

CRIMINAL JUSTICE AND COURTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Courts and Tribunals

Appeals in civil proceedings

Section 64: Appeals from the Upper Tribunal to the Supreme Court

Section 65: Appeals from the Employment Appeal Tribunal to the Supreme Court

Section 66: Appeals from the Special Immigration Appeals Commission to the Supreme Court

520. *Section 64* inserts new sections 14A to 14C into the Tribunals, Courts and Enforcement Act 2007 with the effect of allowing leapfrog appeals to the Supreme Court to be initiated in the Upper Tribunal under the same conditions as appeals from the High Court.
521. New section 14A establishes the conditions under which the Upper Tribunal may grant a certificate allowing an application for permission to appeal direct to the Supreme Court. It has the effect of replicating in the Upper Tribunal the conditions for the High Court granting a certificate as set out in the Administration of Justice Act 1969 (as amended by section 63). Subsections (1) to (5) stipulate that, following an application by one of the parties to the proceedings, the Upper Tribunal may grant a certificate if a sufficient case has been made out to justify appeal to the Supreme Court and the decision of the Upper Tribunal involves a point of law of general public importance which meets either the conditions set out in subsection (4)(a)(i) and (ii) or (b)(i) and (ii) or the conditions set out in subsection (5)(a) to (c). Subsection (6) requires the Upper Tribunal to specify which court would be the ‘relevant appellate court’ and subsection (3) establishes that the Upper Tribunal may only grant a certificate if the relevant appellate court is the Court of Appeal in England and Wales or the Court of Appeal in Northern Ireland. A certificate may not therefore be granted if the relevant appellate court is the Court of Session in Scotland.
522. New section 14B sets out the procedure under which, following a certificate being granted by the Upper Tribunal, a party may seek permission to appeal to the Supreme Court. It has the effect of replicating the provisions of section 13 of the Administration of Justice Act 1969 (which apply to the High Court) in relation to the Upper Tribunal. Subsection (2) lays down the time limits for such an application. Under subsection (4) if a certificate is granted then there is a right to appeal direct to the Supreme Court and no appeal may be made to the relevant appellate court. Subsection (6) re-connects the right to appeal to the relevant appellate court only if the time for applying to the Supreme Court for permission has expired and, if the permission application is made, the Supreme Court has refused that application.

*These notes refer to the Criminal Justice and Courts Act 2015
(c.2) which received Royal Assent on 12 February 2015*

523. New section 14C establishes certain exclusions from the granting of a certificate by the Upper Tribunal. It has the effect of replicating the provisions of section 15 of the Administration of Justice Act 1969 (which apply to the High Court) in relation to the Upper Tribunal. Under subsections (1) and (2) no certificate may be granted if there would have been no right of appeal at all to the relevant appellate court or from the relevant appellate court to the Supreme Court. Subsection (3) provides that no certificate can be granted where no right of appeal to the relevant appellate court would exist without first obtaining permission to appeal, unless the Upper Tribunal considers that the case merits such permission being granted. In common with the position which applies in the High Court, the leapfrog provisions do not apply to appeals from decisions relating to contempt of court.
524. [Sections 65](#) and [66](#) amend the Employment Tribunals Act 1996 and the Special Immigration Appeals Commission Act 1997 respectively. They follow the provisions applying to the Upper Tribunal in section 64 of the Act in relation to the Employment Appeals Tribunal and the Special Immigration Appeals Commission, with the effect of allowing leapfrog appeals to the Supreme Court to be initiated in these bodies.