
EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument is made under Part 3 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (“the 2020 Act”). It is the first instrument to be made under section 11 of that Act.

These Regulations make provision for appeals in connection with various immigration decisions which relate to, or are connected to, leave to enter or remain in the United Kingdom granted under residence scheme immigration rules or relevant entry clearance immigration rules. “Residence scheme immigration rules” and “relevant entry clearance immigration rules” are defined in section 17 of the 2020 Act.

Part 1 of these Regulations contains general provisions.

Part 2 of these Regulations makes provision for the relevant appeals.

Chapter 1 of that Part sets out the rights of appeal in connection with the immigration decisions mentioned above, the grounds on which an appeal may be brought and the matters to be determined by the appeal body.

An appeal under these Regulations must generally be made to the First-tier Tribunal (“the Tribunal”). However, if an appeal is certified by the Secretary of State under Part 1 of Schedule 1 to the Regulations, the appeal must be made to the Special Immigration Appeals Commission (“the Commission”) (regulation 7). An appeal may be certified, for example, in the interests of national security or the public interest. Any appeal which is certified after the relevant proceedings in the Tribunal have started will lapse automatically (paragraph 3 of Schedule 1). The appeal must then be made to the Commission.

Part 2 of Schedule 1 to the Regulations applies various provisions of the Special Immigration Appeals Commission Act 1997 (c. 68) and the Nationality, Immigration and Asylum Act 2002 (c.41) (“the 2002 Act”) (with modifications) for the purposes of appeals to the Commission.

Chapter 2 of Part 2 of the Regulations makes specific provision in connection with appeals before the Tribunal. Various provisions of the 2002 Act are applied (with modifications) for the purposes of appeals to the Tribunal (regulation 11 and Schedule 2). Provision is also made for an appellant who has brought an appeal from outside the United Kingdom to, in certain circumstances, apply to the Secretary of State to be admitted on bail to the United Kingdom in order to make submissions in person in connection with an appeal (regulation 12 and Schedule 3).

Chapter 3 of Part 2 of the Regulations deals with procedural matters relevant to appeals before both the Tribunal and the Commission. Regulation 13 sets out when an appeal under these Regulations is to be treated as pending. Regulations 14 to 16 make provision about the place from which appeals may be brought and certification.

Part 3 of the Regulations makes various amendments to primary and secondary legislation in consequence of the provisions made by the Regulations.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020.