



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

2004 CHAPTER 19

Appeals

26 Unification of appeal system

- (1) For section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals: adjudicators) substitute—

“Appeal to Tribunal

81 The Asylum and Immigration Tribunal

- (1) There shall be a tribunal to be known as the Asylum and Immigration Tribunal.
(2) Schedule 4 (which makes provision about the Tribunal) shall have effect.
(3) A reference in this Part to the Tribunal is a reference to the Asylum and Immigration Tribunal.”

^{F1}(2)

^{F2}(3)

^{F3}(4)

- (5) The following provisions of that Act shall cease to have effect—
(a) sections 100 to 103 (Immigration Appeal Tribunal), and
(b) Schedule 5 (Immigration Appeal Tribunal).

^{F4}(6)

- (7) Schedule 2 (which makes amendments consequential on this section, and transitional provision) shall have effect.

Changes to legislation: Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Cross Heading: Appeals is up to date with all changes known to be in force on or before 11 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) View outstanding changes

- ^{F5}(8)
- ^{F5}(9)
- ^{F5}(10)

Textual Amendments

- F1** S. 26(2) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), [art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F2** S. 26(3) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), [art. 2\(e\)](#) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F3** S. 26(4) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), [art. 1](#), [Sch. 3](#) (with [Sch. 4](#))
- F4** S. 26(6) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), [art. 1](#), [Sch. 3](#) (with [Sch. 4](#))
- F5** S. 26(8)-(10) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), [art. 1](#), [Sch. 3](#) (with [Sch. 4](#))

Commencement Information

- I1** S. 26(1)-(5)(7)-(10) in force at 4.4.2005 by [S.I. 2005/565](#), [art. 2\(a\)](#) (with [arts. 3-9](#))
- I2** S. 26(6) in force at 4.4.2005 for specified purposes by [S.I. 2005/565](#), [art. 2\(b\)](#) (with [arts. 3-9](#))
- I3** S. 26(6) in force at 30.4.2007 in so far as not already in force by [S.I. 2007/845](#), [art. 2](#)

27 Unfounded human rights or asylum claim

- (1) Section 94 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (no appeal from within United Kingdom for unfounded human rights or asylum claim) shall be amended as follows.

^{F6}(2)

^{F7}(3)

- (4) In subsection (4) omit paragraphs (a) to (j).

- (5) After subsection (5) insert—

“(5A) If the Secretary of State is satisfied that the statements in subsection (5) (a) and (b) are true of a State or part of a State in relation to a description of person, an order under subsection (5) may add the State or part to the list in subsection (4) in respect of that description of person.

(5B) Where a State or part of a State is added to the list in subsection (4) in respect of a description of person, subsection (3) shall have effect in relation to a claimant only if the Secretary of State is satisfied that he is within that description (as well as being satisfied that he is entitled to reside in the State or part).

(5C) A description for the purposes of subsection (5A) may refer to—

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- (a) gender,
- (b) language,
- (c) race,
- (d) religion,
- (e) nationality,
- (f) membership of a social or other group,
- (g) political opinion, or
- (h) any other attribute or circumstance that the Secretary of State thinks appropriate.”

(6) For subsection (6) substitute—

“(6) The Secretary of State may by order amend the list in subsection (4) so as to omit a State or part added under subsection (5); and the omission may be—

- (a) general, or
- (b) effected so that the State or part remains listed in respect of a description of person.”

(7) After subsection (6) insert—

“(6A) Subsection (3) shall not apply in relation to an asylum claimant or human rights claimant who—

- (a) is the subject of a certificate under section 2 or 70 of the Extradition Act 2003 (c. 41),
- (b) is in custody pursuant to arrest under section 5 of that Act,
- (c) is the subject of a provisional warrant under section 73 of that Act,
- (d) is the subject of an authority to proceed under section 7 of the Extradition Act 1989 (c. 33) or an order under paragraph 4(2) of Schedule 1 to that Act, or
- (e) is the subject of a provisional warrant under section 8 of that Act or of a warrant under paragraph 5(1)(b) of Schedule 1 to that Act.”

(8) After section 112(5) of that Act (orders, &c.) insert—

“(5A) If an instrument makes provision under section 94(5) and 94(6)—

- (a) subsection (4)(b) above shall apply, and
- (b) subsection (5)(b) above shall not apply.”

Textual Amendments

- F6** S. 27(2) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F7** S. 27(3) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Commencement Information

- I4** S. 27 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

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F⁸28 Appeal from within United Kingdom

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Textual Amendments

- F8** S. 28 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Commencement Information

- I5** S. 28 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

F⁹29 Entry clearance

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Textual Amendments

- F9** S. 29 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Commencement Information

- I6** S. 29 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

30 Earlier right of appeal

(1) Section 96 of the Nationality, Immigration and Asylum Act 2002 (earlier right of appeal) shall be amended as follows.

(2) For subsections (1) to (3) substitute—

“(1) An appeal under section 82(1) against an immigration decision (“the new decision”) in respect of a person may not be brought if the Secretary of State or an immigration officer certifies—

- (a) that the person was notified of a right of appeal under that section against another immigration decision (“the old decision”) (whether or not an appeal was brought and whether or not any appeal brought has been determined),
- (b) that the claim or application to which the new decision relates relies on a matter that could have been raised in an appeal against the old decision, and
- (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in an appeal against the old decision.

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- (2) An appeal under section 82(1) against an immigration decision (“the new decision”) in respect of a person may not be brought if the Secretary of State or an immigration officer certifies—
- (a) that the person received a notice under section 120 by virtue of an application other than that to which the new decision relates or by virtue of a decision other than the new decision,
 - (b) that the new decision relates to an application or claim which relies on a matter that should have been, but has not been, raised in a statement made in response to that notice, and
 - (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in a statement made in response to that notice.”
- (3) In subsection (5) for “Subsections (1) to (3) apply to prevent or restrict” substitute “Subsections (1) and (2) apply to prevent”.
- (4) At the end add—
- “(7) A certificate under subsection (1) or (2) shall have no effect in relation to an appeal instituted before the certificate is issued.”

Commencement Information

I7 S. 30 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

F10 **31 Seamen and aircrews: right of appeal**

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Textual Amendments

F10 S. 31 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with [arts. 9-11](#)) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

Commencement Information

I8 S. 31 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

F11 **32 Suspected international terrorist: bail**

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Textual Amendments

F11 S. 32 repealed (14.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\)](#), s. 16(2)(d)(3) (with s. 16(4))

Commencement Information

I9 S. 32 partly in force; s. 32(2) in force at 22.9.2004 see s. 48

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 8(1A)(1B) inserted by [2022 c. 36 s. 19\(2\)](#)
- s. 8(3A)(3B) inserted by [2022 c. 36 s. 19\(3\)](#)
- s. 8(6A)(6B) inserted by [2022 c. 36 s. 19\(4\)](#)
- s. 8(9A)(a) word inserted by [2022 c. 36 Sch. 3 para. 7\(b\)](#)
- s. 8(9A)(b) and word inserted by [2022 c. 36 Sch. 3 para. 7\(c\)](#)
- s. 8(9B) inserted by [2022 c. 36 s. 19\(6\)](#)
- Sch. 3 para. 3(3) inserted by [2023 c. 37 s. 10\(9\)\(a\)](#)
- Sch. 3 para. 8(3) inserted by [2023 c. 37 s. 10\(9\)\(b\)](#)
- Sch. 3 para. 13(3) inserted by [2023 c. 37 s. 10\(9\)\(c\)](#)