

# Judicial Review and Courts Bill

---

## AMENDMENTS

### TO BE MOVED

#### IN COMMITTEE OF THE WHOLE HOUSE

---

#### Clause 2

LORD PONSONBY OF SHULBREDE

Page 3, line 19, at end insert—

“(1A) Notwithstanding subsection (1), subsections (2) and (3) do not apply where the party refused permission (or leave) to appeal by the Upper Tribunal was the appellant before the First-tier Tribunal and—

- (a) that party was without legal representation and the appeal before the First-tier Tribunal was not within legal aid scope;
- (b) that party was not of full age or capacity;
- (c) the appeal before the First-tier Tribunal was not an in-country appeal;
- (d) the appeal before the First-tier Tribunal was subject to any accelerated procedure;
- (e) the decision of the First-tier Tribunal was subject to any statutory restriction or direction concerning how that tribunal was to evaluate the credibility of the appellant or the evidence before it; or
- (f) the application to the Upper Tribunal raises a point of law concerning the construction of any statutory provision for interpretation of an international agreement.”

LORD MARKS OF HENLEY-ON-THAMES  
LORD THOMAS OF GRESFORD

Page 3, line 37, at end insert—

“(4A) Subsections (2) and (3) do not apply insofar as the decision is likely to lead to the deportation of the Applicant to a country where the applicant is likely to be tortured or subjected to inhuman or degrading treatment.”

***Member’s explanatory statement***

*The purpose of this new subsection would be to create an exception to subsections (2) and (3) in cases where the Upper Tribunal’s decision refusing permission to appeal would be likely to lead to the applicant’s deportation to a country where the applicant would be likely to be tortured or subjected to inhuman or degrading treatment.*

## LORD PONSONBY OF SHULBREDE

Page 4, line 8, at end insert –

““accelerated procedure” means any procedure for which procedure rules permit or require that less time is provided than is the case for another party before the tribunal bringing an appeal under the same statutory right of appeal, and includes an accelerated detained appeal under section 106A(1) of the Nationality, Immigration and Asylum Act 2002;

an appeal is “not an in-country appeal” if the appellant is only permitted to bring or continue the appeal from outside the United Kingdom;

a party is “not of full age or capacity” if that party is –

(a) a child, or

(b) requires the assistance of a third party to understand the procedure or decision of, or issues before, the First-tier Tribunal and communicate effectively with that tribunal (whether or not that assistance is provided save to the extent to which the person requires an interpreter and one is provided);

an appeal is “not within legal scope” if representation before the First-tier Tribunal does not fall within civil legal services under section 9 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“interpreter” means a person whose sole function in proceedings before the tribunal is to translate between the English language and another language spoken by the appellant;

“legally represented” means having legal services as defined by section 8 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which services must be provided by a person who is not prohibited from providing them by any statute, court order or decision of any relevant professional standards body;

“relevant professional standards body” means a designated professional body as defined by section 86 of the Immigration and Asylum Act 1999 or such other body in England and Wales as may be designated by the Lord Chancellor, in Scotland as may be designated by the Scottish Ministers or in Northern Ireland as may be designated by the Department of Justice in Northern Ireland;

“an international agreement” includes the 1951 UN Convention relating to the Status of Refugees;”

### Clause 6

## LORD PONSONBY OF SHULBREDE

Page 11, line 13, at end insert –

“(1bii) and has received the advice of a legal representative prior to submitting a plea.”

**After Clause 9**

LORD PONSONBY OF SHULBREDE

Insert the following new Clause—

**“Expiry of sections 6 to 9**

- (1) Sections 6 to 9 expire at the end of the period of two years beginning with the day on which this Act is passed, subject to subsection (2).
- (2) Sections 6 to 9 continue to have effect if, before the end of the period mentioned in subsection (1), each House of Parliament passes a resolution that they should not expire.”

**Clause 48**

LORD PONSONBY OF SHULBREDE

Page 58, line 18, at end insert—

“(4A) Before section 43 may be commenced, the Lord Chancellor must—

- (a) undertake a consultation with relevant stakeholders regarding the proposed abolition of local justice areas under that section, considering in particular the impact on the principle of local justice,
- (b) lay before Parliament the Report and the findings of such consultation, and
- (c) provide a response explaining whether and how such issues which have been identified would be mitigated.”

# Judicial Review and Courts Bill

---

AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

---

*16 February 2022*

---