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. 0000

TRIBUNALS AND INQUIRIES

The Transfer of Functions of the Consumer Credit Appeals Tribunal Order 2009

Made - - - - ***

Coming into force - - *1st September 2009*

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 30(1) and (4), 31(1), (2) and (9) and 38 of, and paragraph 30 of Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007(**1**).

A draft of this Order was laid before Parliament and approved by a 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 Consumer Credit Appeals Tribunal Order 2009 and comes into force on 1st September 2009.

Transfer of functions and abolition of tribunal

2.—(1) The functions of the Consumer Credit Appeals Tribunal are transferred to the First-tier Tribunal.

(2) The Consumer Credit Appeals 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**) 2007 c. 15.

(1) Office held	*(2) Office to be held*
President of the Consumer Credit Appeals Tribunal appointed under paragraph 2(1) of Schedule A1 to the Consumer Credit Act 1974(**2**)	Transferred-in judge of the First-tier Tribunal and deputy judge of the Upper Tribunal
Deputy President of the Consumer Credit Appeals Tribunal appointed under paragraph 2(3) of Schedule A1 to the Consumer Credit Act 1974	Transferred-in judge of the First-tier Tribunal
Member of the panel of chairmen of the Consumer Credit Appeals Tribunal appointed under paragraph 3(1) of Schedule A1 to the Consumer Credit Tribunal 1974	Transferred-in judge of the First-tier Tribunal
Other member of the Consumer Credit Appeals Tribunal appointed under paragraph 3(3) of Schedule A1 to the Consumer Credit Act 1974	Transferred-in other member of the First-tier Tribunal

Consequential and transitional provisions

4.—(1) Schedule 1 contains amendments to primary legislation as a consequence of the transfer effected by this Order.

(2) Schedule 2 contains amendments to secondary legislation as a consequence of the transfer 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 authority of the Lord Chancellor

Parliamentary Under-Secretary of State
Ministry of Justice

Date

(**2**) 1974 c. 39. Schedule A1 was inserted by section 55(2) of, and Schedule 1 to, the Consumer Credit Act 2006 (c.14) and amended by paragraph 11 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

SCHEDULE 1 Article 4(1)

Consequential amendments to primary legislation

Consumer Credit Act 1974

1. The Consumer Credit Act 1974(**3**) is amended as follows.

2. In section 2(7) (powers of Secretary of State) for "Tribunal" substitute "First-tier Tribunal".

3. Omit section 40A (the Consumer Credit Appeals Tribunal).

4. In section 41 (appeals to the Secretary of State under Part 3)—

(a) in the heading for "Secretary of State" substitute "First-tier Tribunal";

(b) in subsection (1) for "Tribunal" substitute "First-tier Tribunal"; and

(c) omit subsections (1A) to (1D).

5. After section 41 insert—

"**Tribunal Procedure Rules: suspension of OFT determinations**

41ZA. In the case of appeals to the First-tier Tribunal under section 41, Tribunal Procedure Rules may make provision for the suspension of determinations of the OFT.

Disposal of appeals

41ZB.—(1) The First-tier Tribunal shall decide an appeal under section 41 by way of a rehearing of the determination appealed against.

(2) In disposing of an appeal under section 41 the First-tier Tribunal may do one or more of the following—

(a) confirm the determination appealed against;

(b) quash that determination;

(c) vary that determination;

(d) remit the matter to the OFT for reconsideration and determination in accordance with the directions (if any) given to it by the tribunal;

(e) give the OFT directions for the purpose of giving effect to its decision.

(3) In the case of an appeal under section 41 against a determination to impose a penalty, the First-tier Tribunal—

(a) has no power by virtue of subsection (2)(c) to increase the penalty;

(b) may extend the period within which the penalty is to be paid (including in cases where that period has already ended).

(4) Subsection (3) does not affect—

(a) the tribunal's power to give directions to the OFT under subsection (2)(d); or

(b) what the OFT can do where a matter is remitted to it under subsection (2)(d).

(**3**) 1974 c. 39. Section 2(7) was amended by section 58(1) of the Consumer Credit Act 2006 (c.14). Sections 40A, 41(1A) to (1D), 41A and 182(1A) were inserted by sections 55, 56(2), 57 and 58(2) of the 2006 Act respectively and section 41(1) was amended by section 56(1) of that Act. Section 182(2) was amended by section 58(3) of the 2006 Act. In section 189(1) the definition of "the Tribunal" was inserted by, and the definition of "appeal period" was amended by, section 58(4) of the 2006 Act and subsection (1A) was inserted by section 27(3) of the 2006 Act. Schedule A1 was inserted by section 55(2) of, and Schedule 1 to, the 2006 Act and amended by paragraph 11 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

(5) Where the First-tier Tribunal remits a matter to the OFT, it may direct that the requirements of section 34 of this Act are not to apply, or are only to apply to a specified extent, in relation to the OFT's reconsideration of the matter.

(6) Subject to subsections (7) and (8), where the First-tier Tribunal remits an application to the OFT, section 6(1) and (3) to (9) of this Act shall apply as if the application had not been previously determined by the OFT.

(7) In the case of a general notice which came into effect after the determination appealed against was made but before the application was remitted, the applicant shall provide any information or document which he is required to provide under section 6(6) within—

(a) the period of 28 days beginning with the day on which the application was remitted; or

(b) such longer period as the OFT may allow.

(8) In the case of—

(a) any information or document which was superseded,

(b) any change in circumstances which occurred, or

(c) any error or omission of which the applicant became aware,

after the determination appealed against was made but before the application was remitted, any notification that is required to be given by the applicant under section 6(7) shall be given within the period of 28 days beginning with the day on which the application was remitted.".

6. Omit section 41A (appeals from the Consumer Credit Appeals Tribunal).

7. In section 182 (regulations and orders)—

(a) omit subsection (1A); and

(b) in subsection (2)—

(i) omit "or rules" wherever occurring;

(ii) omit "or by the Lord Chancellor"; and

(iii) in paragraph (c), for "person making them" substitute "Secretary of State".

8. In section 189 (definitions)—

(a) in subsection (1)—

(i) in the definition of "appeal period" for "Tribunal" substitute "First-tier Tribunal"; and

(ii) omit the definition of "the Tribunal"; and

(b) in subsection (1A) omit "and paragraphs 14 and 15 of Schedule A1".

9. Omit Schedule A1 (the Consumer Credit Appeals Tribunal).

Tribunals and Inquiries Act 1992

10. In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992(**4**) (tribunals under direct supervision of the Council on Tribunals) omit the entry at paragraph 9B relating to consumer credit.

(**4**) 1992 c. 53. The entry in relation to the Consumer Credit Appeals Tribunal was inserted by section 58(5) of the Consumer Credit Act 2006 (c.14).