

Status: Point in time view as at 16/12/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Cross Heading: Appeal to Tribunal is up to date with all changes known to be in force on or before 21 July 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]

[^{F1}*Appeal to Tribunal*]

Textual Amendments

- F1** 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)

[^{F2}81 Meaning of “the Tribunal”

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

Textual Amendments

- F2** 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)

[^{F3}82 Right of appeal to the Tribunal

- (1) A person (“P”) may appeal to the Tribunal where—
- the Secretary of State has decided to refuse a protection claim made by P,
 - the Secretary of State has decided to refuse a human rights claim made by P, or
 - the Secretary of State has decided to revoke P's protection status.

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- (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

- F3** 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)

- C1** 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](#)))

^{F4}83 Appeal: asylum claim

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Textual Amendments

- F4** 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))

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^{F5}83A Appeal: variation of limited leave

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Textual Amendments

F5 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))

[^{F6}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

F6 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 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 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))

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85 Matters to be considered

- (1) An appeal under section 82(1) against a decision shall be treated by [^{F7}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, [^{F7}the Tribunal] shall consider any matter raised in the statement which constitutes a ground of appeal of a kind listed in section [^{F8}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) ^{F9}... against a decision [^{F10}the Tribunal] may consider ^{F11}... any matter which [^{F12}it] thinks relevant to the substance of the decision, including ^{F13}... a matter arising after the date of the decision.
- [^{F14}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

- F7** 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)
- F8** 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))
- F9** 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))
- F10** 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)
- F11** 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))
- F12** 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)
- F13** 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))
- F14** 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\(2\)](#)

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(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)

- C3** 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**))
- C4** 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**))
- C5** 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**
- C6** 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)**)
- C7** 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)**
- C8** 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**))

F15 85A Matters to be considered: new evidence: exceptions

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Textual Amendments

- F15** 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) ^{F16}...
- (2) [^{F17}The Tribunal] must determine—
 - (a) any matter raised as a ground of appeal ^{F18}..., and
 - (b) any matter which section 85 requires [^{F19}it] to consider.

^{F20}(3)

^{F20}(4)

^{F20}(5)

^{F20}(6)

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Textual Amendments

- F16** 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))
- F17** 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)
- F18** 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))
- F19** 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)
- F20** 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)

- C9** 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))

^{F21}87 Successful appeal: direction

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Textual Amendments

- F21** 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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