



Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5

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

Exceptions and limitations

^{F1}88 Ineligibility

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Textual Amendments

F1 Ss. 87-91 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 37](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and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))

^{F1}88A Entry clearance

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Textual Amendments

F1 Ss. 87-91 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 37](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and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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F¹89 Refusal of leave to enter

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Textual Amendments

- F1** Ss. 87-91 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 37](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and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))

F²90 Non-family visitor

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Textual Amendments

- F2** 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))

F²91 Student

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Textual Amendments

- F2** 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))

[F³92 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—

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- (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 ^{F4}...), 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 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

- F3** 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**))
- F4** 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)

- 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](#)))

^{F5}93 Appeal from within United Kingdom: “third country” removal

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Textual Amendments

F5 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 [F6protection] claim

[F7(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 [F8a] claimant is entitled to reside in a State listed in subsection (4) he shall certify the claim under [F9subsection (1)] unless satisfied that it is not clearly unfounded.

(4) Those States are—

- (a) F10
- (b) F10
- (c) F10
- (d) F10
- (e) F10
- (f) F10
- (g) F10
- (h) F10
- (i) F10
- (j) F10
- [F11(k) the Republic of Albania,
- (l) F12
- (m) F13
- (n) Jamaica,
- (o) Macedonia,
- (p) the Republic of Moldova, and
- (q) F12]
- [F14(r) F15
- (s) Bolivia,
- (t) Brazil,
- (u) Ecuador,
- (v) F16
- (w) South Africa, and
- (x) Ukraine.]
- [F17(y) India.]
- [F18(z) Mongolia,
- (aa) Ghana (in respect of men),
- (bb) Nigeria (in respect of men).]
- [F19(cc) Bosnia-Herzegovina,
- (dd) Gambia (in respect of men),
- (ee) Kenya (in respect of men),

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- (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).]
 - [^{F20}(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.
- [^{F21}(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.
- (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
- ^{F22}(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).]
- [^{F23}(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

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

[^{F24}(6A) Subsection (3) shall not apply in relation to [^{F25}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) [^{F26}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—

- (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 [^{F27}or with the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection] .

^{F28}(9)

Textual Amendments

- F6** 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))
- F7** 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))
- F8** 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))
- F9** 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))

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- F10** 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.
- F11** S. 94(4)(k)-(q) added (1.4.2003) by The Asylum (Designated States) Order 2003 (S.I. 2003/970), **art. 3**
- F12** 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**
- F13** 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)
- F14** S. 94(4)(r)-(x) added (23.7.2003) by The Asylum (Designated States) (No. 2) Order 2003 (S.I. 2003/1919), **art. 2**
- F15** S. 94(4)(r) omitted (22.4.2005) by virtue of The Asylum (Designated States) (Amendment) Order 2005 (S.I. 2005/1016), **art. 2**
- F16** 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**
- F17** S. 94(4)(y) added (15.2.2005) by The Asylum (Designated States) Order 2005 (S.I. 2005/330), **art. 2** (with art. 1)
- F18** S. 94(4)(z)-(bb) added (2.12.2005) by The Asylum (Designated States) (No. 2) Order 2005 (S.I. 2005/3306), **art. 2**
- F19** 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)
- F20** 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)
- F21** 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.
- F22** S. 94(5D) inserted (1.12.2007) by The Asylum (Procedures) Regulations 2007 (S.I. 2007/3187), **reg. 3**
- F23** 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.
- F24** 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.
- F25** 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))
- F26** 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))
- F27** 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))
- F28** 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)

- 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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Commencement Information

- II** 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](#)

[^{F29}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 [^{F30}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 [^{F31}94(1)] unless satisfied that the claim or claims is or are not clearly unfounded.
- (5) An order under subsection (1) –
 - (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 [^{F32}EU] 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

- F29** S. 94A inserted (1.12.2007) by [The Asylum \(Procedures\) Regulations 2007 \(S.I. 2007/3187\)](#), [reg. 4](#)
- F30** 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](#)))
- F31** 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](#)))
- F32** 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\(4\)\(5\)](#))

[^{F33}94B Appeal from within the United Kingdom: certification of human rights claims

^{F34}...

- (1) This section applies where a human rights claim has been made by a person (“P”) ^{F35}...

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- (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, [^{F36}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 [^{F37}refused entry to, removed from or required to leave the United Kingdom] .]

Textual Amendments

- F33** S. 94B inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 17(3)**, 75(3); S.I. 2014/1820, art. 3(n)
- F34** 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)
- F35** 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)
- F36** 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)
- F37** 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)

^{F38}95 Appeal from outside United Kingdom: removal

Textual Amendments

- F38** 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))

^{F39}96 Earlier right of appeal

- (1) [^{F40}A 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—
 - (a) that the person was notified of a right of appeal under that section against another ^{F41}... decision (“the old decision”) (whether or not an appeal was brought and whether or not any appeal brought has been determined),
 - (b) that the claim or application to which the new decision relates relies on a [^{F42}ground] that could have been raised in an appeal against the old decision, and
 - (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that [^{F43}ground] not having been raised in an appeal against the old decision.

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- [^{F44}(2) A person may not bring an appeal under section 82 if the Secretary of State or an immigration officer certifies—
- (a) that the person has received a notice under section 120(2),
 - (b) 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
 - (c) 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) [^{F45}Subsections (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).
- [^{F46}(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

- F39** 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. [9](#)
- F40** 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))
- F41** 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))
- F42** 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))
- F43** 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))
- F44** 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))
- F45** 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. [9](#)
- F46** 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. [9](#)

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Modifications etc. (not altering text)

- C3** 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))
- C4** 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) ^{F47}... 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.
- (3) An appeal under section 82(1) ^{F48}... 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

- F47** 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))
- F48** 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))

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Modifications etc. (not altering text)

C5 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](#)))

[^{F49}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 ^{F50}(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

[^{F51}(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 ^{F52}(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,

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 [^{F53}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.

^{F54}(2D)

^{F55}(2E)

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- (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.]
- ^{F56}(3)
- (4) The Secretary of State may repeal this section by order.]

Textual Amendments

- F49** 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)
- F50** 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)**
- F51** 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)**
- F52** 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)**
- F53** 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))
- F54** 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))
- F55** 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))
- F56** 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))

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Modifications etc. (not altering text)

- C6** 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**)
- C7** 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)**

^{F57}**97B Variation of leave on grounds of public good: rights of appeal**

.....

Textual Amendments

- F57** 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))

^{F58}**98 Other grounds of public good**

.....

Textual Amendments

- F58** 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 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 [^{F59}**Section 97**] : appeal in progress

- (1) This section applies where a certificate is issued under section ^{F60}... 97 ^{F61}... in respect of a pending appeal.
- (2) The appeal shall lapse.

Textual Amendments

- F59** 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))
- F60** 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)
- F61** 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))

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Modifications etc. (not altering text)

- C8** 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](#)))

Status:

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