
STATUTORY INSTRUMENTS

2014 No. 2771

**The Immigration Act 2014 (Commencement No. 3,
Transitional and Saving Provisions) Order 2014**

PART 2

Transitional and saving provisions and repeals

Transitional and saving provision

11.—(1) The persons referred to in article 9 are a person (“P2”) who makes an application on or after 20th October 2014 for leave to remain—

- (a) as a Tier 4 Migrant;
- (b) as the partner of a Tier 4 Migrant under paragraph 319C of the immigration rules; or
- (c) as the child of a Tier 4 Migrant under paragraph 319H of the immigration rules.

(2) The saved provisions have effect, and the relevant provisions do not have effect, where P2, having made an application of a kind mentioned in paragraph (1), at any time thereafter makes—

- (a) an application for leave to enter; or
- (b) any further application for leave to remain which is not of a kind that is mentioned in paragraph (1);

provided the subsequent application is not a protection claim or human rights claim, made while P2 is in the United Kingdom, other than at a port.

(3) Where paragraph (2) applies, the saved provisions also have effect, and the relevant provisions do not have effect, where a decision is taken in relation to P2—

- (a) which constitutes an immigration decision under section 82(2) of the 2002 Act as in force immediately prior to 20th October 2014; or
- (b) to which section 83 or 83A of the 2002 Act as in force immediately prior to 20th October 2014 applies.

(4) Where the relevant provisions apply, and an appeal has already been brought against an immigration decision under section 82(1) of the 2002 Act but before the relevant provisions applied, the reference to a “decision” in section 96(1)(a) of the 2002 Act is to be read as a reference to an “immigration decision”.

(5) In this article—

- (a) “human rights claim” means—
 - (i) a claim made by a person to the Secretary of State that to remove the person from or require him to leave 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); or
 - (ii) an application for leave to remain made under paragraph 276ADE of, or Appendix FM to, the immigration rules;

- (b) “immigration decision” has the same meaning as in section 82(2) of the 2002 Act as in force immediately prior to 20th October 2014;
- (c) “immigration rules” means the rules for the time being laid down by the Secretary of State as mentioned in section 3(2) of the 1971 Act;
- (d) “Leave to enter the United Kingdom” means leave to enter the United Kingdom given in accordance with the provisions of, or made under, the 1971 Act;
- (e) “Leave to remain in the United Kingdom” means leave to remain in the United Kingdom given in accordance with the provisions of, or made under, the 1971 Act and any variation of leave to enter or remain by the Secretary of State;
- (f) “port” has the meaning in section 33(1) of the 1971 Act⁽¹⁾;
- (g) “protection claim” has the meaning given in section 82(2) of the 2002 Act;
- (h) “protection status” has the meaning given in section 82(2) of the 2002 Act;
- (i) “Tier 4 Migrant” has the same meaning as provided in the immigration rules.

⁽¹⁾ 1971 c. 77; Section 33(1) has been amended but none of the amendments are relevant.