



Special Immigration Appeals Commission Act 1997

1997 CHAPTER 68

5 Procedure in relation to jurisdiction under sections 2 and 3.

- (1) The Lord Chancellor may make rules—
 - (a) for regulating the exercise of the rights of appeal conferred by section 2 [^{F1}or 2B]... above,
 - (b) for prescribing the practice and procedure to be followed on or in connection with appeals under that section [^{F2}section 2 [^{F1}or 2B]... above], including the mode and burden of proof and admissibility of evidence on such appeals, and
 - (c) for other matters preliminary or incidental to or arising out of such appeals, including proof of the decisions of the Special Immigration Appeals Commission.
- (2) Rules under this section shall provide that an appellant has the right to be legally represented in any proceedings before the Commission on an appeal under section 2 [^{F1}or 2B]... above, subject to any power conferred on the Commission by such rules.
- [^{F3}(2A) Rules under this section may, in particular, do anything which may be done by [^{F4}Tribunal Procedure Rules].]
- (3) Rules under this section may, in particular—
 - (a) make provision enabling proceedings before the Commission to take place without the appellant being given full particulars of the reasons for the decision which is the subject of the appeal,
 - (b) make provision enabling the Commission to hold proceedings in the absence of any person, including the appellant and any legal representative appointed by him,
 - (c) make provision about the functions in proceedings before the Commission of persons appointed under section 6 below, and
 - (d) make provision enabling the Commission to give the appellant a summary of any evidence taken in his absence.
- (4) Rules under this section may also include provision—

Changes to legislation: Special Immigration Appeals Commission Act 1997, Section 5 is up to date with all changes known to be in force on or before 21 September 2023. 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

- (a) enabling any functions of the Commission which relate to matters preliminary or incidental to an appeal, or which are conferred by ^{F5}Schedule 10 to the Immigration Act 2016], to be performed by a single member of the Commission, or
 - (b) conferring on the Commission such ancillary powers as the Lord Chancellor thinks necessary for the purposes of the exercise of its functions.
- (5) The power to make rules under this section shall include power to make rules with respect to applications to the Commission under ^{F6}Schedule 10 to the Immigration Act 2016] and matters arising out of such applications.
- ^{F7}(5A) Rules under this section must secure that, where the Commission has decided not to release a person on ^{F8}immigration bail under Schedule 10 to the Immigration Act 2016], the Commission is required to dismiss any further application by the person for release on ^{F9}immigration bail] that is made during the period of 28 days starting with the date of the Commission's decision, unless there has been a material change in circumstances.]
- (6) In making rules under this section, the Lord Chancellor shall have regard, in particular, to—
- (a) the need to secure that decisions which are the subject of appeals are properly reviewed, and
 - (b) the need to secure that information is not disclosed contrary to the public interest.
- ^{F10}(7)
- (8) The power to make rules under this section shall be exercisable by statutory instrument.
- (9) No rules shall be made under this section unless a draft of them has been laid before and approved by resolution of each House of Parliament.

Textual Amendments

- F1** Words in s. 5(1)(a)(b)(2) inserted (1.4.2003) by 2002 c. 41, **ss. 4(3), 162(1)**, (with s. 159); S.I. 2003/754, **art. 2(1), Sch. 1** (with arts. 3, 4, Sch. 2 para. 5)
- F2** Words in s. 5(1)(b) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 28(b)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)** (subject to art. 2(2))
- F3** S. 5(2A) inserted (1.4.2003) by 2002 c. 41, ss. 114(3), 162(1), **Sch. 7 para. 23(b)** (with s. 159); S.I. 2003/754, **art. 2(1), Sch. 1** (with arts. 3, 4, Sch. 2 para. 5)
- F4** Words in s. 5(2A) substituted (15.2.2010) by The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), art. 1, **Sch. 1 para. 15** (with Sch. 4)
- F5** Words in s. 5(4)(a) substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 24(2)**; S.I. 2017/1241, **reg. 2(c)** (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F6** Words in s. 5(5) substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 24(3)**; S.I. 2017/1241, **reg. 2(c)** (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F7** S. 5(5A) inserted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 10(2)**; S.I. 2014/2771, **art. 2(e)** (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F8** Words in s. 5(5A) substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 24(4)(a)**; S.I. 2017/1241, **reg. 2(c)** (with Sch.) (as amended by S.I. 2018/31, reg. 2)

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- F9** Words in s. 5(5A) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\), Sch. 10 para. 24\(4\)\(b\)](#); [S.I. 2017/1241, reg. 2\(c\)](#) (with [Sch.](#)) (as amended by [S.I. 2018/31, reg. 2](#))
- F10** S. 5(7) repealed (2.10.2000) by [2000 c. 23, s. 82, Sch. 5](#) (with [s. 82\(3\)](#)); [S.I. 2000/2543, art. 3](#)

Modifications etc. (not altering text)

- C1** S. 5 modified (14.12.2001) by [2001 c. 24, s. 27\(5\)](#)
- C2** Ss. 5, 6 applied by [2002 c. 41, s. 97A\(2K\)](#) (as inserted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\), ss. 54\(4\), 61\(2\)](#); [S.I. 2013/1042, art. 4\(c\)](#))
- C3** S. 5 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\), regs. 1\(2\), 15\(11\)\(12\)](#)
- C4** S. 5(1) amended (22.5.2000 for specified purposes and otherwise 2.10.2000) by [1999 c. 33, s. 74\(3\)\(a\)](#); [S.I. 2000/1282, art. 2, Sch.](#); [S.I. 2000/2444, art. 2, Sch. 1](#) (with transitional provisions in [arts. 3, 4](#))

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Changes and effects yet to be applied to :

- s. 5 extended by [1999 c. 33 s. 44\(13\)](#)
- s. 5 heading word inserted by [2023 c. 37 s. 53\(7\)\(a\)](#)
- s. 5(1)(a) words substituted by [2023 c. 37 s. 53\(6\)\(a\)](#)
- s. 5(1)(b) words substituted by [2023 c. 37 s. 53\(6\)\(a\)](#)
- s. 5(2) words substituted by [2023 c. 37 s. 53\(6\)\(b\)](#)
- s. 5(9) words inserted by [2023 c. 37 s. 53\(7\)\(b\)](#)

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. 2AA2AB inserted by [2023 c. 37 s. 53\(5\)](#)
- s. 5(10)-(13) inserted by [2023 c. 37 s. 53\(7\)\(c\)](#)