekers, persons designated under section 130 of the Criminal Justice and Immigration Act 2008**(c)**, or the dependants of any such persons;

(b) in criminal injuries compensation cases;

(c) regarding entitlement to, payments of, or recovery or recoupment of payments of, social security benefits, child support, vaccine damage payments, health in pregnancy grant and tax credits, with the exception of–

(i) appeals under section 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999**(d)** (appeals against decisions of Her Majesty's Revenue and Customs);

(ii) appeals in respect of employer penalties or employer information penalties (as defined in section 63(11) and (12) of the Tax Credits Act 2002**(e)**);

(iii) appeals under regulation 28(3) of the Child Trust Funds Regulations 2004**(f)**;

(d) regarding saving gateway accounts with the exception of appeals against requirements to account for an amount under regulations made under section 14 of the Saving Gateway Accounts Act 2009**(g)**;

(a) 1983 c. 20.
(b) 1984 c. 47.
(c) 2008 c. 4.
(d) 1999 c. 2. Section 11 was amended by section 9(4) of the Employment Act 2002 (c. 22), paragraph 47 of Schedule 1 to the Work and Families Act 2006 (c. 18) and paragraph 270 of Schedule 1 to the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56).
(e) 2002 c. 21.
(f) S.I. 2004/1450. Regulation 28 was amended by paragraph 127 of Schedule 2 to the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56).
(g) 2009 c. 8.

(e) regarding child trust funds with the exception of appeals against requirements to account for an amount under regulations made under section 22(4) of the Child Trust Funds Act 2004**(a)** in relation to section 13 of that Act;

(f) regarding payments in consequence of diffuse mesothelioma;

(g) regarding a certificate or waiver decision in relation to NHS charges;

(h) regarding entitlement to be credited with earnings or contributions;

(i) against a decision as to whether an accident was an industrial accident.

Functions of the Tax Chamber

7. To the Tax Chamber are allocated all functions, except those functions allocated to the Social Entitlement Chamber by article 6 or to the Tax and Chancery Chamber of the Upper Tribunal by article 13, related to an appeal, application, reference or other proceeding in respect of–

(a) a function of the Commissioners for Her Majesty's Revenue and Customs or an officer of Revenue and Customs;

(b) the exercise by the Serious Organised Crime Agency of general Revenue functions or Revenue inheritance tax functions (as defined in section 323 of the Proceeds of Crime Act 2002**(b)**);

(c) the exercise by the Director of Border Revenue of functions under section 7 of the Borders, Citizenship and Revenue Act 2009**(c)**;

(d) a function of the Compliance Officer for the Independent Parliamentary Standards Authority.

Functions of the War Pensions and Armed Forces Compensation Chamber

8. To the War Pensions and Armed Forces Compensation Chamber are allocated all functions related to appeals under the War Pensions (Administrative Provisions) Act 1919**(d)** and the Pensions Appeal Tribunals Act 1943**(e)**.

Upper Tribunal Chambers

9. The Upper Tribunal shall be organised into the following chambers–

(a) the Administrative Appeals Chamber;

(b) the Immigration and Asylum Chamber of the Upper Tribunal;

(c) the Lands Chamber;

(d) the Tax and Chancery Chamber.

Functions of the Administrative Appeals Chamber

10. To the Administrative Appeals Chamber are allocated all functions related to–

(a) an appeal–

(i) against a decision made by the First-tier Tribunal, except an appeal allocated to the Tax and Chancery Chamber by article 13(a) or the Immigration and Asylum Chamber of the Upper Tribunal by article 11(a);

(ii) under section 5 of the Pensions Appeal Tribunals Act 1943**(f)** (appeals against assessment of extent of disablement) against a decision of the Pensions Appeal Tribunal in Northern Ireland established under paragraph

(a) 2004 c. 6.
(b) 2002 c. 29. Section 323 was amended by paragraph 59 of Schedule 1 to the Work and Families Act 2006 (c. 18), and by paragraphs 3 and 15 of Schedule 22 and Part 5(1) of Schedule 27 to the Finance Act 2007 (c. 11).
(c) 2009 c. 11.
(d) 1919 c. 53.
(e) 1943 c. 39.
(f) 1943 c. 39. Section 5 was amended by section 23 of the Chronically Sick and Disabled Persons Act 1970 (c. 44), section 16(3) of the Social Security Act 1980 (c. 30) and by paragraphs 4 and 9 of Schedule 3 to the Transfer of Tribunal Functions Order (S.I. 2008/2833).

1(3) of the Schedule to the Pensions Appeal Tribunals Act 1943 (constitution, jurisdiction and procedure of Pensions Appeal Tribunals)**(a)**;

(iii) against a decision of the Pensions Appeal Tribunal in Scotland established under paragraph 1(2) of the Schedule to the Pensions Appeal Tribunals Act 1943;

(iv) against a decision of the Mental Health Review Tribunal for Wales established under section 65 of the Mental Health Act 1983**(b)** (Mental Health Review Tribunals);

(v) against a decision of the Special Educational Needs Tribunal for Wales;

(vi) under section 4 of the Safeguarding Vulnerable Groups Act 2006**(c)** (appeals);

(vii) transferred to the Upper Tribunal from the First-tier Tribunal under Tribunal Procedure Rules, except an appeal allocated to the Tax and Chancery Chamber by article 13(1)(e);

(viii) against a decision of a traffic commissioner;

(b) an application, except an application allocated to another chamber by article 11(c), 12(c) or 13(g), for the Upper Tribunal–

(i) to grant the relief mentioned in section 15(1) of the Tribunals, Courts and Enforcement Act 2007 (Upper Tribunal's "judicial review" jurisdiction);

(ii) to exercise the powers of review under section 21(2) of that Act (Upper Tribunal's "judicial review" jurisdiction: Scotland);

(c) a matter referred to the Upper Tribunal by the First-tier Tribunal–

(i) under section 9(5)(b) of the Tribunals, Courts and Enforcement Act 2007 (review of decision of First-tier Tribunal), or

(ii) under Tribunal Procedure Rules relating to non-compliance with a requirement of the First-tier Tribunal,

except where the reference is allocated to another chamber by article 11(b) or 13(f);

(d) a determination or decision under section 4 of the Forfeiture Act 1982**(d)**;

(e) proceedings, or a preliminary issue, transferred under Tribunal Procedure Rules to the Upper Tribunal from the First-tier Tribunal, except those allocated to the Tax and Chancery Chamber by article 13(1)(e).

Functions of the Immigration and Asylum Chamber of the Upper Tribunal

11. To the Immigration and Asylum Chamber of the Upper Tribunal are allocated all functions related to

(a) an appeal against a decision of the First-tier Tribunal made in the Immigration and Asylum Chamber of the First-tier Tribunal;

(b) a matter referred to the Upper Tribunal under section 9(5)(b) of the Tribunals, Courts and Enforcement Act 2007 or under Tribunal Procedure Rules by the Immigration and Asylum Chamber of the First-tier Tribunal;

(c) an application for the Upper Tribunal to grant the relief mentioned in section 15(1) of the Tribunals, Courts and Enforcement Act 2007 (Upper Tribunal's

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(a) Paragraph 1 was substituted by paragraphs 24 and 28 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).

(b) 1983 c. 20. Section 65 was amended by paragraph 107 of Schedule 1 to the Health Authorities Act 1995 (c. 17) and paragraphs 39 and 45 of Schedule 3 to the Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833).

(c) 2006 c. 47

(d) 1982 c. 34. Relevant amendments to section 4 were made by section 76(2) of the Social Security Act 1986 (c. 50) and paragraph 38 of Schedule 3 to the Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833).

"judicial review" jurisdiction), or to exercise the powers of review under section 21(2) of that Act (Upper Tribunal's "judicial review" jurisdiction: Scotland), which–

(i) relates to a decision of the First-tier Tribunal mentioned in paragraph (a); or

(ii) is made by a person who claims to be a minor from outside the United Kingdom challenging a defendant's assessment of that person's age.

Functions of the Lands Chamber

12. To the Lands Chamber are allocated–

(a) all functions related to–

(i) compensation and other remedies for measures taken which affect the ownership, value, enjoyment or use of land or water, or of rights over or property in land or water;

(ii) appeals from decisions of leasehold valuation tribunals, residential property tribunals, the Valuation Tribunal for England or a valuation tribunal in Wales;

(iii) the determination of questions of the value of land or an interest in land arising in tax proceedings;

(iv) proceedings in respect of restrictive covenants, blight notices or the obstruction of light;

(b) the Upper Tribunal's function as arbitrator under section 1(5) of the Lands Tribunal Act 1949**(a)**;

(c) an application for the Upper Tribunal to grant the relief mentioned in section 15(1) of the Tribunals, Courts and Enforcement Act 2007 (Upper Tribunal's "judicial review" jurisdiction) which relates to a decision of a tribunal mentioned in sub-paragraph (a)(ii);

(d) any other functions transferred to the Upper Tribunal by the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009**(b)**.

Functions of the Tax and Chancery Chamber

13. —(1) To the Tax and Chancery Chamber are allocated all functions related to–

(a) an appeal against a decision of the First-tier Tribunal made–

(i) in the Tax Chamber;

(ii) in the General Regulatory Chamber in a charities case;

(b) a reference or appeal in respect of–

(i) a decision of the Financial Services Authority;

(ii) a decision of the Bank of England;

(iii) a decision of a person related to the assessment of any compensation or consideration under the Banking (Special Provisions) Act 2008**(c)**;

(iv) a determination or dispute within the meaning of regulation 14(5) or 15 of the Financial Services and Management Act 2000 (Contribution to Costs of Special Resolution Regime) Regulations 2010**(d)**;

(c) a reference in respect of a decision of the Pensions Regulator;

(d) an application under paragraph 50(1)(d) of Schedule 36 to the Finance Act 2008**(e)**;

(a) 1949 c. 42. Section 1(5) was amended by paragraph 11 of Schedule 1 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307).
(b) S.I. 2009/1307.
(c) 2008 c. 2.
(d) S.I. 2010/2220.
(e) 2008 c. 9.

(e) proceedings, or a preliminary issue, transferred to the Upper Tribunal under Tribunal Procedure Rules–

(i) from the Tax Chamber of the First-tier Tribunal;

(ii) from the General Regulatory Chamber of the First-tier Tribunal in a charities case;

(f) a matter referred to the Upper Tribunal under section 9(5)(b) of the Tribunals, Courts and Enforcement Act 2007 or under Tribunal Procedure Rules relating to non-compliance with a requirement of the First-tier Tribunal–

(i) by the Tax Chamber of the First-tier Tribunal;

(ii) by the General Regulatory Chamber of the First-tier Tribunal in a charities case;

(g) an application for the Upper Tribunal to grant the relief mentioned in section 15(1) of the Tribunals, Courts and Enforcement Act 2007 (Upper Tribunal's "judicial review" jurisdiction), or to exercise the powers of review under section 21(2) of that Act (Upper Tribunal's "judicial review" jurisdiction: Scotland), which relates to–

(i) a decision of the First-tier Tribunal mentioned in paragraph (1)(a)(i) or (ii);

(ii) a function of the Commissioners for Her Majesty's Revenue and Customs or an officer of Revenue and Customs, with the exception of any function in respect of which an appeal would be allocated to the Social Entitlement Chamber by article 6;

(iii) the exercise by the Serious Organised Crime Agency of general Revenue functions or Revenue inheritance tax functions (as defined in section 323 of the Proceeds of Crime Act 2002**(a)**), with the exception of any function in relation to which an appeal would be allocated to the Social Entitlement Chamber by article 6;

(iv) a function of the Charity Commission, or one of the bodies mentioned in sub-paragraph (b) or (c).

(2) In this article "a charities case" means an appeal or application in respect of a decision, order or direction of the Charity Commission, or a reference under Schedule 1D to the Charities Act 1993.

Resolution of doubt or dispute as to chamber

14. If there is any doubt or dispute as to the chamber in which a particular matter is to be dealt with, the Senior President of Tribunals may allocate that matter to the chamber which appears to the Senior President of Tribunals to be most appropriate.

Re-allocation of a case to another chamber

15. At any point in the proceedings, the Chamber President of the chamber to which a case or any issue in that case has been allocated by or under this Order may, with the consent of the corresponding Chamber President, allocate that case or that issue to another chamber within the same tribunal, by giving a direction to that effect.

(a) 2002 c. 29.

Signed by the authority of the Lord Chancellor

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

28th October 2010

I concur

Robert Carnwath
Senior President of Tribunals

28th October 2010

SCHEDULE

Article 1(2)

Revocations

Orders revoked	*Extent to which revoked*
The First-tier Tribunal and Upper Tribunal (Chambers) Order 2008, SI 2008/2684.	The whole Order.
The First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2009, S.I.2009/196.	The whole Order, except for the purposes of article 9 (transitional provision).
The First-tier Tribunal and Upper Tribunal (Chambers) (Amendment No. 2) Order 2009, S.I. 2009/1021.	The whole Order.
The First-tier Tribunal and Upper Tribunal (Chambers) (Amendment No. 3) Order 2009, S.I. 2009/1590.	The whole Order.
The First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2010 S.I. 2010/40.	The whole Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order replaces and updates the First-tier Tribunal and Upper Tribunal (Chambers) Order 2008 as amended. As was the case with the 2008 Order, this Order organises the First-tier and Upper Tribunal into chambers and makes provision for the allocation of those tribunals' functions between the chambers. It provides a power for the Senior President of Tribunals to allocate a case to the most appropriate chamber in the event of doubt or dispute, and for a Chamber President to re-allocate a case to another chamber.

The Order also contains further new provision as regards allocation. Proceedings related to functions of the Compliance Officer for the Independent Parliamentary Standards Authority(concerned with MPs' expenses) are allocated to the Tax Chamber of the First-tier Tribunal. In the

Upper Tribunal, any proceedings or a preliminary issue transferred under Tribunal Procedure Rules apart from those allocated to the Tax Chamber are allocated to the Administrative Appeals Chamber. The Order allocates to the appropriate chamber of the Upper Tribunal matters referred from the First-tier Tribunal to the Upper Tribunal for exercise of its enforcement powers. Certain judicial review applications which are within the jurisdiction of the Upper Tribunal are allocated to the Lands Chamber or to the Immigration and Asylum Chamber of the Upper Tribunal.