
STATUTORY INSTRUMENTS

2014 No. 2771

**The Immigration Act 2014 (Commencement No. 3,
Transitional and Saving Provisions) Order 2014**

PART 2

Transitional and saving provisions and repeals

Transitional and saving provision

9. Notwithstanding the commencement of the relevant provisions, the saved provisions continue to have effect, and the relevant provisions do not have effect, other than so far as they relate to the persons set out respectively in articles 10 and 11, unless article 11(2) or (3) applies.

10. The persons referred to in article 9 are—

- (a) a person (“P1”) who becomes a foreign criminal within the definition in section 117D(2) of the 2002 Act⁽¹⁾ on or after 20th October 2014; and
- (b) a person who is liable to deportation from the United Kingdom under section 3(5)(b) of the 1971 Act⁽²⁾ because they belong to the family of P1.

11.—(1) The persons referred to in article 9 are a person (“P2”) who makes an application on or after 20th October 2014 for leave to remain—

- (a) as a Tier 4 Migrant;
- (b) as the partner of a Tier 4 Migrant under paragraph 319C of the immigration rules; or
- (c) as the child of a Tier 4 Migrant under paragraph 319H of the immigration rules.

(2) The saved provisions have effect, and the relevant provisions do not have effect, where P2, having made an application of a kind mentioned in paragraph (1), at any time thereafter makes—

- (a) an application for leave to enter; or
- (b) any further application for leave to remain which is not of a kind that is mentioned in paragraph (1);

provided the subsequent application is not a protection claim or human rights claim, made while P2 is in the United Kingdom, other than at a port.

(3) Where paragraph (2) applies, the saved provisions also have effect, and the relevant provisions do not have effect, where a decision is taken in relation to P2—

- (a) which constitutes an immigration decision under section 82(2) of the 2002 Act as in force immediately prior to 20th October 2014; or
- (b) to which section 83 or 83A of the 2002 Act as in force immediately prior to 20th October 2014 applies.

⁽¹⁾ 2002 c. 41; section 117D was inserted by section 19 of the Immigration Act 2014.

⁽²⁾ 1971 c. 77; section 3(5) was substituted by paragraph 44(2) of Schedule 14 to the Immigration and Asylum Act 1999.

(4) Where the relevant provisions apply, and an appeal has already been brought against an immigration decision under section 82(1) of the 2002 Act but before the relevant provisions applied, the reference to a “decision” in section 96(1)(a) of the 2002 Act is to be read as a reference to an “immigration decision”.

(5) In this article—

(a) “human rights claim” means—

- (i) a claim made by a person to the Secretary of State that to remove the person from or require him to leave the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998 (c.42) (public authority not to act contrary to Convention); or
- (ii) an application for leave to remain made under paragraph 276ADE of, or Appendix FM to, the immigration rules;

(b) “immigration decision” has the same meaning as in section 82(2) of the 2002 Act as in force immediately prior to 20th October 2014;

(c) “immigration rules” means the rules for the time being laid down by the Secretary of State as mentioned in section 3(2) of the 1971 Act;

(d) “Leave to enter the United Kingdom” means leave to enter the United Kingdom given in accordance with the provisions of, or made under, the 1971 Act;

(e) “Leave to remain in the United Kingdom” means leave to remain in the United Kingdom given in accordance with the provisions of, or made under, the 1971 Act and any variation of leave to enter or remain by the Secretary of State;

(f) “port” has the meaning in section 33(1) of the 1971 Act(3);

(g) “protection claim” has the meaning given in section 82(2) of the 2002 Act;

(h) “protection status” has the meaning given in section 82(2) of the 2002 Act;

(i) “Tier 4 Migrant” has the same meaning as provided in the immigration rules.

12. For the purposes of section 35(3) of the Act, the day appointed as “the commencement day” is 1st December 2014.

13. Notwithstanding the commencement of Part 11 of Schedule 9 to the Act, the following statutory instruments remain in force—

- (a) the Immigration and Nationality (Fees) Regulations 2014(4);
- (b) the Immigration and Nationality (Cost Recovery Fees) Regulations 2014(5);
- (c) the Immigration and Nationality (Fees) Order 2011(6), so far as is necessary for the purposes of preserving the Regulations mentioned in sub-paragraphs (a) and (b).

Consequential revocation and saving

14. Article 4 of the Immigration Act 2014 (Commencement No. 1, Transitory and Saving Provisions) Order 2014(7) is revoked.

(3) 1971 c. 77; Section 33(1) has been amended but none of the amendments are relevant.

(4) S.I. 2014/922.

(5) S.I. 2014/581; this Order was amended by the Immigration and Nationality (Cost Recovery Fees) (Amendment) Regulations 2014 (S.I. 2014/2492).

(6) S.I. 2011/445; this Order was amended by the Immigration and Nationality (Fees) (Amendment) Order 2013 (S.I. 2013/249), the Immigration and Nationality (Fees) (Amendment) Order 2014 (S.I. 2014/205) and the Immigration and Nationality (Fees) (Consequential Amendments) Order 2014 (S.I. 2014/2038).

(7) S.I. 2014/1820.

15. But in any case in which a foreign criminal as defined in section 117D(2) of the 2002 Act has made a human rights claim which the Secretary of State certified under section 94B of that Act prior to 20th October 2014, section 92 of the 2002 Act⁽⁸⁾ (appeal from within the United Kingdom: general) continues to have effect as if the following provisions of that Act were omitted—

- (a) the reference in subsection (2) to an immigration decision of a kind specified in section 82(2)(j);
- (b) the reference in subsection (4)(a) to a human rights claim; and
- (c) subsection (4)(b).

⁽⁸⁾ [2002 c. 41](#); subsection (2) was amended by section 47(7) of the Immigration, Asylum and Nationality Act 2006 ([c. 13](#)) and subsection (4)(b) was amended by [S.I. 2011/1043](#); there are other amendments but none are relevant.