



Criminal Justice and Courts Act 2015

2015 CHAPTER 2

PART 3

COURTS AND TRIBUNALS

Appeals in civil proceedings

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

- (1) The Special Immigration Appeals Commission Act 1997 is amended as follows.
- (2) Before section 8 insert—

“7B Appeals to Supreme Court: grant of certificate by Commission

- (1) If the Special Immigration Appeals Commission is satisfied that—
 - (a) the conditions in subsection (4) or (5) are fulfilled in relation to a final determination to which section 7(1) or (1A) applies, and
 - (b) in respect of that final determination, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 7C,the Commission may grant a certificate to that effect.
- (2) The Commission may grant a certificate under this section only on an application made by a party to the appeal or review to which the final determination relates.
- (3) The Commission may not grant a certificate under this section if the final determination is made by the Commission in Scotland.
- (4) The conditions in this subsection are that a point of law of general public importance is involved in the final determination and that point of law is—
 - (a) a point of law that—

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- (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and
 - (ii) has been fully argued in the proceedings on the appeal or review to which the final determination relates and fully considered in the judgment of the Commission, or
- (b) a point of law—
 - (i) in respect of which the Commission is bound by a decision of the appropriate appeal court or the Supreme Court in previous proceedings, and
 - (ii) that was fully considered in the judgments given by the appropriate appeal court 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 final determination 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 Commission, a hearing by the Supreme Court is justified, or
 - (c) the Commission 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).

7C Appeals to Supreme Court: permission to appeal

- (1) If the Special Immigration Appeals Commission grants a certificate under section 7B in relation to a final determination, a party to the appeal or review to which the final determination relates 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 that 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 final determination to which the certificate relates lies to the appropriate appeal court, but
 - (b) an appeal lies from that determination 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 appropriate appeal court from a final determination of the Commission in respect of which a certificate is granted under section 7B until—
 - (a) the time within which an application can be made under subsection (1) has expired, and

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- (b) where such an application is made, that application has been determined in accordance with this section.

7D Appeals to Supreme Court: exclusions

- (1) No certificate may be granted under section 7B in respect of a final determination of the Special Immigration Appeals Commission where, by virtue of any enactment (other than sections 7B and 7C), no appeal would lie from that decision of the Commission to the appropriate appeal court, with or without the leave or permission of the Commission or the appropriate appeal court.
 - (2) No certificate may be granted under section 7B in respect of a final determination of the Commission where, by virtue of any enactment, no appeal would lie from a decision of the appropriate appeal court on that determination of the Commission to the Supreme Court, with or without the permission or leave of the appropriate appeal court or the Supreme Court.
 - (3) Where no appeal would lie to the appropriate appeal court from a final determination of the Commission except with the leave or permission of the Commission or the appropriate appeal court, no certificate may be granted under section 7B in respect of a final determination unless it appears to the Commission that it would be a proper case for granting leave to appeal to the appropriate appeal court.
 - (4) No certificate may be granted under section 7B in respect of a decision or order of the Commission made by it in the exercise of its jurisdiction to punish for contempt.”
- (3) In section 1(4) (challenges to decisions of the Commission), after “section 7” insert “and sections 7B to 7D”.
 - (4) In section 7(3) (appeals from the Commission: definition of “the appropriate appeal court”), after “In this section” insert “and sections 7B to 7D”.
 - (5) In section 8 (procedure on applications for leave to appeal)—
 - (a) in subsection (1), at the end insert “or for the grant of a certificate under section 7B”, and
 - (b) in subsection (2), omit “for leave to appeal”.
 - (6) In the heading of section 8, after “leave to appeal” insert “etc”.