



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART IV

APPEALS

The appellate authorities

56 The Immigration Appeal Tribunal

- (1) There is to continue to be an Immigration Appeal Tribunal.
- (2) Schedule 2 makes further provision about the Tribunal.

57 Adjudicators

- (1) There are to be such number of adjudicators for the purposes of this Act as the Lord Chancellor may determine.
- (2) The Lord Chancellor must appoint one of the adjudicators as Chief Adjudicator.
- (3) Schedule 3 makes further provision about the adjudicators.

Appeals

58 General

- (1) The right of appeal given by a particular provision of this Part is to be read with any other provision of this Part which restricts or otherwise affects that right.
- (2) Part I of Schedule 4 makes provision with respect to the procedure applicable in relation to appeals under this Part.
- (3) Part II of Schedule 4 makes provision as to the effect of appeals.
- (4) Part III of Schedule 4 makes provision—

- (a) with respect to the determination of appeals under this Part; and
 - (b) for further appeals.
- (5) For the purposes of the Immigration Acts, an appeal under this Part is to be treated as pending during the period beginning when notice of appeal is given and ending when the appeal is finally determined, withdrawn or abandoned.
- (6) An appeal is not to be treated as finally determined while a further appeal may be brought.
- (7) If such a further appeal is brought, the original appeal is not to be treated as finally determined until the further appeal is determined, withdrawn or abandoned.
- (8) A pending appeal under this Part is to be treated as abandoned if the appellant leaves the United Kingdom.
- (9) A pending appeal under any provision of this Part other than section 69(3) is to be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom.
- (10) A pending appeal under section 61 is to be treated as abandoned if a deportation order is made against the appellant.

*Leave to enter***59 Leave to enter the United Kingdom**

- (1) A person who is refused leave to enter the United Kingdom under any provision of the 1971 Act may appeal to an adjudicator against—
 - (a) the decision that he requires leave; or
 - (b) the refusal.
- (2) A person who, on an application duly made, is refused a certificate of entitlement or an entry clearance may appeal to an adjudicator against the refusal.
- (3) Subsection (4) applies if a person appeals under this section on being refused leave to enter the United Kingdom and—
 - (a) before he appeals, directions have been given for his removal from the United Kingdom; or
 - (b) before or after he appeals, the Secretary of State or an immigration officer serves on him notice that any directions which may be given for his removal as a result of the refusal will be for his removal to a country or one of several countries specified in the notice.
- (4) The appellant may—
 - (a) object to the country to which he would be removed in accordance with the directions, or
 - (b) object to the country specified in the notice (or to one or more of those specified),
 and claim that he ought to be removed (if at all) to a different country specified by him.

60 Limitations on rights of appeal under section 59

- (1) Section 59 does not entitle a person to appeal, on the ground that he has a right of abode in the United Kingdom, against a decision that he requires leave to enter the United Kingdom if he does not hold—
 - (a) a United Kingdom passport describing him as a British citizen or as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom; or
 - (b) a certificate of entitlement.
- (2) Section 59 does not entitle a person to appeal, on the ground that he does not require leave to enter the United Kingdom, against a decision that he does require such leave if he is required by immigration rules or an order under section 8(2) of the 1971 Act to hold a specified document but does not do so.
- (3) Section 59 does not entitle a person to appeal against a refusal of leave to enter while he is in the United Kingdom unless, at the time of the refusal, he held a current entry clearance or was a person named in a current work permit.
- (4) Subsection (5) applies to a person who seeks to enter the United Kingdom—
 - (a) as a visitor;
 - (b) in order to follow a course of study of not more than six months' duration for which he has been accepted;
 - (c) with the intention of studying but without having been accepted for any course of study; or
 - (d) as a dependant of a person within paragraph (a), (b) or (c).
- (5) That person—
 - (a) is not entitled to appeal under section 59 against a refusal of an entry clearance unless he is a family visitor; and
 - (b) is not entitled to appeal against a refusal of leave to enter if he does not hold a current entry clearance at the time of the refusal.
- (6) The Secretary of State may by regulations make provision—
 - (a) requiring a family visitor appealing under section 59 to pay such fee as may be fixed by the regulations;
 - (b) for such an appeal not to be entertained unless the required fee has been paid by the appellant;
 - (c) for the repayment of any such fee if the appeal is successful.
- (7) Section 59 does not entitle a person to appeal against a refusal of leave to enter, or against a refusal of an entry clearance, if the refusal is on the ground that he or any person whose dependant he is—
 - (a) does not hold a relevant document required by the immigration rules;
 - (b) does not satisfy a requirement of the immigration rules as to age or nationality or citizenship; or
 - (c) seeks entry for a period exceeding that permitted by the immigration rules.
- (8) The following are relevant documents—
 - (a) entry clearances;
 - (b) passports or other identity documents; and
 - (c) work permits.

- (9) Section 59 does not entitle a person to appeal against a refusal of leave to enter, or against a refusal of an entry clearance, if—
- (a) the Secretary of State certifies that directions have been given by the Secretary of State (and not by a person acting under his authority) for the appellant not to be given entry to the United Kingdom on the ground that his exclusion is conducive to the public good; or
 - (b) the leave to enter, or entry clearance, was refused in compliance with any such directions.
- (10) “Family visitor” has such meaning as may be prescribed.

Variation of limited leave to enter or remain

61 Variation of limited leave to enter or remain

A person may appeal against a decision to vary, or to refuse to vary, any limited leave to enter or remain in the United Kingdom which he has if, as a result of that decision, he may be required to leave the United Kingdom within 28 days of being notified of the decision.

62 Limitations on rights of appeal under section 61

- (1) Section 61 does not entitle a person or a person whose dependant he is to appeal against a refusal to vary leave if the refusal is on the ground that—
- (a) a relevant document which is required by the immigration rules has not been issued;
 - (b) the person does not satisfy a requirement of the immigration rules as to age or nationality or citizenship;
 - (c) the variation would result in the duration of a person’s leave exceeding that permitted by the immigration rules; or
 - (d) any fee required by or under any enactment has not been paid.
- (2) The following are relevant documents—
- (a) entry clearances;
 - (b) passports or other identity documents; and
 - (c) work permits or equivalent documents issued after entry.
- (3) Section 61 does not entitle a person to appeal against a refusal to vary leave if either of the following conditions is satisfied.
- (4) The conditions are—
- (a) that the Secretary of State has certified that the appellant’s departure from the United Kingdom would be conducive to the public good as being in the interests of national security, the relations between the United Kingdom and any other country or for other reasons of a political nature; or
 - (b) that the decision questioned by the appeal was taken on that ground by the Secretary of State (and not by a person acting under his authority).
- (5) A person is not entitled to appeal under section 61 against—
- (a) a variation made by statutory instrument; or
 - (b) a refusal of the Secretary of State to make a statutory instrument.

Deportation

63 Deportation orders

- (1) A person may appeal to an adjudicator against—
 - (a) a decision of the Secretary of State to make a deportation order against him under section 5(1) of the 1971 Act as a result of his liability to deportation under section 3(5) of that Act; or
 - (b) a refusal by the Secretary of State to revoke a deportation order made against him.
- (2) A deportation order is not to be made against a person under section 5(1) of the 1971 Act while an appeal may be brought against the decision to make it.
- (3) Subsection (4) applies if—
 - (a) a person appeals under this section; and
 - (b) before or after he appeals, the Secretary of State serves on him notice that any directions which may be given for his removal as a result of the deportation order will be for his removal to a country or one of several countries specified in the notice.
- (4) The appellant may object to the country specified in the notice (or to one or more of those specified), and claim that he ought to be removed (if at all) to a different country specified by him.

64 Limitations on rights of appeal under section 63

- (1) Section 63 does not entitle a person to appeal against a decision to make a deportation order against him if the ground of the decision was that his deportation is conducive to the public good as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature.
- (2) Section 63 does not entitle a person to appeal against a refusal to revoke a deportation order, if—
 - (a) the Secretary of State has certified that the appellant's exclusion from the United Kingdom would be conducive to the public good; or
 - (b) revocation was refused on that ground by the Secretary of State (and not by a person acting under his authority).
- (3) Section 63 does not entitle a person to appeal against a refusal to revoke a deportation order while he is in the United Kingdom, whether because he has not complied with the requirement to leave or because he has contravened the prohibition on entering.
- (4) Subsection (5) applies to—
 - (a) an appeal against a decision to make a deportation order against a person as belonging to the family of another person; or
 - (b) an appeal against a refusal to revoke a deportation order so made.
- (5) The appellant is not to be allowed, for the purpose of showing that he does not or did not belong to another person's family, to dispute any statement made with a view to obtaining leave for the appellant to enter or remain in the United Kingdom (including any statement made to obtain an entry clearance).
- (6) But subsection (5) does not apply if the appellant shows—

- (a) that the statement was not so made by him or by any person acting with his authority; and
- (b) that, when he took the benefit of the leave, he did not know any such statement had been made to obtain it or, if he did know, he was under the age of eighteen.

Human rights

65 Acts made unlawful by section 6(1) of the Human Rights Act 1998

- (1) A person who alleges that an authority has, in taking any decision under the Immigration Acts relating to that person's entitlement to enter or remain in the United Kingdom, acted in breach of his human rights may appeal to an adjudicator against that decision unless he has grounds for bringing an appeal against the decision under the Special Immigration Appeals Commission Act 1997.
- (2) For the purposes of this Part, an authority acts in breach of a person's human rights if he acts, or fails to act, in relation to that other person in a way which is made unlawful by section 6(1) of the Human Rights Act 1998.
- (3) Subsections (4) and (5) apply if, in proceedings before an adjudicator or the Immigration Appeal Tribunal on an appeal, a question arises as to whether an authority has, in taking any decision under the Immigration Acts relating to the appellant's entitlement to enter or remain in the United Kingdom, acted in breach of the appellant's human rights.
- (4) The adjudicator, or the Tribunal, has jurisdiction to consider the question.
- (5) If the adjudicator, or the Tribunal, decides that the authority concerned acted in breach of the appellant's human rights, the appeal may be allowed on that ground.
- (6) No appeal may be brought under this section by any person in respect of a decision if—
 - (a) that decision is already the subject of an appeal brought by him under the Special Immigration Appeals Commission Act 1997; and
 - (b) the appeal under that Act has not been determined.
- (7) "Authority" means—
 - (a) the Secretary of State;
 - (b) an immigration officer;
 - (c) a person responsible for the grant or refusal of entry clearance.

Directions for removal

66 Validity of directions for removal

- (1) This section applies if directions are given for a person's removal from the United Kingdom—
 - (a) on the ground that he is an illegal entrant;
 - (b) under section 10; or
 - (c) under the special powers conferred by Schedule 2 to the 1971 Act in relation to members of the crew of a ship or aircraft or persons coming to the United Kingdom to join a ship or aircraft as a member of the crew.

- (2) That person may appeal to an adjudicator against the directions on the ground that on the facts of his case there was in law no power to give them on the ground on which they were given.
- (3) This section does not entitle a person to appeal while he is in the United Kingdom unless he is appealing under section 65 or 69(5).
- (4) If a person appeals under this section against directions given by virtue of a deportation order, he may not dispute the original validity of that order.

Objection to destination

67 Removal on objection to destination

- (1) This section applies if directions are given under the 1971 Act for a person's removal from the United Kingdom—
 - (a) on his being refused leave to enter,
 - (b) on a deportation order being made against him, or
 - (c) on his having entered the United Kingdom in breach of a deportation order.
- (2) That person may appeal to an adjudicator against the directions on the ground that he ought to be removed (if at all) to a different country specified by him.

68 Limitations on rights of appeal under section 67

- (1) Section 67 does not entitle a person to appeal against directions given on his being refused leave to enter the United Kingdom unless—
 - (a) he is also appealing under section 59(1) against the decision that he requires leave to enter; or
 - (b) he was refused leave at a time when he held a current entry clearance or was a person named in a current work permit.
- (2) If a person is entitled to object to a country on an appeal under section 59 or 63 and—
 - (a) he does not object to it on that appeal, or
 - (b) his objection to it on that appeal is not sustained,section 67 does not entitle him to appeal against any directions subsequently given as a result of the refusal or order in question, if their effect will be his removal to that country.
- (3) A person who claims that he ought to be removed to a country other than one he has objected to on an appeal under section 59, 63 or 67 must produce evidence, if he is not a national or citizen of that other country, that that country will admit him.

Asylum

69 Claims for asylum

- (1) A person who is refused leave to enter the United Kingdom under the 1971 Act may appeal against the refusal to an adjudicator on the ground that his removal in consequence of the refusal would be contrary to the Convention.

- (2) If, as a result of a decision to vary, or to refuse to vary, a person's limited leave to enter or remain in the United Kingdom, he may be required to leave the United Kingdom within 28 days of being notified of the decision, he may appeal against the decision to an adjudicator on the ground that such a requirement would be contrary to the Convention.
- (3) A person who—
- (a) has been refused leave to enter or remain in the United Kingdom on the basis of a claim for asylum made by him, but
 - (b) has been granted (whether before or after the decision to refuse leave) limited leave to enter or remain,
- may, if that limited leave will not expire within 28 days of his being notified of the decision, appeal to an adjudicator against the refusal on the ground that requiring him to leave the United Kingdom after the time limited by that leave would be contrary to the Convention.
- (4) If the Secretary of State—
- (a) has decided to make a deportation order against a person under section 5(1) of the 1971 Act, or
 - (b) has refused to revoke such an order,
- that person may appeal to an adjudicator against the decision or refusal on the ground that his removal in pursuance of the order would be contrary to the Convention.
- (5) If directions are given as mentioned in section 66(1) for the removal of a person from the United Kingdom, he may appeal to an adjudicator on the ground that his removal in pursuance of the directions would be contrary to the Convention.
- (6) "Contrary to the Convention" means contrary to the United Kingdom's obligations under the Refugee Convention.

70 Limitations on rights of appeal under section 69

- (1) Section 69(1) does not entitle a person to appeal against a refusal of leave to enter if—
- (a) the Secretary of State certifies that directions have been given by the Secretary of State (and not by a person acting under his authority) for the appellant not to be given entry to the United Kingdom on the ground that his exclusion is in the interests of national security; or
 - (b) the leave to enter was refused in compliance with any such directions.
- (2) Section 69(2) does not entitle a person to appeal against—
- (a) a variation of his leave which reduces its duration, or
 - (b) a refusal to enlarge or remove the limit on its duration,
- if either of the following conditions is satisfied.
- (3) The conditions are—
- (a) that the Secretary of State has certified that the appellant's departure from the United Kingdom would be in the interests of national security; or
 - (b) that the decision questioned by the appeal was taken on that ground by the Secretary of State (and not by a person acting under his authority).
- (4) Section 69(3) does not entitle a person to appeal against a refusal mentioned in paragraph (a) of that subsection if—

- (a) the reason for the refusal was that he was a person to whom the Refugee Convention did not apply by reason of Article 1(F) of that Convention; and
 - (b) the Secretary of State has certified that the disclosure of material on which the refusal was based is not in the interests of national security.
- (5) Section 69(4)(a) does not entitle a person to appeal against a decision to make a deportation order against him if the ground of the decision was that his deportation is in the interests of national security.
- (6) Section 69(4)(b) does not entitle a person to appeal against a refusal to revoke a deportation order, if—
 - (a) the Secretary of State has certified that the appellant's exclusion from the United Kingdom would be in the interests of national security; or
 - (b) if revocation was refused on that ground by the Secretary of State (and not by a person acting under his authority).
- (7) A person may not bring an appeal on any of the grounds mentioned in subsections (1) to (5) of section 69—
 - (a) if, before the time of the refusal, variation, decision or directions (as the case may be) he has not made a claim for asylum;
 - (b) otherwise than under that section.
- (8) A person may not appeal under section 69(4)(b) if he has had the right to appeal under section 69(4)(a) (whether or not he has exercised it).

Removal to safe countries

71 Removal of asylum claimants to safe third countries

- (1) This section applies if a certificate has been issued under section 11 or 12.
- (2) The person in respect of whom the certificate was issued may appeal against it to an adjudicator on the ground that any of the conditions applicable to that certificate was not satisfied when it was issued, or has since ceased to be satisfied.

Miscellaneous

72 Miscellaneous limitations on rights of appeal

- (1) Unless a certificate issued under section 11 or 12 has been set aside on an appeal under section 65 or 71 or otherwise ceases to have effect, the person in respect of whom the certificate was issued is not entitled to appeal under this Act as respects any matter arising before his removal from the United Kingdom.
- (2) A person who has been, or is to be, sent to a member State or to a country designated under section 12(1)(b) is not, while he is in the United Kingdom, entitled to appeal—
 - (a) under section 65 if the Secretary of State certifies that his allegation that a person acted in breach of his human rights is manifestly unfounded; or
 - (b) under section 71.
- (3) No appeal under this Part may be made in relation to a decision made on an application if—

- (a) the application was required to be made in a prescribed form but was not made in that form; or
- (b) the applicant was required to take prescribed steps in relation to the application, or to take such steps at a prescribed time or within a prescribed period, but failed to do so.

73 Limitation on further appeals

- (1) This section applies where a person (“the appellant”) has appealed under the Special Immigration Appeals Commission Act 1997 or this Act and that appeal (“the original appeal”) has been finally determined.
- (2) If the appellant serves a notice of appeal making a claim that a decision of a decision-maker was in breach of the appellant’s human rights, the Secretary of State may certify that in his opinion—
 - (a) the appellant’s claim—
 - (i) could reasonably have been included in a statement required from him under section 74 but was not so included, or
 - (ii) could reasonably have been made in the original appeal but was not so made;
 - (b) one purpose of such a claim would be to delay the removal from the United Kingdom of the appellant or of any member of his family; and
 - (c) the appellant had no other legitimate purpose for making the claim.
- (3) On the issuing of a certificate by the Secretary of State under subsection (2), the appeal, so far as relating to that claim, is to be treated as finally determined.
- (4) Subsection (5) applies if a notice under section 74 was served on the appellant before the determination of his original appeal and the appellant has served a further notice of appeal.
- (5) The Secretary of State may certify that grounds contained in the notice of appeal were considered in the original appeal.
- (6) On the issuing of a certificate by the Secretary of State under subsection (5), the appeal, so far as relating to those grounds, is to be treated as finally determined.
- (7) Subsection (8) applies if, on the application of the appellant, an immigration officer or the Secretary of State makes a decision in relation to the appellant.
- (8) The immigration officer or, as the case may be, the Secretary of State may certify that in his opinion—
 - (a) one purpose of making the application was to delay the removal from the United Kingdom of the appellant or any member of his family; and
 - (b) the appellant had no other legitimate purpose for making the application.
- (9) No appeal may be brought under the Special Immigration Appeals Commission Act 1997 or this Act against a decision on an application in respect of which a certificate has been issued under subsection (8).
- (10) Nothing in section 58(6) affects the operation of subsections (3) and (6).

“One-stop procedure”

74 Duty to disclose grounds for appeal etc

- (1) This section applies if—
 - (a) the decision on an application for leave to enter or remain in the United Kingdom is that the application be refused; and
 - (b) the applicant, while he is in the United Kingdom, is entitled to appeal against the refusal under the Special Immigration Appeals Commission Act 1997 or this Act.
- (2) This section also applies if—
 - (a) as a result of a decision to vary, or to refuse to vary, any limited leave to enter or remain in the United Kingdom which a person has, he may be required to leave the United Kingdom within 28 days of being notified of the decision; and
 - (b) that person is entitled to appeal against the decision under the Special Immigration Appeals Commission Act 1997 or this Act.
- (3) This section also applies if—
 - (a) the Secretary of State has decided to make a deportation order against a person under section 5(1) of the 1971 Act as a result of his liability to deportation under section 3(5) of that Act; and
 - (b) that person, while he is in the United Kingdom, is entitled to appeal against that decision under the Special Immigration Appeals Commission Act 1997 or this Act.
- (4) The decision-maker must serve on the applicant and on any relevant member of his family a notice requiring the recipient of the notice to state any additional grounds which he has or may have for wishing to enter or remain in the United Kingdom.
- (5) “Decision-maker” means the Secretary of State or (as the case may be) an immigration officer.
- (6) The statement must be—
 - (a) in writing; and
 - (b) served on the Secretary of State before the end of such period as may be prescribed.
- (7) A statement required under this section must—
 - (a) if the person making it wishes to claim asylum, include a claim for asylum; and
 - (b) if he claims that an act breached his human rights, include notice of that claim.
- (8) Regulations may prescribe the persons who, in relation to an applicant, are relevant members of his family.
- (9) Regulations may prescribe the procedure to be followed in connection with notices given and statements made in accordance with this section and, in particular, may prescribe the form in which such notices and statements are to be given or made.

75 Duty to disclose grounds for entering etc. the United Kingdom

- (1) This section applies if a person who—

- (a) is an illegal entrant,
- (b) is liable to be removed under section 10, or
- (c) has arrived in the United Kingdom without—
 - (i) leave to enter;
 - (ii) an entry clearance; or
 - (iii) a current work permit in which he is named,
 makes a claim for asylum or a claim that it would be contrary to the United Kingdom's obligations under the Human Rights Convention for him to be removed from, or required to leave, the United Kingdom.
- (2) The person responsible for the determination of the claim must serve on the claimant and on any relevant member of his family a notice requiring the recipient of the notice to state any additional grounds which he has or may have for wishing to enter or remain in the United Kingdom.
- (3) The statement must be—
 - (a) in writing; and
 - (b) served on the person who is responsible for the determination of the claim before the end of such period as may be prescribed.
- (4) Regulations may prescribe the procedure to be followed in connection with notices given and statements made in accordance with this section and, in particular, may prescribe the form in which such notices and statements are to be given or made.
- (5) Regulations may prescribe the persons who, in relation to a claimant, are relevant members of his family.
- (6) Regulations may provide that, if a claim is determined against the claimant, prescribed provisions of section 73, 76, or 77 are to apply to an appeal against that determination by a person on whom a notice has been served under subsection (2), with such modifications (if any) as may be prescribed.

76 Result of failure to comply with section 74

- (1) In this section—
 - (a) “the applicant” means the person on whom a notice has been served under section 74(4);
 - (b) “notice” means a notice served under that section; and
 - (c) “statement” means the statement which the notice requires the applicant to make to the Secretary of State.
- (2) If the applicant's statement does not mention a particular ground—
 - (a) on which he wishes to enter or remain in the United Kingdom, and
 - (b) of which he is aware at the material time,
 he may not rely on that ground in any appeal under the Special Immigration Appeals Commission Act 1997 or this Part.
- (3) Subsection (2) does not apply if—
 - (a) the ground is a claim for asylum or a claim that an act breached the applicant's human rights; or
 - (b) the Secretary of State considers that the applicant had a reasonable excuse for the omission.

- (4) Subsection (5) applies if the applicant's statement does not include a claim for asylum.
- (5) If the applicant claims asylum after the end of the period prescribed under section 74(6)(b), no appeal may be made under section 69 if the Secretary of State has certified that in his opinion —
 - (a) one purpose of making the claim for asylum was to delay the removal from the United Kingdom of the applicant or of any member of his family; and
 - (b) the applicant had no other legitimate purpose for making the application.
- (6) "Member of the family" has such meaning as may be prescribed.

77 "One-stop" appeals

- (1) This section applies in relation to—
 - (a) an appeal brought on any of the grounds mentioned in section 69;
 - (b) any other appeal against a decision—
 - (i) to refuse an application for leave to enter or remain in the United Kingdom;
 - (ii) to vary, or to refuse to vary, any limited leave to enter or remain in the United Kingdom, which has the result mentioned in section 74(2)(a); or
 - (iii) to make a deportation order against a person under section 5(1) of the 1971 Act as a result of his liability to deportation under section 3(5) of that Act.
- (2) Subject to section 72(2), the appellant is to be treated as also appealing on any additional grounds—
 - (a) which he may have for appealing against the refusal, variation, decision or directions in question under any other provision of this Act; and
 - (b) which he is not prevented (by any provision of section 76) from relying on.
- (3) In considering—
 - (a) any ground mentioned in section 69, or
 - (b) any question relating to the appellant's rights under Article 3 of the Human Rights Convention,
 the appellate authority may take into account any evidence which it considers to be relevant to the appeal (including evidence about matters arising after the date on which the decision appealed against was taken).
- (4) In considering any other ground, the appellate authority may take into account only evidence—
 - (a) which was available to the Secretary of State at the time when the decision appealed against was taken; or
 - (b) which relates to relevant facts as at that date.
- (5) "Additional grounds", in relation to an appeal, means any grounds specified in a statement made to the Secretary of State under section 74(4) other than those on which the appeal has been brought.
- (6) "Appellate authority" means an adjudicator, the Tribunal or the Special Immigration Appeals Commission.

78 Transfer of appellate proceedings

- (1) Subsection (3) applies if—
 - (a) a person who has brought an appeal under this Part has been notified of the Secretary of State's decision to make a deportation order against him; and
 - (b) as a result of section 64(1), he is not entitled to appeal against that decision under section 63.
- (2) Subsection (3) also applies if—
 - (a) a person who has brought an appeal under this Part has been notified of the Secretary of State's decision to refuse to revoke a deportation order made against him; and
 - (b) as a result of section 64(2), he is not entitled to appeal against that refusal under section 63.
- (3) If he appeals against that decision under section 2(1) or 2A of the Special Immigration Appeals Commission Act 1997, any appeal under this Part is transferred to, and must be heard by, the Commission.
- (4) Subsection (5) applies if a person, in a statement required by a notice under section 74 or 75, states an additional ground which relates to a matter which may be the subject of an appeal under section 2(1) or 2A of the Special Immigration Appeals Commission Act 1997.
- (5) The appeal under this Part is transferred to, and must be heard by, the Commission.

*Appeals without merit***79 Penalty on continuing an appeal without merit**

- (1) If, at any time before it determines an appeal, the Immigration Appeal Tribunal considers that the appeal has no merit it may notify the appellant of its opinion.
- (2) A notice under subsection (1) must—
 - (a) include an explanation of the Tribunal's powers under this section; and
 - (b) be made in such form as may be required by rules made under paragraph 3 of Schedule 4.
- (3) Subsection (1) does not apply if leave for appeal to the Tribunal was required.
- (4) Subsection (5) applies if an appeal which has been continued by the appellant after he has been given a notice under subsection (1) is dismissed.
- (5) The Tribunal may impose on the appellant, or on his representative, a penalty of the specified amount.
- (6) "Specified" means specified by an order made by the Lord Chancellor.
- (7) The Lord Chancellor may by order make such provision as he considers appropriate as to—
 - (a) the enforcement in England and Wales and Northern Ireland, and
 - (b) the payment and application,of penalties imposed under this section.

- (8) Such an order may, in particular, make provision similar to that made by sections 129 and 130 of the County Courts Act 1984.
- (9) An order imposing a penalty under subsection (5) may be enforced in Scotland as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

EEA nationals

80 EEA nationals

- (1) The Secretary of State may by regulations make provision for appeals against any immigration decision in relation to—
 - (a) an EEA national;
 - (b) a member of the family of an EEA national;
 - (c) a member of the family of a United Kingdom national who is neither such a national nor an EEA national.
- (2) “Immigration decision” means a decision concerning a person’s removal from the United Kingdom or his entitlement—
 - (a) to be admitted to the United Kingdom;
 - (b) to reside, or to continue to reside, in the United Kingdom; or
 - (c) to be issued with, or not to have withdrawn, a residence permit.
- (3) The regulations may also make provision for appeals against any decision concerning the matters mentioned in subsection (1) taken in relation to a citizen of any other State on whom any such entitlement has been conferred by an agreement to which the United Kingdom is a party or by which it is bound.
- (4) An appeal under the regulations lies to an adjudicator or, in such circumstances as may be prescribed, to the Commission.
- (5) The regulations may provide for appeals from the adjudicator or the Commission.
- (6) The regulations may prescribe cases, or classes of case, in which a person is not entitled to appeal while he is in the United Kingdom.
- (7) The regulations may make provision under which an appellant may be required to state, in such manner as may be prescribed, any grounds he has or may have for wishing to be admitted to, or to remain in, the United Kingdom additional to those on which he is appealing and for the consequences of such a requirement.
- (8) The regulations may—
 - (a) amend sections 2 and 2A of the Special Immigration Appeals Commission Act 1997 (appellate jurisdiction of the Commission);
 - (b) amend or revoke the Immigration (European Economic Area) Order 1994.
- (9) Part IV has effect subject to any regulations made under this section.
- (10) “EEA national” means a person who is, or claims to be, a national of an EEA State (other than the United Kingdom).
- (11) “United Kingdom national” means a person who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties.

- (12) If a person claims to be an EEA national, he may not appeal under the regulations unless he produces—
- (a) a valid national identity card, or
 - (b) a valid passport,
- issued by an EEA State other than the United Kingdom.
- (13) For the purposes of subsection (12), a document—
- (a) is to be regarded as being what it purports to be unless its falsity is reasonably apparent; and
 - (b) is to be regarded as relating to the person producing it unless it is reasonably apparent that it relates to another person.
- (14) The regulations may—
- (a) prescribe the persons who, for the purposes of this section, are the members of a person's family; and
 - (b) make provision as to the manner in which membership of a person's family is to be established.
- (15) "Residence permit" means any permit or other document issued by the Secretary of State as proof of the holder's right of residence in the United Kingdom.

Grants

81 Grants to voluntary organisations

- (1) The Secretary of State may, with the approval of the Treasury, make grants to any voluntary organisation which provides advice or assistance for, or other services for the welfare of, persons who have rights of appeal under this Act.
- (2) Grants may be made on such terms, and subject to such conditions, as the Secretary of State may determine.