

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

*Changes to legislation: Illegal Migration Act 2023, Section 5 is up to date with all changes known to be in force on or before 06 July 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*



# Illegal Migration Act 2023

## 2023 CHAPTER 37

### *Duty to make arrangements for removal*

PROSPECTIVE

#### **5 Disregard of certain claims, applications etc U.K.**

- (1) The duty in section 2(1) or the power in section 4(2) applies in relation to a person who meets the four conditions in section 2 regardless of whether—
  - (a) the person makes a protection claim,
  - (b) the person makes a human rights claim,
  - (c) the person claims to be a victim of slavery or a victim of human trafficking as defined by regulations made by the Secretary of State under section 69 of the Nationality and Borders Act 2022, or
  - (d) the person makes an application for judicial review in relation to their removal from the United Kingdom under this Act.
- (2) If a person who meets the four conditions in section 2 makes a protection claim, or a human rights claim within subsection (6), the Secretary of State must declare the claim inadmissible (and see section 41(4) in relation to human rights claims not within subsection (6)).
- (3) A protection claim or a human rights claim declared inadmissible under subsection (2) cannot be considered under the immigration rules.
- (4) A declaration under subsection (2) that a protection claim or a human rights claim is inadmissible is not a decision to refuse the claim and, 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.
- (5) A human rights claim is within this subsection if it is a claim that removal of a person from the United Kingdom to—
  - (a) a country of which the person is a national, or

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- (b) a country or territory in which the person has obtained a passport or other document of identity,  
would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Convention).
- (6) In this Act “application for judicial review” means—
- (a) in England and Wales and Northern Ireland, an application to the High Court for judicial review,
  - (b) in Scotland, an application to the supervisory jurisdiction of the Court of Session, and
  - (c) any other application to a court or tribunal which is required by an enactment to be determined by applying the principles that would be applied by a court on an application within paragraph (a) or (b).
- (7) In this section, references to a claim include a claim—
- (a) that was made on or after the day on which this Act is passed, and
  - (b) that has not been decided by the Secretary of State on the date on which this section comes into force.

#### **Commencement Information**

**II** S. 5 not in force at Royal Assent, see [s. 68\(1\)](#)

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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\(5\)](#)