



Illegal Migration Act 2023

2023 CHAPTER 37

Legal proceedings

PROSPECTIVE

53 Special Immigration Appeals Commission

- (1) This section applies where the Secretary of State makes a decision under section 42(2)(b) or 43(2)(b) (refusal of suspensive claim) in relation to a suspensive claim.
- (2) An appeal under section 44, or an application for permission to appeal under section 45, in relation to the decision may not be brought or continued if the Secretary of State acting in person certifies that the decision was made wholly or partly in reliance on information which, in the opinion of the Secretary of State, should not be made public—
 - (a) in the interests of national security,
 - (b) in the interests of the relationship between the United Kingdom and another country, or
 - (c) otherwise in the public interest.
- (3) Where a certificate is issued under subsection (2), any pending appeal, or application for permission to appeal, in relation to the decision lapses.
- (4) The Special Immigration Appeals Commission Act 1997 is amended as follows.
- (5) After section 2 insert—

“2AA Jurisdiction: appeals in relation to the Illegal Migration Act 2023

- (1) A person may appeal to the Special Immigration Appeals Commission against a refusal decision if—

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Illegal Migration Act 2023, Section 53. (See end of Document for details)

- (a) the person would, but for a certificate of the Secretary of State under section 53 of the Illegal Migration Act 2023 (Special Immigration Appeals Commission), be able to—
 - (i) appeal against the decision under section 44 of that Act, or
 - (ii) apply for permission to appeal against the decision under section 45 of that Act, or
 - (b) an appeal against the decision under section 44 of that Act, or an application for permission to appeal against the decision under section 45 of that Act, lapsed under section 53 of that Act by virtue of a certificate of the Secretary of State under that section.
- (2) Sections 44(3) to (6) and 48(2) to (7) of the Illegal Migration Act 2023 apply, with the modification in subsection (3), in relation to an appeal under this section as they apply in relation to an appeal under section 44 of that Act.
 - (3) The modification is that references to the Upper Tribunal are to be read as references to the Special Immigration Appeals Commission.
 - (4) In this section “refusal decision” means a decision of the Secretary State under section 42(2)(b) or 43(2)(b) of the Illegal Migration Act 2023 (refusal of suspensive claim).

2AB Finality of certain decisions by the Special Immigration Appeals Commission

- (1) Subsections (2) and (3) apply in relation to a decision by the Special Immigration Appeals Commission to make or not to make a determination under section 48(5)(b) of the Illegal Migration Act 2023 (consideration of new matters), as applied by section 2AA(2) of this Act.
- (2) The decision is final, and not liable to be questioned or set aside in any other court.
- (3) In particular—
 - (a) the Special Immigration Appeals Commission 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 Special Immigration Appeals Commission is or was properly constituted for the purpose of making the decision, or
 - (b) the Special Immigration Appeals Commission is acting or has acted—
 - (i) in bad faith, or
 - (ii) in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice.
- (5) In this section—
 - “decision” includes any purported decision;

Status: This version of this provision is prospective.

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“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.”

(6) In the following provisions, for “2 or 2B” substitute “2, 2AA or 2B”—

- (a) section 5(1)(a) and (b);
- (b) section 5(2);
- (c) section 6A(1);
- (d) section 6A(2)(a).

(7) In section 5 (procedure in relation to jurisdiction under sections 2 and 3)—

- (a) in the heading, after “2” insert “, 2AA”;
- (b) in subsection (9), at the beginning, insert “Subject to subsection (10),”;
- (c) after subsection (9), insert—

“(10) A statutory instrument containing the first rules made for the purposes of section 2AA (appeals in relation to the Illegal Migration Act 2023) must be laid before Parliament after being made.

(11) Rules contained in a statutory instrument laid before Parliament under subsection (10) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.

(12) In calculating the period of 40 days, no account is to be taken of any whole days that fall within a period during which—

- (a) Parliament is dissolved or prorogued, or
- (b) either House of Parliament is adjourned for more than four days.

(13) If rules cease to have effect as a result of subsection (11)—

- (a) that does not affect the validity of anything previously done under the rules, and
- (b) subsection (10) applies again as if the rules had not been made.”

Commencement Information

II S. 53 not in force at Royal Assent, see [s. 68\(1\)](#)

Status:

This version of this provision is prospective.

Changes to legislation:

There are currently no known outstanding effects for the Illegal Migration Act 2023, Section 53.