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Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5 **U.K.**

IMMIGRATION AND ASYLUM APPEALS

Procedure

^{F1}**103A Review of Tribunal's decision** **U.K.**

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Textual Amendments

F1 Ss. 103A-103E 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. 25** (with Sch. 4 paras. 2-13, 1920)

^{F1}**103B Appeal from Tribunal following reconsideration** **U.K.**

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Textual Amendments

F1 Ss. 103A-103E 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. 25** (with Sch. 4 paras. 2-13, 1920)

^{F1}**103C Appeal from Tribunal instead of reconsideration** **U.K.**

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Textual Amendments

F1 Ss. 103A-103E 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. 25** (with Sch. 4 paras. 2-13, 1920)

^{F1}103D Reconsideration: legal aid U.K.

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Textual Amendments

F1 Ss. 103A-103E 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. 25** (with Sch. 4 paras. 2-13, 1920)

^{F1}103E Appeal from Tribunal sitting as panel U.K.

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Textual Amendments

F1 Ss. 103A-103E 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. 25** (with Sch. 4 paras. 2-13, 1920)

104 Pending appeal U.K.

- (1) An appeal under section 82(1) is pending during the period—
 - (a) beginning when it is instituted, and
 - (b) ending when it is finally determined, withdrawn or abandoned (or when it lapses under section 99).

- ^{F2}(2) An appeal under section 82(1) is not finally determined for the purpose of subsection (1)(b) while—
 - (a) an application for permission to appeal under section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007 could be made or is awaiting determination,
 - (b) permission to appeal under either of those sections has been granted and the appeal is awaiting determination, or
 - (c) an appeal has been remitted under section 12 or 14 of that Act and is awaiting determination.]

(3) ^{F3}.....

^{F4}(4) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant leaves the United Kingdom.

(4A) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom (subject to subsections (4B) and (4C)).

(4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground relating to the Refugee Convention specified in section 84(1)(g) where the appellant—

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- (a) is granted leave to enter or remain in the United Kingdom for a period exceeding 12 months, and
 - (b) gives notice, in accordance with [^{F5}Tribunal Procedure Rules], that he wishes to pursue the appeal in so far as it is brought on that ground.
- (4C) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground specified in section 84(1)(b) where the appellant gives notice, in accordance with [^{F6}Tribunal Procedure Rules], that he wishes to pursue the appeal in so far as it is brought on that ground.]
- (5) An appeal under section 82(2)(a), (c), (d), (e) or (f) shall be treated as finally determined if a deportation order is made against the appellant.

Textual Amendments

- F2** S. 104(2) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 26(a)** (with Sch. 4)
- F3** S. 104(3) omitted (4.4.2005) and repealed (prosp.) by virtue of [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 47, 48(1)-(3), Sch. 2 para. 20(b), **Sch. 4**; S.I. 2005/565, **art. 2** (with savings in arts. 3-9)
- F4** S. 104(4)-(4C) substituted (13.11.2006) for s. 104(4) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), **ss. 9, 62**; S.I. 2006/2838, **art. 3**
- F5** Words in s. 104(4B)(b) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 26(b)** (with Sch. 4)
- F6** Words in s. 104(4C) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 26(b)** (with Sch. 4)

Modifications etc. (not altering text)

- C1** S. 104 applied (with modifications) by [1997 c. 68, s. 2\(2\)\(j\)](#) (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**)

105 Notice of immigration decision **U.K.**

- (1) The Secretary of State may make regulations requiring a person to be given written notice where an immigration decision is taken in respect of him.
- (2) The regulations may, in particular, provide that a notice under subsection (1) of a decision against which the person is entitled to appeal under section 82(1) must state—
 - (a) that there is a right of appeal under that section, and
 - (b) how and when that right may be exercised.
- (3) The regulations may make provision (which may include presumptions) about service.

Modifications etc. (not altering text)

- C2** S. 105 applied (with modifications) by [1997 c. 68, s. 2\(2\)\(k\)](#) (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**)

106 Rules **U.K.**

^{F7}(1)

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- ^{F8}(1A)
- ^{F9}(2)
- [^{F10}(t) may make provision about the number of members exercising the Tribunal’s jurisdiction;
- (u) may make provision about the allocation of proceedings among members of the Tribunal (which may include provision for transfer);
- (v) may make provision about reconsideration of a decision pursuant to an order under section 103A(1) (which may, in particular, include provision about the action that may be taken on reconsideration and about the matters and evidence to which the Tribunal may have regard);
- (w) shall provide that a party to an appeal is to be treated as having received notice of the Tribunal’s decision, unless the contrary is shown, at such time as may be specified in, or determined in accordance with, the rules;
- (x) may make provision about proceedings under paragraph 30 of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (transitional filter of applications for reconsideration from High Court to Tribunal) (and may, in particular, make provision of a kind that may be made by rules of court under section 103A(5)(b));
- (y) may make provision about the form and content of decisions of the Tribunal.]
- [^{F11}(3) In the case of an appeal under section 82, 83 or 83A or by virtue of section 109, Tribunal Procedure Rules may enable the Tribunal to certify that the appeal had no merit (and shall make provision for the consequences of the issue of a certificate).]
- (4) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed in accordance with [^{F12}Tribunal Procedure Rules in connection with proceedings under section 82, 83 or 83A or by virtue of section 109] to attend before ^{F13} . . . the Tribunal—
- (a) to give evidence, or
- (b) to produce a document.
- (5) A person who is guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

- F7** S. 106(1) 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. 27(a)** (with Sch. 4)
- F8** S. 106(1A) 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. 27(a)** (with Sch. 4)
- F9** S. 106(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. 27(a)** (with Sch. 4)
- F10** S. 106(2)(t)-(y) inserted (4.4.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), **Sch. 2 para. 21(o)**; S.I. 2005/565, **art. 2** (with savings in arts. 3-9)
- F11** S. 106(3) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 27(b)** (with Sch. 4)
- F12** Words in s. 106(4) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 27(c)** (with Sch. 4)
- F13** Words in s. 106(4) omitted (4.4.2005) by virtue of [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), **Sch. 2 para. 21(t)** and words in said subprovision repealed

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(prosp.) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 47, 48(1)-(3), Sch. 4 ; S.I. 2005/565, art. 2 (with savings in arts. 3-9)

Modifications etc. (not altering text)

C3 S. 106 extended by 1981 c. 61, s. 40A(7) (as substituted (1.4.2003) by 2002 c. 41, ss. 4(1), 162(2) (with s. 159); S.I. 2003/754, art. 2(1), Sch. 1))

107 Practice directions **U.K.**

^{F14}(1)

^{F15}(1A)

^{F16}(2)

[^{F17}(3) In the case of proceedings under section 82, 83 or 83A or by virtue of section 109, or proceedings in the Upper Tribunal arising out of such proceedings, practice directions under section 23 of the Tribunals, Courts and Enforcement Act 2007—

- (a) may require the Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter; and
- (b) may require the Upper Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter.]

[^{F18}(3A) In subsection (3) the reference to a decision of the Tribunal includes—

- (a) a decision of the Asylum and Immigration Tribunal, and
- (b) a decision of the Immigration Appeal Tribunal.]

^{F19}(4)

^{F19}(5)

^{F19}(6)

^{F19}(7)

Textual Amendments

F14 S. 107(1) 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. 28(a) (with Sch. 4)

F15 S. 107(1A) 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. 28(a) (with Sch. 4)

F16 S. 107(2) omitted (4.4.2005) by virtue of Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 26, 48(1)-(3), Sch. 2 para. 22(1)(b) and said subprovision repealed (prosp.) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 47, 48(1)-(3), Sch. 4 ; S.I. 2005/565, art. 2 (with savings in arts. 3-9)

F17 S. 107(3) substituted (15.2.2010) by The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), art. 1, Sch. 1 para. 28(b) (with Sch. 4)

F18 S. 107(3A) inserted (15.2.2010) by The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), art. 1, Sch. 1 para. 28(c) (with Sch. 4)

F19 S. 107(4)-(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. 28(a) (with Sch. 4)

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Modifications etc. (not altering text)

- C4** S. 107 extended by 1981 c. 61, s. 40A(8) (as substituted (1.4.2003) by 2002 c. 41, ss. 4(1), 162(2) (with s. 159); S.I. 2003/754, art. 2(1), Sch. 1))

108 Forged document: proceedings in private **U.K.**

- (1) This section applies where it is alleged—
- (a) that a document relied on by a party to an appeal under section 82 [^{F20}, 83 or 83A] is a forgery, and
 - (b) that disclosure to that party of a matter relating to the detection of the forgery would be contrary to the public interest.
- (2) [^{F21}The Tribunal]—
- (a) must investigate the allegation in private, and
 - (b) may proceed in private so far as necessary to prevent disclosure of the matter referred to in subsection (1)(b).

Textual Amendments

- F20** Words in s. 108(1)(a) substituted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 14, 62, Sch. 1 para. 10; S.I. 2006/2226, art. 3, Sch. 1 (with transitional provisions in art. 4)
- F21** Words in s. 108(2) substituted (4.4.2005) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 26, 48(1)-(3), Sch. 2 para. 23(b); S.I. 2005/565, art. 2 (with savings in arts. 3-9)

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