

2000 No. 2244

IMMIGRATION

**The Immigration and Asylum Appeals (One-Stop Procedure)
Regulations 2000**

<i>Made</i> - - - -	<i>16th August 2000</i>
<i>Laid before Parliament</i>	<i>24th August 2000</i>
<i>Coming into force</i>	<i>2nd October 2000</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 74, 75, 76, 166 and 167(a) of the Immigration and Asylum Act 1999(b), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Immigration and Asylum Appeals (One-Stop Procedure) Regulations 2000 and shall come into force on 2nd October 2000.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Immigration and Asylum Act 1999;

“the 1997 Act” means the Special Immigration Appeals Commission Act 1997(c);

“claim” means a claim to which section 75 applies;

“decision-taker” means the Secretary of State or an immigration officer, as the case may be;

“notice” means a section 74 or section 75 notice, as the case may be;

“representative” means a person who appears to the decision-taker—

(a) to be the representative of a requisite person; and

(b) not to be prohibited from acting as a representative by section 84 of the Act;

“requisite person” means the person on whom the notice is required to be served;

“section 74 notice” means a notice which is required to be served under section 74(4);

“section 75 notice” means a notice which is required to be served under section 75(2);

“statement” means the statement specifying additional grounds which the requisite person has or may have for wishing to enter or remain in the United Kingdom; and

(a) See definition of “prescribed”.

(b) 1999 c. 33.

(c) 1997 c. 68.

“statement form” means the form shown in Part III of the Schedule to these Regulations.

(2) Where reference is made in these Regulations to a form shown in the Schedule to these Regulations, that form, or a form to like effect, may be used with such variations as the circumstances may require.

(3) In these Regulations, a section referred to by number alone is a reference to a section of the Act.

One-stop procedure

The notice

3.—(1) A section 74 notice is to be in the form shown in Part I of the Schedule to these Regulations.

(2) A section 75 notice is to be in the form shown in Part II of the Schedule to these Regulations.

(3) The notice is to—

- (a) provide a postal address to which the statement may be returned by post;
- (b) provide an address to which the statement may be returned by hand;
- (c) provide a fax number which may be used to return the statement by fax; and
- (d) be accompanied by a copy of the statement form.

(4) The notice may be served—

- (a) by hand;
- (b) by fax; or
- (c) by sending it by postal service in which delivery or receipt is recorded to—
 - (i) the last known or usual place of abode of the requisite person or his representative; or
 - (ii) an address provided by him or his representative for correspondence.

(5) The notice may be served on the requisite person by serving it on his representative.

(6) If the notice is served by post, addressed to the requisite person, it is to be taken to have been received by the requisite person on the second day after the day on which it was posted, unless the contrary is proved.

The statement

4.—(1) The statement is to be made by completing in full, and in English, a statement form.

(2) The statement form must be signed by the requisite person or his representative.

(3) For the purposes of section 74(6)(b) (the period before the end of which a statement must be served in response to a section 74 notice)—

- (a) the period of ten days is prescribed, where the applicant is entitled to appeal under the Act;
- (b) the period of five days is prescribed, where the applicant is entitled to appeal under the 1997 Act.

(4) For the purposes of section 75(3)(b) (the period before the end of which the statement must be served in response to a section 75 notice), the period of ten days is prescribed.

(5) For the purposes of paragraphs (3) and (4)—

- (a) the prescribed period is to be calculated from the expiry of the day on which the notice was received by the requisite person or his representative; and
- (b) where the prescribed period—
 - (i) expires on an excluded day, the statement is to be taken to have been served as required if served on the next day that is not an excluded day;

(ii) includes an excluded day, that day is to be discounted.

(6) The statement may be served—

- (a) by hand;
- (b) by post; or
- (c) by fax;

using the address or fax number specified in the notice.

(7) The statement is to be taken to have been served as required on the day on which it is received at the address or fax number specified in the notice.

(8) Unless paragraph (9) applies, where the requisite person is in custody, the statement may also be served by giving it to the person who has custody of the requisite person.

(9) This paragraph applies where a section 74 notice has been served and the requisite person is entitled to appeal under the 1997 Act.

(10) “Bank holiday” means a day that is specified in, or appointed under, the Banking and Financial Dealings Act 1971(a).

(11) “Excluded day” means a Saturday, a Sunday, a bank holiday, Christmas Day, 27th to 31st December or Good Friday.

Applications of sections 73, 76 and 77 to section 75 notices

Application of sections 73, 76 and 77 to section 75 notices

5.—(1) Subject to paragraph (2), this regulation applies if a claim is determined against a person on whom a section 75 notice has been served and that person appeals against the determination.

(2) With the exception of the modification to section 77(5), this regulation does not apply if the claim is determined before the expiry of the period prescribed in regulation 4(4).

(3) Section 73 applies to the appeal subject to the following modification.

(4) In subsections (2)(a)(i) and (4) of section 73, the references to “section 74” are to be read as references to “section 75”.

(5) Section 76 applies to the appeal subject to the following modifications—

(a) in subsection (1)—

- (i) the reference to “section 74(4)” is to be read as a reference to “section 75(2)”;
and
- (ii) the reference to “the Secretary of State” is to be read as a reference to “the person who is responsible for the determination of the claim”;

(b) in subsection (5)—

- (i) the reference to “section 74(6)(b)” is to be read as a reference to “section 75(3)(b)”; and
- (ii) the reference to “the Secretary of State” is to be read as a reference to “the Secretary of State or an immigration officer”.

(6) Section 77 applies to the appeal subject to the following modifications—

- (a) in subsection (2)(b), the reference to “any provision of section 76” is to be read as a reference to “any provision of section 76 as applied and modified by regulations made under section 75(6)”;

(a) 1971 c. 80.

- (b) in subsection (5)—
 - (i) the reference to “the Secretary of State” is to be read as a reference to “the person who is responsible for the determination of the claim”; and
 - (ii) the reference to “section 74(4)” is to be read as a reference to “section 75(2)”.

Family member definitions

Relevant member of the applicant’s family: section 74

6. For the purposes of section 74(8), a relevant member of an applicant’s family is a person—

- (a) who is the subject of a decision mentioned in subsection (1)(a), (2)(a) or 3(a) of section 74, but is not himself an applicant for the purposes of section 74(4); and
- (b) who appears to the decision-taker to be—
 - (i) his spouse;
 - (ii) a child of his or of his spouse;
 - (iii) a person who has been living with him as a member of an unmarried couple for at least two of the three years before the day on which the decision was made;
 - (iv) a person who is dependent on him; or
 - (v) a person on whom he is dependent.

Relevant member of the claimant’s family: section 75

7. For the purposes of section 75(5), a relevant member of a claimant’s family is a person—

- (a) who has made an application for leave to enter or remain in the United Kingdom, but is not himself a claimant for the purposes of section 75(2); and
- (b) who appears to the decision-taker to be—
 - (i) his spouse;
 - (ii) a child of his or of his spouse;
 - (iii) a person who has been living with him as a member of an unmarried couple for at least two of the three years before the day on which the claim was made;
 - (iv) a person who is dependent on him; or
 - (v) a person on whom he is dependent.

Member of the family: section 76

8.—(1) For the purposes of section 76(6), “member of the family” means—

- (a) a person on whom the applicant is dependent; or
- (b) a person who, in relation to the applicant—
 - (i) is his spouse;
 - (ii) is a child of his or of his spouse;
 - (iii) has been living with him as a member of an unmarried couple for at least two of the three years before the day on which the applicant claimed asylum; or
 - (iv) is dependent on him.

PART I

ONE-STOP NOTICE
Section 74, Immigration and Asylum Act 1999**To:**

You have been given a **notice of decision**; you have, or a member of your family has, a right to appeal that decision to an adjudicator. Under section 74 of the Immigration and Asylum Act 1999 I must also give you this **one-stop notice**. It requires you to state any **additional grounds** which you have or may have for wishing to enter or remain in the United Kingdom.

If you have not yet taken advice on your position, I strongly advise you to do so now.

The STATEMENT OF ADDITIONAL GROUNDS should be completed and returned to arrive within 10 working days of receipt by you or your representative*

Additional grounds

The **notice of decision** takes into account the reasons you gave for wishing to enter or remain in the United Kingdom. *You are now required to state any reasons you think you have or may have for staying in the United Kingdom which you have not previously disclosed: these will be your “additional grounds”.* The decision will be reviewed in the light of what you say. It is in your own interest to now disclose all your grounds for staying in the United Kingdom. But you should not make false claims: do not, for example, apply for asylum unless you have genuine reasons for believing that you qualify in the terms of the 1951 Convention.

Section 74(7) of the Immigration and Asylum Act 1999 says that, if you wish to claim asylum, you must do so in your statement. And if you wish to claim that in taking a decision your human rights have been breached, you must give notice of your claim in your statement.

Your statement

You must use the form **STATEMENT OF ADDITIONAL GROUNDS** which accompanies this notice.

The form must be:

- completed in English
- completed in full
- signed by yourself or your representative if you have one
- returned as instructed below so as to arrive within 10 working days of when you or your representative received it. Saturdays, Sundays, bank and public holidays are not included when counting the 10 days.*

Consequences of failure to disclose additional grounds

The purpose of this procedure is to make sure that there is no unnecessary delay in dealing with your case. Where you have a right of appeal already, it is important that the adjudicator should be able to deal with all the aspects of your case which he is entitled to consider on one single

* If your right of appeal is to the Special Immigration Appeals Commission the period is only **5 working days**.

occasion. If you believe you qualify to stay in the United Kingdom, then it is clearly of benefit to you to have a final and comprehensive decision as quickly as possible.

If you raise additional grounds after the period allowed, you may lose the chance to have any decision on them reviewed by an independent adjudicator. It may be concluded that they were put forward late to delay your removal from the United Kingdom or the removal of a member of your family. Even if you still have an opportunity to appeal, the appeal may be limited and the fact that you had not disclosed your grounds when required to do so would not be in your favour.

There are safeguards for exceptional circumstances: for example if you only become aware of a reason for staying in the United Kingdom when it is too late or if you can give a reasonable excuse for not mentioning additional grounds when asked to do so.

The consequences of raising additional grounds late may be serious: you should always disclose your reasons for wishing to stay here and any change of circumstances without delay.

Your right to appeal the decision

If you do not now have a right of appeal this paragraph does not apply to you. The **notice of decision** tells you if you can appeal the decision. If you do have a right of appeal, a **notice of appeal** form will be attached to the **statement of additional grounds**.

- If you do not agree with the reasons given for my decision in the **notice of decision**, then you should explain why in your **notice of appeal**. What you say there is your “**grounds of appeal**”. The **statement of additional grounds** is for matters unrelated to those which have already been considered.
- If you make a valid **appeal** and if the **decision** is maintained in the light of your **additional grounds**, those grounds will form part of your appeal so long as they could have done so if you had disclosed them earlier. In that case you will be told why your additional grounds were not acceptable and given the chance to add to your **grounds of appeal** before your papers are sent to the adjudicator. Please do not separate the **statement of additional grounds** form and the **notice of appeal** form. There is also a copy of the **notice of decision** attached to the appeal form: this is for the use of the adjudicator if you appeal, and appeal procedures require you to return it with the appeal form. If you make a photocopy of these papers, or send them by fax, please ensure that all the pages are kept together and in the correct order.
- You may, if you wish, put forward additional grounds without making an appeal. Likewise you should not put forward additional ground with your appeal if you genuinely have none to suggest. But in either case, please return **both** forms together. If you submit neither an appeal nor additional grounds then you should comply with any instructions to leave the United Kingdom which you have been given.

Service of statement of additional grounds

The statement may be returned by post to the following address:

[to be inserted by signatory]

The statement may be returned by hand to the following address:

[to be inserted by signatory]

The statement may be sent by fax to the following fax number:

[to be inserted by signatory]

If you are **detained** the statement may be served by giving it to the person who has custody of you.*

* This does not apply if your right of appeal is to the Special Immigration Appeals Commission. The statement should be returned by fax or post.

Please remember:

- keep any evidence of posting or receipt which you are given
- use a reliable postal service which offers speedy delivery if you can
- if you have been given a **notice of appeal** make sure it is attached to your **statement of additional grounds**
- keep this notice with your copy of the notice of refusal

Family applications

If you have received this notice in a package of notices and forms relating to yourself and other members of your family, please return all the statements and appeals forms together if possible. An envelope was enclosed with the package.

[Signature]

[Immigration Officer/On behalf of the Secretary of State]

[Date]

If you have not seen, or need a further copy of the guidance on how to obtain help (“Getting Advice on Immigration Matters”) your nearest Citizen’s Advice Bureau can assist. The leaflet is also available at the Immigration and Nationality Directorate’s website:

<http://www.homeoffice.gov.uk/ind/hpg.htm>.

ONE-STOP NOTICE
Section 75, Immigration and Asylum Act 1999

To:

You have made a claim for asylum, or a claim that it would be in breach of your human rights for you to be removed from, or required to leave, the United Kingdom.

You are also one of the following:

- an illegal entrant, **or**
- a person who is liable to be removed as an overstayer under section 10 of the Immigration and Asylum Act 1999, **or**
- a person who has arrived in the United Kingdom without leave to enter, an entry clearance, or a current work permit in which you are named.

Alternatively you have applied for leave to enter or remain in the United Kingdom as the spouse or dependant of such a person, or because such a person is dependent on you.

Under section 75 of the Immigration and Asylum Act 1999 I must give you this **one-stop notice**. It requires you to state any **additional** grounds which you have or may have for wishing to enter or remain in the United Kingdom.

If you have not yet taken advice on your position, I strongly advise you to do so now.

The STATEMENT OF ADDITIONAL GROUNDS should be completed and returned to arrive within 10 working days of receipt by you or your representative.

Additional grounds

You are now required to state any reasons you think you have or may have for staying in the United Kingdom which you have not previously disclosed when making your application: these will be your “additional grounds”. They will be considered together with the application which you have already made.

If you are claiming asylum personally you should now put forward any human rights arguments you may have. If you have made a claim based on your own human rights, you should now put forward any reasons you have for thinking that you qualify for asylum. If your overall claim is refused, you will have the opportunity to appeal that decision to an adjudicator. Your appeal would address both issues at once. You should also mention any other reasons you have for wishing to stay here, but you may not be entitled to raise them at an appeal.

If you are not the person who has made an asylum or human rights claim and their application is refused, your application will also be refused. If you have any reason to think that you have grounds to make an asylum or human rights claim in your own individual right, you should give them now. If your claim is refused, you will have the chance to appeal to an independent adjudicator. You should also mention any other reasons you have for wishing to stay here, but you may not be entitled to raise them at an appeal.

Your statement

You must use the form **STATEMENT OF ADDITIONAL GROUNDS** which accompanies this notice.

The form must be:

- completed in English

- completed in full
- signed by yourself or your representative if you have one
- returned as instructed below so as to arrive within 10 working days of when you or your representative received it. Saturdays, Sundays, bank and public holidays are not included when counting the 10 days.

Consequences of failure to disclose additional grounds

The purpose of this procedure is to make sure that there is no unnecessary delay in dealing with your case. Where you have a right of appeal, it is important that the adjudicator should be able to deal with all the aspects of your case which he is entitled to consider on one single occasion. If you believe you qualify to stay in the United Kingdom, then it is clearly of benefit to you to have a final and comprehensive decision as quickly as possible.

If you raise additional grounds after the period allowed, you may lose the chance to have any decision on them reviewed by an independent adjudicator. It may be concluded that they were put forward late to delay your removal from the United Kingdom or the removal of a member of your family. Even if you still have an opportunity to appeal, the appeal may be limited and the fact that you had not disclosed your grounds when required to do so would not be in your favour.

There are safeguards for exceptional circumstances: for example if you only become aware of a reason for staying in the United Kingdom when it is too late or you can give a reasonable excuse for not mentioning additional grounds when asked to do so.

The consequences of raising additional grounds late may be serious: you should always disclose your reasons for wishing to stay here and any change of circumstances without delay.

Service of statement of additional grounds

The statement may be returned by post to the following address:

[to be inserted by signatory]

The statement may be returned by hand to the following address:

[to be inserted by signatory]

The statement may be sent by fax to the following fax number:

[to be inserted by signatory]

If you are detained the statement may be served by giving it to the person who has custody of you.

Please remember:

- keep any evidence of posting or receipt which you are given
- use a reliable postal service which offers speedy delivery if you can
- keep this notice

Family applications

If you have received this notice in a package of notices and forms relating to yourself and other members of your family, please return all the statements and appeals forms together if possible. An envelope was enclosed with the package.

[Signature]

[Immigration Officer/On behalf of the Secretary of State]

[Date]

***If you have not seen, or need a further copy of the guidance on how to obtain help (“Getting Advice on Immigration Matters”) your nearest Citizen’s Advice Bureau can assist. The leaflet is also available at the Immigration and Nationality Directorate’s website:
<http://www.homeoffice.gov.uk/ind/hpg.htm>.***

STATEMENT OF ADDITIONAL GROUNDS
Section 74 or 75, Immigration and Asylum Act 1999

You should fully complete this form in English and return it as explained in the **ONE-STOP NOTICE**.

[If the following details have already been printed on the form for you, please amend them if they are wrong]

Your reference number:
(as given in the **notice of decision**)

Your family name:

Your other names:

Your date of birth:

Your nationality:

- Please state clearly any reasons which you have or may have for wishing to enter or remain in the United Kingdom and which you have not previously disclosed.
- Continue on the reverse of this page or a separate sheet of paper if necessary.
- Attach any documentary evidence you have which supports your grounds. If you need more time to obtain evidence, please say what it is, and how long it is likely to take.

You or your representative if you have one must now make a declaration. If you are not capable of making the declaration, for example if you are too young, someone may make it on your behalf, using the box marked "APPLICANT".

APPLICANT

I declare that the information I have given is **true** and **complete** to the best of my knowledge and belief.

Signature:

Date:

If signed on behalf of the applicant please give your full name, relationship to the applicant and address if it is different.

Applicant's address for correspondence if this has changed:

REPRESENTATIVE

I declare that the information I have given is **true** and **complete** to the best of my knowledge and belief; and that the contents of this statement have been explained to and agreed by the applicant.

Signature:

Date:

Organisation:

Please give your full name, address and telephone number if you have not previously notified us that you are acting in this case:

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 74 of the Immigration and Asylum Act 1999 (the Act) provides for the service of a notice on people who have an in-country right of appeal under Part IV of the Act or under the Special Immigration Appeals Commission Act 1997. Section 75 of the Act provides for service of a similar notice on various categories of people who claim asylum or claim that it would be contrary to the United Kingdom's obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms for them to be removed from, or required to leave, the United Kingdom.

Both notices, which are also served on family members, require the recipient to make a statement of any additional grounds which he has or may have for wishing to enter or remain in the United Kingdom. In the case of a section 74 notice, the consequences of stating, or omitting to state, such grounds are set out in sections 73, 76 and 77 of the Act.

These Regulations set out the procedure for the serving of notices and statements. Apart from the fact that the form of the notice (which is shown in the Schedule to the Regulations) differs according to whether it is a section 74 or section 75 notice, and in some cases the time limit for serving the statement differs, the Regulations make no distinction between section 74 and section 75 of the Act.

In the case of statements made in accordance with section 75 of the Act, the Regulations also set out how sections 73, 76 and 77 are to apply. References to family members appear in sections 74, 75 and 76 of the Act, and these Regulations provide the requisite definitions.

2000 No. 2244

IMMIGRATION

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