

Status: Point in time view as at 31/01/2020.

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Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5

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

Procedure

^{F1}103A Review of Tribunal's decision

.....

Textual Amendments

F1 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)

^{F1}103B Appeal from Tribunal following reconsideration

.....

Textual Amendments

F1 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)

^{F1}103C Appeal from Tribunal instead of reconsideration

.....

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Textual Amendments

F1 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)

F1 103D Reconsideration: legal aid

.....

Textual Amendments

F1 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)

F1 103E Appeal from Tribunal sitting as panel

.....

Textual Amendments

F1 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 - (b) ending when it is finally determined, withdrawn or abandoned (or when it lapses under section 99).

- [^{F2}(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.]

(3) ^{F3}

[^{F4}(4) ^{F5}

(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 [^{F6}subsection (4B)]).

(4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on [^{F7}a ground specified in section 84(1)(a) or (b) or 84(3) (asylum or humanitarian protection)] where the appellant—

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- ^{F8}(a)
- (b) gives notice, in accordance with [^{F9}Tribunal Procedure Rules], that he wishes to pursue the appeal in so far as it is brought on that ground.

^{F10}(4C)

^{F11}(5)

Textual Amendments

- F2** 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)
- F3** 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)
- F4** 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**
- F5** 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))
- F6** 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))
- F7** 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))
- F8** 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))
- F9** 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)
- F10** 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))
- F11** 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)

- C1** 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**)

105 Notice of immigration decision

- (1) The Secretary of State may make regulations requiring a person to be given written notice where an [^{F12}appealable] decision is taken in respect of him.

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- (2) The regulations may, in particular, provide that a notice under subsection (1) of ^{F13}an appealable decision] must state—
- (a) that there is a right of appeal under ^{F14}section 82], and
 - (b) how and when that right may be exercised.
- (3) The regulations may make provision (which may include presumptions) about service.
- ^{F15}(4) In this section “appealable decision” means a decision mentioned in section 82(1).]

Textual Amendments

- F12** 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))
- F13** 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))
- F14** 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))
- F15** 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)

- C2** 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](#)))
- C3** 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

^{F16}(1)

^{F17}(1A)

^{F18}(2)

^{F19}(3) In the case of an appeal under section 82 ^{F20}... 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 ^{F21}Tribunal Procedure Rules in connection with proceedings under section 82 ^{F22}... or by virtue of section 109] to attend before ^{F23}... the Tribunal—
- (a) to give evidence, or
 - (b) to produce a document.

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- (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.

Textual Amendments

- F16** 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)
- F17** 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)
- F18** 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)
- F19** 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)
- F20** 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))
- F21** 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)
- F22** 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))
- F23** 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)

- C4** 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**))
- C5** 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

^{F24}(1)

^{F25}(1A)

^{F26}(2)

[^{F27}(3) In the case of proceedings under section 82 ^{F28}... 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.]

[^{F29}(3A) In subsection (3) the reference to a decision of the Tribunal includes—

- (a) a decision of the Asylum and Immigration Tribunal, and

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(b) a decision of the Immigration Appeal Tribunal.]

- F30(4)
- F30(5)
- F30(6)
- F30(7)

Textual Amendments

- F24** 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)
- F25** 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)
- F26** 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)
- F27** 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)
- F28** 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))
- F29** 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)
- F30** 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)

- C6** 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**)
- C7** 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^{F31} ... 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) [^{F32}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).

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Textual Amendments

- F31** 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. 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 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)

- C8** 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](#)

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