



Illegal Migration Act 2023

2023 CHAPTER 37

Legal proceedings

PROSPECTIVE

41 Relationship with other proceedings

- (1) A “serious harm suspensive claim” made under this Act is not a “human rights claim” for the purposes of the Nationality, Immigration and Asylum Act 2002 or the Nationality and Borders Act 2022.
- (2) Accordingly no right of appeal under section 82(1)(a) or (b) of the Nationality, Immigration and Asylum Act 2002 (appeal against refusal of protection claim or human rights claim) arises in relation to any decision of the Secretary of State made under section 42 (serious harm suspensive claims), 46 (out of time claims) or 48 (new matters) of this Act in respect of a serious harm suspensive claim.
- (3) The making of a serious harm suspensive claim by a person (or the possibility of a person making such a claim) does not affect any ability of the person to make a human rights claim in relation to their removal from the United Kingdom to a third country under this Act.
- (4) Where—
 - (a) a person subject to removal to a third country under this Act makes a human rights claim in relation to their removal to that third country, and
 - (b) the Secretary of State decides to refuse the claim,there is no right of appeal under section 82(1)(a) or (b) of the Nationality, Immigration and Asylum Act 2002 in relation to that decision.
- (5) Subsection (4) does not affect any ability of the person to make an application for judicial review in relation to a decision of the Secretary of State to refuse the claim (but section 5(1)(d) (disregard of application for judicial review) applies in relation to any such application).

Status: Point in time view as at 20/07/2023. This version of this provision is prospective.

Changes to legislation: Illegal Migration Act 2023, Section 41 is up to date with all changes known to be in force on or before 04 September 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)

(6) In section 82(3) of the Nationality, Immigration and Asylum Act 2002, after "Part" insert "and in section 41(4) of the Illegal Migration Act 2023 (relationship with other proceedings)".

Commencement Information

II S. 41 not in force at Royal Assent, see [s. 68\(1\)](#)

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