



# Illegal Migration Act 2023

## 2023 CHAPTER 37

### *Legal proceedings*

PROSPECTIVE

#### **47      Suspensive claims: duty to remove**

- (1) A person who has been given a removal notice may not be removed from the United Kingdom under this Act to the country or territory specified in the removal notice during any of the following periods—
  - (a) where the person makes a suspensive claim before the end of the claim period, before the Secretary of State makes a decision under section 42(2) (serious harm suspensive claim) or (as the case may be) 43(2) (removal conditions suspensive claim) in relation to the claim;
  - (b) where section 46 (out of time claims) applies in relation to a suspensive claim made by the person, before the Secretary of State makes a decision under section 46(3) or (4) in relation to the claim;
  - (c) where the Secretary of State makes a decision under section 46(4) in relation to a suspensive claim made by the person, before the process for making an application to the Upper Tribunal under section 46(4) has been exhausted;
  - (d) where the Secretary of State is required by section 46(3) or (6) (out of time claims) to consider a suspensive claim made by the person, before the Secretary of State makes a decision under section 42(2) or (as the case may be) 43(2) in relation to the claim;
  - (e) where the Secretary of State makes a decision under section 42(2)(b) or 43(2)(b) (refusal of suspensive claim) in relation to a suspensive claim made by the person, before the appeals process in relation to the decision has been exhausted.
- (2) Where—
  - (a) the Secretary of State makes a decision under section 42(2)(a) or 43(2)(a) (acceptance of suspensive claim) in relation to a suspensive claim made by a person, or

*Status: This version of this provision is prospective.*

*Changes to legislation: Illegal Migration Act 2023, Section 47 is up to date with all changes known to be in force on or before 15 August 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) View outstanding changes*

- (b) a person successfully appeals under section 44 (appeals) or section 2AA of the Special Immigration Appeals Commission Act 1997 (appeals in relation to the Illegal Migration Act 2023) against a decision of the Secretary of State under section 42(2)(b) or 43(2)(b) (refusal of suspensive claim),  
the person may not be removed from the United Kingdom under this Act to the country or territory specified in the removal notice.
- (3) But if at any time it appears to the Secretary of State that there has been a change of circumstances in relation to the person—
- (a) in a case within subsection (2)(a), the Secretary of State may revise the decision and instead make a decision under section 42(2)(b) or (as the case may be) 43(2)(b) in relation to the claim;
- (b) in a case within subsection (2)(b), the Secretary of State or an immigration officer may give a new removal notice to the person (and accordingly a new claim period begins in relation to the making of a further suspensive claim).
- (4) In subsection (3) the reference to a change of circumstances in relation to a person includes in particular where any—
- (a) human rights claim, or
- (b) application for judicial review,  
made by the person in relation to their removal from the United Kingdom is not successful.
- (5) Where the Secretary of State makes a decision under section 42(2)(b) or 43(2)(b) in relation to a suspensive claim, the person may, subject to any appeal (see sections 44, 45 and 53), be removed from the United Kingdom under this Act to the country or territory specified in the removal notice.

#### Commencement Information

**II** S. 47 not in force at Royal Assent, see s. 68(1)

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 32(1)(ba) inserted by [2024 c. 19 s. 1\(5\)](#)