



# Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

## 2004 CHAPTER 19

### *Appeals*

#### **30 Earlier right of appeal**

- (1) Section 96 of the Nationality, Immigration and Asylum Act 2002 (earlier right of appeal) shall be amended as follows.
- (2) For subsections (1) to (3) substitute—
  - “(1) An appeal under section 82(1) against an immigration decision (“the new decision”) in respect of a person may not be brought if the Secretary of State or an immigration officer certifies—
    - (a) that the person was notified of a right of appeal under that section against another immigration decision (“the old decision”) (whether or not an appeal was brought and whether or not any appeal brought has been determined),
    - (b) that the claim or application to which the new decision relates relies on a matter that could have been raised in an appeal against the old decision, and
    - (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in an appeal against the old decision.
  - (2) An appeal under section 82(1) against an immigration decision (“the new decision”) in respect of a person may not be brought if the Secretary of State or an immigration officer certifies—
    - (a) that the person received a notice under section 120 by virtue of an application other than that to which the new decision relates or by virtue of a decision other than the new decision,

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*Status: This is the original version (as it was originally enacted).*

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- (b) that the new decision relates to an application or claim which relies on a matter that should have been, but has not been, raised in a statement made in response to that notice, and
  - (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in a statement made in response to that notice.”
- (3) In subsection (5) for “Subsections (1) to (3) apply to prevent or restrict” substitute “Subsections (1) and (2) apply to prevent”.
- (4) At the end add—
  - “(7) A certificate under subsection (1) or (2) shall have no effect in relation to an appeal instituted before the certificate is issued.”