



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}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 ^{F2}(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

[^{F3}(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 ^{F4}(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 [^{F5}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.

^{F6}(2D)

^{F7}(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.]

^{F8}(3)

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

Textual Amendments	
F1	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)
F2	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)

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- F3** 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)
- F4** 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)
- F5** 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))
- F6** 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))
- F7** 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))
- F8** 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)

- C1** 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](#))
- C2** 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\(1\)](#)
- C3** S. 97A excluded (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), regs. 1(2), [15\(2\)](#)

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