

Judicial Review and Courts Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 1

LORD ANDERSON OF IPSWICH
LORD ETHELTON
LORD PANNICK
LORD PONSONBY OF SHULBREDE

Page 2, leave out lines 24 to 32

Member's explanatory statement

This amendment would remove the presumption that where a suspended or prospective-only quashing order would offer adequate redress, such a quashing order should be made in preference to an ordinary quashing order.

Clause 2

LORD ETHELTON

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) Subject to subsections (3) and (4), 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.

Clause 2 - continued

- (3) An appeal lies to the Supreme Court from any such decision of the court of supervisory jurisdiction but only with the leave of the court of supervisory jurisdiction or of the Supreme Court; and such leave may not be granted unless it is certified by the court of supervisory jurisdiction that a point of law of general public importance is involved in the decision and it appears to that court or to the Supreme Court, as the case may be, that the point is one which ought to be considered by the Supreme Court.
- (4) An application to the court of supervisory jurisdiction for leave to appeal to the Supreme Court must be made within the period of 7 days beginning with the date of the decision of the court of supervisory jurisdiction and an application to the Supreme Court for such leave must be made within the period of 7 days beginning with the date on which the application is refused by the court of supervisory jurisdiction.
- (5) In this section—
 - “decision” includes any purported decision;
 - “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, subject only to a limited right to apply for permission to appeal to the Supreme Court, 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.

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2 March 2022
