



# National Security and Investment Act 2021

## 2021 CHAPTER 25

### PART 3

#### ENFORCEMENT AND APPEALS

##### *Judicial review and appeals*

#### **49 Procedure for judicial review of certain decisions**

- (1) This section applies to a claim for judicial review of a relevant decision.
- (2) A “relevant decision” means—
  - (a) a decision or action under or by virtue of any of the following provisions, but not including any such decision or action that is directly related to a Part 3 function of the Secretary of State—
    - (i) section 19,
    - (ii) section 20,
    - (iii) section 21,
    - (iv) section 54(1) and (2)(a),
    - (v) section 54(6) to (8), insofar as the decision or action is related to the disclosure of information under section 54(2)(a),
    - (vi) section 55(1) and (3), insofar as the decision or action is related to the disclosure of information under section 54(2)(a),
    - (vii) section 56,
    - (viii) section 57, other than a decision or action related to the disclosure of information under section 54(2)(b) to (f) or (3),
  - (b) a decision or action under or by virtue of section 54(9), insofar as the decision or action is related to a decision or action falling within paragraph (a)(iv) or (v),
  - (c) a decision or action under or by virtue of—

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*Status: This is the original version (as it was originally enacted).*

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- (i) any provision of Part 1 of this Act not mentioned in paragraph (a),
  - (ii) Part 2 of this Act,
  - (iii) section 53, or
  - (iv) section 62,

and “action” includes a failure to act.
- (3) A “Part 3 function” means a function under or by virtue of this Part of this Act.
- (4) The court may entertain proceedings for a claim to which this section applies only if the claim form is filed before the end of the period of 28 days beginning with the day after the day on which the grounds to make the claim first arose, unless the court considers that exceptional circumstances apply.
- (5) In the application of this section to Scotland—
  - (a) subsection (1) has effect with the substitution of “an application to the supervisory jurisdiction of the court in respect” for “a claim for judicial review”,
  - (b) subsection (4) has effect with the substitution of—
    - (i) “an application” for “a claim”,
    - (ii) “application is made” for “claim form is filed”,
    - (iii) “the application” for “the claim”.
- (6) In the application of this section to Northern Ireland—
  - (a) subsection (1) has effect with the substitution of “an application” for “a claim”,
  - (b) subsection (4) has effect with the substitution of—
    - (i) “an application” for “a claim”,
    - (ii) “application for leave to apply for judicial review” for “claim form is filed”,
    - (iii) “the application” for “the claim”.
- (7) In this section “the court” means—
  - (a) the High Court in England and Wales,
  - (b) the Court of Session in Scotland, and
  - (c) the High Court in Northern Ireland.

## **50 Appeals against monetary penalties**

- (1) A person who is given a penalty notice or a variation notice may appeal to the court.
- (2) A person may not appeal under this section after the end of the period of 28 days beginning with the day after the day on which the notice is given to the person.
- (3) On an appeal against a penalty notice the court may—
  - (a) confirm or quash the decision to impose the monetary penalty,
  - (b) confirm or reduce the amount of the penalty,
  - (c) confirm or vary the period within which all or part of the penalty is to be paid.
- (4) On an appeal against a variation notice the court may confirm, vary or quash the variation but may not increase the amount of the monetary penalty.
- (5) In this section “the court” means—

- (a) the High Court in England and Wales,
  - (b) the Court of Session in Scotland, and
  - (c) the High Court in Northern Ireland.
- (6) Where an appeal is brought under this section, the monetary penalty is not payable until the appeal is determined or withdrawn, unless the court orders otherwise.

## **51 Appeals against costs**

- (1) A person given a cost recovery notice or a cost variation notice may appeal to the court.
- (2) A person may not appeal under this section after the end of the period of 28 days beginning with the day after the day on which the notice is given to the person.
- (3) On an appeal against a cost recovery notice the court may—
- (a) confirm or quash the decision to impose costs,
  - (b) confirm or reduce the amount payable,
  - (c) confirm or vary the period within which payment is to be made.
- (4) On an appeal against a cost variation notice the court may confirm, vary or quash the variation but may not increase the amount payable.
- (5) In this section “the court” means—
- (a) the High Court in England and Wales,
  - (b) the Court of Session in Scotland, and
  - (c) the High Court in Northern Ireland.
- (6) Where an appeal is brought under this section, the costs are not payable until the appeal is determined or withdrawn, unless the court orders otherwise.