



Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5

IMMIGRATION AND ASYLUM APPEALS

Appeal from adjudicator

100 Immigration Appeal Tribunal

[^{F1}(1) There shall continue to be an Immigration Appeal Tribunal.

(2) Schedule 5 (which makes provision about the Tribunal) shall have effect.]

Textual Amendments

F1 Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 26(5)(a)**, 47, 48(1)-(3), **Sch. 4**; S.I. 2005/565, **art. 2(a)** (with savings in arts. 3-9)

101 Appeal to Tribunal

[^{F2}(1) A party to an appeal to an adjudicator under section 82 or 83 may, with the permission of the Immigration Appeal Tribunal, appeal to the Tribunal against the adjudicator's determination on a point of law.

(2) A party to an application to the Tribunal for permission to appeal under subsection (1) may apply to the High Court or, in Scotland, to the Court of Session for a review of the Tribunal's decision on the ground that the Tribunal made an error of law.

(3) Where an application is made under subsection (2)—

Status: Point in time view as at 04/04/2005.

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- (a) it shall be determined by a single judge by reference only to written submissions,
- (b) the judge may affirm or reverse the Tribunal's decision,
- (c) the judge's decision shall be final, and
- (d) if, in an application to the High Court, the judge thinks the application had no merit he shall issue a certificate under this paragraph (which shall be dealt with in accordance with Civil Procedure Rules).

(4) The Lord Chancellor may by order repeal subsections (2) and (3).]

Textual Amendments

F2 Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 26(5)(a)**, 47, 48(1)-(3), **Sch. 4**; S.I. 2005/565, **art. 2(a)** (with savings in arts. 3-9)

Modifications etc. (not altering text)

- C1** Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326, Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), **reg. 2(10)** (with transitional provisions in **reg. 3**))
 Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))
- C2** S. 101(1) extended (9.6.2003) by [S.I. 2003/754, Sch. 2 para. 1\(4A\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)
- C3** S. 101(2)(3) applied (with modifications) (9.6.2003) by [S.I. 2003/754, Sch. 2 para. 1\(4B\)\(a\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)

102 Decision

- [^{F3}(1) On an appeal under section 101 the Immigration Appeal Tribunal may—
- (a) affirm the adjudicator's decision;
 - (b) make any decision which the adjudicator could have made;
 - (c) remit the appeal to an adjudicator;
 - (d) affirm a direction given by the adjudicator under section 87;
 - (e) vary a direction given by the adjudicator under that section;
 - (f) give any direction which the adjudicator could have given under that section.
- (2) In reaching their decision on an appeal under section 101 the Tribunal may consider evidence about any matter which they think relevant to the adjudicator's decision, including evidence which concerns a matter arising after the adjudicator's decision.
- (3) But where the appeal under section 82 was against refusal of entry clearance or refusal of a certificate of entitlement—
- (a) subsection (2) shall not apply, and
 - (b) the Tribunal may consider only the circumstances appertaining at the time of the decision to refuse.

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- (4) In remitting an appeal to an adjudicator under subsection (1)(c) the Tribunal may, in particular—
- (a) require the adjudicator to determine the appeal in accordance with directions of the Tribunal;
 - (b) require the adjudicator to take additional evidence with a view to the appeal being determined by the Tribunal.]

Textual Amendments

- F3** Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 26(5)(a)**, 47, 48(1)-(3), **Sch. 4**; S.I. 2005/565, **art. 2(a)** (with savings in [arts. 3-9](#))

Modifications etc. (not altering text)

- C4** Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326, Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), **reg. 2(10)** (with transitional provisions in [reg. 3](#)))
- Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), **arts. 3, 4** (with transitional provisions in [arts. 3, 4, Sch. 2](#) (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))
- S. 102 applied (with modifications) (9.6.2003) by [S.I. 2003/754, Sch. 2 para. 1\(4B\)\(a\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)

103 Appeal from Tribunal

- [^{F4}(1) Where the Immigration Appeal Tribunal determines an appeal under section 101 a party to the appeal may bring a further appeal on a point of law—
- (a) where the original decision of the adjudicator was made in Scotland, to the Court of Session, or
 - (b) in any other case, to the Court of Appeal.
- (2) An appeal under this section may be brought only with the permission of—
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the court referred to in subsection (1)(a) or (b).
- (3) The remittal of an appeal to an adjudicator under section 102(1)(c) is not a determination of the appeal for the purposes of subsection (1) above.]

Textual Amendments

- F4** Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 26(5)(a)**, 47, 48(1)-(3), **Sch. 4**; S.I. 2005/565, **art. 2(a)** (with savings in [arts. 3-9](#))

Modifications etc. (not altering text)

- C5** Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326, Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), **reg. 2(10)** (with transitional provisions in [reg. 3](#)))

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Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))

S. 103 applied (with modifications) (9.6.2003) by [S.I. 2003/754](#), Sch. 2 para. 1(4B)(a) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)

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