

Status: Point in time view as at 20/11/2010.

Changes to legislation: *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 is up to date with all changes known to be in force on or before 21 May 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)*

SCHEDULES

^{F1}SCHEDULE 1

Section 26

Textual Amendments

- F1** Sch. 1 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

SCHEDULE 2

Section 26

ASYLUM AND IMMIGRATION TRIBUNAL: CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION

PART 1

CONSEQUENTIAL AMENDMENTS

Immigration Act 1971 (c. 77)

- 1 (1) Schedule 2 to the Immigration Act 1971 (control on entry) shall be amended as follows.

^{F2}(2)

- (3) In paragraph 24(3) for “An adjudicator, justice of the peace or sheriff before whom a person is brought by virtue of sub-paragraph (2)(a) above” substitute “ Where a person is brought before the Asylum and Immigration Tribunal, a justice of the peace or the sheriff by virtue of sub-paragraph (2)(a), the Tribunal, justice of the peace or sheriff”.

- (4) In paragraph 29—

^{F3}(a)

- (b) in sub-paragraph (3)—

^{F4}(i)

(ii) for “that or any other adjudicator” substitute “ the Tribunal ”,

(iii) omit the words from “and where an adjudicator dismisses” to the end,

- (c) omit sub-paragraph (4), and

- (d) in sub-paragraph (6)—

^{F5}(i)

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- (ii) for “the adjudicator or Tribunal” substitute “ the Tribunal ”, and
- (iii) for “the adjudicator or the Tribunal” substitute “ the Tribunal ”.

(5) In paragraphs 30, 31, 32 and 33—

- (a) for “an adjudicator and the Tribunal” substitute “ the Tribunal ”,
- (b) for “an adjudicator or the Tribunal” substitute “ the Tribunal ”,
- (c) for “the adjudicator or the Tribunal, as the case may be” substitute “ the Tribunal ”,
- (d) for “the adjudicator or Tribunal” substitute “ the Tribunal ”,
- (e) for “the adjudicator or the Tribunal” substitute “ the Tribunal ”,
- (f) for “an adjudicator or Tribunal” substitute “ the Tribunal ”, and
- (g) for “before an adjudicator or before the Tribunal” substitute “ before the Tribunal ”.

(6) In paragraph 33—

- (a) in sub-paragraph (2)(a) for “before an adjudicator” substitute “ before the Tribunal ”,
- (b) in sub-paragraph (2)(b) for “before that adjudicator or before the Tribunal, as the case may be” substitute “ before it ”, and
- (c) in sub-paragraph (3) for “An adjudicator, justice of the peace or sheriff before whom a person is brought by virtue of sub-paragraph (2)(a) above” substitute “ Where a person is brought before the Asylum and Immigration Tribunal, a justice of the peace or the sheriff by virtue of sub-paragraph (2)(a), the Tribunal, justice of the peace or sheriff ”.

Textual Amendments

- F2** Sch. 2 para. 1(2) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)
- F3** Sch. 2 para. 1(4)(a) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)
- F4** Sch. 2 para. 1(4)(b)(i) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)
- F5** Sch. 2 para. 1(4)(d)(i) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

Commencement Information

- I1** Sch. 2 para. 1 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

House of Commons Disqualification Act 1975 (c. 24)

2 (1) Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) shall be amended as follows.

^{F6}(2)

(3) In Part III omit the entry relating to immigration adjudicators.

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Textual Amendments

- F6** Sch. 2 para. 2(2) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

Commencement Information

- I2** Sch. 2 para. 2 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 3 (1) Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) shall be amended as follows.

^{F7}(2)

- (3) In Part III omit the entry relating to immigration adjudicators.

Textual Amendments

- F7** Sch. 2 para. 3(2) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

Commencement Information

- I3** Sch. 2 para. 3 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

British Nationality Act 1981 (c. 61)

- 4 In section 40A of the British Nationality Act 1981 (deprivation of citizenship: appeal)—

^{F8}(a)

- (b) for subsections (3) to (5) substitute—

“(3) The following provisions of the Nationality, Immigration and Asylum Act 2002 (c. 41) shall apply in relation to an appeal under this section as they apply in relation to an appeal under section 82 or 83 of that Act—

- (a) section 87 (successful appeal: direction) (for which purpose a direction may, in particular, provide for an order under section 40 above to be treated as having had no effect),
(b) sections 103A to 103E (review and appeal),
(c) section 106 (rules), and
(d) section 107 (practice directions).” and

- (c) omit subsections (6) to (8).

Textual Amendments

- F8** Sch. 2 para. 4(a) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

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Commencement Information

I4 Sch. 2 para. 4 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with [arts. 3-9](#))

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))

5 (1) For paragraph 6A of Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (proceedings for which legal aid may be given under Part II of that Order) substitute—

“6A Proceedings before the Asylum and Immigration Tribunal or the Special Immigration Appeals Commission.”

(2) The amendment made by sub-paragraph (1) is without prejudice to any power to amend or revoke the provision inserted by that sub-paragraph.

Commencement Information

I5 Sch. 2 para. 5 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with [arts. 3-9](#))

Courts and Legal Services Act 1990 (c. 41)

^{F9}6

Textual Amendments

F9 Sch. 2 para. 6 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), [art. 1](#), **Sch. 3** (with [Sch. 4](#))

Tribunals and Inquiries Act 1992 (c. 53)

7 (1) The Tribunals and Inquiries Act 1992 shall be amended as follows.

(2) In section 7 (dismissal) omit subsection (3).

^{F10}(3)

Textual Amendments

F10 Sch. 2 para. 7(3) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), [art. 1](#), **Sch. 3** (with [Sch. 4](#))

Commencement Information

I6 Sch. 2 para. 7 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with [arts. 3-9](#))

Judicial Pensions and Retirement Act 1993 (c. 8)

^{F11}8

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Textual Amendments

- F11** Sch. 2 para. 8 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 3](#) (with Sch. 4)

Asylum and Immigration Appeals Act 1993 (c. 23)

- 9 Section 9A of the Asylum and Immigration Appeals Act 1993 (bail) shall cease to have effect.

Commencement Information

- I7** Sch. 2 para. 9 in force at 4.4.2005 by [S.I. 2005/565](#), [art. 2\(d\)](#) (with arts. 3-9)

Special Immigration Appeals Commission Act 1997 (c. 68)

- 10 The Special Immigration Appeals Commission Act 1997 shall be amended as follows.

Commencement Information

- I8** Sch. 2 para. 10 in force at 4.4.2005 by [S.I. 2005/565](#), [art. 2\(d\)](#) (with arts. 3-9)

- 11 At the end of section 2B (deprivation of citizenship) insert “ (and section 40A(3) (a) shall have effect in relation to appeals under this section). ”

Commencement Information

- I9** Sch. 2 para. 11 in force at 4.4.2005 by [S.I. 2005/565](#), [art. 2\(d\)](#) (with arts. 3-9)

- 12 (1) In Schedule 1 (constitution, &c.) for paragraph 5(b) substitute—
“ (b) at least one is or has been a legally qualified member of the Asylum and Immigration Tribunal.”
(2) A person is qualified for the purposes of paragraph 5(b) of that Schedule as it has effect after the commencement of sub-paragraph (1) above if he is qualified for the purposes of paragraph 5(b) as it had effect at any time since its commencement.

Commencement Information

- I10** Sch. 2 para. 12 in force at 4.4.2005 by [S.I. 2005/565](#), [art. 2\(d\)](#) (with arts. 3-9)

- 13 (1) Schedule 3 (bail) shall be amended as follows.
(2) In paragraph 1(2) for “ “adjudicator” ” substitute

^{F12}(3)

^{F12}(4)

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F12(5)

F12(6)

F12(7)

F12(8)

F12(9)

(10) In paragraph 6(2)(a) for “ “an adjudicator or the Tribunal”” substitute

(11) In paragraph 6(2)(b) for “ “the adjudicator or the Tribunal, as the case may be,”” substitute

(12) In paragraph 6(2)(c) for “ “the adjudicator or Tribunal”” substitute

(13) In paragraph 6(3)(a) for “ “an adjudicator or the Tribunal”” substitute

(14) In paragraph 6(3)(b) for “ “the adjudicator or Tribunal”” substitute

(15) In paragraph 7(a) for “ “an adjudicator or the Tribunal”” substitute

(16) In paragraph 7(b) for “ “the adjudicator or Tribunal”” substitute

(17) In paragraph 7(c) for “ “the adjudicator or the Tribunal”” substitute

Textual Amendments

F12 Sch. 2 para. 13(3)-(9) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

Commencement Information

I11 Sch. 2 para. 13 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

Access to Justice Act 1999 (c. 22)

F13¹⁴

Textual Amendments

F13 Sch. 2 para. 14 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

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Immigration and Asylum Act 1999 (c. 33)

^{F14}15

Textual Amendments

F14 Sch. 2 para. 15 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

Nationality, Immigration and Asylum Act 2002 (c. 41)

16 The Nationality, Immigration and Asylum Act 2002 shall be amended as follows.

Commencement Information

I12 Sch. 2 para. 16 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

17 In section 72(10)(serious criminal) omit “adjudicator”.

Commencement Information

I13 Sch. 2 para. 17 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

- 18 (1) In the provisions listed in sub-paragraph (2)—
- (a) for “an adjudicator” substitute “ the Tribunal ”,
 - (b) for “the adjudicator” substitute “ the Tribunal ”,
 - (c) for “he” in relation to an adjudicator substitute “ it ”,
 - (d) for “him” in relation to an adjudicator substitute “ it ”, and
 - (e) for “his” in relation to an adjudicator substitute “ its ”.
- (2) The provisions are—
- (a) section 85 (matters to be considered),
 - (b) section 86 (determination of appeal), and
 - (c) section 87 (successful appeal: direction).

Commencement Information

I14 Sch. 2 para. 18 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

- 19 In section 87—
- ^{F15}(a)
 - (b) in subsection (4) for “as part of the determination of the appeal for the purposes of section 101” substitute “ as part of the Tribunal’s decision on the appeal for the purposes of section 103A ”.

Textual Amendments

F15 Sch. 2 para. 19(a) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

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Commencement Information

I15 Sch. 2 para. 19 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

- 20 In section 104 (pending appeal)—
- ^{F16}(a)
- (b) omit subsection (3)(remittal to adjudicator).

Textual Amendments

F16 Sch. 2 para. 20(a) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

Commencement Information

I16 Sch. 2 para. 20 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

^{F17}21

Textual Amendments

F17 Sch. 2 para. 21 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

- 22 (1) In section 107 (practice directions)—
- ^{F18}(a)
- (b) omit subsection (2), and
- ^{F19}(c)
- ^{F20}(2)

Textual Amendments

F18 Sch. 2 para. 22(1)(a) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

F19 Sch. 2 para. 22(1)(c) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

F20 Sch. 2 para. 22(2) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

Commencement Information

I17 Sch. 2 para. 22 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

- 23 In section 108 (forged document: proceedings in private)—
- (a) in subsection (1)(a) for “, 83 or 101” substitute “ or 83 ”, and
- (b) in subsection (2) for “The adjudicator or the Immigration Appeal Tribunal” substitute “ The Tribunal ”.

Commencement Information

I18 Sch. 2 para. 23 in force at 4.4.2005 by [S.I. 2005/565](#), **art. 2(d)** (with arts. 3-9)

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F21 24

Textual Amendments

F21 Sch. 2 para. 24 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 3** (with Sch. 4)

Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10))

- 25 (1) For paragraph 2(i) of Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (civil legal services: excluded services) substitute—
- “(i) proceedings before the Asylum and Immigration Tribunal or the Special Immigration Appeals Commission.”.
- (2) The amendment made by sub-paragraph (1) is without prejudice to any power to amend or revoke the provision inserted by that sub-paragraph.

Commencement Information

I19 Sch. 2 para. 25 in force at 4.4.2005 by [S.I. 2005/565](#), art. 2(d) (with arts. 3-9)

PART 2

TRANSITIONAL PROVISION

- 26 In this Part “commencement” means the coming into force of section 26.

Commencement Information

I20 Sch. 2 para. 26 in force at 4.4.2005 by [S.I. 2005/565](#), art. 2(d) (with arts. 3-9)

- 27 A person who immediately before commencement is, or is to be treated as, an adjudicator appointed under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals) (as it has effect before commencement) shall be treated as having been appointed as a member of the Asylum and Immigration Tribunal under paragraph 1 of Schedule 4 to that Act (as it has effect after commencement) immediately after commencement.

Commencement Information

I21 Sch. 2 para. 27 in force at 4.4.2005 by [S.I. 2005/565](#), art. 2(d) (with arts. 3-9)

- 28 Where immediately before commencement a person is a member of the Immigration Appeal Tribunal—
- (a) he shall be treated as having been appointed as a member of the Asylum and Immigration Tribunal under paragraph 1 of Schedule 4 to that Act immediately after commencement, and
- (b) if he was a legally qualified member of the Immigration Appeal Tribunal (within the meaning of Schedule 5 to that Act) he shall be treated as

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having been appointed as a legally qualified member of the Asylum and Immigration Tribunal.

Commencement Information

I22 Sch. 2 para. 28 in force at 4.4.2005 by S.I. 2005/565, art. 2(d) (with arts. 3-9)

- 29 A person who immediately before commencement is a member of staff of adjudicators appointed or treated as appointed under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) or of the Immigration Appeal Tribunal shall be treated as having been appointed as a member of the staff of the Asylum and Immigration Tribunal under paragraph 9 of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 immediately after commencement.

Commencement Information

I23 Sch. 2 para. 29 in force at 4.4.2005 by S.I. 2005/565, art. 2(d) (with arts. 3-9)

^{F22}30

Textual Amendments

F22 Sch. 2 para. 30 repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, Sch. 3 (with Sch. 4)

SCHEDULE 3

Section 33

REMOVAL OF ASYLUM SEEKER TO SAFE COUNTRY

PART 1

INTRODUCTORY

- 1 (1) In this Schedule—

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

“Convention rights” means the rights identified as Convention rights by section 1 of the Human Rights Act 1998 (c. 42) (whether or not in relation to a State that is a party to the Convention),

“human rights claim” means a claim by a person that to remove him from or require him to leave the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Convention) as being incompatible with his Convention rights,

“immigration appeal” means an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeal against immigration decision), and

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

- (2) In this Schedule a reference to anything being done in accordance with the Refugee Convention is a reference to the thing being done in accordance with the principles of the Convention, whether or not by a signatory to it.

Commencement Information

I24 Sch. 3 para. 1 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

PART 2

FIRST LIST OF SAFE COUNTRIES (REFUGEE CONVENTION AND HUMAN RIGHTS (1))

- 2 This Part applies to—
- (a) Austria,
 - (b) Belgium,
 - [^{F23}(ba) Bulgaria,]
 - (c) Republic of Cyprus,
 - (d) Czech Republic,
 - (e) Denmark,
 - (f) Estonia,
 - (g) Finland,
 - (h) France,
 - (i) Germany,
 - (j) Greece,
 - (k) Hungary,
 - (l) Iceland,
 - (m) Ireland,
 - (n) Italy,
 - (o) Latvia,
 - (p) Lithuania,
 - (q) Luxembourg,
 - (r) Malta,
 - (s) Netherlands,
 - (t) Norway,
 - (u) Poland,
 - (v) Portugal,
 - [^{F24}(va) Romania,]
 - (w) Slovak Republic,
 - (x) Slovenia,
 - (y) Spain, ^{F25}...
 - (z) Sweden.
 - [^{F26}(z1)] Switzerland.

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Textual Amendments

- F23** Sch. 3 para. 2(ba) inserted (with effect in accordance with art. 1(3) of the commencing S.I.) by [Asylum \(First List of Safe Countries\) \(Amendment\) Order 2006 \(S.I. 2006/3393\)](#), arts. 1(2), **2(2)**
- F24** Sch. 3 para. 2(va) inserted (with effect in accordance with art. 1(3) of the commencing S.I.) by [Asylum \(First List of Safe Countries\) \(Amendment\) Order 2006 \(S.I. 2006/3393\)](#), arts. 1(2), **2(3)**
- F25** Word in Sch. 3 para. 2(y) deleted (with application in accordance with art. 1(3)(a) of the amending S.I.) by virtue of [The Asylum \(First List of Safe Countries\) \(Amendment\) Order 2010 \(S.I. 2010/2802\)](#), arts. 1(2), **2(a)** (with art. 1(3)(b))
- F26** Sch. 3 para. 2(z1) inserted (with application in accordance with art. 1(3)(a) of the amending S.I.) by [The Asylum \(First List of Safe Countries\) \(Amendment\) Order 2010 \(S.I. 2010/2802\)](#), arts. 1(2), **2(b)** (with art. 1(3)(b))

Commencement Information

- I25** Sch. 3 para. 2 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

- 3 (1) This paragraph applies for the purposes of the determination by any person, tribunal or court whether a person who has made an asylum claim or a human rights claim may be removed—
- (a) from the United Kingdom, and
 - (b) to a State of which he is not a national or citizen.
- (2) A State to which this Part applies shall be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—
- (a) where a person's life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion,
 - (b) from which a person will not be sent to another State in contravention of his Convention rights, and
 - (c) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

Commencement Information

- I26** Sch. 3 para. 3 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

- 4 Section 77 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (no removal while claim for asylum pending) shall not prevent a person who has made a claim for asylum from being removed—
- (a) from the United Kingdom, and
 - (b) to a State to which this Part applies;
- provided that the Secretary of State certifies that in his opinion the person is not a national or citizen of the State.

Commencement Information

- I27** Sch. 3 para. 4 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

- 5 (1) This paragraph applies where the Secretary of State certifies that—
- (a) it is proposed to remove a person to a State to which this Part applies, and

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- (b) in the Secretary of State’s opinion the person is not a national or citizen of the State.
- (2) The person may not bring an immigration appeal by virtue of section 92(2) or (3) of that Act (appeal from within United Kingdom: general).
- (3) The person may not bring an immigration appeal by virtue of section 92(4)(a) of that Act (appeal from within United Kingdom: asylum or human rights) in reliance on—
 - (a) an asylum claim which asserts that to remove the person to a specified State to which this Part applies would breach the United Kingdom’s obligations under the Refugee Convention, or
 - (b) a human rights claim in so far as it asserts that to remove the person to a specified State to which this Part applies would be unlawful under section 6 of the Human Rights Act 1998 because of the possibility of removal from that State to another State.
- (4) The person may not bring an immigration appeal by virtue of section 92(4)(a) of that Act in reliance on a human rights claim to which this sub-paragraph applies if the Secretary of State certifies that the claim is clearly unfounded; and the Secretary of State shall certify a human rights claim to which this sub-paragraph applies unless satisfied that the claim is not clearly unfounded.
- (5) Sub-paragraph (4) applies to a human rights claim if, or in so far as, it asserts a matter other than that specified in sub-paragraph (3)(b).

Commencement Information

I28 Sch. 3 para. 5 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 6 A person who is outside the United Kingdom may not bring an immigration appeal on any ground that is inconsistent with treating a State to which this Part applies as a place—
- (a) where a person’s life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion,
 - (b) from which a person will not be sent to another State in contravention of his Convention rights, and
 - (c) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

Commencement Information

I29 Sch. 3 para. 6 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

PART 3

SECOND LIST OF SAFE COUNTRIES (REFUGEE CONVENTION AND HUMAN RIGHTS (2))

- 7 (1) This Part applies to such States as the Secretary of State may by order specify.
- (2) An order under this paragraph—
- (a) shall be made by statutory instrument, and

Status: Point in time view as at 20/11/2010.

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- (b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

Commencement Information

I30 Sch. 3 para. 7 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 8 (1) This paragraph applies for the purposes of the determination by any person, tribunal or court whether a person who has made an asylum claim may be removed—
- (a) from the United Kingdom, and
 - (b) to a State of which he is not a national or citizen.
- (2) A State to which this Part applies shall be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—
- (a) where a person's life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, and
 - (b) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

Commencement Information

I31 Sch. 3 para. 8 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 9 Section 77 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (no removal while claim for asylum pending) shall not prevent a person who has made a claim for asylum from being removed—
- (a) from the United Kingdom, and
 - (b) to a State to which this Part applies;
- provided that the Secretary of State certifies that in his opinion the person is not a national or citizen of the State.

Commencement Information

I32 Sch. 3 para. 9 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 10 (1) This paragraph applies where the Secretary of State certifies that—
- (a) it is proposed to remove a person to a State to which this Part applies, and
 - (b) in the Secretary of State's opinion the person is not a national or citizen of the State.
- (2) The person may not bring an immigration appeal by virtue of section 92(2) or (3) of that Act (appeal from within United Kingdom: general).
- (3) The person may not bring an immigration appeal by virtue of section 92(4)(a) of that Act (appeal from within United Kingdom: asylum or human rights) in reliance on an asylum claim which asserts that to remove the person to a specified State to which this Part applies would breach the United Kingdom's obligations under the Refugee Convention.

Status: Point in time view as at 20/11/2010.

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- (4) The person may not bring an immigration appeal by virtue of section 92(4)(a) of that Act in reliance on a human rights claim if the Secretary of State certifies that the claim is clearly unfounded; and the Secretary of State shall certify a human rights claim where this paragraph applies unless satisfied that the claim is not clearly unfounded.

Commencement Information

I33 Sch. 3 para. 10 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 11 A person who is outside the United Kingdom may not bring an immigration appeal on any ground that is inconsistent with treating a State to which this Part applies as a place—
- (a) where a person's life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, and
 - (b) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

Commencement Information

I34 Sch. 3 para. 11 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

PART 4

THIRD LIST OF SAFE COUNTRIES (REFUGEE CONVENTION ONLY)

- 12 (1) This Part applies to such States as the Secretary of State may by order specify.
- (2) An order under this paragraph—
- (a) shall be made by statutory instrument, and
 - (b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

Commencement Information

I35 Sch. 3 para. 12 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 13 (1) This paragraph applies for the purposes of the determination by any person, tribunal or court whether a person who has made an asylum claim may be removed—
- (a) from the United Kingdom, and
 - (b) to a State of which he is not a national or citizen.
- (2) A State to which this Part applies shall be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—
- (a) where a person's life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, and
 - (b) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

Status: Point in time view as at 20/11/2010.

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Commencement Information

I36 Sch. 3 para. 13 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 14 Section 77 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (no removal while claim for asylum pending) shall not prevent a person who has made a claim for asylum from being removed—
- (a) from the United Kingdom, and
 - (b) to a State to which this Part applies;
- provided that the Secretary of State certifies that in his opinion the person is not a national or citizen of the State.

Commencement Information

I37 Sch. 3 para. 14 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 15 (1) This paragraph applies where the Secretary of State certifies that—
- (a) it is proposed to remove a person to a State to which this Part applies, and
 - (b) in the Secretary of State’s opinion the person is not a national or citizen of the State.
- (2) The person may not bring an immigration appeal by virtue of section 92(2) or (3) of that Act (appeal from within United Kingdom: general).
- (3) The person may not bring an immigration appeal by virtue of section 92(4)(a) of that Act (appeal from within United Kingdom: asylum or human rights) in reliance on an asylum claim which asserts that to remove the person to a specified State to which this Part applies would breach the United Kingdom’s obligations under the Refugee Convention.
- (4) The person may not bring an immigration appeal by virtue of section 92(4)(a) of that Act in reliance on a human rights claim if the Secretary of State certifies that the claim is clearly unfounded.

Commencement Information

I38 Sch. 3 para. 15 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 16 A person who is outside the United Kingdom may not bring an immigration appeal on any ground that is inconsistent with treating a State to which this Part applies as a place—
- (a) where a person’s life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, and
 - (b) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

Commencement Information

I39 Sch. 3 para. 16 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

Status: Point in time view as at 20/11/2010.

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PART 5

COUNTRIES CERTIFIED AS SAFE FOR INDIVIDUALS

- 17 This Part applies to a person who has made an asylum claim if the Secretary of State certifies that—
- (a) it is proposed to remove the person to a specified State,
 - (b) in the Secretary of State’s opinion the person is not a national or citizen of the specified State, and
 - (c) in the Secretary of State’s opinion the specified State is a place—
 - (i) where the person’s life and liberty will not be threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, and
 - (ii) from which the person will not be sent to another State otherwise than in accordance with the Refugee Convention.

Commencement Information

I40 Sch. 3 para. 17 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 18 Where this Part applies to a person section 77 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (no removal while claim for asylum pending) shall not prevent his removal to the State specified under paragraph 17.

Commencement Information

I41 Sch. 3 para. 18 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 19 Where this Part applies to a person—
- (a) he may not bring an immigration appeal by virtue of section 92(2) or (3) of that Act (appeal from within United Kingdom: general),
 - (b) he may not bring an immigration appeal by virtue of section 92(4)(a) of that Act (appeal from within United Kingdom: asylum or human rights) in reliance on an asylum claim which asserts that to remove the person to the State specified under paragraph 17 would breach the United Kingdom’s obligations under the Refugee Convention,
 - (c) he may not bring an immigration appeal by virtue of section 92(4)(a) of that Act in reliance on a human rights claim if the Secretary of State certifies that the claim is clearly unfounded, and
 - (d) he may not while outside the United Kingdom bring an immigration appeal on any ground that is inconsistent with the opinion certified under paragraph 17(c).

Commencement Information

I42 Sch. 3 para. 19 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

Status: Point in time view as at 20/11/2010.

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PART 6

AMENDMENT OF LISTS

- 20 (1) The Secretary of State may by order add a State to the list specified in paragraph 2.
- (2) The Secretary of State may by order —
- (a) add a State to a list specified under paragraph 7 or 12, or
 - (b) remove a State from a list specified under paragraph 7 or 12.

Commencement Information

I43 Sch. 3 para. 20 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

- 21 (1) An order under paragraph 20(1) or (2)(a)—
- (a) shall be made by statutory instrument,
 - (b) shall 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.
- (2) An order under paragraph 20(2)(b)—
- (a) shall 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.

Commencement Information

I44 Sch. 3 para. 21 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

SCHEDULE 4

Section 47

REPEALS

Commencement Information

I45 Sch. 4 in force at 1.10.2004 for specified purposes by S.I. 2004/2523, art. 2, Sch.

I46 Sch. 4 in force at 14.6.2007 by S.I. 2007/1602, art. 2(2) (with art. 2(3))

Short title and chapter

Immigration Act 1971 (c. 77)

House of Commons Disqualification Act 1975 (c. 24)

Extent of repeal

In Schedule 2—

- (a) in paragraph 29(3), the words from “and where an adjudicator dismisses” to the end, and
- (b) paragraph 29(4).

In Part III of Schedule 1, the entry relating to immigration adjudicators.

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Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part III of Schedule 1, the entry relating to immigration adjudicators.
British Nationality Act 1981 (c. 61)	Section 40A(6) to (8).
Tribunals and Inquiries Act 1992 (c. 53)	Section 7(3).
Asylum and Immigration Appeals Act 1993 (c. 23)	Section 9A.
Asylum and Immigration Act 1996 (c. 49)	Section 8(9).
Immigration and Asylum Act 1999 (c. 33)	Sections 11 and 12. In section 72(10), “adjudicator”. In section 85(1), “and (b)”. Section 87(3)(f). Section 123. In Schedule 6, in paragraph 1(1), “or (b)”.
State Pension Credit Act 2002 (c. 16)	In Schedule 2, paragraph 42.
Tax Credits Act 2002 (c. 21)	In Schedule 4, paragraph 22.
Nationality, Immigration and Asylum Act 2002 (c. 41)	Section 52. Section 80. Section 87(4). Section 93. Section 94(4)(a) to (j). Sections 100 to 103. Section 104(3). In section 106— (a) in subsection (2)(e) and (f), “an adjudicator or”, (b) subsection (2)(j) and (k), (c) in subsection (2)(m), the words from “(which may” to the end, and (d) in subsections (2)(o), (p), (q), (r) and (s), (3)(a), (d), (e) and (4), “an adjudicator or”. Section 107(2). Schedule 5.
State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.))	In Schedule 2, paragraph 31.

Status:

Point in time view as at 20/11/2010.

Changes to legislation:

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