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 23 June 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*

(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)

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)

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 23 June 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.
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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)