



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 6

#### MISCELLANEOUS

#### 77 Special Immigration Appeals Commission

- (1) The Special Immigration Appeals Commission Act 1997 is amended in accordance with subsections (2) to (4).
- (2) After section 2E insert—

#### “2F Jurisdiction: review of certain immigration decisions

- (1) Subsection (2) applies in relation to any decision of the Secretary of State which—
  - (a) relates to a person’s entitlement to enter, reside in or remain in the United Kingdom, or to a person’s removal from the United Kingdom,
  - (b) is not subject—
    - (i) to a right of appeal, or
    - (ii) to a right under a provision other than subsection (2) to apply to the Special Immigration Appeals Commission for the decision to be set aside, and
  - (c) is certified by the Secretary of State acting in person as a decision that was made wholly or partly in reliance on information which, in the opinion of the Secretary of State, should not be made public—
    - (i) in the interests of national security,
    - (ii) in the interests of the relationship between the United Kingdom and another country, or
    - (iii) otherwise in the public interest.
- (2) The person to whom the decision relates may apply to the Special Immigration Appeals Commission to set aside the decision.

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**Changes to legislation:** *Nationality and Borders Act 2022, Section 77 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (3) In determining whether the decision should be set aside, the Commission must apply the principles which would be applied in judicial review proceedings.
- (4) If the Commission decides that the decision should be set aside, it may make any such order, or give any such relief, as may be made or given in judicial review proceedings.”
- (3) In section 6A (procedure in relation to jurisdiction under sections 2C to 2E)—
- (a) in the heading, for “2E” substitute “2F”,
  - (b) in subsection (1), for “or 2E” substitute “, 2E or 2F”,
  - (c) in subsection (2)(a), for “or 2E” substitute “, 2E or 2F”, and
  - (d) in subsection (2)(b), for “or (as the case may be) 2E(2)” substitute “, 2E(2) or (as the case may be) 2F(2)”.
- (4) In section 7 (appeals from the Commission), in subsection (1A), for “or 2E” substitute “, 2E or 2F”.
- (5) If subsection (4) comes into force before the day on which paragraph 26(5) of Schedule 9 to the Immigration Act 2014 comes into force, until that day subsection (4) has effect as if, in section 7(1A), for “or 2D” it substituted “, 2D or 2F”.
- (6) In section 115(8) of the Equality Act 2010 (immigration cases), for “section 2D and 2E” substitute “section 2D, 2E or 2F”.

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**Commencement Information**

- I1** S. 77 not in force at Royal Assent, see **s. 87(1)**
- I2** S. 77 in force at 28.6.2022 by **S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 27**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 54(6)(c) and word inserted by [2023 c. 37 s. 57\(11\)\(b\)](#)
- s. 63(2A) inserted by [2023 c. 37 s. 29\(3\)](#)
- s. 63(3)(fa)(fb) inserted by [2023 c. 37 s. 29\(4\)\(b\)](#)
- s. 63(5A)(5B) inserted by [2023 c. 37 s. 29\(5\)](#)
- s. 63(8) inserted by [2023 c. 37 s. 28\(9\)](#)
- s. 65(8A) inserted by [2023 c. 37 s. 28\(12\)](#)