

IN THE SENIOR COURTS OF ENGLAND AND WALES

DIRECTION – CLASS OF CASES SPECIFIED FOR THE PURPOSES OF SECTION 18(6) OF THE TRIBUNALS COURTS AND ENFORCEMENT ACT 2007

1. The Lord Chief Justice hereby specifies the following class of case for the purposes of section 18(6) of the Tribunals Courts and Enforcement Act 2007 Act (“the 2007 Act”):

applications calling into question a decision of the Secretary of State not to treat submissions as an asylum claim or a human rights claim within the meaning of Part 5 of the Nationality, Immigration and Asylum Act 2002 wholly or partly on the basis that they are not significantly different from material that has previously been considered.

2. An application also falls within the class specified in paragraph 1 if, in addition to calling into question a decision of the sort there described, it challenges

(i) a decision or decisions to remove (or direct the removal of) the applicant from the United Kingdom; or

(ii) a failure or failures by the Secretary of State to make a decision on submissions said to support an asylum or human rights claim;

or both (i) and (ii); but not if it challenges any other decision.

3. This direction takes effect on 17/10/11 in relation to applications made on or after that date to the High Court or Upper Tribunal for judicial review or for permission to apply for judicial review that seek relief of a kind mentioned in section 15(1) of the 2007 Act.

4. For the avoidance of doubt,

(i) a case which has been transferred under this direction continues to fall within the specified class of case and the Upper Tribunal has the function of deciding the application, where, after transfer, additional material is submitted to the Secretary of State for decision but no decision has been made upon that material;

(ii) this direction does not have effect where an application seeks a declaration of incompatibility under section 4 of the Human Rights Act 1998, or where the applicant seeks to challenge detention.

5. 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 2007 Act and in accordance with Part 1 of Schedule 2 of the Constitutional Reform Act 2005.

**The Right Honourable Lord Judge
Lord Chief Justice of England and Wales**

