

Status: Point in time view as at 03/08/1998.

Changes to legislation: Special Immigration Appeals Commission Act 1997 is up to date with all changes known to be in force on or before 10 April 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)

SCHEDULES

SCHEDULE 1

Section 1.

THE COMMISSION

Members

- 1 (1) The Special Immigration Appeals Commission shall consist of such number of members appointed by the Lord Chancellor as he may determine.
- (2) A member of the Commission shall hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.
- (3) A member of the Commission may resign his office at any time by notice in writing to the Lord Chancellor.

Chairman

- 2 The Lord Chancellor shall appoint one of the members of the Commission to be its chairman.

Payments to members

- 3 (1) The Lord Chancellor may pay to the members of the Commission such remuneration and allowances as he may determine.
- (2) The Lord Chancellor may, if he thinks fit in the case of any member of the Commission pay such pension, allowance or gratuity to or in respect of the member, or such sums towards the provision of such pension, allowance or gratuity, as he may determine.
- (3) If a person ceases to be a member of the Commission and it appears to the Lord Chancellor that there are special circumstances which make it right that the person should receive compensation, he may pay to that person a sum of such amount as he may determine.

Proceedings

- 4 The Commission shall sit at such times and in such places as the Lord Chancellor may direct and may sit in two or more divisions.
- 5 The Commission shall be deemed to be duly constituted if it consists of three members of whom—
- (a) at least one holds or has held high judicial office (within the meaning of the ^{M1}Appellate Jurisdiction Act 1876), and
 - (b) at least one is or has been—

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- (i) appointed as chief adjudicator under paragraph 1 of Schedule 5 to the ^{M2}Immigration Act 1971, or
- (ii) a member of the Immigration Appeal Tribunal qualified as mentioned in paragraph 7 of that Schedule.

Marginal Citations

M1 1876 c. 59.

M2 1971 c. 77.

- 6 The chairman or, in his absence, such other member of the Commission as he may nominate, shall preside at sittings of the Commission and report its decisions.

Staff

- 7 The Lord Chancellor may appoint such officers and servants for the Commission as he thinks fit.

Expenses

- 8 The Lord Chancellor shall defray the remuneration of persons appointed under paragraph 7 above and such expenses of the Commission as he thinks fit.

SCHEDULE 2

Section 2.

APPEALS: SUPPLEMENTARY

Suspension of variation of limited leave pending appeal

- 1 The limitation on the taking effect of a variation and on a requirement to leave the United Kingdom contained in section 14(1) of the ^{M3}Immigration Act 1971 shall have effect as if appeals under any of the following provisions of section 2(1) above were appeals under section 14(1) of the 1971 Act—
- (a) paragraph (b),
 - (b) paragraph (f), and
 - (c) paragraph (g), so far as relating to section 8(2) of the ^{M4}Asylum and Immigration Appeals Act 1993.

Marginal Citations

M3 1971 c. 77.

M4 1993 c. 23.

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Deportation order not to be made while appeal pending

- 2 In section 15(2) of the Immigration Act 1971 references to an appeal against a decision to make a deportation order shall include references to an appeal against such a decision under any of the following provisions of section 2(1) above—
- (a) paragraph (c),
 - (b) paragraph (e), and
 - (c) paragraph (g), so far as relating to section 8(3)(a) of the Asylum and Immigration Appeals Act 1993.

Stay of removal directions pending appeal and bail

- 3 (1) Part II of Schedule 2 to the Immigration Act 1971 shall have effect as if the references to appeals under section 13(1) of that Act included appeals under any of the following provisions of section 2(1) above—
- (a) paragraph (a),
 - (b) paragraph (d), and
 - (c) paragraph (g), so far as relating to section 8(1) of the Asylum and Immigration Appeals Act 1993,
- and as if sub-paragraph (5) of paragraph 28 of Schedule 2 were omitted.
- (2) Paragraph 3 of Schedule 3 to the Immigration Act 1971 shall have effect as if the reference to appeals under section 15(1)(a) of the 1971 Act included appeals under any of the following provisions of section 2(1) above—
- (a) paragraph (c),
 - (b) paragraph (e), and
 - (c) paragraph (g), so far as relating to section 8(3)(a) of the Asylum and Immigration Appeals Act 1993.

VALID FROM 02/10/2000

[^{F1}3A In calculating the period of two months limited by paragraph 8(2) of Schedule 2 to the 1971 Act for the giving of directions under that paragraph for the removal of a person from the United Kingdom and for the giving of a notice of intention to give such directions, any period during which there is pending an appeal by him under section 2(1) above is to be disregarded.]

Textual Amendments

- F1** Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

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VALID FROM 02/10/2000

[^{F2}3B If directions are given under Part I of Schedule 2 or Schedule 3 to the 1971 Act for anyone’s removal from the United Kingdom, and directions are also so given for the removal with him of persons belonging to his family, then if any of them appeals under section 2(1) above, the appeal has the same effect under paragraphs 1 to 3A in relation to the directions given in respect of each of the others as it has in relation to the directions given in respect of the appellant.]

Textual Amendments

F2 Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4)

VALID FROM 02/10/2000

[^{F3} Suspension of variation of limited leave]

Textual Amendments

F3 Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4)

[^{F4}3C A variation is not to take effect while an appeal is pending under section 2(1) above against the variation.]

Textual Amendments

F4 Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4)

VALID FROM 02/10/2000

[^{F5} Continuation of leave]

Textual Amendments

F5 Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4)

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- [^{F6}3D (1) While an appeal under section 2(1) above is pending, the leave to which the appeal relates, and any conditions subject to which it was granted continue to have effect.
- (2) A person may not make an application for a variation of his leave to enter or remain while that leave is treated as continuing to have effect as a result of subparagraph (1).
- (3) For the purposes of section 2(1), in calculating whether, as a result of a decision, a person may be required to leave the United Kingdom within twenty-eight days, a continuation of leave under this paragraph is to be disregarded.]

Textual Amendments

- F6** Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

VALID FROM 02/10/2000

[^{F7} Deportation orders]

Textual Amendments

- F7** Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

- [^{F8}3E A deportation order is not to be made against a person under section 5 of the 1971 Act while an appeal duly brought under section 2(1) above against the decision to make it is pending.]

Textual Amendments

- F8** Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

- [^{F9}3F In calculating the period of eight weeks set by section 5(3) of the 1971 Act for making a deportation order against a person as belonging to the family of another person, there is to be disregarded any period during which an appeal under section 2(1) above against the decision to make the order is pending.]

Textual Amendments

- F9** Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

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[^{F10} Appeals under section 2A]

Textual Amendments

F10 Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4)

[^{F11}3G (1) A person is not to be required to leave, or be removed from, the United Kingdom if an appeal under section 2A is pending against the decision on which that requirement or removal would otherwise be based.

(2) That does not prevent—

- (a) directions for his removal being given during that period;
- (b) a deportation order being made against him during that period.

(3) But no such direction or order is to have effect during that period.]

Textual Amendments

F11 Sch. 2 paras. 3-3G substituted for Sch. 2 para. 3 (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 118, 126; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4)

Construction of references to pending appeal

- 4 For the purposes of the Immigration Act 1971 as applied by paragraphs 1 to 3 above, an appeal under section 2 above shall be treated as pending during the period beginning when notice of appeal is duly given and ending when the appeal is finally determined or withdrawn; and an appeal shall not be treated as finally determined so long as a further appeal can be brought by virtue of section 7 above, nor, if such an appeal is duly brought, until it is determined or withdrawn.

Appeals involving asylum

- 5 Where a person brings an appeal under section 2(1)(g) above, the Special Immigration Appeals Commission shall in the same proceedings deal with—
- (a) any appeal against the refusal, variation or decision (as the case may be) which the person is entitled to bring under—
 - (i) Part II of the ^{M5}Immigration Act 1971, or
 - (ii) the ^{M6}Immigration (European Economic Area) Order 1994,
 on any other ground on which he seeks to rely, and
 - (b) any appeal brought by the person under that Part of that Act or that Order against any other decision or action.

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Marginal Citations

M5 1971 c. 77.

M6 S.I. 1994/1895.

Notice of appealable decisions and statement of appeal rights etc

- 6 Section 18 of the Immigration Act 1971 shall have effect as if section 2 above were contained in Part II of that Act.

Financial support for organisations helping persons with rights of appeal

- 7 Section 23 of the Immigration Act 1971 shall have effect as if section 2 above were contained in Part II of that Act.

SCHEDULE 3

Section 3.

BAIL: MODIFICATIONS OF SCHEDULE 2 TO THE IMMIGRATION ACT 1971

- 1 (1) Paragraph 22 shall be amended as follows.
- (2) In sub-paragraph (1A), for the words from the beginning to “adjudicator” there shall be substituted “ The Special Immigration Appeals Commission ”.
- (3) In sub-paragraph (2)—
- (a) for the words “immigration officer or adjudicator” there shall be substituted “ Special Immigration Appeals Commission ”, and
- (b) for the words “officer or adjudicator” there shall be substituted “ Commission ”.
- (4) In sub-paragraph (3)—
- (a) for “an immigration officer or adjudicator” there shall be substituted “ the Special Immigration Appeals Commission ”, and
- (b) for “officer or adjudicator”, in both places, there shall be substituted “ Commission ”.
- 2 (1) Paragraph 23 shall be amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “an adjudicator” there shall be substituted “ the Special Immigration Appeals Commission ”, and
- (b) for “the adjudicator”, in each place, there shall be substituted “ the Commission ”.
- (3) In sub-paragraph (2)—
- (a) for “an adjudicator” there shall be substituted “ the Special Immigration Appeals Commission ”, and
- (b) for “the adjudicator” there shall be substituted “ the Commission ”.

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- 3 (1) Paragraph 24 shall be amended as follows.
- (2) For sub-paragraph (2), there shall be substituted—
- “(2) A person arrested under this paragraph shall be brought before the Special Immigration Appeals Commission within twenty-four hours.”
- (3) In sub-paragraph (3), for the words from the beginning to “above” there shall be substituted “ Where a person is brought before the Special Immigration Appeals Commission by virtue of sub-paragraph (2) above, the Commission— ”.
- 4 (1) Paragraph 29 shall be amended as follows.
- (2) For sub-paragraphs (2) to (4) there shall be substituted—
- “(2) The Special Immigration Appeals Commission may release an appellant on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before the Commission at a time and place named in the recognizance or bail bond.”
- (3) For sub-paragraph (6) there shall be substituted—
- “(6) In any case in which the Special Immigration Appeals Commission has power to release an appellant on bail, the Commission may, instead of taking the bail, fix the amount and conditions of the bail (including the amount in which any sureties are to be bound) with a view to its being taken subsequently by any such person as may be specified by the Commission; and on the recognizance or bail bond being so taken the appellant shall be released.”
- 5 Paragraph 30(2) shall be omitted.
- 6 (1) Paragraph 31 shall be amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “an adjudicator or the Tribunal” there shall be substituted “ the Special Immigration Appeals Commission ”,
- (b) for “the adjudicator or the Tribunal, as the case may be,” there shall be substituted “ the Commission ”, and
- (c) for “the adjudicator or Tribunal”, in both places, there shall be substituted “ the Commission ”.
- (3) In sub-paragraph (3)—
- (a) for “an adjudicator or the Tribunal” there shall be substituted “ the Special Immigration Appeals Commission ”, and
- (b) for “the adjudicator or Tribunal” there shall be substituted “ it ”.
- 7 Paragraph 32 shall be amended as follows—
- (a) for “an adjudicator or the Tribunal” there shall be substituted “ the Special Immigration Appeals Commission ”,
- (b) for “the adjudicator or Tribunal” there shall be substituted “ the Commission ”, and
- (c) for “the adjudicator or the Tribunal” there shall be substituted “ the Commission ”.
- 8 (1) Paragraph 33 shall be amended as follows.

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(2) For sub-paragraph (2), there shall be substituted—

“(2) A person arrested under this paragraph shall be brought before the Special Immigration Appeals Commission within twenty-four hours.”

(3) In sub-paragraph (3), for the words from the beginning to “above” there shall be substituted “ Where a person is brought before the Special Immigration Appeals Commission by virtue of sub-paragraph (2) above, the Commission— ”.

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