



# Judicial Review and Courts Act 2022

## 2022 CHAPTER 35

### PART 1

#### JUDICIAL REVIEW

#### 2 Exclusion of review of Upper Tribunal's permission-to-appeal decisions

(1) In the Tribunals, Courts and Enforcement Act 2007, after section 11 insert—

**“11A Finality of decisions by Upper Tribunal about permission to appeal**

- (1) Subsections (2) and (3) apply in relation to a decision by the Upper Tribunal to refuse permission (or leave) to appeal further to an application under section 11(4)(b).
- (2) The decision is final, and not liable to be questioned or set aside in any other court.
- (3) In particular—
  - (a) the Upper Tribunal is not to be regarded as having exceeded its powers by reason of any error made in reaching the decision;
  - (b) the supervisory jurisdiction does not extend to, and no application or petition for judicial review may be made or brought in relation to, the decision.
- (4) Subsections (2) and (3) do not apply so far as the decision involves or gives rise to any question as to whether—
  - (a) the Upper Tribunal has or had a valid application before it under section 11(4)(b),
  - (b) the Upper Tribunal is or was properly constituted for the purpose of dealing with the application, or
  - (c) the Upper Tribunal is acting or has acted—
    - (i) in bad faith, or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice.
- (5) Subsections (2) and (3) do not apply so far as provision giving the First-tier Tribunal jurisdiction to make the first-instance decision could (if the Tribunal did not already have that jurisdiction) be made by—
- (a) an Act of the Scottish Parliament, or
  - (b) an Act of the Northern Ireland Assembly the Bill for which would not require the consent of the Secretary of State.
- (6) The court of supervisory jurisdiction is not to entertain any application or petition for judicial review in respect of a decision of the First-tier Tribunal that it would not entertain (whether as a matter of law or discretion) in the absence of this section.
- (7) In this section—
- “decision” includes any purported decision;
  - “first-instance decision” means the decision in relation to which permission (or leave) to appeal is being sought under section 11(4)(b);
  - “the supervisory jurisdiction” means the supervisory jurisdiction of—
    - (a) the High Court, in England and Wales or Northern Ireland, or
    - (b) the Court of Session, in Scotland,
- and “the court of supervisory jurisdiction” is to be read accordingly.”
- (2) The amendment made by subsection (1) does not apply in relation to a decision (including any purported decision) of the Upper Tribunal made before the day on which this section comes into force.