

## **Grounds of Appeal to the Supreme Court of the Secretary of State for Exiting the European Union**

1. The Divisional Court erred in ruling that the Crown has no legal power to commence a withdrawal from the EU Treaties by giving notice under Article 50 of the Treaty on European Union. Specifically, they erred in:
  - a) holding that the necessary implication of the European Communities Act 1972 (“ECA”) was that the Crown had no such prerogative power; and
  - b) taking the alternative approach of asking whether the ECA conferred positive authority to give such a notice (and concluding that it did not).
2. The Divisional Court should have ruled, in summary (the Secretary of State’s case will be developed in his Case) that
  - a) the Crown retains the power to give effect to the result of the EU Referendum, provided for specifically by the EU Referendum Act 2015, by taking the first step in the process contemplated by Article 50 and giving the notice;
  - b) that is the constitutionally normal and unsurprising position, given the UK’s longstanding dualist approach to international law;
  - c) neither the ECA nor the other parts of the relevant legislative scheme (including specifically the European Union Amendment Act 2008, the European Union Act 2011 and the European Union Referendum Act 2015) indicate that the power has been removed by Parliament, expressly or by necessary implication;
  - d) in any event, the continued existence of the power to take that first step is clearly established and authorised by Parliament.