



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 5

#### [<sup>F1</sup>APPEALS IN RESPECT OF PROTECTION AND HUMAN RIGHTS CLAIMS]

##### *General*

#### **109 European Union and European Economic Area**

- (1) Regulations may provide for, or make provision about, an appeal against an immigration decision taken in respect of a person who has or claims to have a right under any of the [<sup>F1</sup>EU] Treaties.
- (2) The regulations may—
  - (a) apply a provision of this Act or the Special Immigration Appeals Commission Act 1997 (c. 68) with or without modification;
  - (b) make provision similar to a provision made by or under this Act or that Act;
  - (c) disapply or modify the effect of a provision of this Act or that Act.
- (3) In subsection (1) “immigration decision” means a decision about—
  - (a) a person’s entitlement to enter or remain in the United Kingdom, or
  - (b) removal of a person from the United Kingdom.

#### **Textual Amendments**

- F1** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

#### **110 Grants**

*Status: Point in time view as at 31/01/2020.*

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- [<sup>F2</sup>(1) The Secretary of State may make a grant to a voluntary organisation which provides—
  - (a) advice or assistance to persons who have a right of appeal under this Part;
  - (b) other services for the welfare of those persons.
- (2) A grant under this section may be subject to terms or conditions (which may include conditions as to repayment).]

**Textual Amendments**

**F2** S. 110 ceases to have effect (16.6.2006) and it is repealed (prosp.) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#) {ss. 10}, 61, 62, {Sch. 3}; S.I. 2006/1497, **art. 3**, Sch.

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**Modifications etc. (not altering text)**

**C1** S. 110 applied (with modifications) by [1997 c. 68, s. 2\(2\)\(1\)\(3\)\(d\)](#) (as substituted (1.4.2003) by [2002 c. 41, ss. 114, 162\(2\), Sch. 7 para. 20](#) (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)

**C2** S. 110 extended by [2001 c. 24, s. 27\(10\)](#) (as substituted (1.4.2003) by [2002 c. 41, ss. 114, 162\(2\), Sch. 7 para. 30](#) (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)

<sup>F3</sup>**111 Monitor of certification of claims as unfounded**

.....

**Textual Amendments**

**F3** S. 111 repealed (1.4.2008) by [UK Borders Act 2007 \(c. 30\)](#), **ss. 54(e), 59(2)**; S.I. 2008/309, art. 4(e)

**112 Regulations, &c.**

- (1) Regulations under this Part shall be made by the Secretary of State.
- (2) Regulations <sup>F4</sup>... under this Part <sup>F4</sup>...—
  - (a) must be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations <sup>F5</sup>... under this Part—
  - (a) may make provision which applies generally or only in a specified case or in specified circumstances,
  - (b) may make different provision for different cases or circumstances,
  - (c) may include consequential, transitional or incidental provision, and
  - (d) may include savings.

<sup>F6</sup>(3A) .....

- (4) An order under section 94(5) <sup>F7</sup>...—
  - (a) must be made by statutory instrument,
  - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, and
  - (c) may include transitional provision.

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- (5) An order under section [F894(6) or (6B)]<sup>F9</sup>...—
- (a) must be made by statutory instrument,
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (c) may include transitional provision.

[<sup>F10</sup>(5A) If an instrument makes provision under section 94(5) and 94(6)—

- (a) subsection (4)(b) above shall apply, and
- (b) subsection (5)(b) above shall not apply.]

[<sup>F11</sup>(5B) An order under section 97A(4)—

- (a) must be made by statutory instrument,
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
- (c) may include transitional provision.]

<sup>F12</sup>(6) .....

<sup>F12</sup>(7) .....

#### Textual Amendments

- F4** Words in s. 112(2) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 29(a)** (with Sch. 4)
- F5** Words in s. 112(3) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 29(b)** (with Sch. 4)
- F6** S. 112(3A) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 52(a)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F7** Words in s. 112(4) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 52(b)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F8** Words in s.112(5) substituted (31.8.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), ss. 14, 62, **Sch. 1 para. 11**; [S.I. 2006/2226](#), art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F9** Words in s. 112(5) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 52(c)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F10** S. 112(5A) inserted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 27(8), 48(1)-(3); [S.I. 2005/2523](#), art. 2, Sch.
- F11** S. 112(5B) inserted (31.8.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), ss. 7(2), 62; [S.I. 2006/2226](#), art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F12** S. 112(6)(7) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 29(c)** (with Sch. 4)

#### Modifications etc. (not altering text)

- C3** S. 112 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), **Sch. 2 paras. 1-3**

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## 113 Interpretation

(1) In this Part, unless a contrary intention appears—

“asylum claim” means a claim made by a person to the Secretary of State at a place designated by the Secretary of State that to remove the person from or require him to leave the United Kingdom would breach the United Kingdom’s obligations under the Refugee Convention,

<sup>F13</sup>  
...

“human rights claim” means a claim made by a person to the Secretary of State at a place designated by the Secretary of State that to remove the person from or require him to leave the United Kingdom [<sup>F14</sup>or to refuse him entry into the United Kingdom] would be unlawful under section 6 of the Human Rights Act 1998 (c. 42) (public authority not to act contrary to Convention)

<sup>F15</sup>  
...

“the Human Rights Convention” has the same meaning as “the Convention” in the Human Rights Act 1998 and “Convention rights” shall be construed in accordance with section 1 of that Act,

[<sup>F16</sup>“humanitarian protection” has the meaning given in section 82(2);]

<sup>F13</sup>  
...

“immigration rules” means rules under section 1(4) of [<sup>F17</sup>the Immigration Act 1971] (general immigration rules),

<sup>F13</sup>  
...

[<sup>F16</sup>“protection claim” has the meaning given in section 82(2)]

[<sup>F16</sup>“protection status” has the meaning given in section 82(2)]

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol,

<sup>F13</sup>  
...

<sup>F13</sup>  
...

<sup>F18</sup>(2) .....

### Textual Amendments

- F13** Words in s. 113(1) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 53\(2\)\(c\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F14** Words in s. 113(1) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 53\(2\)\(a\)\(i\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F15** Words in s. 113(1) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 53\(2\)\(a\)\(ii\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F16** Words in s. 113(1) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 53\(2\)\(b\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F17** Words in s. 113(1) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 53\(2\)\(d\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I.](#)

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2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

**F18** S. 113(2) omitted (20.10.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 53(3); S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

**Modifications etc. (not altering text)**

**C4** S. 113 applied (with modifications) (31.1.2020) by The Immigration (Citizens Rights Appeals) (EU Exit) Regulations 2020 (S.I. 2020/61), reg. 1(2), Sch. 2 paras. 1-3

**114 Repeal**

- (1) Part IV of the Immigration and Asylum Act 1999 (c. 33) (appeals) shall cease to have effect.
- (2) Schedule 6 (which makes transitional provision in connection with the repeal of Part IV of that Act and its replacement by this Part) shall have effect.
- (3) Schedule 7 (consequential amendments) shall have effect.

**Commencement Information**

**II** S. 114 wholly in force at 1.4.2003; s. 114 not in force at Royal Assent see s. 162(2); s. 114(3) in force at 10.2.2003 by S.I. 2003/1, art. 2, Sch.; s. 114(1)(2) in force at 1.4.2003 by S.I. 2003/754, art. 2, Sch. 1

**<sup>F19</sup>115 Appeal from within United Kingdom: unfounded human rights or asylum claim: transitional provision**

**Textual Amendments**

**F19** S. 115 repealed (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 54; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

**<sup>F20</sup>116 Special Immigration Appeals Commission: Community Legal Service**

**Textual Amendments**

**F20** S. 116 repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 5 Pt. 2; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

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## **117 Northern Ireland appeals: legal aid**

- (1) In Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8)) (proceedings for which legal aid may be given under Part II of that Order) the following shall be inserted after paragraph 6—

“6A Proceedings before an adjudicator appointed for the purposes of Part 5 of the Nationality, Immigration and Asylum Act 2002, the Immigration Appeal Tribunal or the Special Immigration Appeals Commission.”

- (2) The amendment made by subsection (1) is without prejudice to the power to make regulations under Article 10(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 amending or revoking the provision inserted by that subsection.

**Status:**

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**Changes to legislation:**

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