

SCHEDULES

SCHEDULE 9

TRANSITIONAL AND CONSEQUENTIAL PROVISION

PART 4

PROVISION RELATING TO APPEALS

Immigration Act 1971 (c. 77)

- 20 The Immigration Act 1971 is amended as follows.
- 21 (1) Section 3C (continuation of leave pending variation decision) is amended as follows.
- (2) In subsection (2)—
- (a) omit the “or” at the end of paragraph (b);
 - (b) after paragraph (c) insert “, or
 - (d) an administrative review of the decision on the application for variation—
 - (i) could be sought, or
 - (ii) is pending.”
- (3) After subsection (6) insert—
- “(7) In this section—
- “administrative review” means a review conducted under the immigration rules;
- the question of whether an administrative review is pending is to be determined in accordance with the immigration rules.”
- 22 (1) Section 3D (continuation of leave following revocation) is amended as follows.
- (2) In subsection (2)—
- (a) omit the “or” at the end of paragraph (a);
 - (b) after paragraph (b) insert, “or
 - (c) an administrative review of the variation or revocation—
 - (i) could be sought, or
 - (ii) is pending.”
- (3) After subsection (4) insert—
- “(5) In this section—
- “administrative review” means a review conducted under the immigration rules;

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the question of whether an administrative review is pending is to be determined in accordance with the immigration rules.”

- 23 In Schedule 2 (administrative provisions as to control on entry etc), in paragraph 2A(9), for “(immigration and asylum appeals)” substitute “(appeals in respect of protection and human rights claims)”.
- 24 In Schedule 3 (supplementary provisions as to deportation), in paragraph 3, for the words from “of the kind” to “order)” substitute “that relates to a deportation order”.

British Nationality Act 1981 (c. 61)

- 25 In section 40A of the British Nationality Act 1981 (deprivation of citizenship: appeal), in subsection (3)—
- (a) omit “, 83 or 83A”;
 - (b) omit paragraph (a).

Special Immigration Appeals Commission Act 1997 (c. 68)

- 26 (1) The Special Immigration Appeals Commission Act 1997 is amended as follows.
- (2) In section 2 (jurisdiction: appeals)—
- (a) in subsection (1)(a), omit “, 83(2) or 83A(2)”;
 - (b) in subsection (1)(b), omit “, 83(2) or 83A(2)”;
 - (c) in subsection (2), omit paragraphs (d), (h) and (l);
 - (d) omit subsections (3) and (4);
 - (e) in subsection (5), omit “against an immigration decision”;
 - (f) omit subsection (6).
- (3) In section 2B (appeal to SIAC against deprivation of citizenship), omit the words from “(and” to the end.
- (4) In section 6A (procedure in relation to review jurisdiction)—
- (a) in the heading, for “and 2D” substitute “to 2E”;
 - (b) in subsection (1), for “or 2D” substitute “, 2D or 2E”;
 - (c) in subsection (2)—
 - (i) in paragraph (a), for “or 2D” substitute “, 2D or 2E”;
 - (ii) in paragraph (b), for “or (as the case may be) 2D(2)” substitute “, 2D(2) or (as the case may be) 2E(2)”.
- (5) In section 7 (appeals from the Commission), in subsection (1A), for “or 2D” substitute “, 2D or 2E”.

Immigration and Asylum Act 1999 (c. 33)

- 27 The Immigration and Asylum Act 1999 is amended as follows.
- 28 Section 23 (monitoring refusals of entry clearance) is repealed.
- 29 (1) Section 141 (fingerprinting) is amended as follows.
- (2) In subsection (7)—
- (a) for paragraph (c) substitute—

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- (c) any person (“C”) in respect of whom the Secretary of State has decided—
 - (i) to make a deportation order, or
 - (ii) that section 32(5) of the UK Borders Act 2007 (automatic deportation of foreign criminals) applies;
 - (ca) any person (“CA”) who requires leave to enter or remain in the United Kingdom but does not have it;”;
 - (b) in paragraph (f), for the words from “paragraph (c)” to the end substitute “paragraph (c)(ii)”.
- (3) In subsection (8), for paragraph (c) substitute—
 - “(c) for C, when he is notified of the decision mentioned in subsection (7) (c);
 - (ca) for CA, when he becomes a person to whom this section applies;”.
- (4) In subsection (9)—
 - (a) in paragraph (b), after “C” insert “, CA”;
 - (b) in paragraph (c)(i) for “relevant immigration decision” substitute “decision mentioned in subsection (7)(c)”;
 - (c) after paragraph (c) insert—
 - “(ca) for CA, when he no longer requires leave to enter or remain in the United Kingdom;”.
- (5) Omit subsection (16).

Nationality, Immigration and Asylum Act 2002 (c. 41)

- 30 The Nationality, Immigration and Asylum Act 2002 is amended as follows.
- 31 In section 72 (serious criminal), in subsection (9)(a)—
 - (a) omit “, 83, 83A or 101”;
 - (b) for the words from “that to remove him” to the end substitute “mentioned in section 84(1)(a) or (3)(a) of this Act (breach of the United Kingdom’s obligations under the Refugee Convention), and”.
- 32 In section 79 (deportation order: appeal), in subsection (1) for “against” substitute “that may be brought or continued from within the United Kingdom relating to”.
- 33 For the heading to Part 5, substitute “Appeals in respect of Protection and Human Rights Claims”.
- 34 In section 85 (matters to be considered)—
 - (a) in subsection (2), for “84(1)” substitute “84”;
 - (b) in subsection (4)—
 - (i) omit “, 83(2) or 83A(2)”;
 - (ii) omit “evidence about”;
 - (iii) omit “evidence which concerns”.
- 35 Section 85A (matters to be considered: new evidence: exceptions) is repealed.
- 36 In section 86 (determination of appeal)—
 - (a) in subsection (1), omit “, 83 or 83A”;

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- (b) in subsection (2), omit “(whether or not by virtue of section 85(1))”;
 - (c) omit subsections (3) to (6).
- 37 Sections 87 to 91 are repealed.
- 38 (1) Section 94 (appeal from within the United Kingdom) is amended as follows.
- (2) In the heading, for “asylum” substitute “protection”.
 - (3) For subsections (1) to (2) substitute—
 - “(1) The Secretary of State may certify a protection claim or human rights claim as clearly unfounded.”
 - (4) In subsection (3)—
 - (a) for “an asylum claimant or human rights” substitute “a”;
 - (b) for “subsection (2)” substitute “subsection (1)”.
 - (5) In subsection (6A) for “an asylum claimant or human rights” substitute “a”.
 - (6) In subsection (7), for the words from the beginning to “certifies that” substitute “The Secretary of State may certify a protection claim or human rights claim made by a person if”.
 - (7) In subsection (8)(b), at the end insert “or with the United Kingdom’s obligations in relation to persons eligible for a grant of humanitarian protection”.
 - (8) Omit subsection (9).
- 39 In section 94A (European Common List of Safe Countries of Origin)—
- (a) in subsection (2), for “an asylum claim” substitute “a protection claim”;
 - (b) in subsection (4) for “94(2)” substitute “94(1)”.
- 40 Section 95 (appeal from outside the United Kingdom: removal) is repealed.
- 41 (1) Section 96 (earlier right of appeal) is amended as follows.
- (2) In subsection (1)—
 - (a) in the opening words, for the words from the beginning to “brought” substitute “A person may not bring an appeal under section 82 against a decision (“the new decision”)”;
 - (b) in paragraph (a), omit “immigration”;
 - (c) in paragraph (b) for “matter” substitute “ground”;
 - (d) in paragraph (c) for “matter” substitute “ground”.
 - (3) For subsection (2) substitute—
 - “(2) A person may not bring an appeal under section 82 if the Secretary of State or an immigration officer certifies—
 - (a) that the person has received a notice under section 120(2),
 - (b) that the appeal relies on a ground that should have been, but has not been, raised in a statement made under section 120(2) or (5), and
 - (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that ground not having been raised in a statement under section 120(2) or (5).”
- 42 In section 97 (national security etc)—

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- (a) in subsection (1), omit “, 83(2) or 83A(2)”;
 - (b) in subsection (3), omit “, 83(2) or 83A(2)”.
- 43 In section 97A (national security: deportation)—
 - (a) in subsection (2B), for the words from “breach” to the end substitute “be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention)”;
 - (b) omit subsections (2D), (2E) and (3).
- 44 Section 97B (variation of leave on grounds of public good: rights of appeal) is repealed.
- 45 Section 98 (other grounds of public good) is repealed.
- 46 In section 99—
 - (a) in the heading, for “Sections 97 and 98” substitute “Section 97”;
 - (b) in subsection (1), omit “or 98”.
- 47 (1) Section 104 (pending appeal) is amended as follows.
 - (2) Omit subsection (4).
 - (3) In subsection (4A), for “subsections (4B) and (4C)” substitute “subsection (4B)”.
 - (4) In subsection (4B)—
 - (a) for “the ground relating to the Refugee Convention specified in section 84(1)(g)” substitute “a ground specified in section 84(1)(a) or (b) or 84(3) (asylum or humanitarian protection)”;
 - (b) omit paragraph (a) (and the “and” immediately following it).
 - (5) Omit subsections (4C) and (5).
- 48 (1) Section 105 (notice of immigration decision) is amended as follows.
 - (2) In subsection (1), for “immigration” substitute “appealable”.
 - (3) In subsection (2)—
 - (a) in the opening words, for “a decision against which the person is entitled to appeal under section 82(1)” substitute “an appealable decision”;
 - (b) in paragraph (a) for “that section” substitute “section 82”.
 - (4) At the end insert—

“(4) In this section “appealable decision” means a decision mentioned in section 82(1).”
- 49 In section 106 (rules)—
 - (a) in subsection (3), omit “, 83 or 83A”;
 - (b) in subsection (4), omit “, 83 or 83A”.
- 50 In section 107 (practice directions), in subsection (3), omit “, 83 or 83A”.
- 51 In section 108 (forged documents: proceedings in private), in subsection (1)(a), omit “, 83 or 83A”.
- 52 In section 112 (regulations etc)—
 - (a) omit subsection (3A);
 - (b) in subsection (4), omit “or 115(8)”;

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- (c) in subsection (5), omit “or 115(9)”.
- 53 (1) Section 113 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “human rights claim”—
- (i) after “Kingdom” insert “or to refuse him entry into the United Kingdom”;
- (ii) omit “as being incompatible with his Convention rights”;
- (b) at the appropriate places insert—
- ““humanitarian protection” has the meaning given in section 82(2);”
- ““protection claim” has the meaning given in section 82(2);”
- ““protection status” has the meaning given in section 82(2);”
- (c) omit the definitions of “entry clearance”, “illegal entrant”, “prescribed”, “visitor” and “work permit”;
- (d) in the definition of “immigration rules”, for “that Act” substitute “the Immigration Act 1971”.
- (3) Omit subsection (2).
- 54 Section 115 (appeal from within United Kingdom: unfounded human rights or asylum claim: transitional provision) is repealed.
- 55 For section 120 (requirement to state additional grounds for application) substitute—

“120 Requirement to state additional grounds for application etc

- (1) Subsection (2) applies to a person (“P”) if—
- (a) P has made a protection claim or a human rights claim,
- (b) P has made an application to enter or remain in the United Kingdom, or
- (c) a decision to deport or remove P has been or may be taken.
- (2) The Secretary of State or an immigration officer may serve a notice on P requiring P to provide a statement setting out—
- (a) P’s reasons for wishing to enter or remain in the United Kingdom,
- (b) any grounds on which P should be permitted to enter or remain in the United Kingdom, and
- (c) any grounds on which P should not be removed from or required to leave the United Kingdom.
- (3) A statement under subsection (2) need not repeat reasons or grounds set out in—
- (a) P’s protection or human rights claim,
- (b) the application mentioned in subsection (1)(b), or
- (c) an application to which the decision mentioned in subsection (1)(c) relates.
- (4) Subsection (5) applies to a person (“P”) if P has previously been served with a notice under subsection (2) and—
- (a) P requires leave to enter or remain in the United Kingdom but does not have it, or

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- (b) P has leave to enter or remain in the United Kingdom only by virtue of section 3C or 3D of the Immigration Act 1971 (continuation of leave pending decision or appeal).
- (5) Where P's circumstances have changed since the Secretary of State or an immigration officer was last made aware of them (whether in the application or claim mentioned in subsection (1) or in a statement under subsection (2) or this subsection) so that P has—
 - (a) additional reasons for wishing to enter or remain in the United Kingdom,
 - (b) additional grounds on which P should be permitted to enter or remain in the United Kingdom, or
 - (c) additional grounds on which P should not be removed from or required to leave the United Kingdom,

P must, as soon as reasonably practicable, provide a supplementary statement to the Secretary of State or an immigration officer setting out the new circumstances and the additional reasons or grounds.

- (6) In this section—
 - “human rights claim” and “protection claim” have the same meanings as in Part 5;
 - references to “grounds” are to grounds on which an appeal under Part 5 may be brought (see section 84).”

Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19)

- 56 (1) Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe third country) is amended as follows.
- (2) In paragraph 1, at the end insert—
 - “(3) Section 92 of the Nationality, Immigration and Asylum Act 2002 makes further provision about the place from which an appeal relating to an asylum or human rights claim may be brought or continued.”
- (3) In paragraph 5—
 - (a) omit sub-paragraph (2);
 - (b) in sub-paragraph (3), for the words from “by virtue of” to “rights” substitute “from within the United Kingdom”;
 - (c) in sub-paragraph (4), for “by virtue of section 92(4)(a) of that Act” substitute “from within the United Kingdom”.
- (4) In paragraph 10—
 - (a) omit sub-paragraph (2);
 - (b) in sub-paragraph (3), for the words from “by virtue of” to “rights” substitute “from within the United Kingdom”;
 - (c) in sub-paragraph (4), for “by virtue of section 92(4)(a) of that Act” substitute “from within the United Kingdom”.
- (5) In paragraph 15—
 - (a) omit sub-paragraph (2);
 - (b) in sub-paragraph (3), for the words from “by virtue of” to “rights” substitute “from within the United Kingdom”;

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- (c) in sub-paragraph (4), for “by virtue of section 92(4)(a) of that Act” substitute “from within the United Kingdom”.
- (6) In paragraph 19—
- (a) omit paragraph (a);
 - (b) in paragraph (b), for the words from “by virtue of” to “rights)” substitute “from within the United Kingdom”;
 - (c) in paragraph (c), for “by virtue of section 92(4)(a) of that Act” substitute “from within the United Kingdom”.

Immigration, Asylum and Nationality Act 2006 (c. 13)

- 57 (1) The Immigration, Asylum and Nationality Act 2006 is amended as follows.
- (2) In section 12(3) (new definition of human rights claims), in paragraph (a) of the definition of “human rights claim”—
- (a) after “Kingdom” insert “or to refuse him entry into the United Kingdom”;
 - (b) omit “as being incompatible with his Convention rights”.
- (3) Section 13 (appeal from within the United Kingdom: certification of unfounded claim) is repealed.
- (4) In section 55 (Refugee Convention: certification), in subsection (2)(a)—
- (a) in sub-paragraph (i), omit “, 83 or 101”;
 - (b) for sub-paragraph (ii) substitute—
 - “(ii) which is brought on the ground mentioned in section 84(1)(a) or (3)(a) of that Act (breach of United Kingdom’s obligations under the Refugee Convention);”.
- (5) In Schedule 1 (consequential amendments) paragraph 11 (amendment to section 112(5) of the 2002 Act) is repealed.

UK Borders Act 2007 (c. 30)

- 58 In section 17 of the UK Borders Act 2007 (support for failed asylum-seekers), in subsection (2)—
- (a) in paragraph (a), omit “against an immigration decision”;
 - (b) in paragraph (b), omit “against an immigration decision”.

Equality Act 2010 (c. 15)

- 59 In section 115 of the Equality Act 2010 (immigration cases), in subsection (8) after “2D” insert “and 2E”.

Consequential repeals

- 60 The provisions shown in the table below are repealed in consequence of the amendments made by sections 15 to 18 and this Part of this Schedule.

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<i>Title</i>	<i>Extent of repeal</i>
Nationality, Immigration and Asylum Act 2002	In Schedule 7, paragraph 27.
Asylum and Immigration (Treatment of Claimants, etc) Act 2004	Section 15(2), (3) and (5). Section 26(2) and (3). Section 27(2) and (3). Sections 28 and 29. Section 31.
Immigration, Asylum and Nationality Act 2006	In Schedule 2, paragraphs 18(2)(c) and 19. Sections 1 to 6. Section 11(6). Section 47(6) to (8). Section 57(2).
UK Borders Act 2007	In Schedule 1, paragraphs 2 to 6, 10, 11, 13, 14(a) and (c). Section 19. Section 35(3).
Borders, Citizenship and Immigration Act 2009	Section 51(3).
Crime and Courts Act 2013	Section 51(1). Sections 52 and 53.