
STATUTORY INSTRUMENTS

2023 No. 355

**The Special Immigration Appeals Commission
(Procedure) (Amendment) Rules 2023**

PART 2

Deprivation of citizenship without notice: judicial oversight

Amendment of rule 2

4.—(1) Rule 2 is amended as follows.

(2) In paragraph (1) at the appropriate places insert—

““1981 Act” means the British Nationality Act 1981(1);”;

““application by the Secretary of State under Schedule 4A to the 1981 Act”(2) means an application by the Secretary of State to the Commission under paragraph 1(1), (2) or (6) or 2(5) of Schedule 4A to the 1981 Act to consider a decision of the Secretary of State to make a conducive grounds deprivation order without notice;”;

““conducive grounds deprivation order without notice” has the same meaning as in paragraph 3 of Schedule 4A to the 1981 Act;”.

Amendment of rule 3

5.—(1) Rule 3 is amended as follows.

(2) After paragraph (ab) insert—

“(ac) applications by the Secretary of State under Schedule 4A to the 1981 Act;”.

Amendment of rule 5

6.—(1) Rule 5 is amended as follows.

(2) In paragraph (1), after sub-paragraph (b) insert—

“(ba) Part 4A (applications to the Commission by the Secretary of State under Schedule 4A to the 1981 Act);”.

Insertion of new Part 4A

7. After Part 2 insert—

(1) 1981 c. 61.

(2) Schedule 4A was inserted by section 10 of, and Schedule 2 to, the Nationality and Borders Act 2022.

“PART 4A

Applications to the Commission by the Secretary of State under Schedule 4A to the 1981 Act

Scope

25A. This Part applies to an application by the Secretary of State under Schedule 4A to the 1981 Act.

Contents of application

25B.—(1) The application must set out the following information.

(2) The following information about the person who is the subject of the relevant conducive grounds deprivation order—

- (a) the person’s name,
- (b) the person’s date of birth,
- (c) the person’s nationality or nationalities, and
- (d) the relevant Home Office reference.

(3) If any of the information mentioned in paragraph (2)(a) to (d) is not known to the Secretary of State, the Secretary of State does not have to provide that information.

(4) Whether the application relates to a conducive grounds deprivation order—

- (a) which the Secretary of State proposes to make, or
- (b) which the Secretary of State has made.

(5) If the application relates to a conducive grounds deprivation order which the Secretary of State has made, the date on which that order was made.

(6) If the application is for fresh consideration of a decision the Secretary of State has made, pursuant to paragraph 1(6) of Schedule 4A to the 1981 Act, the date of the Commission’s previous determination relating to that decision and whether—

- (a) in the opinion of the Secretary of State, circumstances have changed materially since that previous determination, or
- (b) the Secretary of State wishes to provide further evidence to the Commission.

(7) Whether the application is made pursuant to paragraph 2(5) of Schedule 4A to the 1981 Act (expiry of final review period).

(8) The grounds for the Secretary of State’s decision by reference to—

- (a) section 40(5A)(a) (the Secretary of State does not have the information needed to be able to give the notice),
- (b) section 40(5A)(b)(i) (national security),
- (c) section 40(5A)(b)(ii) (the investigation or prosecution of organised or serious crime),
- (d) section 40(5A)(b)(iii) (preventing or reducing a risk to the safety of any person),
or
- (e) section 40(5A)(b)(iv) (the relationship between the United Kingdom and another country).

Variation of application

25C. The Secretary of State may do any of the following by filing written notice with the Commission—

- (a) vary the grounds for the Secretary of State’s decision (see rule 25B(8));
- (b) file new documents in support of the Secretary of State’s decision;
- (c) amend, add to or withdraw any document filed in support of the Secretary of State’s decision.

Withdrawal of application

25D. The Secretary of State may withdraw an application by filing written notice to the Commission.

Determinations on paper

25E.—(1) The Commission must determine the application on paper without a hearing before the Commission.

(2) The Commission must determine the application no later than 14 days after the Commission receives the application.

(3) Where the Secretary of State varies an application under rule 25C, the Commission may fix a new date within which the Commission must determine the application, being no later than 14 days after the Commission receives notice of the variation.

(4) The Commission must notify the Secretary of State in writing of any new date fixed in accordance with paragraph (3).”.

Amendment of rule 26

8.—(1) Rule 26 is amended as follows.

(2) In paragraph (a)—

- (a) after sub-paragraph (i) omit “or”;
- (b) at the end omit “and” and insert—

“, or

(iii) of an application by the Secretary of State under Schedule 4A to the 1981 Act, and”.

Amendment of rule 27

9.—(1) Rule 27 is amended as follows.

(2) In paragraph (2) after “rule 47(3)” insert “or (3A), as the case may be”.

Amendment of rule 32

10.—(1) Rule 32 is amended as follows.

(2) At the end insert—

“(4) Paragraphs (1) to (3) do not apply to an application by the Secretary of State under Schedule 4A to the 1981 Act.

(5) For an application by the Secretary of State under Schedule 4A to the 1981 Act, the Secretary of State is the only party to proceedings.”.

Amendment of rule 39

11.—(1) Rule 39 is amended as follows.

(2) In paragraph (2), for sub-paragraph (a) substitute—

“(a) these Rules, including in particular—

(i) the obligation in rule 4(1) to ensure that information is not disclosed contrary to the public interest; and

(ii) in the case of an application by the Secretary of State under Schedule 4A to the 1981 Act, the obligations in rule 25E to determine the application on paper without a hearing before the Commission and within a particular time; and”.

Amendment of rule 40

12.—(1) Rule 40 is amended as follows.

(2) In paragraph (1), in sub-paragraph (c)—

(a) in paragraph (i) for “or application for review” substitute “, application for review or application by the Secretary of State under Schedule 4A to the 1981 Act”;

(b) for paragraph (ii) substitute—

“(ii) in the case of a notice of appeal, notice of application for review or the Secretary of State’s reply, strike out that appeal, application for review or reply, as the case may be.”.

Amendment of rule 47

13.—(1) Rule 47 is amended as follows.

(2) In paragraph (3) at the end insert “, subject to paragraph (3A)”.

(3) After paragraph (3) insert—

“(3A) In the case of an application by the Secretary of State under Schedule 4A to the 1981 Act, the Commission must serve on the Secretary of State a written determination no later than—

(a) 14 days after the Commission receives the application; or

(b) if the Commission determines a new date under rule 25E within which the Commission must determine the application, that date.”.