

SCHEDULE 2

Article 3

Transitional provisions relating to the 2002 Act

1.—(1) In this paragraph, a reference to a section or to a Schedule is to be read as a reference to a section of, or to a Schedule to, the 2002 Act, unless otherwise specified.

(2) Section 77 (no removal while claim for asylum pending) shall have effect in relation to a claim for asylum pending on 31st March 2003 as it has effect in relation to a claim for asylum pending under the 2002 Act.

(3) Section 78 (no removal while appeal pending) shall have effect in relation to an appeal pending under the old appeals provisions as it has effect in relation to an appeal pending under section 82(1) of the 2002 Act.

(4) Section 79 (deportation order: appeal) shall have effect in relation to an appeal pending under the old appeals provisions as it has effect in relation to an appeal pending under section 82(1) of the 2002 Act.

(5) Section 115 (appeal from within the United Kingdom: unfounded human rights claim or asylum claim: transitional provision) shall continue to have effect in relation to any person who made an asylum claim or human rights claim (as defined in subsection (10)) on or after 1st April 2003.

Transitional provisions relating to the appeals provisions of the 1971 Act

2.—(1) In this paragraph, a reference to a section or to a Schedule is to be read as a reference to a section of, or to a Schedule to, the 1971 Act, unless otherwise specified.

(2) Section 3C of the 1971 Act (continuation of leave pending variation decision), as substituted by section 118 of the 2002 Act, shall apply in relation to an application made before 1st April 2002, in respect of which no decision has been made on or before 1st April 2002, as it applies to such an application made after 1st April 2002.

(3) Section 5 (procedure for, and further provisions as to, deportation) is to continue to have effect in relation to—

(a) any person on whom the Secretary of State has, before 2nd October 2000, served a notice of his decision to make a deportation order; and

(b) any person—

(i) who applied during the regularisation period fixed by section 9 of the 1999 Act, in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000(1), for leave to remain in the United Kingdom; and

(ii) on whom the Secretary of State has since served a notice of his decision to make a deportation order;

and, for the purposes of section 5, such a person is to be taken to be a person who is liable to deportation under section 3(5).

(4) Section 13 (appeals against exclusions from the United Kingdom) is to continue to have effect where the decision to refuse leave to enter the United Kingdom, or to refuse a certificate of entitlement or an entry clearance, was made before 2nd October 2000.

(5) Section 14 (appeals against conditions) is to continue to have effect where the decision to vary, or to refuse to vary, the limited leave to enter or remain was made before 2nd October 2000.

(6) Section 15 (appeals in respect of deportation orders) is to continue to have effect in relation to—

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- (a) any person on whom the Secretary of State has, before 2nd October 2000, served a notice of his decision to make a deportation order; and
 - (b) any person—
 - (i) who applied during the regularisation period fixed by section 9 of the 1999 Act, in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000, for leave to remain in the United Kingdom; and
 - (ii) on whom the Secretary of State has since served a notice of his decision to make a deportation order.
- (7) Section 16 (appeals against validity of directions for removal) is to continue to have effect where the directions for a person's removal from the United Kingdom were given before 2nd October 2000.
- (8) Section 17 (appeals against removal on objection to destination) is to continue to have effect—
- (a) where the directions for a person's removal from the United Kingdom were given, or the notice specifying the destination of his removal was served, before 2nd October 2000; and
 - (b) in relation to any person—
 - (i) who applied during the regularisation period fixed by section 9 of the 1999 Act, in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000, for leave to remain in the United Kingdom; and
 - (ii) on whom the Secretary of State has since served a notice of his decision to make a deportation order.
- (9) Section 21 (references of cases by Secretary of State for further consideration) (including that section as applied by paragraph 4 of Schedule 2 to the 1993 Act) is to continue to have effect where the Secretary of State has referred a matter for consideration under that section before 2nd October 2000.
- (10) Where an appeal is made under Part II (including that Part as it applies by virtue of Schedule 2 to the 1993 Act)—
- (a) paragraph 28 of Schedule 2 (stay on directions for removal) (including that paragraph as applied by paragraph 9 of Schedule 2 to the 1993 Act) is to continue to have effect;
 - (b) the following provisions are not to have effect—
 - (i) paragraph 29(1) of Schedule 2 (grant of bail pending appeal) (including that paragraph as applied by paragraph 9 of Schedule 2 to the 1993 Act and by section 3(6) of the 1996 Act), as amended by paragraph 66 of Schedule 14 to the 1999 Act;
 - (ii) paragraph 3 of Schedule 3 (effect of appeals) including that paragraph as applied by paragraph 9 of Schedule 2 to the 1993 Act), as amended by paragraph 69 of Schedule 14 to the 1999 Act.

Transitional provision relating to the appeals provisions of the 1988 Act

3. Section 5 (restricted right of appeal against deportation in cases of breach of limited leave) is to continue to have effect—
- (a) where the directions for a person's removal from the United Kingdom were given, or the notice specifying the destination of his removal was served, before 2nd October 2000,
 - (b) in relation to any person—
 - (i) who applied during the regularisation period fixed by section 9 of the 1999 Act, in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000, for leave to remain in the United Kingdom; and

- (ii) on whom the Secretary of State has since served a notice of his decision to make a deportation order.

Transitional provisions relating to the appeals provisions of the 1993 Act

4.—(1) In this paragraph, a reference to a section or to a Schedule is to be read as a reference to a section of, or to a Schedule to, the 1993 Act, unless otherwise specified.

(2) In section 8 (asylum appeals)—

- (a) subsection (1) is to continue to have effect where the decision to refuse leave to enter was made before 2nd October 2000;
- (b) subsection (2) is to continue to have effect where the decision to vary, or to refuse to vary, the limited leave to enter or remain was made before 2nd October 2000;
- (c) subsection (3) is to continue to have effect where the decision to make a deportation order, or the decision to refuse to revoke a deportation order, was made before 2nd October 2000;
- (d) subsection (4) is to continue to have effect where the directions for a person's removal from the United Kingdom were given before 2nd October 2000.

(3) Where an appeal is made under Part II of the 1971 Act (including that Part as it applies by virtue of Schedule 2)—

- (a) section 9A (bail pending appeal from Immigration Appeal Tribunal), as amended by paragraphs 105 and 106 of Schedule 14 to the 1999 Act, is not to have effect;
- (b) the reference in section 9A (without the amendments made by the 1999 Act) to section 9 (appeals from Immigration Appeal Tribunal) is to include a reference to paragraph 23 of Schedule 4 to the 1999 Act (appeals from Immigration Appeal Tribunal).

(4) Where an appeal is made under section 8, the section 8 appeals provisions are to continue to have effect.

(5) In this paragraph “the section 8 appeals provisions” means—

- (a) paragraph 1 of Schedule 2 (asylum appeal rights to replace rights under the 1971 Act);
- (b) paragraph 2 of Schedule 2 (scope of asylum rights of appeal);
- (c) paragraph 3 of Schedule 2 (other grounds for appeal);
- (d) paragraph 5 of Schedule 2 (special appeals procedures for claims without foundation);
- (e) paragraph 6 of Schedule 2 (exception for national security);
- (f) paragraph 7 of Schedule 2 (suspension of variation of limited leave pending appeal);
- (g) paragraph 8 of Schedule 2 (deportation order not to be made while appeal pending);
- (h) paragraph 9 of Schedule 2 (stay of removal directions pending appeal and bail).

(6) Where an appeal is made under section 8, the reference in paragraph 5 of Schedule 2 to section 20(1) of the 1971 Act (appeals to the Immigration Appeal Tribunal) is to include a reference to paragraph 22(1) of Schedule 4 to the 1999 Act (appeals to the Immigration Appeal Tribunal).

Transitional provision relating to the 1997 Act

5.—(1) The amendments to the 1997 Act made by the provisions of the 2002 Act commenced by this Order are not to have effect in relation to an appeal which is pending, by virtue of section 7A of the 1997 Act, on 1st April 2003 and, notwithstanding their amendment by the provisions commenced by this Order, the old appeal provisions are to continue to have effect in relation to such an appeal.

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Transitional provisions relating to the 1999 Act

6.—(1) In this paragraph, a reference to a section or to a Schedule is to be read as a reference to a section of, or to a Schedule to, the 1999 Act, unless otherwise specified.

(2) Section 10 (removal of certain persons unlawfully in the United Kingdom) is not to have effect in relation to—

- (a) any person on whom the Secretary of State has, before 2nd October 2000, served a notice of his intention to make a deportation order; and
- (b) any person—
 - (i) who applied during the regularisation period fixed by section 9 of the 1999 Act, in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000 for leave to remain in the United Kingdom; and
 - (ii) on whom the Secretary of State has since served a notice of his decision to make a deportation order;

and, for the purposes of section 5, such a person is to be taken to be a person who is liable to deportation under section 3(5).

(3) Where a certificate is issued under section 11 (removal of asylum-seeker to third country), as substituted by section 80 of the 2002 Act, before 1st April 2003 and an allegation is made after 1st April the allegation may be certified under section 72(2) of the 1999 Act, notwithstanding its repeal by the provisions of the 2002 Act commenced by this Order, and that certification shall have effect for the purposes of an appeal under the old appeal provisions.

(4) Subject to the provisions of the Order and any other enactment sections 59 to 78 and Schedules 2 to 4 shall continue to have effect in relation to events which took place before 1st April 2003.

(5) Where a decision has been taken under the Immigration Acts relating to a person's entitlement to enter or remain in the United Kingdom before 1st April 2003 there shall only be a right of appeal under section 65(1) where an allegation is made before 1st July 2003.