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STATUTORY INSTRUMENTS

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**2000 No. 2326**

**The Immigration (European Economic Area) Regulations 2000**

**Part VII**

**Appeals**

**Effects of appeals to the adjudicator**

**34.**—(1) If a person in the United Kingdom appeals under regulation 29 against an EEA decision to refuse to admit him to the United Kingdom, any directions previously given by virtue of the refusal for his removal from the United Kingdom cease to have effect, except in so far as they have already been carried out, and no directions may be so given while the appeal is pending.

(2) If a person appeals under regulation 29 against an EEA decision to remove him from the United Kingdom, any directions given under section 10 of the 1999 Act or Schedule 3 of the 1971 Act<sup>(1)</sup> for his removal from the United Kingdom are to have no effect, except in so far as they have already been carried out, while the appeal is pending.

(3) But the provisions of Part I of Schedule 2, or as the case may be, Schedule 3 to the 1971 Act with respect to detention and persons liable to detention apply to a person appealing under regulation 29 against a refusal to admit him or a decision to remove him as if there were in force directions for his removal from the United Kingdom, except that he may not be detained on board a ship or aircraft so as to compel him to leave the United Kingdom while the appeal is pending.

(4) In calculating the period of two months limited by paragraph 8(2) of Schedule 2 to the 1971 Act for—

- (a) the giving of directions under that paragraph for the removal of a person from the United Kingdom, and
- (b) the giving of a notice of intention to give such directions,

any period during which there is pending an appeal by him under regulation 29 is to be disregarded.

(5) If a person appeals under regulation 29 against an EEA decision to remove him from the United Kingdom, a deportation order is not to be made against him under section 5 of the 1971 Act<sup>(2)</sup> while the appeal is pending.

(6) Paragraph 29 of Schedule 2 to the 1971 Act (grant of bail pending appeal) applies to a person who has an appeal pending under regulation 29 as it applies to a person who has an appeal pending under section 59, 65, 66, 67, 69(1) or (5) or 71 of the 1999 Act.

(7) For the purposes of this regulation, and subject to paragraphs (8) and (9), an appeal 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.

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(1) Schedule 3 has been amended by the Criminal Justice Act 1982 (c. 48); the Immigration Act 1988 (c. 14); the Asylum and Immigration Act 1996 (c. 49); and the 1999 Act.

(2) Section 5 has been amended by the British Nationality Act 1981 (c. 61); the Immigration Act 1988 (c. 14); and the Asylum and Immigration Act 1996 (c. 49).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(8) An appeal is not to be treated as finally determined while a further appeal may be brought; and, 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.

(9) A pending appeal is not to be treated as abandoned solely because the appellant leaves the United Kingdom.

(10) This regulation does not apply to an appeal which lies to the Commission as a result of regulation 31.