

## SCHEDULES

### SCHEDULE 1

Section 4(5).

#### HOUSING OF ASYLUM-SEEKERS AND THEIR DEPENDANTS: SUPPLEMENTARY

##### *Qualifying persons*

- 1 In this Schedule the expression “qualifying person” means an asylum-seeker or a dependant of an asylum-seeker.

##### *Inquiries about applicants*

- 2 If a housing authority to whom an application is made have reason to believe that the applicant is a qualifying person, they shall include in the inquiries that they are required to make under section 62 of the Housing Act 1985, section 28 of the Housing (Scotland) Act 1987 or, as the case may be, Article 7 of the Housing (Northern Ireland) Order 1988 such inquiries as are necessary to satisfy them as to whether—
- (a) he is a qualifying person; and
  - (b) if so, whether any duty is owed to him to secure that accommodation is made available for his occupation.

##### *Notification of decision and reasons*

- 3 (1) Subject to sub-paragraph (2) below, if a housing authority who are dealing with an applicant’s case are satisfied that he is a qualifying person they shall notify him—
- (a) that they are so satisfied;
  - (b) that they are or, as the case may be, are not satisfied that a duty is owed to him to secure that accommodation is made available for his occupation;
  - (c) if they are the authority to whom the application is made, whether they have notified or propose to notify another housing authority under section 67 of the Act of 1985 or, as the case may be, section 33 of the Act of 1987 (referral of application on grounds of local connection) as modified by paragraph 4 below;
- and they shall at the same time notify him of their reasons.
- (2) In its application to Northern Ireland, sub-paragraph (1) above shall have effect as if paragraph (c) were omitted.
- (3) The notice required to be given to the applicant under sub-paragraph (1) above shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority’s office for a reasonable period for collection by him or on his behalf.
- (4) Where notice is given under sub-paragraph (1) above, no notice need be given under section 64 of the Act of 1985, section 30 of the Act of 1987 or, as the case may be, Article 9 of the Order of 1988 (notification of decision and reasons).

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*Referral of application to another housing authority*

- 4 (1) If a housing authority to whom an application is made are satisfied that the applicant is a qualifying person and that a duty to secure that accommodation is made available for his occupation is owed to him, the homelessness legislation shall have effect as if in section 67 of the Act of 1985 or, as the case may be, section 33 of the Act of 1987 for paragraph (a) of subsection (1) there were substituted—
- “(a) are satisfied that an applicant is a qualifying person and that a duty to secure that accommodation is made available for his occupation is owed to him.”
- (2) Sub-paragraph (1) above does not apply in relation to Northern Ireland.

*Offences*

- 5 Section 74 of the Act of 1985, section 40 of the Act of 1987 or, as the case may be, Article 17 of the Order of 1988 applies to statements made or information withheld with intent to induce an authority to believe that a person is or is not an asylum-seeker or a dependant of an asylum-seeker as it applies to statements made or information withheld with the intent mentioned in subsection (1) of section 74, section 40 or, as the case may be, Article 17.

*Security of tenure*

- 6 (1) A tenancy granted in pursuance of any duty under Part III of the Act of 1985 to a person who is a qualifying person cannot be—
- (a) a tenancy which is a secure tenancy for the purposes of that Act, or
- (b) a tenancy which is an assured tenancy for the purposes of the Housing Act 1988,
- before the expiry of the period of twelve months beginning with the date on which the landlord is supplied with written information given by the Secretary of State under paragraph 7 below that the person has ceased to be a qualifying person, unless before the expiry of that period the landlord notifies that person that the tenancy is to be regarded as a secure tenancy or, as the case may be, an assured tenancy.
- (2) A tenancy granted in pursuance of any duty under Part II of the Order of 1988 to a person who is a qualifying person cannot be a tenancy which is a secure tenancy for the purposes of Part II of the Housing (Northern Ireland) Order 1983 before the expiry of the period of twelve months beginning with the date on which the landlord is supplied with written information given by the Secretary of State under paragraph 7 below that the person has ceased to be a qualifying person, unless before the expiry of that period the landlord notifies that person that the tenancy is to be regarded as a secure tenancy.

*Information*

- 7 (1) The Secretary of State shall, if requested to do so by a housing authority who are dealing with an applicant’s case, inform the authority whether the applicant has become a qualifying person.
- (2) Where information which the Secretary of State is required to give to a housing authority under sub-paragraph (1) above is given otherwise than in writing, he shall confirm it in writing if a written request is made to him by the authority.

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- (3) If the Secretary of State informs an authority that an applicant has become a qualifying person, he shall, when the applicant ceases to be a qualifying person, inform the authority and the applicant in writing of that event and of the date on which it occurred.

*Existing applicants*

- 8 (1) Nothing in section 4 or section 5 of this Act or this Schedule shall affect—
- (a) the right of any person to occupy (or to have made available for his occupation) accommodation which, immediately before the day on which section 4 comes into force, is required to be made available for his occupation in pursuance of the homelessness legislation; or
  - (b) any application made to a housing authority which immediately before that day is a pending application.
- (2) For the purposes of sub-paragraph (1) above an application shall be regarded as pending if it is an application in respect of which the authority have not completed the inquiries that they are required to make under section 62 of the Housing Act 1985, section 28 of the Housing (Scotland) Act 1987 or, as the case may be, Article 7 of the Housing (Northern Ireland) Order 1988.

*Isles of Scilly*

- 9 (1) The provisions of sections 4 and 5 of this Act and this Schedule shall apply to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) An order under sub-paragraph (1) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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.

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

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*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).
- (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.

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- (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 appellants 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.

*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.