



# Criminal Justice and Courts Act 2015

## 2015 CHAPTER 2

### PART 3

#### COURTS AND TRIBUNALS

##### *Appeals in civil proceedings*

#### 65 Appeals from the Employment Appeal Tribunal to the Supreme Court

In the Employment Tribunals Act 1996, after section 37 insert—

**“37ZA Appeals to Supreme Court: grant of certificate by Appeal Tribunal**

- (1) If the Appeal Tribunal is satisfied that—
  - (a) the conditions in subsection (4) or (5) are fulfilled in relation to the Appeal Tribunal's decision or order in any proceedings, and
  - (b) as regards that decision or order, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 37ZB,the Appeal Tribunal may grant a certificate to that effect.
- (2) The Appeal Tribunal may grant a certificate under this section only on an application made by a party to the proceedings.
- (3) The Appeal Tribunal may not grant a certificate under this section in the case of proceedings in Scotland.
- (4) The conditions in this subsection are that a point of law of general public importance is involved in the decision or order of the Appeal Tribunal and that point of law is—
  - (a) a point of law that—
    - (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and

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- (ii) has been fully argued in the proceedings and fully considered in the judgment of the Appeal Tribunal in the proceedings, or
  - (b) a point of law—
    - (i) in respect of which the Appeal Tribunal is bound by a decision of the Court of Appeal or the Supreme Court in previous proceedings, and
    - (ii) that was fully considered in the judgments given by the Court of Appeal or, as the case may be, the Supreme Court in those previous proceedings.
- (5) The conditions in this subsection are that a point of law of general public importance is involved in the decision or order of the Appeal Tribunal and that—
  - (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,
  - (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the Appeal Tribunal, a hearing by the Supreme Court is justified, or
  - (c) the Appeal Tribunal is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.
- (6) No appeal lies against the grant or refusal of a certificate under subsection (1).

### **37ZB Appeals to Supreme Court: permission to appeal**

- (1) If the Appeal Tribunal grants a certificate under section 37ZA in relation to any proceedings, a party to those proceedings may apply to the Supreme Court for permission to appeal directly to the Supreme Court.
- (2) An application under subsection (1) must be made—
  - (a) within one month from the date on which the certificate is granted, or
  - (b) within such time as the Supreme Court may allow in a particular case.
- (3) If on such an application it appears to the Supreme Court to be expedient to do so, the Supreme Court may grant permission for such an appeal.
- (4) If permission is granted under this section—
  - (a) no appeal from the decision or order to which the certificate relates lies to the Court of Appeal, but
  - (b) an appeal lies from that decision or order to the Supreme Court.
- (5) An application under subsection (1) is to be determined without a hearing.
- (6) Subject to subsection (4), no appeal lies to the Court of Appeal from a decision or order of the Appeal Tribunal in respect of which a certificate is granted under section 37ZA until—
  - (a) the time within which an application can be made under subsection (1) has expired, and
  - (b) where such an application is made, that application has been determined in accordance with this section.

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### **37ZC Appeals to Supreme Court: exclusions**

- (1) No certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal in any proceedings where, by virtue of any enactment (other than sections 37ZA and 37ZB), no appeal would lie from that decision or order of the Appeal Tribunal to the Court of Appeal, with or without the leave or permission of the Appeal Tribunal or the Court of Appeal.
- (2) No certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal in any proceedings where, by virtue of any enactment, no appeal would lie from a decision of the Court of Appeal on that decision or order of the Appeal Tribunal to the Supreme Court, with or without the leave or permission of the Court of Appeal or the Supreme Court.
- (3) Where no appeal would lie to the Court of Appeal from the decision or order of the Appeal Tribunal except with the leave or permission of the Appeal Tribunal or the Court of Appeal, no certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal unless it appears to the Appeal Tribunal that it would be a proper case for granting leave or permission to appeal to the Court of Appeal.
- (4) No certificate may be granted under section 37ZA where the decision or order of the Appeal Tribunal is made in the exercise of its jurisdiction to punish for contempt.”

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#### **Commencement Information**

**II** S. 65 in force at 8.8.2016 by [S.I. 2016/717](#), **art. 3(b)** (with **art. 5**)

**Changes to legislation:**

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