

These notes refer to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19) which received Royal Assent on 22 July 2004

ASYLUM AND IMMIGRATION (TREATMENT OF CLAIMANTS, ETC.) ACT 2004

EXPLANATORY NOTES

APPEALS

Schedule 2: Asylum and Immigration Tribunal: Consequential Amendments and Transitional Provision

120. [Part 1](#) of this Schedule makes consequential amendments to other legislation. Where legislation refers to an “adjudicator” or the “Immigration Appeal Tribunal”, these are changed to refer to the new Asylum and Immigration Tribunal and Tribunal members.
121. [Paragraph 4](#) (British Nationality Act 1981). This provision has the effect that appeals under this Act are handled in the same way as appeals under Part 5 of the 2002 Act, and the same provisions for higher court oversight and legal aid are applied. It also has the effect that a deprivation order can be made before any appeal is heard, thereby allowing deprivation and deportation proceedings to take place concurrently.
122. [Paragraph 20](#) (Nationality, Immigration and Asylum Act 2002). This paragraph amends the powers of the Lord Chancellor to make rules governing the procedure of the Tribunal. They are enlarged to cover matters contained in section 26, such as the reconsideration of cases reviewed by the High Court under s.103A, and during the transitional period when senior members of the Tribunal consider s.103A applications before they go to the higher court. A purposive provision is added as s.106(1A) that in making rules, the Lord Chancellor should aim to ensure that the rules are designed to ensure that the proceedings are handled as fairly, quickly and efficiently as possible, and that they confer on members of the Tribunal similar responsibility for ensuring that proceedings are dealt with in that way.
123. [Paragraph 23](#). This adds to the provision in the 2002 which provides for the parliamentary procedure for subordinate legislation made under the 2002 Act. It provides that any regulations made under s.103D (legal aid for reviews and reconsiderations), attract the affirmative resolution procedure.
124. [Part 2](#) makes transitional provisions for the office holders and staff currently at the Immigration Appellate Authority. Persons appointed as adjudicators (under s.81 of the Nationality, Immigration and Asylum Act 2002) and members of the Immigration Appeal Tribunal (under Schedule 5 of the 2002 Act) will automatically be considered on commencement to have been appointed as a member of the new Tribunal. Similarly, the staff of the IAT automatically become staff of the AIT at commencement.
125. [Paragraph 29](#) introduces transitional arrangements for the operation of section 103A. For a period beginning with commencement and ending on a date appointed by order of the Lord Chancellor, an application made under section 103A(1) will be considered by a member of the Asylum and Immigration Tribunal. On consideration of the application the Tribunal member can make an order under section 103A(1). If the Tribunal member does not make an order under section 103A(1) the applicant can elect for his application to be looked at by the appropriate court.

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126. An order under paragraph 29 will be subject to the affirmative resolution procedure and the Lord Chancellor has a statutory requirement to consult before making the order. He may make a further order reviving the transitional arrangements by the same procedure.