

SCHEDULES

^{F1} SCHEDULE 2

Textual Amendments

- F1** Sch. 2 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, Sch. 16; S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3, Sch. 2 para. 3(2)(4))

New appeal rights to replace rights under the 1971 Act

- 1 No appeal may be brought under Part II of the 1971 Act on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act.

Modifications etc. (not altering text)

- C1** Sch. 2 para. 1 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), Sch. 2 para. 4(5)(a)

Scope of new rights of appeal

- 2 A person may not bring an appeal on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act unless, before the time of the refusal, variation, decision or directions (as the case may be), he has made a claim for asylum.

Modifications etc. (not altering text)

- C2** Sch. 2 para. 2 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), Sch. 2 para. 4(5)(b)

Other grounds of appeal

- 3 Where an appeal is brought by a person on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act, the special adjudicator shall in the same proceedings deal with—
- (a) any appeal against the refusal, variation, decision or directions (as the case may be) which the person is entitled to bring under Part II of the 1971 Act on any other ground on which he seeks to rely; and
 - (b) any appeal brought by the person under that Part of that Act against any other decision or action.

Changes to legislation: There are currently no known outstanding effects for the Asylum and Immigration Appeals Act 1993, SCHEDULE 2. (See end of Document for details)

Modifications etc. (not altering text)

C3 Sch. 2 para. 3 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(c)**

Application of procedures in the 1971 Act

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- 4 (1) Subject to sub-paragraphs (3) and (4) of this paragraph and to paragraph 5 below, the provisions of the 1971 Act specified in sub-paragraph (2) below shall have effect as if section 8 of this Act were contained in Part II of that Act.
- (2) The provisions referred to in sub-paragraph (1) above are—
- (a) section 18 (notice of decisions appealable under that Part and statement of appeal rights etc.);
 - (b) section 19 (determination of appeals under that Part by adjudicators);
 - (c) section 20 (appeal from adjudicator to Immigration Appeal Tribunal);
 - (d) section 21 (references of cases by Secretary of State for further consideration);
 - (e) section 22(1) to (4), (6) and (7) (rules of procedure for appeals);
 - (f) section 23 (grants to voluntary organisations helping persons with rights of appeal);
 - (ff) section 33(4) (duration of appeals); and
 - (g) Schedule 5 (provisions about adjudicators and Immigration Appeal Tribunal).
- (3) Rules of procedure under section 22 may make special provision in relation to—
- (a) proceedings on appeals on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act; and
 - (b) proceedings in which, by virtue of paragraph 3 above, a special adjudicator is required to deal both with an appeal on any of those grounds and another appeal.
- (4) So much of paragraph 5 of Schedule 5 as relates to the allocation of duties among the adjudicators shall have effect subject to subsection (5) of section 8 of this Act.

Special appeal procedures for claims without foundation

- [^{F35} (1) This paragraph applies to an appeal by a person on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act if the Secretary of State has certified that, in his opinion, the person's claim on the ground that it would be contrary to the United Kingdom's obligations under the Convention for him to be removed from, or be required to leave, the United Kingdom is one to which—
- (a) sub-paragraph (2), (3) or (4) below applies; and
 - (b) sub-paragraph (5) below does not apply.
- (2) This sub-paragraph applies to a claim if the country or territory to which the appellant is to be sent is designated in an order made by the Secretary of State by statutory

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instrument as a country or territory in which it appears to him that there is in general no serious risk of persecution.

- (3) This sub-paragraph applies to a claim if, on his arrival in the United Kingdom, the appellant was required by an immigration officer to produce a valid passport and either—
- (a) he failed to produce a passport without giving a reasonable explanation for his failure to do so; or
 - (b) he produced a passport which was not in fact valid and failed to inform the officer of that fact.
- (4) This sub-paragraph applies to a claim if—
- (a) it does not show a fear of persecution by reason of the appellant's race, religion, nationality, membership of a particular social group, or political opinion;
 - (b) it shows a fear of such persecution, but the fear is manifestly unfounded or the circumstances which gave rise to the fear no longer subsist;
 - (c) it is made at any time after the appellant—
 - (i) has been refused leave to enter under the 1971 Act,
 - (ii) has been recommended for deportation by a court empowered by that Act to do so,
 - (iii) has been notified of the Secretary of State's decision to make a deportation order against him by virtue of section 3(5) of that Act, or
 - (iv) has been notified of his liability to removal under paragraph 9 of Schedule 2 to that Act;
 - (d) it is manifestly fraudulent, or any of the evidence adduced in its support is manifestly false; or
 - (e) it is frivolous or vexatious.
- (5) This sub-paragraph applies to a claim if the evidence adduced in its support establishes a reasonable likelihood that the appellant has been tortured in the country or territory to which he is to be sent.
- (6) Rules of procedure under section 22 of the 1971 Act may make special provision in relation to appeals to which this paragraph applies.
- (7) If on an appeal to which this paragraph applies the special adjudicator agrees that the claim is one to which—
- (a) sub-paragraph (2), (3) or (4) above applies; and
 - (b) sub-paragraph (5) above does not apply,
- section 20(1) of that Act shall not confer on the appellant any right to appeal to the Immigration Appeal Tribunal.
- (8) The first order under this paragraph shall not be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (9) A statutory instrument containing a subsequent order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this paragraph—
- “immigration officer” means an immigration officer appointed for the purposes of the 1971 Act;

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“passport”, in relation to an appellant, means a passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship.]

Textual Amendments

F3 Sch. 2 para. 5 substituted (21.10.1996) by 1996 c. 49, s. 1; S.I. 1996/2127, art. 2, **Sch. Pt. II**

Modifications etc. (not altering text)

C4 Sch. 2 para. 5 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(d)**

Exception for national security

- 6 Subsection (5) of section 13, subsection (3) of section 14 and subsections (3) and (4) of section 15 of the 1971 Act shall have effect in relation to the rights of appeal conferred by section 8(1), (2) and (3)(a) and (b) of this Act respectively as they have effect in relation to the rights of appeal conferred by subsection (1) of those sections of that Act but as if references to a person’s exclusion, departure or deportation being conducive to the public good were references to its being in the interests of national security.

Modifications etc. (not altering text)

C5 Sch. 2 para. 6 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(e)**

Suspension of variation of limited leave pending appeal

- 7 The limitation on the taking effect of a variation and on a requirement to leave the United Kingdom contained in subsection (1) of section 14 of the 1971 Act shall have effect as if appeals under section 8(2) of this Act were appeals under that subsection.

Modifications etc. (not altering text)

C6 Sch. 2 para. 7 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(f)**

Deportation order not to be made while appeal pending

- 8 In section 15(2) of the 1971 Act references to an appeal against a decision to make a deportation order shall include references to an appeal against such a decision under section 8(3)(a) of this Act.

Changes to legislation: There are currently no known outstanding effects for the Asylum and Immigration Appeals Act 1993, SCHEDULE 2. (See end of Document for details)

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Modifications etc. (not altering text)

C7 Sch. 2 para. 8 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(g)**

Stay of removal directions pending appeal and bail

- 9 Part II of Schedule 2, and paragraph 3 of Schedule 3, to the 1971 Act shall have effect as if the references to appeals under section 13(1), 15(1)(a) and 16 of that Act included (respectively) appeals under section 8(1), (3) and (4) of this Act and as if sub-paragraph (5) of paragraph 28 of Schedule 2 were omitted.

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Modifications etc. (not altering text)

C8 Sch. 2 para. 9 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(h)**

Changes to legislation:

There are currently no known outstanding effects for the Asylum and Immigration Appeals Act 1993, SCHEDULE 2.