



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART IV

APPEALS

“One-stop procedure”

74 Duty to disclose grounds for appeal etc

- (1) This section applies if—
- (a) the decision on an application for leave to enter or remain in the United Kingdom is that the application be refused; and
 - (b) the applicant, while he is in the United Kingdom, is entitled to appeal against the refusal under the Special Immigration Appeals Commission Act 1997 or this Act.
- (2) This section also applies if—
- (a) as a result of a decision to vary, or to refuse to vary, any limited leave to enter or remain in the United Kingdom which a person has, he may be required to leave the United Kingdom within 28 days of being notified of the decision; and
 - (b) that person is entitled to appeal against the decision under the Special Immigration Appeals Commission Act 1997 or this Act.
- (3) This section also applies if—
- (a) the Secretary of State has decided to make a deportation order against a person under section 5(1) of the 1971 Act as a result of his liability to deportation under section 3(5) of that Act; and
 - (b) that person, while he is in the United Kingdom, is entitled to appeal against that decision under the Special Immigration Appeals Commission Act 1997 or this Act.

Status: This is the original version (as it was originally enacted).

- (4) The decision-maker must serve on the applicant and on any relevant member of his family a notice requiring the recipient of the notice to state any additional grounds which he has or may have for wishing to enter or remain in the United Kingdom.
- (5) “Decision-maker” means the Secretary of State or (as the case may be) an immigration officer.
- (6) The statement must be—
 - (a) in writing; and
 - (b) served on the Secretary of State before the end of such period as may be prescribed.
- (7) A statement required under this section must—
 - (a) if the person making it wishes to claim asylum, include a claim for asylum; and
 - (b) if he claims that an act breached his human rights, include notice of that claim.
- (8) Regulations may prescribe the persons who, in relation to an applicant, are relevant members of his family.
- (9) Regulations may prescribe the procedure to be followed in connection with notices given and statements made in accordance with this section and, in particular, may prescribe the form in which such notices and statements are to be given or made.

75 Duty to disclose grounds for entering etc. the United Kingdom

- (1) This section applies if a person who—
 - (a) is an illegal entrant,
 - (b) is liable to be removed under section 10, or
 - (c) has arrived in the United Kingdom without—
 - (i) leave to enter;
 - (ii) an entry clearance; or
 - (iii) a current work permit in which he is named,makes a claim for asylum or a claim that it would be contrary to the United Kingdom’s obligations under the Human Rights Convention for him to be removed from, or required to leave, the United Kingdom.
- (2) The person responsible for the determination of the claim must serve on the claimant and on any relevant member of his family a notice requiring the recipient of the notice to state any additional grounds which he has or may have for wishing to enter or remain in the United Kingdom.
- (3) The statement must be—
 - (a) in writing; and
 - (b) served on the person who is responsible for the determination of the claim before the end of such period as may be prescribed.
- (4) Regulations may prescribe the procedure to be followed in connection with notices given and statements made in accordance with this section and, in particular, may prescribe the form in which such notices and statements are to be given or made.
- (5) Regulations may prescribe the persons who, in relation to a claimant, are relevant members of his family.

- (6) Regulations may provide that, if a claim is determined against the claimant, prescribed provisions of section 73, 76, or 77 are to apply to an appeal against that determination by a person on whom a notice has been served under subsection (2), with such modifications (if any) as may be prescribed.

76 Result of failure to comply with section 74

- (1) In this section—
- (a) “the applicant” means the person on whom a notice has been served under section 74(4);
 - (b) “notice” means a notice served under that section; and
 - (c) “statement” means the statement which the notice requires the applicant to make to the Secretary of State.
- (2) If the applicant’s statement does not mention a particular ground—
- (a) on which he wishes to enter or remain in the United Kingdom, and
 - (b) of which he is aware at the material time,
- he may not rely on that ground in any appeal under the Special Immigration Appeals Commission Act 1997 or this Part.
- (3) Subsection (2) does not apply if—
- (a) the ground is a claim for asylum or a claim that an act breached the applicant’s human rights; or
 - (b) the Secretary of State considers that the applicant had a reasonable excuse for the omission.
- (4) Subsection (5) applies if the applicant’s statement does not include a claim for asylum.
- (5) If the applicant claims asylum after the end of the period prescribed under section 74(6)(b), no appeal may be made under section 69 if the Secretary of State has certified that in his opinion —
- (a) one purpose of making the claim for asylum was to delay the removal from the United Kingdom of the applicant or of any member of his family; and
 - (b) the applicant had no other legitimate purpose for making the application.
- (6) “Member of the family” has such meaning as may be prescribed.

77 “One-stop” appeals

- (1) This section applies in relation to—
- (a) an appeal brought on any of the grounds mentioned in section 69;
 - (b) any other appeal against a decision—
 - (i) to refuse an application for leave to enter or remain in the United Kingdom;
 - (ii) to vary, or to refuse to vary, any limited leave to enter or remain in the United Kingdom, which has the result mentioned in section 74(2)(a); or
 - (iii) to make a deportation order against a person under section 5(1) of the 1971 Act as a result of his liability to deportation under section 3(5) of that Act.

- (2) Subject to section 72(2), the appellant is to be treated as also appealing on any additional grounds—
- (a) which he may have for appealing against the refusal, variation, decision or directions in question under any other provision of this Act; and
 - (b) which he is not prevented (by any provision of section 76) from relying on.
- (3) In considering—
- (a) any ground mentioned in section 69, or
 - (b) any question relating to the appellant’s rights under Article 3 of the Human Rights Convention,
- the appellate authority may take into account any evidence which it considers to be relevant to the appeal (including evidence about matters arising after the date on which the decision appealed against was taken).
- (4) In considering any other ground, the appellate authority may take into account only evidence—
- (a) which was available to the Secretary of State at the time when the decision appealed against was taken; or
 - (b) which relates to relevant facts as at that date.
- (5) “Additional grounds”, in relation to an appeal, means any grounds specified in a statement made to the Secretary of State under section 74(4) other than those on which the appeal has been brought.
- (6) “Appellate authority” means an adjudicator, the Tribunal or the Special Immigration Appeals Commission.

78 Transfer of appellate proceedings

- (1) Subsection (3) applies if—
- (a) a person who has brought an appeal under this Part has been notified of the Secretary of State’s decision to make a deportation order against him; and
 - (b) as a result of section 64(1), he is not entitled to appeal against that decision under section 63.
- (2) Subsection (3) also applies if—
- (a) a person who has brought an appeal under this Part has been notified of the Secretary of State’s decision to refuse to revoke a deportation order made against him; and
 - (b) as a result of section 64(2), he is not entitled to appeal against that refusal under section 63.
- (3) If he appeals against that decision under section 2(1) or 2A of the Special Immigration Appeals Commission Act 1997, any appeal under this Part is transferred to, and must be heard by, the Commission.
- (4) Subsection (5) applies if a person, in a statement required by a notice under section 74 or 75, states an additional ground which relates to a matter which may be the subject of an appeal under section 2(1) or 2A of the Special Immigration Appeals Commission Act 1997.
- (5) The appeal under this Part is transferred to, and must be heard by, the Commission.