

Consolidated Direction given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 and s. 18 of the Tribunals, Courts and Enforcement Act 2007

Jurisdiction of the Upper Tribunal under s. 18 of the Tribunals, Courts and Enforcement Act 2007 and Mandatory Transfer of Judicial Review applications to the Upper Tribunal under s. 31A(2) of the Senior Courts Act 1981

1. Subject to paragraphs 2 and 3 below, the Lord Chief Justice hereby specifies the following classes of case for the purposes of section 18(6) of the Tribunals, Courts and Enforcement Act 2007:

any application for permission to apply for judicial review and any application for judicial review (including any application for ancillary relief and costs in such applications) that calls into question:

- i. a decision made under the Immigration Acts (as defined in Schedule 1 to the Interpretation Act 1978) or any instrument having effect (whether wholly or partly) under an enactment within the Immigration Acts, or otherwise relating to leave to enter or remain in the United Kingdom outside the immigration rules; or
- ii. a decision of the Immigration and Asylum Chamber of the First-tier Tribunal, from which no appeal lies to the Upper Tribunal.

2. Paragraph 1 above applies, with effect from 1 November 2013, in relation to:

- i. any case in which an application for permission to apply for judicial review was issued in the Administrative Court on or after 9 September 2013;
- ii. any case in which there has been a request, which has yet to be determined, for reconsideration at a hearing under CPR 54.12 of an application for permission that was refused without a hearing on or after 9 September 2013; and
- iii. any application issued in the Upper Tribunal on or after 1 November 2013.

3. Paragraph 1 above does not apply to any application which comprises or includes:

- i. a challenge to the validity of primary or subordinate legislation (or of immigration rules);
- ii. a challenge to the lawfulness of detention (but an application does not do so by reason only of the fact that it challenges a decision in relation to bail);
- iii. a challenge to a decision concerning inclusion on the register of licensed Sponsors maintained by the United Kingdom Border Agency, or any authorisation of such Sponsors;
- iv. a challenge to a decision as to citizenship under the British Nationality Act 1981 or any other provision of the law for the time being in force which determines British citizenship, the status of a British national (Overseas), British Overseas citizenship or the status of a British subject.
- v. a challenge to a decision made under or by virtue of section 4 (accommodation centres) or Part VI (support for asylum seekers) of the Immigration and Asylum Act 1999;
- vi. a challenge to a decision made under or by virtue of Part II (accommodation centres) or Part III (other support and assistance) of the Nationality, Immigration and Asylum Act 2002;
- vii. a challenge to a decision of the Upper Tribunal;
- viii. a challenge to a decision of the Special Immigration Appeals Commission;
- ix. an application for a declaration of incompatibility under section 4 of the Human Rights Act 1998;

- x. a challenge to a decision which is certified (or otherwise stated in writing) to have been taken by the Secretary of State wholly or partly in the interests of national security; or
 - xi. a challenge to a decision which is certified (or otherwise stated in writing) to have been taken by the Secretary of State wholly or partly in reliance on information which it is considered should not be made public in the interests of national security.¹
4. In paragraphs 1 and 3 above, references to a decision include references to any omission or failure to make a decision.
5. Any application to which paragraph 1 above applies, and any proceedings relating thereto, are hereby designated as an immigration matter.
6. (1) The direction of 17 October 2011 is hereby revoked.
- (2) The direction of 29 October 2008 is amended as follows.
- (3) In paragraph 2b, after “First-tier Tribunal” insert “(other than its Immigration and Asylum Chamber)”.
- (4) This paragraph takes effect on 1 November 2013.
7. This direction is made by the Lord Chief Justice with the agreement of the Lord Chancellor. It is made in the exercise of powers conferred by section 18(6) and (7) of the Tribunals, Courts and Enforcement Act 2007 and in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005.

The Right Honourable Lord Judge

Lord Chief Justice of England and Wales

21 August 2013

(as amended on 17 October 2014)

¹ ***[Paragraph 3x and xi added by a direction given by the Right Honourable Lord Thomas, Lord Chief Justice of England and Wales, dated 17 October 2014, in relation to any case where the application is issued on or after that date]***