



# Immigration Act 1971

## 1971 CHAPTER 77

### <sup>F1</sup>PART II

#### APPEALS

##### *Appeals to adjudicator or Tribunal in first instance*

### **15 Appeals in respect of deportation orders.**

- (1) Subject to the provisions of this Part of this Act, a person may appeal to an adjudicator against—
  - (a) a decision of the Secretary of State to make a deportation order against him by virtue of section 3(5) above; or
  - (b) a refusal by the Secretary of State to revoke a deportation order made against him.
- (2) A deportation order shall not be made against a person by virtue of section 3(5) above so long as an appeal may be brought against the decision to make it nor, if such an appeal is duly brought, so long as the appeal is pending; but, in calculating the period of eight weeks limited by section 5(3) above for making a deportation order against a person as belonging to the family of another person, there shall be disregarded any period during which there is pending an appeal against the decision to make it.
- (3) A person shall not be entitled to appeal against a decision to make a deportation order against him if the ground of the decision was that his deportation is conducive to the public good as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature.
- (4) A person shall not be entitled to appeal under this section against a refusal to revoke a deportation order, if the Secretary of State certifies that the appellant's exclusion from

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- the United Kingdom is conducive to the public good or if revocation was refused on that ground by the Secretary of State (and not by a person acting under his authority).
- (5) A person shall not be entitled to appeal under this section against a refusal to revoke a deportation order so long as he is in the United Kingdom, whether because he has not complied with the requirement to leave or because he has contravened the prohibition on entering.
- (6) On an appeal against a decision to make a deportation order against a person as belonging to the family of another person, or an appeal against a refusal to revoke a deportation order so made, the appellant shall not be allowed, for the purpose of showing that he does not or did not belong to another person's family, to dispute any statement made with a view to obtaining leave for the appellant to enter or remain in the United Kingdom (including any statement made to obtain an entry clearance) unless the appellant shows that the statement was not so made by him or by any person acting with his authority and that, when he took the benefit of the leave, he did not know any such statement had been made to obtain it or, if he did know, was under the age of eighteen.
- (7) An appeal under this section shall be to the Appeal Tribunal in the first instance, instead of to an adjudicator, if—
- (a) it is an appeal against a decision to make a deportation order and the ground of the decision was that the deportation of the appellant is conducive to the public good; or
  - (b) it is an appeal against a decision to make a deportation order against a person as belonging to the family of another person, or an appeal against a refusal to revoke a deportation order so made; or
  - (c) there is pending a related appeal to which paragraph (b) above applies.
- (8) Where an appeal to an adjudicator is pending under this section, and before the adjudicator has begun to hear it a related appeal is brought, the appeal to the adjudicator shall be dealt with instead by the Appeal Tribunal and be treated as an appeal duly made to the Tribunal in the first instance.
- (9) In relation to an appeal under this section in respect of a deportation order against any person (whether an appeal against a decision to make or against a refusal to revoke the order), any other appeal under this section is a “related appeal” if it is an appeal in respect of a deportation order against another person as belonging to the family of the first-mentioned person.

**Modifications etc. (not altering text)**

- C6** S. 15 restricted by [Immigration Act 1988 \(c. 14, SIF 62\)](#), **s. 5(1)**
- C7** S. 15(2) extended (26.7.1993) by [1993 c. 23, s. 8\(6\)](#), **Sch. 2 para.8**; [S.I. 1993/1655, art. 2](#)  
S. 15(2) extended (3.8.1998) by [1997 c. 68, s. 2, Sch. 2 paras.2, 4](#); [S.I. 1998/1892, art. 2](#)
- C8** S. 15(3)(4) applied (with modifications) (26.7.1993) by [1993 c. 23, s. 8\(6\)](#), **Sch. 2 para.6**; [S.I. 1993/1655, art. 2](#)
- C9** S. 15(3) applied (20.7.1994) by [S.I. 1994/1895, art. 20\(2\)](#)

**16 Appeals against validity of directions for removal.**

- (1) Subject to the provisions of this Part of this Act, where directions are given under this Act for a person's removal from the United Kingdom either—

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- (a) on the ground that he is an illegal entrant or on the ground specifically that he has entered the United Kingdom in breach of a deportation order; or
- (b) under the special powers conferred by Schedule 2 to this Act in relation to members of the crew of a ship or aircraft or persons coming to the United Kingdom to join a ship or aircraft as a member of the crew;

then he may appeal to an adjudicator against those directions on the ground that in the facts of his case there was in law no power to give them on the ground on which they were given.

- (2) A person shall not be entitled to appeal under this section so long as he is in the United Kingdom, unless he is appealing against directions given by virtue of a deportation order (whether on the ground specifically that he has returned in breach of that order or on the ground that he is an illegal entrant) and is appealing on the ground that he is not the person named in that order.
- (3) Where a person appeals under this section against directions given by virtue of a deportation order, he shall not be allowed to dispute the original validity of that order.
- (4) An appeal under this section against directions given as mentioned in subsection (1) (b) shall be dismissed by the adjudicator, notwithstanding that the ground of appeal may be made out, if he is satisfied that there was power to give the like directions on the ground that the appellant was an illegal entrant.

## **17 Appeals against removal on objection to destination.**

- (1) Subject to the provisions of this Part of this Act, where directions are given under this Act for a person's removal from the United Kingdom either—
  - (a) on his being refused leave to enter; or
  - (b) on a deportation order being made against him; or
  - (c) on his having entered the United Kingdom in breach of a deportation order;
 he may appeal to an adjudicator against the directions on the ground that he ought to be removed (if at all) to a different country or territory specified by him.
- (2) Where a person appeals under section 13(1) above on being refused leave to enter the United Kingdom, and either—
  - (a) before he does so, directions have been given for his removal from the United Kingdom to any country or territory; or
  - (b) before or after he does so, the Secretary of State or an immigration officer serves on him notice that any directions which may be given for his removal by virtue of the refusal will be for his removal to a country or territory or one of several countries or territories specified in the notice;
 then he may on that appeal object to the country or territory to which he would be removed in pursuance of the directions, or to that specified in the notice (or to one or more of those specified), and claim that he ought to be removed (if at all) to a different country or territory specified by him.
- (3) Where a person appeals under section 15 above against a decision to make a deportation order against him, and before or after he does so the Secretary of State serves on him notice that any directions which may be given for his removal by virtue of the deportation order will be for his removal to a country or territory or one of several countries or territories specified in the notice, then he may on that appeal object to the country or territory specified in the notice (or to one or more of those specified),

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and claim that he ought to be removed (if at all) to a different country or territory specified by him.

- (4) Where by virtue of subsection (2) or (3) above a person is able to object to a country or territory on an appeal under section 13(1) or 15, and either he does not object to it on that appeal or his objection to it on that appeal is not sustained, then he shall not be entitled to appeal under this section against any directions subsequently given by virtue of the refusal or order in question, if their effect will be his removal to that country or territory.
- (5) A person shall not be entitled to appeal under this section against any directions given on his being refused leave to enter the United Kingdom, unless either he is also appealing under section 13(1) against the decision that he requires leave to enter or he was refused leave at a port of entry and at a time when he held a current entry clearance or was a person named in a current work permit.

## 18 Notice of matters in respect of which there are rights of appeal.

- (1) The Secretary of State may by regulations provide—
  - (a) for written notice to be given to a person of any such decision or action taken in respect of him as is appealable under this Part of this Act (whether or not he is in the facts of his case entitled to appeal) or would be so appealable but for the ground on which it is taken;
  - (b) for any such notice to include a statement of the reasons for the decision or action and, where the action is the giving of directions for the removal of any person from the United Kingdom, of the country or territory to which he is to be removed;
  - (c) for any such notice to be accompanied by a statement containing particulars of the rights of appeal available under this Part of this Act and of the procedure by which those rights may be exercised;
  - (d) for the form of any such notice or statement and the way in which a notice is to be or may be given.
- (2) For the purpose of any proceedings under this Part of this Act a statement included in a notice in pursuance of regulations under this section shall be conclusive of the person by whom and of the ground on which any decision or action was taken.
- (3) The power to make regulations under this section shall be exercisable by statutory instrument, and any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Modifications etc. (not altering text)

- C10** Ss. 18-21, 22(1)-(4)(6)(7), 23 and Sch. 5 amended (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 4(2)(a)-(f)**; S.I. 1993/1655, **art. 2**
- S. 18 amended (1.9.1996) by 1996 c. 49, s. 3(4)(a); S.I. 1996/2053, **art. 2, Sch. Pt. II**
- S. 18 amended (3.8.1998) by 1997 c. 68, s. 2, **Sch. 2 para.6**; S.I. 1998/1892, **art. 2**

## 19 Determination of appeals by adjudicators.

- (1) Subject to sections 13(4) and 16(4) above, and to any restriction on the grounds of appeal, an adjudicator on an appeal to him under this Part of this Act—

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- (a) shall allow the appeal if he considers—
    - (i) that the decision or action against which the appeal is brought was not in accordance with the law or with any immigration rules applicable to the case; or
    - (ii) where the decision or action involved the exercise of a discretion by the Secretary of State or an officer, that the discretion should have been exercised differently; and
  - (b) in any other case, shall dismiss the appeal.
- (2) For the purposes of subsection (1)(a) above the adjudicator may review any determination of a question of fact on which the decision or action was based; and for the purposes of subsection (1)(a)(ii) no decision or action which is in accordance with the immigration rules shall be treated as having involved the exercise of a discretion by the Secretary of State by reason only of the fact that he has been requested by or on behalf of the appellant to depart, or to authorise an officer to depart, from the rules and has refused to do so.
- (3) Where an appeal is allowed, the adjudicator shall give such directions for giving effect to the determination as the adjudicator thinks requisite, and may also make recommendations with respect to any other action which the adjudicator considers should be taken in the case under this Act; and, subject to section 20(2) below, it shall be the duty of the Secretary of State and of any officer to whom directions are given under this subsection to comply with them.
- (4) Where in accordance with section 15 above a person appeals to the Appeal Tribunal in the first instance, this section shall apply with the substitution of references to the Tribunal for references to an adjudicator.

**Modifications etc. (not altering text)**

- C11** Ss. 18-21, 22(1)-(4)(6)(7), 23 and Sch. 5 amended (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 4(2)(a)-(f)**; S.I. 1993/1655, **art. 2**  
S. 19 amended (1.9.1996) by 1996 c. 49, s. 3(4)(b); S.I. 1996/2053, art. 2, **Sch. Pt. II**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [2008 c. 4 s. 133\(7\)\(8\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10(1A)(1B) inserted by [1999 c. 33 Sch. 14 para. 47\(3\)](#)
- s. 24(1)(fa) inserted by [2023 c. 37 s. 10\(2\)](#)
- s. 24C-24F inserted by [2016 c. 19 s. 44\(2\)](#)
- s. 26A(1)(b)(ia) inserted by [2016 c. 19 Sch. 11 para. 25](#)
- s. 27(1)(aa) inserted by [2023 c. 37 s. 10\(3\)\(a\)](#)
- s. 27(1)(ba) inserted by [2023 c. 37 s. 10\(3\)\(b\)](#)
- s. 28CA(1)(bb) substituted for word in s. 28CA(1)(b) by [2016 c. 19 s. 44\(5\)](#)
- Sch. 2 para. 27B(4A) inserted by [2004 c. 19 s. 16](#)
- Sch. 2 para. 26(4) inserted by [2016 c. 19 s. 74\(1\)](#)
- Sch. 2 Pt. 1A inserted by [2016 c. 19 Sch. 13](#)
- Sch. 2 para. 11A inserted by [2023 c. 37 s. 10\(4\)](#)