

JUSTICE AND SECURITY ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Disclosure of sensitive material

Section 15: Certain exclusion, naturalisation and citizenship decisions

117. **Section 15** inserts new sections 2C and 2D into the Special Immigration Appeals Commission Act 1997 to provide for a right of review on judicial review principles by the Special Immigration Appeals Commission (“SIAC”) in respect of the following categories of executive action by the Secretary of State:
- A direction regarding the exclusion of a non-EEA national from the United Kingdom which is made by the Secretary of State wholly or partly on the ground that the exclusion of that national from the United Kingdom is conducive to the public good, where (a) there is no right of appeal under Part 5 of the Nationality, Immigration and Asylum Act 2002 and (b) the direction is personally certified by the Secretary of State as one that was made wholly or partly in reliance on information which, in the opinion of the Secretary of State, should not be made public in the interests of national security, the relationship between the United Kingdom and another country or otherwise in the public interest (new section 2C).
 - A decision to refuse to issue a certificate of naturalisation under section 6 of the British Nationality Act 1981 or a refusal to grant an application of the kind mentioned in section 41A of that Act (such as an application to register an adult or young person as a British citizen) where the decision is certified by the Secretary of State as one that was made wholly or partly in reliance on information which, in the opinion of the Secretary of State, should not be made public in the interests of national security, the relationship between the United Kingdom and another country or otherwise in the public interest (new section 2D).
118. *Subsection (2)* of both new sections 2C and 2D provides that a person subject to any of the executive actions described above can apply to SIAC for the decision to be set aside. When considering the application, SIAC is to apply the same principles as would be applied in judicial review proceedings and may grant the same relief given in judicial review proceedings.
119. The effect of these provisions is that a closed material procedure is available under the Special Immigration Appeals Commission Act 1997 for the hearings before SIAC, whereas such a procedure would not be available if the decisions continued to be subject to ordinary judicial review.