

SCHEDULE 2

Transitional provisions

Transitional provision relating to the Nationality, Immigration and Asylum Act 2002

5.—(1) Subject to subparagraph (2) below, the new appeals provisions shall not have effect in relation to events which took place before 1st May 2008 and, notwithstanding the revocation of the Immigration (Isle of Man) Order 1997, the old appeals provisions shall continue to have effect in relation to such events.

(2) The following provisions of the 2002 Act—

- (a) section 78 (no removal while appeal pending), and
- (b) section 79 (deportation order: appeal),

shall have effect in relation to an appeal pending under the old appeals provisions as they have effect in relation to an appeal pending under section 82(1) of the 2002 Act.

(3) The adjudicators for the purposes of Part 5 of the 2002 Act shall be treated as the adjudicators for the purposes of the old appeals provisions.

(4) In the application of section 96 of the 2002 Act—

- (a) a reference to an appeal or right of appeal under a provision of that Act includes a reference to an appeal or right of appeal under the old appeals provisions,
- (b) a reference to a requirement imposed under that Act includes a reference to a requirement of a similar nature imposed the old appeals provisions,
- (c) a reference to a statement made in response to a notice under a provision of that Act includes a reference to anything done in compliance with a requirement under the old appeals provisions, and
- (d) a reference to notification by virtue of that Act includes a reference to notification by virtue of any other enactment.

(5) In this paragraph—

- (a) “the new appeals provisions” means sections 82 to 99 of the 2002 Act, together with any provision (including subordinate legislation) of—

- (i) the 2002 Act;
 - (ii) the 1971 Act (as amended by the 2002 Act) and the 1999 Act;

which refer to those provisions;

- (b) “the old appeals provisions” means sections 13 to 17 of the 1971 Act, together with—

- (i) any subordinate legislation which applies to those provisions (unless specific provision is made to the contrary); and
 - (ii) any provision of the 1971 Act or the 1988 Act which refers to those provisions.

(6) For the purposes of this paragraph, an event has taken place under the 1971 Act where—

- (a) a notice was served;
- (b) a decision was made or taken; and
- (c) directions were given.

(7) For the purposes of this paragraph—

- (a) a notice was served,
- (b) a decision was made or taken, and

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(c) directions were given,
on the day on which it was or they were sent to the person concerned, if sent by post or by fax, or delivered to that person, if delivered by hand.

(8) In subparagraph (7) “the person concerned” means the person who is the subject of the notice, decision, directions or certificate or the person who appears to be his representative.