Borders, Citizenship and Immigration Act 2009

2009 CHAPTER 11

PART 4

MISCELLANEOUS AND GENERAL

Judicial review

53   Transfer of certain immigration judicial review applications

(1) In section 31A of the Supreme Court Act 1981 (c. 54) (England and Wales: transfer from the High Court to the Upper Tribunal)—

   (a)   after subsection (2) insert—

   "(2A) If Conditions 1, 2, 3 and 5 are met, but Condition 4 is not, the High Court must by order transfer the application to the Upper Tribunal.", and

   (b)   after subsection (7) insert—

   "(8) Condition 5 is that the application calls into question a decision of the Secretary of State not to treat submissions as an asylum claim or a human rights claim within the meaning of Part 5 of the Nationality, Immigration and Asylum Act 2002 wholly or partly on the basis that they are not significantly different from material that has previously been considered (whether or not it calls into question any other decision)."

(2) In section 25A of the Judicature (Northern Ireland) Act 1978 (c. 23) (Northern Ireland: transfer from the High Court to the Upper Tribunal)—

   (a)   after subsection (2) insert—

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        "(2A) If Conditions 1, 2, 3 and 5 are met, but Condition 4 is not, the High Court must by order transfer the application to the Upper Tribunal.", and

(b) after subsection (7) insert—

        "(8) Condition 5 is that the application calls into question a decision of the Secretary of State not to treat submissions as an asylum claim or a human rights claim within the meaning of Part 5 of the Nationality, Immigration and Asylum Act 2002 wholly or partly on the basis that they are not significantly different from material that has previously been considered (whether or not it calls into question any other decision)."

(3) In section 20 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (Scotland: transfer from the Court of Session to the Upper Tribunal)—

(a) in subsection (1), for the "and" at the end of paragraph (a) substitute—

        "(aa)   must, if Conditions 1, 2 and 5 are met, but Condition 4 is not, and", and

(b) after subsection (5) insert—

        "(5A) Condition 5 is that the application calls into question a decision of the Secretary of State not to treat submissions as an asylum claim or a human rights claim within the meaning of Part 5 of the Nationality, Immigration and Asylum Act 2002 wholly or partly on the basis that they are not significantly different from material that has previously been considered (whether or not it calls into question any other decision)."