



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

Changes to legislation: There are currently no known outstanding effects for the Judicial Review and Courts Act 2022, Section 2. (See end of Document for details)

- (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.

Commencement Information

- I1** S. 2 not in force at Royal Assent, see [s. 51\(4\)](#)
- I2** [S. 2](#) in force at 14.7.2022 by [S.I. 2022/816](#), [reg. 3\(b\)](#)

Changes to legislation:

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