
STATUTORY INSTRUMENTS

2009 No. 196

TRIBUNALS AND INQUIRIES

**The First-tier Tribunal and Upper Tribunal
(Chambers) (Amendment) Order 2009**

Made - - - - *9th February 2009*
Laid before Parliament *13th February 2009*
Coming into force - - *1st April 2009*

The Lord Chancellor, with the concurrence of the Senior President of Tribunals, makes the following Order in exercise of the power conferred by sections 7(1) and (9) and 145 of the Tribunals, Courts and Enforcement Act 2007⁽¹⁾.

Citation and commencement

1. This order may be cited as the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2009 and comes into force on 1st April 2009.

Amendments to the First-tier Tribunal and Upper Tribunal (Chambers) Order 2008

2. The First-tier Tribunal and Upper Tribunal (Chambers) Order 2008⁽²⁾ is amended as follows.
3. In article 2 (First-tier Tribunal chambers)—
 - (a) in sub-paragraph (b) omit “and”; and
 - (b) after sub-paragraph (c) insert—

“(d) the Tax Chamber.”
4. In article 3 (functions of the Social Entitlement Chamber)—
 - (a) for paragraph (a) substitute—

“(a) in cases regarding support for asylum seekers, failed asylum seekers, persons designated under section 130 of the Criminal Justice and Immigration Act 2008⁽³⁾, or the dependants of any such persons;”;
 - (b) in paragraph (c) after “child trust funds” insert—

“, with the exception of—

(1) 2007 c. 15.
(2) S.I. 2008/2684.
(3) 2008 c.4.

- (i) appeals in respect of employer penalties or employer information penalties (as defined in section 63(11) and (12) of the Tax Credits Act 2002(4));
- (ii) appeals under regulation 28(3) of the Child Trust Funds Regulations 2004(5);”.

5. After article 5 (functions of the Health, Education and Social Care Chamber) insert—

“Functions of the Tax Chamber

5A. To the Tax Chamber are assigned all functions, except those functions assigned to the Social Entitlement Chamber by article 3 or to the Finance and Tax Chamber by article 8, relating to—

- (a) an appeal, application, reference or other proceeding in respect of a function of the Commissioners for Her Majesty’s Revenue and Customs or an officer of Revenue and Customs;
- (b) an appeal in respect of 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(6)).”.

6. For article 6 (Upper Tribunal Chamber) substitute—

“Upper Tribunal Chambers

6. The Upper Tribunal shall be organised into the following chambers—

- (a) the Administrative Appeals Chamber;
- (b) the Finance and Tax Chamber.”.

7. In article 7 (functions of the Administrative Appeals Chamber)—

- (a) in paragraph (a)(i) for “a chamber of the First-tier Tribunal” substitute “the First-tier Tribunal, except decisions made in the Tax Chamber”; and
- (b) after paragraph (b)(ii) insert—
 - “(c) a matter referred to the Upper Tribunal by the First-tier Tribunal under section 9(5)(b) of the Tribunals, Courts and Enforcement Act 2007, unless the reference is made by the Tax Chamber.”.

8. After article 7 add—

“Functions of the Finance and Tax Chamber

8. To the Finance and Tax Chamber are assigned all functions relating to—

- (a) an appeal against a decision of the First-tier Tribunal made in the Tax Chamber;
- (b) an application under paragraph 50(1)(d) of Schedule 36 to the Finance Act 2008(7);
- (c) an appeal, application or reference transferred to the Finance and Tax Chamber from the First-tier Tribunal under Tribunal Procedure Rules;

(4) 2002 c.21.

(5) S.I. 2004/1450. Regulation 28 is amended by paragraph 127 of Schedule 2 to the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56).

(6) 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).

(7) 2008 c.9.

- (d) a matter referred to the Upper Tribunal by the Tax Chamber under section 9(5) (b) of the Tribunals, Courts and Enforcement Act 2007.”.

Transitional provision

9.—(1) This article applies to an appeal which lies to the Upper Tribunal by virtue of paragraph 11(2) of Schedule 3 to the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009⁽⁸⁾ (transitional provisions) against a decision of—

- (a) the Commissioners for the general purposes of the income tax established under section 2 of the Taxes Management Act 1970⁽⁹⁾;
- (b) the Commissioners for the special purposes of the Income Tax Acts established under section 4 of the Taxes Management Act 1970;
- (c) the VAT and duties tribunals established under Schedule 12 to the Value Added Tax Act 1994⁽¹⁰⁾;
- (d) the tribunal established under section 706 of the Income and Corporation Taxes Act 1988⁽¹¹⁾; or
- (e) the tribunal established under section 704 of the Income Tax Act 2007⁽¹²⁾.

(2) In rule 21(2)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008⁽¹³⁾ (application to the Upper Tribunal for permission to appeal) the reference to the tribunal which made the decision challenged is to be read as a reference to the First-tier Tribunal.

By authority of the Lord Chancellor

5th February 2009

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

I concur

9th February 2009

Robert Carnwath
Senior President of Tribunals

⁽⁸⁾ S.I. 2009/56
⁽⁹⁾ 1970 c. 9. Sections 4 and 4A were substituted by section 127 of, and paragraphs 1 and 8 of Schedule 22 to, the Finance Act 1984 (c. 43).
⁽¹⁰⁾ 1994 c. 23.
⁽¹¹⁾ 1988 c. 1.
⁽¹²⁾ 2007 c. 3. This tribunal was added to the list of tribunals in Schedule 6 of the Tribunals, Courts and Enforcement Act 2007 by article 2 of S.I. 2008/2833.
⁽¹³⁾ S.I. 2008/2698 (L.15).

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the First-tier Tribunal and Upper Tribunal (Chambers) Order 2008 (the “2008 Order”). The 2008 Order organised the First-tier Tribunal and Upper Tribunal into chambers and made provision for the allocation of those tribunals’ functions between the chambers. This Order creates a new Tax Chamber in the First-tier Tribunal and a new Finance and Tax Chamber in the Upper Tribunal, and allocates functions to those new chambers. This Order also provides for the allocation to chambers of the Upper Tribunal of matters referred to the Upper Tribunal by the First-tier Tribunal under section 9(5)(b) of the Tribunals, Courts and Enforcement Act 2007, which was not provided for in the 2008 Order.

Article 9 of this Order contains a transitional provision which provides that, where an appeal from a tax tribunal which is abolished by the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009(14) lies to the Upper Tribunal by virtue of the transitional provisions in that Order, the party seeking permission to appeal must first apply to the First-tier Tribunal rather than to the tribunal which made the decision.