

## SCHEDULES

### SCHEDULE 2

Section 8(6).

#### APPEALS TO SPECIAL ADJUDICATOR: SUPPLEMENTARY

##### *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.

##### *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.

##### *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.

##### *Application of procedures in the 1971 Act*

- 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); and
  - (g) Schedule 5 (provisions about adjudicators and Immigration Appeal Tribunal).

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*Status: This is the original version (as it was originally enacted).*

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- (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*

- 5 (1) Subject to sub-paragraph (2) below, this paragraph applies to an appeal by a person under subsection (1), (3)(b) or (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 the United Kingdom is without foundation.
- (2) This paragraph does not apply to an appeal on the ground mentioned in subsection (1) of section 8 of this Act if, by virtue of section 13(3) of the 1971 Act (right of appeal for person with current entry clearance or work permit), the appellant seeks to rely on another ground.
- (3) For the purposes of this paragraph a claim is without foundation if (and only if)—
  - (a) it does not raise any issue as to the United Kingdom's obligations under the Convention; or
  - (b) it is otherwise frivolous or vexatious.
- (4) Rules of procedure under section 22 of the 1971 Act may make special provision in relation to appeals to which this paragraph applies.
- (5) If on an appeal to which this paragraph applies the special adjudicator agrees that the claim is without foundation, section 20(1) of that Act shall not confer on the appellant any right to appeal to the Immigration Appeal Tribunal.
- (6) If the special adjudicator does not agree that the claim is without foundation, he may (as an alternative to allowing or dismissing the appeal) refer the case to the Secretary of State for reconsideration; and the making of such a reference shall, accordingly, be regarded as disposing of the appeal.

*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.

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*Status: This is the original version (as it was originally enacted).*

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*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.

*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.

*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.