

Status: Point in time view as at 04/04/2005.

Changes to legislation: Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Part 2 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

ASYLUM AND IMMIGRATION TRIBUNAL: CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION

PART 2

TRANSITIONAL PROVISION

26 In this Part “commencement” means the coming into force of section 26.

Commencement Information

I1 Sch. 2 para. 26 in force at 4.4.2005 by S.I. 2005/565, art. 2(d) (with arts. 3-9)

27 A person who immediately before commencement is, or is to be treated as, an adjudicator appointed under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals) (as it has effect before commencement) shall be treated as having been appointed as a member of the Asylum and Immigration Tribunal under paragraph 1 of Schedule 4 to that Act (as it has effect after commencement) immediately after commencement.

Commencement Information

I2 Sch. 2 para. 27 in force at 4.4.2005 by S.I. 2005/565, art. 2(d) (with arts. 3-9)

28 Where immediately before commencement a person is a member of the Immigration Appeal Tribunal—

- (a) he shall be treated as having been appointed as a member of the Asylum and Immigration Tribunal under paragraph 1 of Schedule 4 to that Act immediately after commencement, and
- (b) if he was a legally qualified member of the Immigration Appeal Tribunal (within the meaning of Schedule 5 to that Act) he shall be treated as having been appointed as a legally qualified member of the Asylum and Immigration Tribunal.

Commencement Information

I3 Sch. 2 para. 28 in force at 4.4.2005 by S.I. 2005/565, art. 2(d) (with arts. 3-9)

29 A person who immediately before commencement is a member of staff of adjudicators appointed or treated as appointed under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) or of the Immigration Appeal Tribunal shall be treated as having been appointed as a member of the staff of the Asylum

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and Immigration Tribunal under paragraph 9 of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 immediately after commencement.

Commencement Information

I4 Sch. 2 para. 29 in force at 4.4.2005 by S.I. 2005/565, art. 2(d) (with arts. 3-9)

- 30 (1) This paragraph shall have effect in relation to applications under section 103A(1) or for permission under section 103A(4)(b) made—
- (a) during the period beginning with commencement and ending with such date as may be appointed by order of the Lord Chancellor, and
 - (b) during any such later period as may be appointed by order of the Lord Chancellor.
- (2) An application in relation to which this paragraph has effect shall be considered by a member of the Asylum and Immigration Tribunal (in accordance with arrangements under paragraph 8(1) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (inserted by Schedule 1 above)).
- (3) For the purposes of sub-paragraph (2)—
- (a) references in section 103A to the appropriate court shall be taken as references to the member of the Tribunal who is considering the application or who is to consider the application,
 - (b) rules of court made for the purpose of section 103A(4)(a) in relation to the court to which an application is made shall have effect in relation to the application despite the fact that it is considered outside the appropriate court, and
 - (c) section 103A(6) shall be subject to sub-paragraph (5) below.
- (4) Where a member of the Tribunal considers an application under section 103A(1) or 103A(4)(b) by virtue of this paragraph—
- (a) he may make an order under section 103A(1) or grant permission under section 103A(4)(b), and
 - (b) if he does not propose to make an order or grant permission, he shall notify the appropriate court and the applicant.
- (5) Where notice is given under sub-paragraph (4)(b)—
- (a) the applicant may notify the appropriate court that he wishes the court to consider his application under section 103A(1) or 103A(4)(b),
 - (b) the notification must be given within the period of 5 days beginning with the date on which the applicant is treated, in accordance with rules under section 106 of the Nationality, Immigration and Asylum Act 2002, as receiving the notice under sub-paragraph (4)(b) above, and
 - (c) the appropriate court shall consider the application under section 103A(1) or 103A(4)(b) if—
 - (i) the applicant has given notice in accordance with paragraphs (a) and (b) above, or
 - (ii) the applicant has given notice under paragraph (a) above outside the period specified in paragraph (b) above, but the appropriate court concludes that the application should be considered on the grounds that the notice could not reasonably practicably have been given within that period.

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- (6) Rules of court may specify days to be disregarded in applying sub-paragraph (5)(b).
- (7) A member of the Tribunal considering an application under section 103A(1) by virtue of this paragraph may not make a reference under section 103C.
- (8) An order under sub-paragraph (1)(a) or (b)—
 - (a) shall be made by statutory instrument,
 - (b) shall not be made unless the Lord Chancellor has consulted such persons as he thinks appropriate, and
 - (c) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

Commencement Information

I5 Sch. 2 para. 30 in force at 4.4.2005 by S.I. 2005/565, art. 2(d) (with arts. 3-9)

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