

Status: Point in time view as at 16/12/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)



Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5

[^{F1}APPEALS IN RESPECT OF PROTECTION AND HUMAN RIGHTS CLAIMS]

Textual Amendments

- F1** Pt. 5 heading substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 33](#); [S.I. 2014/2771](#), [art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Modifications etc. (not altering text)

- C1** Pt. 5: power to modify conferred (22.11.2018) by [Sanctions and Anti-Money Laundering Act 2018 \(c. 13\)](#), [ss. 48\(4\)\(c\), 64\(2\)](#) (with [ss. 52\(3\), 53, 58](#)); [S.I. 2018/1213](#), reg. 2(b)

[^{F2}Appeal to Tribunal]

Textual Amendments

- F2** S. 81 and preceding cross-heading substituted (4.4.2005) by virtue of [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 26\(1\), 48\(1\)-\(3\)](#) (with transitional provisions in [Sch. 2](#)); [S.I. 2005/565](#), [art. 2](#) (with savings in [arts. 3-9](#))

[^{F3}81 Meaning of “the Tribunal”

In this Part “the Tribunal” means the First-tier Tribunal.]

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Textual Amendments

- F3** S. 81 substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 22** (with Sch. 4)

[^{F4}82 Right of appeal to the Tribunal

- (1) A person (“P”) may appeal to the Tribunal where—
- (a) the Secretary of State has decided to refuse a protection claim made by P,
 - (b) the Secretary of State has decided to refuse a human rights claim made by P, or
 - (c) the Secretary of State has decided to revoke P's protection status.
- (2) For the purposes of this Part—
- (a) a “protection claim” is a claim made by a person (“P”) that removal of P from the United Kingdom—
 - (i) would breach the United Kingdom's obligations under the Refugee Convention, or
 - (ii) would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;
 - (b) P's protection claim is refused if the Secretary of State makes one or more of the following decisions—
 - (i) that removal of P from the United Kingdom would not breach the United Kingdom's obligations under the Refugee Convention;
 - (ii) that removal of P from the United Kingdom would not breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;
 - (c) a person has “protection status” if the person has been granted leave to enter or remain in the United Kingdom as a refugee or as a person eligible for a grant of humanitarian protection;
 - (d) “humanitarian protection” is to be construed in accordance with the immigration rules;
 - (e) “refugee” has the same meaning as in the Refugee Convention.
- (3) The right of appeal under subsection (1) is subject to the exceptions and limitations specified in this Part.]

Textual Amendments

- F4** S. 82 substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 15(2), 75(3)**; [S.I. 2014/2771](#), art. 2(b) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Modifications etc. (not altering text)

- C2** Ss. 82-99 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))

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^{F5}83 Appeal: asylum claim

Textual Amendments

F5 S. 83 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 15(3)**, 75(3); S.I. 2014/2771, art. 2(b) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

^{F6}83A Appeal: variation of limited leave

Textual Amendments

F6 S. 83A repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 15(3)**, 75(3); S.I. 2014/2771, art. 2(b) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

[^{F7}84 Grounds of appeal

- (1) An appeal under section 82(1)(a) (refusal of protection claim) must be brought on one or more of the following grounds—
 - (a) that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention;
 - (b) that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;
 - (c) that removal of the appellant from the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).
- (2) An appeal under section 82(1)(b) (refusal of human rights claim) must be brought on the ground that the decision is unlawful under section 6 of the Human Rights Act 1998.
- (3) An appeal under section 82(1)(c) (revocation of protection status) must be brought on one or more of the following grounds—
 - (a) that the decision to revoke the appellant's protection status breaches the United Kingdom's obligations under the Refugee Convention;
 - (b) that the decision to revoke the appellant's protection status breaches the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection.]

Textual Amendments

F7 S. 84 substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 15(4)**, 75(3); S.I. 2014/2771, art. 2(b) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and

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with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

Modifications etc. (not altering text)

- C3** S. 84 applied (with modifications) by 1997 c. 68, s. 2(2)(e) (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7 para. 20** (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**))
 Ss. 82-99 restricted (14.3.2003) by **The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754)**, arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, S.I. 2003/1339 and S.I. 2003/2993))

85 Matters to be considered

- (1) An appeal under section 82(1) against a decision shall be treated by [^{F8}the Tribunal] as including an appeal against any decision in respect of which the appellant has a right of appeal under section 82(1).
- (2) If an appellant under section 82(1) makes a statement under section 120, [^{F8}the Tribunal] shall consider any matter raised in the statement which constitutes a ground of appeal of a kind listed in section [^{F9}84] against the decision appealed against.
- (3) Subsection (2) applies to a statement made under section 120 whether the statement was made before or after the appeal was commenced.
- (4) On an appeal under section 82(1) ^{F10}... against a decision [^{F11}the Tribunal] may consider ^{F12}... any matter which [^{F13}it] thinks relevant to the substance of the decision, including ^{F14}... a matter arising after the date of the decision.
- [^{F15}(5) But the Tribunal must not consider a new matter unless the Secretary of State has given the Tribunal consent to do so.
- (6) A matter is a “new matter” if—
 - (a) it constitutes a ground of appeal of a kind listed in section 84, and
 - (b) the Secretary of State has not previously considered the matter in the context of—
 - (i) the decision mentioned in section 82(1), or
 - (ii) a statement made by the appellant under section 120.]

Textual Amendments

- F8** Words in s. 85 substituted (4.4.2005) by **Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)**, ss. 26, 48(1)-(3), **Sch. 2 para. 18(1)(2)**; S.I. 2005/565, art. 2 (with savings in arts. 3-9)
- F9** Word in s. 85(2) substituted (20.10.2014) by **Immigration Act 2014 (c. 22)**, s. 75(3), **Sch. 9 para. 34(a)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F10** Words in s. 85(4) omitted (20.10.2014) by virtue of **Immigration Act 2014 (c. 22)**, s. 75(3), **Sch. 9 para. 34(b)(i)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F11** Words in s. 85(4) substituted (4.4.2005) by **Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)**, ss. 26, 48(1)-(3), **Sch. 2 para. 18(1)(2)**; S.I. 2005/565, art. 2 (with savings in arts. 3-9)

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- F12** Words in s. 85(4) omitted (20.10.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 34(b)(ii)**; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, **arts. 1(2)(3)**, 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, **arts. 1(3)**, 9))
- F13** Word in s. 85(4) substituted (4.4.2005) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 26, 48(1)-(3), **Sch. 2 para. 18(1)(2)**; S.I. 2005/565, **art. 2** (with savings in arts. 3-9)
- F14** Words in s. 85(4) omitted (20.10.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 34(b)(iii)**; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, **arts. 1(2)(3)**, 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, **arts. 1(3)**, 9))
- F15** S. 85(5)(6) substituted for s. 85(5) (20.10.2014) by Immigration Act 2014 (c. 22), **ss. 15(5)**, 75(3); S.I. 2014/2771, **art. 2(b)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, **arts. 1(2)(3)**, 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, **arts. 1(3)**, 9))

Modifications etc. (not altering text)

- C4** Ss. 84-86 applied by S.I. 2006/1003, **Sch. 1 para. 1** (as amended (6.4.2015) by The Immigration (European Economic Area) (Amendment) Regulations 2015 (S.I. 2015/694), reg. 2, **Sch. 1 para. 15** (with reg. 6)
- C5** S. 85 applied (with modifications) by 1997 c. 68, s. 2(2)(f) (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7 para. 20** (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)
Ss. 82-99 restricted (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, S.I. 2003/1339 and S.I. 2003/2993))
Ss. 85-87 applied (1.4.2003) by S.I. 2000/2326, Sch. 2 (as substituted by The Immigration (European Economic Area) (Amendment) Regulations 2003 (S.I. 2003/549), **reg. 2(10)** (with transitional provisions in reg. 3))
- C6** S. 85 modified (30.10.2020) by The Immigration (Persons Designated under Sanctions Regulations) (EU Exit) Regulations 2020 (S.I. 2020/1101), regs. 1, 7
- C7** S. 85(2) applied (with modifications) by S.I. 2006/1003, Sch. 2 para. 4(10) (as substituted (6.4.2015) by The Immigration (European Economic Area) (Amendment) Regulations 2015 (S.I. 2015/694), reg. 2, **Sch. 1 para. 16(b)**)
- C8** S. 85(2)(6)(a) applied (with modifications) (1.2.2017 for specified purposes) by The Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052), reg. 1(2)(b), **Sch. 2 para. 2(4)**
- C9** S. 85(4) applied (with modifications) by 1997 c. 68, s. 2(3)(a) (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7 para. 20** (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)

^{F16}85A Matters to be considered: new evidence: exceptions

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Textual Amendments

- F16** S. 85A repealed (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 35; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

86 Determination of appeal

- (1) This section applies on an appeal under section 82(1) ^{F17}...

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- (2) [^{F18}The Tribunal] must determine—
 - (a) any matter raised as a ground of appeal ^{F19} ..., and
 - (b) any matter which section 85 requires [^{F20}it] to consider.

^{F21}(3)

^{F21}(4)

^{F21}(5)

^{F21}(6)

Textual Amendments

- F17** Words in s. 86(1) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 36(a)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F18** Words in s. 86 substituted (4.4.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), **Sch. 2 para. 18(1)(2)**; S.I. 2005/565, art. 2 (with savings in arts. 3-9)
- F19** Words in s. 86(2) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 36(b)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F20** Word in s. 86 substituted (4.4.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), **Sch. 2 para. 18(1)(2)**; S.I. 2005/565, art. 2 (with savings in arts. 3-9)
- F21** S. 86(3)-(6) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 36(c)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

Modifications etc. (not altering text)

- C10** S. 86 applied (with modifications) by 1997 c. 68, s. 2(2)(g)(3)(b) (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7 para. 20** (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)
Ss. 82-99 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, S.I. 2003/1339 and S.I. 2003/2993))
Ss. 85-87 applied (1.4.2003) by S.I. 2000/2326, Sch. 2 (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), **reg. 2(10)** (with transitional provisions in reg. 3))

^{F22}**87 Successful appeal: direction**

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Textual Amendments

- F22** Ss. 87-91 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 37**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

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Exceptions and limitations

F²²88 Ineligibility

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Textual Amendments

F22 Ss. 87-91 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 37](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

F²²88A Entry clearance

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Textual Amendments

F22 Ss. 87-91 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 37](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

F²²89 Refusal of leave to enter

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Textual Amendments

F22 Ss. 87-91 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 37](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

F²³90 Non-family visitor

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Textual Amendments

F23 S. 88A substituted for ss. 88A, 90, 91 (1.4.2008) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), ss. 4(1), 62(1)(2); [S.I. 2008/310](#), art. 3(a) (with art. 4) (as amended (9.7.2012) by [S.I. 2012/1531](#), art. 2 (with art. 3))

F²³91 Student

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Textual Amendments

- F23** S. 88A substituted for ss. 88A, 90, 91 (1.4.2008) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [ss. 4\(1\), 62\(1\)\(2\)](#); [S.I. 2008/310](#), [art. 3\(a\)](#) (with [art. 4](#)) (as amended (9.7.2012) by [S.I. 2012/1531](#), [art. 2](#) (with [art. 3](#)))

[^{F24}92] Place from which an appeal may be brought or continued

- (1) This section applies to determine the place from which an appeal under section 82(1) may be brought or continued.
- (2) In the case of an appeal under section 82(1)(a) (protection claim appeal), the appeal must be brought from outside the United Kingdom if—
 - (a) the claim to which the appeal relates has been certified under section 94(1) or (7) (claim clearly unfounded or removal to safe third country), or
 - (b) paragraph 5(3)(a), 10(3), 15(3) or 19(b) of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe third country) applies.

Otherwise, the appeal must be brought from within the United Kingdom.

- (3) In the case of an appeal under section 82(1)(b) (human rights claim appeal) where the claim to which the appeal relates was made while the appellant was in the United Kingdom, the appeal must be brought from outside the United Kingdom if—
 - (a) the claim to which the appeal relates has been certified under section 94(1) or (7) (claim clearly unfounded or removal to safe third country) or section 94B (certification of human rights claims ^{F25}...), or
 - (b) paragraph 5(3)(b) or (4), 10(4), 15(4) or 19(c) of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe third country) applies.

Otherwise, the appeal must be brought from within the United Kingdom.

- (4) In the case of an appeal under section 82(1)(b) (human rights claim appeal) where the claim to which the appeal relates was made while the appellant was outside the United Kingdom, the appeal must be brought from outside the United Kingdom.
- (5) In the case of an appeal under section 82(1)(c) (revocation of protection status)—
 - (a) the appeal must be brought from within the United Kingdom if the decision to which the appeal relates was made while the appellant was in the United Kingdom;
 - (b) the appeal must be brought from outside the United Kingdom if the decision to which the appeal relates was made while the appellant was outside the United Kingdom.
- (6) If, after an appeal under section 82(1)(a) or (b) has been brought from within the United Kingdom, the Secretary of State certifies the claim to which the appeal relates under section 94(1) or (7) or section 94B, the appeal must be continued from outside the United Kingdom.
- (7) Where a person brings or continues an appeal under section 82(1)(a) (refusal of protection claim) from outside the United Kingdom, for the purposes of considering

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whether the grounds of appeal are satisfied, the appeal is to be treated as if the person were not outside the United Kingdom.

- (8) Where an appellant brings an appeal from within the United Kingdom but leaves the United Kingdom before the appeal is finally determined, the appeal is to be treated as abandoned unless the claim to which the appeal relates has been certified under section 94(1) or (7) or section 94B.]

Textual Amendments

- F24** S. 92 substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 17(2), 75(3)**; [S.I. 2014/2771](#), art. 2(c) (with [arts. 9-11, 15](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F25** Words in s. 92(3)(a) omitted (1.12.2016) by virtue of [Immigration Act 2016 \(c. 19\)](#), **ss. 63(6), 94(1)**; [S.I. 2016/1037](#), reg. 5(h)

Modifications etc. (not altering text)

- C11** Ss. 82-99 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))

^{F26}93 Appeal from within United Kingdom: “third country” removal

Textual Amendments

- F26** S. 93 repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 33(3)(b), 47, 48(1)-(3), Sch. 4**; [S.I. 2004/2523](#), art. 2, **Sch.**

94 Appeal from within United Kingdom: unfounded human rights or [^{F27}protection] claim

[^{F28}(1) The Secretary of State may certify a protection claim or human rights claim as clearly unfounded.]

- (3) If the Secretary of State is satisfied that [^{F29}a] claimant is entitled to reside in a State listed in subsection (4) he shall certify the claim under [^{F30}subsection (1)] unless satisfied that it is not clearly unfounded.

(4) Those States are—

- (a) ^{F31}
- (b) ^{F31}
- (c) ^{F31}
- (d) ^{F31}
- (e) ^{F31}
- (f) ^{F31}
- (g) ^{F31}
- (h) ^{F31}

Status: Point in time view as at 16/12/2020.

Changes to legislation: *Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)*

- (i) ^{F31}
 - (j) ^{F31}
 - [^{F32}(k) the Republic of Albania,
 - (l) ^{F33}
 - (m) ^{F34}
 - (n) Jamaica,
 - (o) Macedonia,
 - (p) the Republic of Moldova, and
 - (q) ^{F33}]
 - [^{F35}(r) ^{F36}
 - (s) Bolivia,
 - (t) Brazil,
 - (u) Ecuador,
 - (v) ^{F37}
 - (w) South Africa, and
 - (x) Ukraine.]
 - [^{F38}(y) India.]
 - [^{F39}(z) Mongolia,
 - (aa) Ghana (in respect of men),
 - (bb) Nigeria (in respect of men).]
 - [^{F40}(cc) Bosnia-Herzegovina,
 - (dd) Gambia (in respect of men),
 - (ee) Kenya (in respect of men),
 - (ff) Liberia (in respect of men),
 - (gg) Malawi (in respect of men),
 - (hh) Mali (in respect of men),
 - (ii) Mauritius,
 - (jj) Montenegro,
 - (kk) Peru,
 - (ll) Serbia,
 - (mm) Sierra Leone (in respect of men).]
 - [^{F41}(nn) Kosovo,
 - (oo) South Korea.]
- (5) The Secretary of State may by order add a State, or part of a State, to the list in subsection (4) if satisfied that—
- (a) there is in general in that State or part no serious risk of persecution of persons entitled to reside in that State or part, and
 - (b) removal to that State or part of persons entitled to reside there will not in general contravene the United Kingdom’s obligations under the Human Rights Convention.
- [^{F42}(5A) If the Secretary of State is satisfied that the statements in subsection (5) (a) and (b) are true of a State or part of a State in relation to a description of person, an order under subsection (5) may add the State or part to the list in subsection (4) in respect of that description of person.

Status: Point in time view as at 16/12/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)

- (5B) Where a State or part of a State is added to the list in subsection (4) in respect of a description of person, subsection (3) shall have effect in relation to a claimant only if the Secretary of State is satisfied that he is within that description (as well as being satisfied that he is entitled to reside in the State or part).
- (5C) A description for the purposes of subsection (5A) may refer to—
- (a) gender,
 - (b) language,
 - (c) race,
 - (d) religion,
 - (e) nationality,
 - (f) membership of a social or other group,
 - (g) political opinion, or
 - (h) any other attribute or circumstance that the Secretary of State thinks appropriate.
- [In deciding whether the statements in subsection (5) (a) and (b) are true of a State or ^{F43}(5D) part of a State, the Secretary of State –
- (a) shall have regard to all the circumstances of the State or part (including its laws and how they are applied), and
 - (b) shall have regard to information from any appropriate source (including other member States and international organisations).]

[^{F44}(6) The Secretary of State may by order amend the list in subsection (4) so as to omit a State or part added under subsection (5); and the omission may be—

 - (a) general, or
 - (b) effected so that the State or part remains listed in respect of a description of person.]

[^{F45}(6A) Subsection (3) shall not apply in relation to [^{F46}a] claimant who—

 - (a) is the subject of a certificate under section 2 or 70 of the Extradition Act 2003 (c. 41),
 - (b) is in custody pursuant to arrest under section 5 of that Act,
 - (c) is the subject of a provisional warrant under section 73 of that Act,
 - (d) is the subject of an authority to proceed under section 7 of the Extradition Act 1989 (c. 33) or an order under paragraph 4(2) of Schedule 1 to that Act, or
 - (e) is the subject of a provisional warrant under section 8 of that Act or of a warrant under paragraph 5(1)(b) of Schedule 1 to that Act.]

(7) [^{F47}The Secretary of State may certify a protection claim or human rights claim made by a person if] —

 - (a) it is proposed to remove the person to a country of which he is not a national or citizen, and
 - (b) there is no reason to believe that the person’s rights under the Human Rights Convention will be breached in that country.

(8) In determining whether a person in relation to whom a certificate has been issued under subsection (7) may be removed from the United Kingdom, the country specified in the certificate is to be regarded as—

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- (a) a place where a person's life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular social group, or political opinion, and
- (b) a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention [^{F48}or with the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection]

^{F49}(9)

Textual Amendments

- F27** Word in s. 94 heading substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 38(2)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F28** S. 94(1) substituted for s. 94(1)-(2) (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 38(3)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F29** Word in s. 94(3) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 38(4)(a)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F30** Words in s. 94(3) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 38(4)(b)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F31** S. 94(4)(a)-(j) repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 27(4), 47, 48(1)-(3), **Sch. 4**; [S.I. 2004/2523](#), art. 2, Sch.
- F32** S. 94(4)(k)-(q) added (1.4.2003) by [The Asylum \(Designated States\) Order 2003 \(S.I. 2003/970\)](#), art. 3
- F33** S. 94(4)(l)(q) omitted (1.1.2007) by virtue of [The Asylum \(Designated States\) \(Amendment\) Order 2006 \(S.I. 2006/3215\)](#), art. 2
- F34** S. 94(4)(m) omitted (27.7.2007) by virtue of [The Asylum \(Designated States\) Order 2007 \(S.I. 2007/2221\)](#), art. 3 (with art. 1)
- F35** S. 94(4)(r)-(x) added (23.7.2003) by [The Asylum \(Designated States\) \(No. 2\) Order 2003 \(S.I. 2003/1919\)](#), art. 2
- F36** S. 94(4)(r) omitted (22.4.2005) by virtue of [The Asylum \(Designated States\) \(Amendment\) Order 2005 \(S.I. 2005/1016\)](#), art. 2
- F37** S. 94(4)(v) omitted (13.12.2006) by virtue of [The Asylum \(Designated States\) \(Amendment\) \(No. 2\) Order 2006 \(S.I. 2006/3275\)](#), art. 2
- F38** S. 94(4)(y) added (15.2.2005) by [The Asylum \(Designated States\) Order 2005 \(S.I. 2005/330\)](#), art. 2 (with art. 1)
- F39** S. 94(4)(z)-(bb) added (2.12.2005) by [The Asylum \(Designated States\) \(No. 2\) Order 2005 \(S.I. 2005/3306\)](#), art. 2
- F40** S. 94(4)(cc)-(mm) added (27.7.2007) by [The Asylum \(Designated States\) Order 2007 \(S.I. 2007/2221\)](#), art. 2 (with art. 1)
- F41** S. 94(4)(nn)(oo) inserted (3.3.2010) by [The Asylum \(Designated States\) Order 2010 \(S.I. 2010/561\)](#), arts. 2, 3 (with art. 2)
- F42** S. 94(5A)-(5C) inserted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 27(5), 48(1)-(3); [S.I. 2004/2523](#), art. 2, Sch.
- F43** S. 94(5D) inserted (1.12.2007) by [The Asylum \(Procedures\) Regulations 2007 \(S.I. 2007/3187\)](#), reg. 3

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- F44** S. 94(6) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 27\(6\), 48\(1\)-\(3\); S.I. 2004/2523, art. 2, Sch.](#)
- F45** S. 94(6A) inserted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 27\(7\), 48\(1\)-\(3\); S.I. 2004/2523, art. 2, Sch.](#)
- F46** Word in s. 94(6A) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 38\(5\); S.I. 2014/2771, art. 2\(e\) \(with arts. 9-11\) \(as amended \(2.3.2015 and 6.4.2015\) by S.I. 2015/371, arts. 1\(2\)\(3\), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 \(which S.I. is revoked \(6.4.2015\) by S.I. 2015/371, arts. 1\(3\), 9\)\)](#)
- F47** Words in s. 94(7) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 38\(6\); S.I. 2014/2771, art. 2\(e\) \(with arts. 9-11\) \(as amended \(2.3.2015 and 6.4.2015\) by S.I. 2015/371, arts. 1\(2\)\(3\), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 \(which S.I. is revoked \(6.4.2015\) by S.I. 2015/371, arts. 1\(3\), 9\)\)](#)
- F48** Words in s. 94(8)(b) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 38\(7\); S.I. 2014/2771, art. 2\(e\) \(with arts. 9-11\) \(as amended \(2.3.2015 and 6.4.2015\) by S.I. 2015/371, arts. 1\(2\)\(3\), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 \(which S.I. is revoked \(6.4.2015\) by S.I. 2015/371, arts. 1\(3\), 9\)\)](#)
- F49** S. 94(9) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 38\(8\); S.I. 2014/2771, art. 2\(e\) \(with arts. 9-11\) \(as amended \(2.3.2015 and 6.4.2015\) by S.I. 2015/371, arts. 1\(2\)\(3\), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 \(which S.I. is revoked \(6.4.2015\) by S.I. 2015/371, arts. 1\(3\), 9\)\)](#)

Modifications etc. (not altering text)

- C12** Ss. 82-99 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\), arts. 3, 4 \(with transitional provisions in arts. 3, 4, Sch. 2 \(as amended by S.I. 2003/1040, S.I. 2003/1339 and S.I. 2003/2993\)\)](#)

Commencement Information

- I1** S. 94 wholly in force at 1.4.2003; s. 94 not in force at Royal Assent see s. 162(2); s. 94(5) in force for certain purposes at 10.2.2003 by [S.I. 2003/249, art. 2, Sch.](#); s. 94 in force at 1.4.2003 insofar as not already in force by virtue of [S.I. 2003/754, art. 2, Sch. 1](#)

[^{F50}94A European Common List of Safe Countries of Origin

- (1) The Secretary of State shall by order prescribe a list of States to be known as the “European Common List of Safe Countries of Origin”.
- (2) Subsections (3) and (4) apply where a person makes [^{F51}a protection claim] or a human rights claim (or both) and that person is –
 - (a) a national of a State which is listed in the European Common List of Safe Countries of Origin, or
 - (b) a Stateless person who was formerly habitually resident in such a State.
- (3) The Secretary of State shall consider the claim or claims mentioned in subsection (2) to be unfounded unless satisfied that there are serious grounds for considering that the State in question is not safe in the particular circumstances of the person mentioned in that subsection.
- (4) The Secretary of State shall also certify the claim or claims mentioned in subsection (2) under section [^{F52}94(1)] unless satisfied that the claim or claims is or are not clearly unfounded.
- (5) An order under subsection (1) –

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- (a) may be made only if the Secretary of State thinks it necessary for the purpose of complying with the United Kingdom's obligations under [F53EU] law,
- (b) may include transitional, consequential or incidental provision,
- (c) shall be made by statutory instrument, and
- (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F50** S. 94A inserted (1.12.2007) by [The Asylum \(Procedures\) Regulations 2007 \(S.I. 2007/3187\)](#), **reg. 4**
- F51** Words in s. 94A(2) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 39(a)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F52** Word in s. 94A(4) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 39(b)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F53** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

[F54] **94B Appeal from within the United Kingdom: certification of human rights claims** F55 ...

- (1) This section applies where a human rights claim has been made by a person (“P”) F56 ...
- (2) The Secretary of State may certify the claim if the Secretary of State considers that, despite the appeals process not having been begun or not having been exhausted, [F57 refusing P entry to, removing P from or requiring P to leave the United Kingdom] , pending the outcome of an appeal in relation to P's claim, would not be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).
- (3) The grounds upon which the Secretary of State may certify a claim under subsection (2) include (in particular) that P would not, before the appeals process is exhausted, face a real risk of serious irreversible harm if [F58 refused entry to, removed from or required to leave the United Kingdom] .]

Textual Amendments

- F54** S. 94B inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 17(3)**, 75(3); [S.I. 2014/1820](#), art. 3(n)
- F55** Words in s. 94B heading omitted (1.12.2016) by virtue of [Immigration Act 2016 \(c. 19\)](#), **ss. 63(2)**, [94\(1\)](#); [S.I. 2016/1037](#), **reg. 5(h)**
- F56** Words in s. 94B(1) omitted (1.12.2016) by virtue of [Immigration Act 2016 \(c. 19\)](#), **ss. 63(3)**, [94\(1\)](#); [S.I. 2016/1037](#), **reg. 5(h)**
- F57** Words in s. 94B(2) substituted (1.12.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 63(4)**, [94\(1\)](#); [S.I. 2016/1037](#), **reg. 5(h)**
- F58** Words in s. 94B(3) substituted (1.12.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 63(5)**, [94\(1\)](#); [S.I. 2016/1037](#), **reg. 5(h)**

Status: Point in time view as at 16/12/2020.

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F⁵⁹95 Appeal from outside United Kingdom: removal

.....

Textual Amendments

F⁵⁹ S. 95 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 40](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

[F⁶⁰96 Earlier right of appeal

- (1) [F⁶¹A person may not bring an appeal under section 82 against a decision (“the new decision”)] if the Secretary of State or an immigration officer certifies—
- that the person was notified of a right of appeal under that section against another F⁶²... decision (“the old decision”) (whether or not an appeal was brought and whether or not any appeal brought has been determined),
 - that the claim or application to which the new decision relates relies on a[F⁶³ground]that could have been raised in an appeal against the old decision, and
 - that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that [F⁶⁴ground] not having been raised in an appeal against the old decision.

- [F⁶⁵(2) A person may not bring an appeal under section 82 if the Secretary of State or an immigration officer certifies—
- that the person has received a notice under section 120(2),
 - that the appeal relies on a ground that should have been, but has not been, raised in a statement made under section 120(2) or (5), and
 - that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that ground not having been raised in a statement under section 120(2) or (5).]

(4) In subsection (1) “notified” means notified in accordance with regulations under section 105.

(5) [F⁶⁶Subsections (1) and (2) apply to prevent] a person’s right of appeal whether or not he has been outside the United Kingdom since an earlier right of appeal arose or since a requirement under section 120 was imposed.

(6) In this section a reference to an appeal under section 82(1) includes a reference to an appeal under section 2 of the Special Immigration Appeals Commission Act 1997 (c. 68) which is or could be brought by reference to an appeal under section 82(1).

[F⁶⁷(7) A certificate under subsection (1) or (2) shall have no effect in relation to an appeal instituted before the certificate is issued.]]

Textual Amendments

F⁶⁰ S. 96(1)(2) substituted (1.10.2004) for s. 96(1)-(3) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 30\(2\)](#), 48(1)-(3); [S.I. 2004/2523](#), [art. 2](#), [Sch.](#)

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- F61** Words in s. 96(1) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 41\(2\)\(a\)](#); S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F62** Word in s. 96(1)(a) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 41\(2\)\(b\)](#); S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F63** Word in s. 96(1)(b) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 41\(2\)\(c\)](#); S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F64** Word in s. 96(1)(c) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 41\(2\)\(d\)](#); S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F65** S. 96(2) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 41\(3\)](#); S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F66** Words in s. 96(5) substituted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 30\(3\)](#), 48(1)-(3); S.I. 2004/2523, [art. 2](#), [Sch.](#)
- F67** S. 96(7) added (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 30\(4\)](#), 48(1)-(3); S.I. 2004/2523, [art. 2](#), [Sch.](#)

Modifications etc. (not altering text)

- C13** S. 96 applied (with modifications) by 1997 c. 68, [s. 2\(2\)\(i\)](#) (as substituted (1.4.2003) by 2002 c. 41, [ss. 114](#), 162(2), [Sch. 7 para. 20](#) (with s. 159); S.I. 2003/754, art. 2(1), [Sch. 1](#)))
 Ss. 82-99 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), art. 3, 4 (with transitional provisions in arts. 3, 4, [Sch. 2](#) (as amended by S.I. 2003/1040 and S.I. 2003/1339))
- C14** S. 96(1)(a) modified (1.4.2003) by S.I. 2000/2326, [reg. 33\(3\)](#) (as inserted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), [reg. 2\(9\)](#))
 S. 96(1)(a) modified (30.4.2006) by [The Immigration \(European Economic Area\) Regulations 2006 \(S.I. 2006/1003\)](#), [reg. 31\(2\)](#), [Sch. 2 para. 4\(7\)](#)

97 National security, &c.

- (1) An appeal under section 82(1) ^{F68}... against a decision in respect of a person may not be brought or continued if the Secretary of State certifies that the decision is or was taken—
- (a) by the Secretary of State wholly or partly on a ground listed in subsection (2), or
 - (b) in accordance with a direction of the Secretary of State which identifies the person to whom the decision relates and which is given wholly or partly on a ground listed in subsection (2).
- (2) The grounds mentioned in subsection (1) are that the person's exclusion or removal from the United Kingdom is—
- (a) in the interests of national security, or
 - (b) in the interests of the relationship between the United Kingdom and another country.

Status: Point in time view as at 16/12/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)

- (3) An appeal under section 82(1)^{F69} ... against a decision may not be brought or continued if the Secretary of State certifies that the decision is or was taken wholly or partly in reliance on information which in his opinion should not be made public—
- (a) in the interests of national security,
 - (b) in the interests of the relationship between the United Kingdom and another country, or
 - (c) otherwise in the public interest.
- (4) In subsections (1)(a) and (b) and (3) a reference to the Secretary of State is to the Secretary of State acting in person.

Textual Amendments

- F68** Words in s. 97(1) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 42\(a\)](#); [S.I. 2014/2771](#), art. 2(e) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F69** Words in s. 97(3) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 42\(b\)](#); [S.I. 2014/2771](#), art. 2(e) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Modifications etc. (not altering text)

- C15** Ss. 82-99 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))

[^{F70}97A National security: deportation

- (1) This section applies where the Secretary of State certifies that the decision to make a deportation order in respect of a person was taken on the grounds that his removal from the United Kingdom would be in the interests of national security.

[This section also applies where the Secretary of State certifies, in the case of a person^{F71}(1A) in respect of whom a deportation order has been made which states that it is made in accordance with section 32(5) of the UK Borders Act 2007, that the person's removal from the United Kingdom would be in the interests of national security.]

- (2) Where this section applies—
- (a) section 79 shall not apply,
 - (b) the Secretary of State shall be taken to have certified the decision to make the deportation order under section 97, and
 - [^{F72}(c) section 2(5) of the Special Immigration Appeals Commission Act 1997 (whether appeals brought against decisions certified under section 97 may be brought from within the United Kingdom) does not apply, but see instead the following provisions of this section.]

[The person while in the United Kingdom may not bring or continue an appeal under^{F73}(2A) section 2 of the Special Immigration Appeals Commission Act 1997—

- (a) against the decision to make the deportation order, or
- (b) against any refusal to revoke the deportation order,

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unless the person has made a human rights claim while in the United Kingdom.

(2B) Subsection (2A) does not allow the person while in the United Kingdom to bring or continue an appeal if the Secretary of State certifies that removal of the person—

- (a) to the country or territory to which the person is proposed to be removed, and
- (b) despite the appeals process not having been begun or not having been exhausted,

would not [^{F74}be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention)] .

(2C) The grounds upon which a certificate may be given under subsection (2B) include (in particular)—

- (a) that the person would not, before the appeals process is exhausted, face a real risk of serious irreversible harm if removed to the country or territory to which the person is proposed to be removed;
- (b) that the whole or part of any human rights claim made by the person is clearly unfounded.

^{F75}(2D)

^{F76}(2E)

(2F) If a certificate in respect of a person is given under subsection (2B), the person may apply to the Special Immigration Appeals Commission to set aside the certificate.

(2G) If a person makes an application under subsection (2F) then the Commission, in determining whether the certificate should be set aside, must apply the principles that would be applied in judicial review proceedings.

(2H) The Commission's determination of a review under subsection (2F) is final.

(2J) The Commission may direct that a person who has made and not withdrawn an application under subsection (2F) is not to be removed from the United Kingdom at a time when the review has not been finally determined by the Commission.

(2K) Sections 5 and 6 of the Special Immigration Appeals Commission Act 1997 apply in relation to reviews under subsection (2F) (and to applicants for such reviews) as they apply in relation to appeals under section 2 or 2B of that Act (and to persons bringing such appeals).

(2L) Any exercise of power to make rules under section 5 of that Act in relation to reviews under subsection (2F) is to be with a view to securing that proceedings on such reviews are handled expeditiously.]

^{F77}(3)

(4) The Secretary of State may repeal this section by order.]

Textual Amendments

F70 S. 97A inserted (31.8.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), **ss. 7(1)**, 62; [S.I. 2006/2226](#), **art. 3**, [Sch. 1](#) (subject to transitional provisions in [art. 4](#))

F71 S. 97A(1A) inserted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 54(2)**, 61(2); [S.I. 2013/1042](#), **art. 4(c)**

Status: Point in time view as at 16/12/2020.

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- F72** S. 97A(2)(c) substituted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 54(3)**, 61(2); S.I. 2013/1042, art. 4(c)
- F73** Ss. 97A(2A)-(2L) inserted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 54(4)**, 61(2); S.I. 2013/1042, art. 4(c)
- F74** Words in s. 97A(2B) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 43(a)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F75** S. 97A(2D) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 43(b)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F76** S. 97A(2E) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 43(b)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F77** S. 97A(3) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 43(b)**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

Modifications etc. (not altering text)

- C16** S. 97A applied (with modifications) by S.I. 2006/1003, reg. 28A (as inserted (1.1.2014) by [The Immigration \(European Economic Area\) \(Amendment\) \(No.2\) Regulations 2013 \(S.I. 2013/3032\)](#), reg. 2(1), **Sch. 1 para. 24**)
- C17** S. 97A applied (with modifications) (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), regs. 1(2)(b), **39(1)**
- C18** S. 97A excluded (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), regs. 1(2), **15(2)**

^{F78}**97B Variation of leave on grounds of public good: rights of appeal**

.....

Textual Amendments

- F78** S. 97B repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), Sch. 9 para. 44; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

^{F79}**98 Other grounds of public good**

.....

Textual Amendments

- F79** S. 98 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), Sch. 9 para. 45; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and

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with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

99 [F80Section 97] : appeal in progress

- (1) This section applies where a certificate is issued under section ^{F81}... 97 ^{F82}... in respect of a pending appeal.
- (2) The appeal shall lapse.

Textual Amendments

- F80** Words in s. 99 heading substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 46\(a\)](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F81** Words in s. 99(1) omitted (8.5.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), [ss. 51\(2\)\(a\)](#), 61(2); [S.I. 2013/1042](#), art. 2(i)
- F82** Words in s. 99(1) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 46\(b\)](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Modifications etc. (not altering text)

- C19** Ss. 82-99 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))

Appeal from adjudicator

100 Immigration Appeal Tribunal

- [^{F83}(1) There shall continue to be an Immigration Appeal Tribunal.
- (2) Schedule 5 (which makes provision about the Tribunal) shall have effect.]

Textual Amendments

- F83** Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 26\(5\)\(a\)](#), 47, 48(1)-(3), [Sch. 4](#); [S.I. 2005/565](#), [art. 2\(a\)](#) (with savings in arts. 3-9)

101 Appeal to Tribunal

- [^{F84}(1) A party to an appeal to an adjudicator under section 82 or 83 may, with the permission of the Immigration Appeal Tribunal, appeal to the Tribunal against the adjudicator's determination on a point of law.

Status: Point in time view as at 16/12/2020.

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- (2) A party to an application to the Tribunal for permission to appeal under subsection (1) may apply to the High Court or, in Scotland, to the Court of Session for a review of the Tribunal's decision on the ground that the Tribunal made an error of law.
- (3) Where an application is made under subsection (2)—
 - (a) it shall be determined by a single judge by reference only to written submissions,
 - (b) the judge may affirm or reverse the Tribunal's decision,
 - (c) the judge's decision shall be final, and
 - (d) if, in an application to the High Court, the judge thinks the application had no merit he shall issue a certificate under this paragraph (which shall be dealt with in accordance with Civil Procedure Rules).
- (4) The Lord Chancellor may by order repeal subsections (2) and (3).]

Textual Amendments

F84 Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 26\(5\)\(a\)](#), 47, 48(1)-(3), [Sch. 4](#); S.I. 2005/565, [art. 2\(a\)](#) (with savings in [arts. 3-9](#))

Modifications etc. (not altering text)

- C20** Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326](#), [Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), [reg. 2\(10\)](#) (with transitional provisions in [reg. 3](#)))
Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), [arts. 3, 4](#) (with transitional provisions in [arts. 3, 4](#), [Sch. 2](#) (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))
- C21** S. 101(1) extended (9.6.2003) by [S.I. 2003/754](#), [Sch. 2 para. 1\(4A\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), [art. 4](#))
- C22** S. 101(2)(3) applied (with modifications) (9.6.2003) by [S.I. 2003/754](#), [Sch. 2 para. 1\(4B\)\(a\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), [art. 4](#))

102 Decision

- [^{F85}(1) On an appeal under section 101 the Immigration Appeal Tribunal may—
- (a) affirm the adjudicator's decision;
 - (b) make any decision which the adjudicator could have made;
 - (c) remit the appeal to an adjudicator;
 - (d) affirm a direction given by the adjudicator under section 87;
 - (e) vary a direction given by the adjudicator under that section;
 - (f) give any direction which the adjudicator could have given under that section.
- (2) In reaching their decision on an appeal under section 101 the Tribunal may consider evidence about any matter which they think relevant to the adjudicator's decision, including evidence which concerns a matter arising after the adjudicator's decision.

Status: Point in time view as at 16/12/2020.

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- (3) But where the appeal under section 82 was against refusal of entry clearance or refusal of a certificate of entitlement—
- (a) subsection (2) shall not apply, and
 - (b) the Tribunal may consider only the circumstances appertaining at the time of the decision to refuse.
- (4) In remitting an appeal to an adjudicator under subsection (1)(c) the Tribunal may, in particular—
- (a) require the adjudicator to determine the appeal in accordance with directions of the Tribunal;
 - (b) require the adjudicator to take additional evidence with a view to the appeal being determined by the Tribunal.]

Textual Amendments

F85 Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 26(5)(a)**, 47, 48(1)-(3), **Sch. 4**; S.I. 2005/565, **art. 2(a)** (with savings in **arts. 3-9**)

Modifications etc. (not altering text)

C23 Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326, Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), **reg. 2(10)** (with transitional provisions in **reg. 3**))

Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), **arts. 3, 4** (with transitional provisions in **arts. 3, 4, Sch. 2** (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))

S. 102 applied (with modifications) (9.6.2003) by [S.I. 2003/754, Sch. 2 para. 1\(4B\)\(a\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)

103 Appeal from Tribunal

- [^{F86}(1) Where the Immigration Appeal Tribunal determines an appeal under section 101 a party to the appeal may bring a further appeal on a point of law—
- (a) where the original decision of the adjudicator was made in Scotland, to the Court of Session, or
 - (b) in any other case, to the Court of Appeal.
- (2) An appeal under this section may be brought only with the permission of—
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the court referred to in subsection (1)(a) or (b).
- (3) The remittal of an appeal to an adjudicator under section 102(1)(c) is not a determination of the appeal for the purposes of subsection (1) above.]

Status: Point in time view as at 16/12/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)

Textual Amendments

F86 Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 26(5)(a)**, 47, 48(1)-(3), **Sch. 4**; S.I. 2005/565, **art. 2(a)** (with savings in [arts. 3-9](#))

Modifications etc. (not altering text)

C24 Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326](#), **Sch. 2** (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), **reg. 2(10)** (with transitional provisions in [reg. 3](#)))
Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), **arts. 3, 4** (with transitional provisions in [arts. 3, 4](#), [Sch. 2](#) (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))
S. 103 applied (with modifications) (9.6.2003) by [S.I. 2003/754](#), **Sch. 2 para. 1(4B)(a)** (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)

Procedure

^{F87} 103A Review of Tribunal's decision

.....

Textual Amendments

F87 Ss. 103A-103E omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), **art. 1**, **Sch. 1 para. 25** (with [Sch. 4 paras. 2-13](#), 1920)

^{F87} 103B Appeal from Tribunal following reconsideration

.....

Textual Amendments

F87 Ss. 103A-103E omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), **art. 1**, **Sch. 1 para. 25** (with [Sch. 4 paras. 2-13](#), 1920)

^{F87} 103C Appeal from Tribunal instead of reconsideration

.....

Textual Amendments

F87 Ss. 103A-103E omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), **art. 1**, **Sch. 1 para. 25** (with [Sch. 4 paras. 2-13](#), 1920)

Status: Point in time view as at 16/12/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)

F87 103D Reconsideration: legal aid

.....

Textual Amendments
F87 Ss. 103A-103E omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 25** (with Sch. 4 paras. 2-13, 1920)

F87 103E Appeal from Tribunal sitting as panel

.....

Textual Amendments
F87 Ss. 103A-103E omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 25** (with Sch. 4 paras. 2-13, 1920)

104 Pending appeal

- (1) An appeal under section 82(1) is pending during the period—
 - (a) beginning when it is instituted, and
 - (b) ending when it is finally determined, withdrawn or abandoned (or when it lapses under section 99).

- [^{F88}(2) An appeal under section 82(1) is not finally determined for the purpose of subsection (1)(b) while—
 - (a) an application for permission to appeal under section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007 could be made or is awaiting determination,
 - (b) permission to appeal under either of those sections has been granted and the appeal is awaiting determination, or
 - (c) an appeal has been remitted under section 12 or 14 of that Act and is awaiting determination.]

^{F89}(3)

[^{F90}(4) ^{F91}

(4A) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom (subject to [^{F92}subsection (4B)]).

(4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on [^{F93}a ground specified in section 84(1)(a) or (b) or 84(3) (asylum or humanitarian protection)] where the appellant—

- ^{F94}(a)
- (b) gives notice, in accordance with [^{F95}Tribunal Procedure Rules], that he wishes to pursue the appeal in so far as it is brought on that ground.

^{F96}(4C)

^{F97}(5)

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Textual Amendments

- F88** S. 104(2) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 1 para. 26\(a\)](#) (with Sch. 4)
- F89** S. 104(3) omitted (4.4.2005) and repealed (prosp.) by virtue of [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 47, 48(1)–(3), Sch. 2 para. 20(b), [Sch. 4](#); S.I. 2005/565, [art. 2](#) (with savings in [arts. 3–9](#))
- F90** S. 104(4)–(4C) substituted (13.11.2006) for s. 104(4) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), ss. 9, 62; S.I. 2006/2838, [art. 3](#)
- F91** S. 104(4) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 47\(2\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with [arts. 9–11](#) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F92** Words in s. 104(4A) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 47\(3\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with [arts. 9–11](#) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F93** Words in s. 104(4B) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 47\(4\)\(a\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with [arts. 9–11](#) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F94** S. 104(4B)(a) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 47\(4\)\(b\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with [arts. 9–11](#) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F95** Words in s. 104(4B)(b) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 1 para. 26\(b\)](#) (with Sch. 4)
- F96** S. 104(4C) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 47\(5\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with [arts. 9–11](#) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F97** S. 104(5) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 47\(5\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with [arts. 9–11](#) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))

Modifications etc. (not altering text)

- C25** S. 104 applied (with modifications) by 1997 c. 68, [s. 2\(2\)\(j\)](#) (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), [Sch. 7 para. 20](#) (with s. 159); S.I. 2003/754, art. 2(1), [Sch. 1](#)))
- C26** S. 104 applied (30.10.2020) by [The Immigration \(Persons Designated under Sanctions Regulations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1101\)](#), regs. 1, [8\(2\)](#)

105 Notice of immigration decision

- (1) The Secretary of State may make regulations requiring a person to be given written notice where an ^{F98}[appealable] decision is taken in respect of him.
- (2) The regulations may, in particular, provide that a notice under subsection (1) of ^{F99}[an appealable decision] must state—
 - (a) that there is a right of appeal under ^{F100}[section 82], and
 - (b) how and when that right may be exercised.

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(3) The regulations may make provision (which may include presumptions) about service.

[^{F101}(4) In this section “appealable decision” means a decision mentioned in section 82(1).]

Textual Amendments

- F98** Word in s. 105(1) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 48\(2\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), [arts. 1\(2\)\(3\), 7, 8](#); and with transitional provisions and savings in [S.I. 2014/2928](#), [art. 2](#) (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), [arts. 1\(3\), 9](#)))
- F99** Words in s. 105(2) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 48\(3\)\(a\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), [arts. 1\(2\)\(3\), 7, 8](#); and with transitional provisions and savings in [S.I. 2014/2928](#), [art. 2](#) (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), [arts. 1\(3\), 9](#)))
- F100** Words in s. 105(2)(a) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 48\(3\)\(b\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), [arts. 1\(2\)\(3\), 7, 8](#); and with transitional provisions and savings in [S.I. 2014/2928](#), [art. 2](#) (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), [arts. 1\(3\), 9](#)))
- F101** S. 105(4) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 48\(4\)](#); [S.I. 2014/2771, art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), [arts. 1\(2\)\(3\), 7, 8](#); and with transitional provisions and savings in [S.I. 2014/2928](#), [art. 2](#) (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), [arts. 1\(3\), 9](#)))

Modifications etc. (not altering text)

- C27** S. 105 applied (with modifications) by [1997 c. 68, s. 2\(2\)\(k\)](#) (as substituted (1.4.2003) by [2002 c. 41, ss. 114, 162\(2\), Sch. 7 para. 20](#) (with [s. 159](#)); [S.I. 2003/754, art. 2\(1\), Sch. 1](#)))
- C28** S. 105 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\), reg. 1\(2\), Sch. 2 paras. 1-3](#)

106 Rules

^{F102}(1)

^{F103}(1A)

^{F104}(2)

[^{F105}(3) In the case of an appeal under section 82 ^{F106}... or by virtue of section 109, Tribunal Procedure Rules may enable the Tribunal to certify that the appeal had no merit (and shall make provision for the consequences of the issue of a certificate).]

- (4) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed in accordance with [^{F107}Tribunal Procedure Rules in connection with proceedings under section 82 ^{F108}... or by virtue of section 109] to attend before ^{F109}... the Tribunal—
- (a) to give evidence, or
 - (b) to produce a document.
- (5) A person who is guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Textual Amendments

- F102** S. 106(1) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 1 para. 27\(a\)](#) (with Sch. 4)
- F103** S. 106(1A) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 1 para. 27\(a\)](#) (with Sch. 4)
- F104** S. 106(2) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 1 para. 27\(a\)](#) (with Sch. 4)
- F105** S. 106(3) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 1 para. 27\(b\)](#) (with Sch. 4)
- F106** Words in s. 106(3) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 49\(a\)](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F107** Words in s. 106(4) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 1 para. 27\(c\)](#) (with Sch. 4)
- F108** Words in s. 106(4) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 49\(b\)](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F109** Words in s. 106(4) omitted (4.4.2005) by virtue of [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), [Sch. 2 para. 21\(t\)](#) and words in said subprovision repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 47, 48(1)-(3), [Sch. 4](#); [S.I. 2005/565](#), [art. 2](#) (with savings in arts. 3-9)

Modifications etc. (not altering text)

- C29** S. 106 extended by [1981 c. 61, s. 40A\(7\)](#) (as substituted (1.4.2003) by [2002 c. 41, ss. 4\(1\), 162\(2\)](#) (with s. 159); [S.I. 2003/754](#), art. 2(1), [Sch. 1](#))
- C30** S. 106 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), [Sch. 2 paras. 1-3](#)

107 Practice directions

- ^{F110}(1)
- ^{F111}(1A)
- ^{F112}(2)
- [^{F113}(3) In the case of proceedings under section 82 ^{F114}... or by virtue of section 109, or proceedings in the Upper Tribunal arising out of such proceedings, practice directions under section 23 of the Tribunals, Courts and Enforcement Act 2007—
- (a) may require the Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter; and
 - (b) may require the Upper Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter.]
- [^{F115}(3A) In subsection (3) the reference to a decision of the Tribunal includes—
- (a) a decision of the Asylum and Immigration Tribunal, and
 - (b) a decision of the Immigration Appeal Tribunal.]
- ^{F116}(4)

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- ^{F116}(5)
- ^{F116}(6)
- ^{F116}(7)

Textual Amendments

- F110** S. 107(1) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 28(a)** (with Sch. 4)
- F111** S. 107(1A) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 28(a)** (with Sch. 4)
- F112** S. 107(2) omitted (4.4.2005) by virtue of [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), **Sch. 2 para. 22(1)(b)** and said subprovision repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 47, 48(1)-(3), **Sch. 4** ; S.I. 2005/565, **art. 2** (with savings in arts. 3-9)
- F113** S. 107(3) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 28(b)** (with Sch. 4)
- F114** Words in s. 107(3) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 50**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F115** S. 107(3A) inserted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 28(c)** (with Sch. 4)
- F116** S. 107(4)-(7) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 28(a)** (with Sch. 4)

Modifications etc. (not altering text)

- C31** S. 107 extended by [1981 c. 61, s. 40A\(8\)](#) (as substituted (1.4.2003) by [2002 c. 41, ss. 4\(1\), 162\(2\)](#) (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**))
- C32** S. 107 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), **Sch. 2 paras. 1-3**

108 Forged document: proceedings in private

- (1) This section applies where it is alleged—
- (a) that a document relied on by a party to an appeal under section 82 ^{F117}... is a forgery, and
 - (b) that disclosure to that party of a matter relating to the detection of the forgery would be contrary to the public interest.
- (2) [^{F118}The Tribunal]—
- (a) must investigate the allegation in private, and
 - (b) may proceed in private so far as necessary to prevent disclosure of the matter referred to in subsection (1)(b).

Textual Amendments

- F117** Words in s. 108(1)(a) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 51**; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I.

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2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

F118 Words in s. 108(2) substituted (4.4.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), **Sch. 2 para. 23(b)**; S.I. 2005/565, **art. 2** (with savings in arts. 3-9)

Modifications etc. (not altering text)

C33 S. 108 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), **Sch. 2 paras. 1-3**

General

109 European Union and European Economic Area

- (1) Regulations may provide for, or make provision about, an appeal against an immigration decision taken in respect of a person who has or claims to have a right under any of the [^{F53}EU] Treaties.
- (2) The regulations may—
 - (a) apply a provision of this Act or the Special Immigration Appeals Commission Act 1997 (c. 68) with or without modification;
 - (b) make provision similar to a provision made by or under this Act or that Act;
 - (c) disapply or modify the effect of a provision of this Act or that Act.
- (3) In subsection (1) “immigration decision” means a decision about—
 - (a) a person’s entitlement to enter or remain in the United Kingdom, or
 - (b) removal of a person from the United Kingdom.

Textual Amendments

F53 Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

110 Grants

- [^{F119}(1) The Secretary of State may make a grant to a voluntary organisation which provides—
- (a) advice or assistance to persons who have a right of appeal under this Part;
 - (b) other services for the welfare of those persons.
- (2) A grant under this section may be subject to terms or conditions (which may include conditions as to repayment).]

Textual Amendments

F119 S. 110 ceases to have effect (16.6.2006) and it is repealed (prosp.) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#) {ss. 10}, 61, 62, {Sch. 3}; S.I. 2006/1497, **art. 3**, Sch.

Modifications etc. (not altering text)

C34 S. 110 applied (with modifications) by 1997 c. 68, **s. 2(2)(1)(3)(d)** (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7 para. 20** (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)

Status: Point in time view as at 16/12/2020.

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C35 S. 110 extended by **2001 c. 24, s. 27(10)** (as substituted (1.4.2003) by **2002 c. 41, ss. 114, 162(2), Sch. 7 para. 30** (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)

^{F120}**111 Monitor of certification of claims as unfounded**

.....

Textual Amendments

F120 S. 111 repealed (1.4.2008) by **UK Borders Act 2007 (c. 30), ss. 54(c), 59(2)**; S.I. 2008/309, art. 4(e)

112 Regulations, &c.

- (1) Regulations under this Part shall be made by the Secretary of State.
- (2) Regulations ^{F121}... under this Part ^{F121}...—
 - (a) must be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations ^{F122}... under this Part—
 - (a) may make provision which applies generally or only in a specified case or in specified circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) may include consequential, transitional or incidental provision, and
 - (d) may include savings.

^{F123}(3A)

- (4) An order under section 94(5) ^{F124}...—
 - (a) must be made by statutory instrument,
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, and
 - (c) may include transitional provision.
- (5) An order under section [^{F125}94(6) or (6B)]^{F126}...—
 - (a) must be made by statutory instrument,
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
 - (c) may include transitional provision.

[^{F127}(5A) If an instrument makes provision under section 94(5) and 94(6)—

- (a) subsection (4)(b) above shall apply, and
- (b) subsection (5)(b) above shall not apply.]

[^{F128}(5B) An order under section 97A(4)—

- (a) must be made by statutory instrument,
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
- (c) may include transitional provision.]

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F129(6)

F129(7)

Textual Amendments

- F121** Words in s. 112(2) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 29(a)** (with Sch. 4)
- F122** Words in s. 112(3) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 29(b)** (with Sch. 4)
- F123** S. 112(3A) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 52(a)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F124** Words in s. 112(4) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 52(b)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F125** Words in s.112(5) substituted (31.8.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), ss. 14, 62, **Sch. 1 para. 11**; [S.I. 2006/2226](#), art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F126** Words in s. 112(5) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 52(c)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F127** S. 112(5A) inserted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 27(8), 48(1)-(3); [S.I. 2005/2523](#), art. 2, Sch.
- F128** S. 112(5B) inserted (31.8.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), ss. 7(2), 62; [S.I. 2006/2226](#), art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F129** S. 112(6)(7) omitted (15.2.2010) by virtue of [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 29(c)** (with Sch. 4)

Modifications etc. (not altering text)

- C36** S. 112 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), **Sch. 2 paras. 1-3**

113 Interpretation

(1) In this Part, unless a contrary intention appears—

“asylum claim” means a claim made by a person to the Secretary of State at a place designated by the Secretary of State that to remove the person from or require him to leave the United Kingdom would breach the United Kingdom’s obligations under the Refugee Convention,

F130
...

“human rights claim” means a claim made by a person to the Secretary of State at a place designated by the Secretary of State that to remove the person from or require him to leave the United Kingdom [F131 or to refuse him entry into 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)

F132
....

Status: Point in time view as at 16/12/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)

“the Human Rights Convention” has the same meaning as “the Convention” in the Human Rights Act 1998 and “Convention rights” shall be construed in accordance with section 1 of that Act,

[^{F133cc} humanitarian protection ” has the meaning given in section 82(2);]

^{F130}
...

“immigration rules” means rules under section 1(4) of [^{F134}the Immigration Act 1971] (general immigration rules),

^{F130}
...

[^{F133cc} protection claim ” has the meaning given in section 82(2)]

[^{F133cc} protection status ” has the meaning given in section 82(2)]

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol,

^{F130}
...

^{F130}
...

^{F135}(2)

Textual Amendments

- F130** Words in s. 113(1) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 53(2)(c)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F131** Words in s. 113(1) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 53(2)(a)(i)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F132** Words in s. 113(1) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 53(2)(a)(ii)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F133** Words in s. 113(1) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 53(2)(b)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F134** Words in s. 113(1) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 53(2)(d)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F135** S. 113(2) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 53(3)**; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Modifications etc. (not altering text)

- C37** S. 113 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), **Sch. 2 paras. 1-3**

Status: Point in time view as at 16/12/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)

114 Repeal

- (1) Part IV of the Immigration and Asylum Act 1999 (c. 33) (appeals) shall cease to have effect.
- (2) Schedule 6 (which makes transitional provision in connection with the repeal of Part IV of that Act and its replacement by this Part) shall have effect.
- (3) Schedule 7 (consequential amendments) shall have effect.

Commencement Information

- I2** S. 114 wholly in force at 1.4.2003; s. 114 not in force at Royal Assent see s. 162(2); s. 114(3) in force at 10.2.2003 by [S.I. 2003/1](#), [art. 2](#), [Sch.](#); s. 114(1)(2) in force at 1.4.2003 by [S.I. 2003/754](#), [art. 2](#), [Sch. 1](#)

^{F136}115 Appeal from within United Kingdom: unfounded human rights or asylum claim: transitional provision

Textual Amendments

- F136** S. 115 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 54](#); [S.I. 2014/2771](#), [art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

^{F137}116 Special Immigration Appeals Commission: Community Legal Service

Textual Amendments

- F137** S. 116 repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 Pt. 2](#); [S.I. 2013/453](#), [art. 3\(h\)](#) (with savings and transitional provisions in [S.I. 2013/534](#), art. 6)

117 Northern Ireland appeals: legal aid

- (1) In Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8)) (proceedings for which legal aid may be given under Part II of that Order) the following shall be inserted after paragraph 6—

“6A Proceedings before an adjudicator appointed for the purposes of Part 5 of the Nationality, Immigration and Asylum Act 2002, the Immigration Appeal Tribunal or the Special Immigration Appeals Commission.”

Status: Point in time view as at 16/12/2020.

Changes to legislation: *Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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)*

- (2) The amendment made by subsection (1) is without prejudice to the power to make regulations under Article 10(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 amending or revoking the provision inserted by that subsection.

Status:

Point in time view as at 16/12/2020.

Changes to legislation:

Nationality, Immigration and Asylum Act 2002, Part 5 is up to date with all changes known to be in force on or before 25 June 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.