

Judicial Review and Courts Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 2

LORD EHERTON

Leave out Clause 2 and insert the following new Clause –

“Limitation 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 in exercise of the supervisory jurisdiction

- (1) Subsection (2) applies 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) A decision made by the court of supervisory jurisdiction in relation to any such refusal by the Upper Tribunal, whether such decision of the court of supervisory jurisdiction is to refuse permission to proceed or is to dismiss the substantive claim in the supervisory court or is any other order, is final and cannot be questioned or set aside or reversed whether by way of renewal or appeal or otherwise.
- (3) In this section –
 - “decision” includes any purported decision;
 - “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.”

Member’s explanatory statement

These amendments retain the Cart supervisory jurisdiction but bar any appeal from the court exercising the supervisory jurisdiction or any other challenge to decisions of that court whether by way of renewal or otherwise.

After Clause 23

LORD WOLFSON OF TREDEGAR

Insert the following new Clause –

“Power to make certain provision about dispute-resolution services

- (1) This section applies to Online Procedure Rules which provide –
 - (a) for the transfer by electronic means of information held for the purposes of an online dispute-resolution service to a court or tribunal, or
 - (b) for a court or tribunal to take into account, for any purpose, steps that a party to proceedings has or has not taken in relation to an online dispute-resolution service.
- (2) The Rules may be expressed so that their application in relation to a particular service depends on things done by a particular person from time to time.
- (3) The Rules may, for example, refer to such services as –
 - (a) appear from time to time in a list published by a particular person, or
 - (b) are from time to time certified by a particular person as complying with particular standards.
- (4) In this section –

“online dispute-resolution service” means a service accessible by electronic means for facilitating the resolution of disputes without legal proceedings;

“particular person” and “particular standards” include, respectively, a person of a particular description and standards of a particular description.”

Member’s explanatory statement

This new clause enables Online Procedure Rules to allow thing done by third parties to determine the application of the Rules to particular online dispute-resolution services.

After Clause 42

LORD WOLFSON OF TREDEGAR

Insert the following new Clause –

“Provision of information to registrar when investigation discontinued

In section 23 of the Births and Deaths Registration Act 1953 (furnishing of information by coroner in connection with registration of death), after subsection (3) insert –

- “(4) Where a senior coroner –
- (a) discontinues an investigation under section 4 of the 2009 Act,
 - (b) authorises the disposal of the body, and
 - (c) sends to the registrar, on request by the registrar, a certificate stating any particulars required by this Act to be registered concerning the death (so far as they have been ascertained at the date of the certificate),
- the registrar shall in the prescribed form and manner register the death and those particulars, so far as they are not already registered.”

Member's explanatory statement

This new clause enables a coroner who has discontinued an investigation into a death without holding an inquest to supply information needed for the death to be registered.

After Clause 45

LORD EHERTON

Insert the following new Clause—

“Pro Bono Representation: Tribunals

Payments in respect of pro bono representation: tribunals

- (1) Section 194 of the Legal Services Act 2007 (payments in respect of pro bono representation) is amended as follows.
- (2) In subsection (1) after “civil court” insert “or tribunal”.
- (3) In subsection (3)—
 - (a) after “the court” insert “or tribunal”; and
 - (b) after “in respect of that part)” add “, but so that no award made under this subsection may exceed the amount that the court or tribunal could order to be paid in respect of R’s representation of P, had such representation not been provided free of charge in whole or in part”.
- (4) In subsection (4) after “the court” insert “or tribunal”.
- (5) In subsection (5) after “the court” insert “or tribunal”.
- (6) In subsection (7)—
 - (a) after “Rules of court” insert “and tribunal rules of procedure”; and
 - (b) omit the word “civil”;
 - (c) after “the court” insert “or tribunal”.
- (7) In subsection (10)—
 - (a) in the definition of “legal representative” replace “exercising a right of audience or conducting litigation on the party's behalf” with “, who has a right of audience or has the right to conduct litigation in relation to any class of proceedings in any part of the Senior Courts of England and Wales, or all proceedings in county courts or magistrates’ courts, whether or not the person is exercising such right in the particular proceedings”;
 - (b) in the definition of “relevant civil appeal”, after paragraph (a) insert—
 - “(aa) from the Upper Tribunal in accordance with permission granted under section 14B(3) of the Tribunals, Courts and Enforcement Act 2007 (appeal to Supreme Court); and
 - (c) after the definition of “relevant civil appeal” insert—
 - ““tribunal” means—
 - (a) the First-tier Tribunal;
 - (b) the Upper Tribunal;
 - (c) an employment tribunal;
 - (d) the Employment Appeal Tribunal;
 - (e) the Competition Appeal Tribunal; and

After Clause 45 - continued

- (f) any other body, established under or recognised by any enactment, which performs the function of determining matters, which are not criminal in nature, including but not limited to regulatory and disciplinary issues, and which has the power to make an order for the payment of costs.”

Member’s explanatory statement

These new provisions will confer on tribunals the same power as civil courts and the Supreme Court currently have to order an unsuccessful legally represented party to pay pro bono costs to the prescribed charity the Access to Justice Foundation where the successful party has been represented pro bono.

Clause 48

LORD WOLFSON OF TREDEGAR

Page 58, line 15, at end insert “, except section 42A”

Member’s explanatory statement

This amendment provides for the new clause after clause 42 in the name of Lord Wolfson of Tredegar to be brought into force by regulations.

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14 February 2022
