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 (Estate Agents Appeals and Additional Scheduled Tribunal) Order 2009

Made - - - - ***

Coming into force in accordance with article 1

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 30(1) and (4), 31(2) and (9), 37(1)(a) and 38 of 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.—(1) This Order may be cited as the Transfer of Functions (Estate Agents Appeals and Additional Scheduled Tribunal) Order 2009 and, subject to paragraph (2), comes into force on 1st September 2009.

(2) Article 4 comes into force on the day after the day on which this instrument is made.

Transfer of function

2. The function of the Secretary of State to decide appeals under section 7(1) of the Estate Agents Act 1979(**2**) is transferred to the First-tier Tribunal.

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.
(**2**) 1979 c. 38.

(1) Office held	*(2) Office to be held*
Person appointed to hear an appeal on behalf of the Secretary of State under regulation 19(1) of Estate Agents (Appeals) Regulations 1981(**3**) at any time after 2005, and who is on the panel of presiding members	Transferred-in judge of the First-tier Tribunal
Person appointed to hear an appeal on behalf of the Secretary of State under regulation 19(1) of Estate Agents (Appeals) Regulations 1981 at any time after 2005, and who is on the panel of legal members	Transferred-in judge of the First-tier Tribunal
Person appointed to hear an appeal on behalf of the Secretary of State under regulation 19(1) of Estate Agents (Appeals) Regulations 1981 at any time after 2005, and who is on the panel of other members	Transferred-in other member of the First-tier Tribunal

Addition to the list of tribunals in Schedule 6

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

"Panel	Section 189(6) of the Greater London Authority Act 1999(**4**)

Consequential and transitional provisions

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

(2) Schedule 2 contains repeals and revocations as a consequence of the amendments in Schedule 1.

(3) Schedule 3 contains transitional and saving provisions.

By authority of the Lord Chancellor

Parliamentary Under-Secretary of State
Ministry of Justice

Date

(**3**) S.I. 1981/1518.
(**4**) 1999 c. 29. Section 189(6) was substituted by section 267(4) of the Transport Act 2000 (c. 38).

SCHEDULE 1

Article 5(1)

Consequential amendments to primary legislation

Parliamentary Commissioner Act 1967

1. In Schedule 4 to the Parliamentary Commissioner Act 1967(**5**) (relevant tribunals for the purposes of section 5(7)) omit the entry relating to persons hearing estate agents' appeals appointed under regulation 19 of the Estate Agents (Appeals) Regulations 1981.

Estate Agents Act 1979

2. The Estate Agents Act 1979(**6**) is amended as follows.

3. In section 7 (appeals)—

(a) in subsection (1) for "Secretary of State" substitute "First-tier Tribunal";

(b) in subsection (2)—

(i) for "Secretary of State" substitute "First-tier Tribunal";

(ii) for "he" substitute "it"; and

(iii) omit the words from ", including" to the end; and

(c) omit subsections (3) to (6).

SCHEDULE 2

Article 5(2)

Repeals and revocations

Act or instrument repealed or revoked	*Reference*	*Extent of repeal or revocation*
Constitutional Reform Act 2005	2005 c. 4	Paragraph 31 of Schedule 9
Estate Agents (Appeals) Regulations 1981	S.I. 1981/1518	The whole of the Regulations

SCHEDULE 3

Article 5(3)

Transitional and saving provisions

Transitional and saving provisions

4. Any proceedings before the Secretary of State to decide an appeal under section 7(1) of the Estate Agents Act 1979 which are pending immediately before 1st September 2009 shall continue on and after 1st September 2009 as proceedings before the First-tier Tribunal.

(**5**) 1967 c.13. Schedule 4 was inserted by section 1(3) of the Parliamentary Commissioner Act 1994 (c.14) and substituted by article 3 of, and Schedule 2 to, the Parliamentary Commissioners Order 2007 (S.I. 2007/3470).

(**6**) 1979 c.38. Section 7(6) is amended from a date to be appointed by section 40(4) of, and paragraph 31 of Part 1 of Schedule 9 to, the Constitutional Reform Act 2005 (c.4).