

These notes refer to the Nationality, Immigration and Asylum Act 2002 (c.41) which received Royal Assent on 7 November 2002

NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Immigration and Asylum Appeals

Appeal to adjudicator

Section 85: Matters to be considered

224. [Section 85\(1\)](#) provides that an appeal under section 82(1) shall be treated by an adjudicator as including an appeal against any decision where the person has a right of appeal under section 82(1). Thus it is not necessary for a person to lodge separate appeals if subject to different immigration decisions: all appealable decisions are to be subsumed in the one appeal.
225. If a person makes a statement under section 120 in response to a requirement to state any additional grounds (the “one-stop warning”), the adjudicator must consider any of the matters raised in the statement, if these matters amount to a ground of appeal, as listed in section 84. It does not matter whether the statement is made before or after the appeal is commenced (subsections (2) and (3)).
226. Subsection (4) allows the adjudicator to consider any evidence that he thinks is relevant to the substance of the decision, including any evidence which arises after the date of decision. The subsection also applies to appeals under section 83 where asylum has been refused but leave to remain granted. But subsection (4) does not apply to an appeal against the refusal of an entry clearance or a certificate of entitlement: in these cases the adjudicator can only consider the circumstances as they were at the time of the decision to refuse.