

## SCHEDULE 2

Article 3

### **Transitional provisions relating to the 1999 Act**

1.—(1) In this paragraph, a reference to a section or to a Schedule is to be read as a reference to a section of, or to a Schedule to, the 1999 Act, unless otherwise specified.

(2) Section 10 (removal of certain persons unlawfully in the United Kingdom) is not to have effect in relation to—

(a) any person on whom the Secretary of State has, before 2nd October 2000, served a notice of his intention to make a deportation order; and

(b) any person—

(i) who applied during the regularisation period fixed by section 9 of the 1999 Act, in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000(1), for leave to remain in the United Kingdom; and

(ii) on whom the Secretary of State has since served a notice of his decision to make a deportation order.

(3) Subsections (5) to (10) of section 58 (pending appeals) are to apply to appeals under Part II of the 1971 Act, section 8 of the 1993 Act and section 3 of the 1996 Act as they do to appeals under Part IV and—

(a) references to “this Part” are to be construed accordingly; and

(b) when an appeal is made under section 14 of the 1971 Act, the reference to section 61 in subsection (10) of section 58 is to include a reference to section 14 of the 1971 Act.

(4) Section 59 (appeals against exclusion from the United Kingdom) is not to have effect where the decision to refuse leave to enter the United Kingdom, or to refuse a certificate of entitlement or an entry clearance, was made before 2nd October 2000.

(5) Section 61 (appeals against decisions about variation of limited leave) is not to have effect where the decision to vary, or to refuse to vary, the limited leave to enter or remain was made before 2nd October 2000.

(6) Section 63 (appeals in respect of deportation orders) is not to have effect where the decision to make a deportation order, or the decision to refuse to revoke a deportation order, was made before 2nd October 2000.

(7) Section 65 (human rights appeals) is not to have effect where the decision under the Immigration Acts was taken before 2nd October 2000.

(8) Section 66 (appeals concerning the validity of directions for removal) is not to have effect where the directions for a person’s removal from the United Kingdom were given before 2nd October 2000.

(9) Section 67 (appeals objecting to the destination specified in removal directions) is not to have effect where the directions for a person’s removal from the United Kingdom were given before 2nd October 2000.

(10) If a person has appealed under section 13(1) or section 15 of the 1971 Act, the reference in section 68(2) to an appeal under section 59 or 63 is to include a reference to an appeal under subsection (2) or subsection (3) of section 17 of the 1971 Act.

(11) In section 69 (asylum appeals)—

(a) subsection (1) is not to have effect where the decision to refuse leave to enter the United Kingdom was made before 2nd October 2000;

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(1) S.I.2000/265.

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- (b) subsection (2) is not to have effect where the decision to vary, or to refuse to vary, the limited leave to enter or remain was made before 2nd October 2000;
- (c) subsection (3) is not to have effect where the decision to refuse leave to enter or remain in the United Kingdom was made before 2nd October 2000;
- (d) subsection (4) is not to have effect where the decision to make a deportation order, or the decision to refuse to revoke a deportation order, was made before 2nd October 2000; and
- (e) subsection (5) is not to have effect where the directions for a person's removal from the United Kingdom were given before 2nd October 2000.

(12) If a person has had the right to appeal under section 8(3)(a) of the 1993 Act, the reference in section 70(8) to the right to appeal under section 69(4)(a) is to include a reference to the right to appeal under section 8(3)(a) of the 1993 Act.

(13) The following paragraphs of Schedule 4 are to apply to appeals under Part II of the 1971 Act, section 8 of the 1993 Act and section 3 of the 1996 Act as they do to appeals under Part IV—

- (a) paragraph 6 (hearings in private);
- (b) paragraph 7 (leave to appeal);
- (c) paragraph 8 (offences);
- (d) paragraph 21 (determination of appeals);
- (e) paragraph 22 (appeals to Immigration Appeal Tribunal);
- (f) paragraph 23 (appeals from Immigration Appeal Tribunal); and
- (g) paragraph 24 (appeals which must be dismissed);

and references in these paragraphs to appeals under Part IV are to include references to appeals under Part II of the 1971 Act, section 8 of the 1993 Act and section 3 of the 1996 Act.

(14) Where an appeal is made under section 13 of the 1971 Act (appeals against exclusion from the United Kingdom), and the adjudicator dismisses that appeal, the reference in paragraph 7 of Schedule 4 (leave to appeal) to an appeal under section 59 (appeals against exclusion from the United Kingdom) is to include a reference to an appeal under section 13 of the 1971 Act.

(15) Where an appeal is made to the Immigration Appeal Tribunal in the first instance, in accordance with section 15 of the 1971 Act (appeals in respect of deportation orders), the references in paragraph 21 of Schedule 4 (determination of appeals) to an adjudicator are to include references to the Immigration Appeal Tribunal.

(16) Where an appeal is made under the 1996 Act, the reference in paragraph 22 of Schedule 4 (appeals to the Immigration Appeal Tribunal) to section 71 (removal to safe countries) is to include a reference to section 3(1)(a) of the 1996 Act (appeals against certificates).

(17) Where an appeal has been determined before 2nd October 2000 on the grounds that it has been abandoned, it is to continue to be treated as determined for the purposes of paragraphs 22 and 23 of Schedule 4 (appeals to and from the Immigration Appeal Tribunal).

(18) Where an appeal is made under section 16 of the 1971 Act (appeals against the validity of removal directions), the reference in paragraph 24(3) of Schedule 4 (appeals which must be dismissed) to section 66(1)(c) is to include a reference to section 16(1)(b) of the 1971 Act.

### **Transitional provisions relating to the appeals provisions of the 1971 Act**

2.—(1) In this paragraph, a reference to a section or to a Schedule is to be read as a reference to a section of, or a Schedule to, the 1971 Act, unless otherwise specified.

(2) Section 3C (continuation of leave pending decision), as inserted by section 3 of the 1999 Act, is to apply in relation to an application mentioned in section 3C(1)(a)—

- (a) which is made before 2nd October 2000; and
  - (b) in respect of which no decision has been made before 2nd October 2000;
- as it applies in relation to such an application made on or after 2nd October 2000.
- (3) Section 5 (procedure for, and further provisions as to, deportation) is to continue to have effect in relation to—
- (a) any person on whom the Secretary of State has, before 2nd October 2000, served a notice of his decision to make a deportation order; and
  - (b) any person—
    - (i) who applied during the regularisation period fixed by section 9 of the 1999 Act, in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000, for leave to remain in the United Kingdom; and
    - (ii) on whom the Secretary of State has since served a notice of his decision to make a deportation order;
- and, for the purposes of section 5, such a person is to be taken to be a person who is liable to deportation under section 3(5).
- (4) Section 13 (appeals against exclusion from the United Kingdom) is to continue to have effect where the decision to refuse leave to enter the United Kingdom, or to refuse a certificate of entitlement or an entry clearance, was made before 2nd October 2000.
- (5) Section 14 (appeals against conditions) is to continue to have effect where the decision to vary, or the refusal to vary, the limited leave to enter or remain was made before 2nd October 2000.
- (6) Section 15 (appeals in respect of deportation orders) is to continue to have effect where the decision to refuse to revoke a deportation order was made before 2nd October 2000.
- (7) Section 16 (appeals against validity of directions for removal) is to continue to have effect where the directions for a person's removal from the United Kingdom were given before 2nd October 2000.
- (8) Section 17 (appeals against removal on objection to destination) is to continue to have effect—
- (a) where the directions for a person's removal from the United Kingdom were given, or the notice specifying the destination of his removal was served, before 2nd October 2000; and
  - (b) in relation to any person—
    - (i) who applied during the regularisation period fixed by section 9 of the 1999 Act, in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000, for leave to remain in the United Kingdom; and
    - (ii) on whom the Secretary of State has since served a notice of his decision to make a deportation order.
- (9) Section 21 (references of cases by Secretary of State for further consideration) (including that section as applied by paragraph 4 of Schedule 2 to the 1993 Act and by section 3 of the 1996 Act) is to continue to have effect where the Secretary of State has referred a matter for consideration under that section before 2nd October 2000.
- (10) Where an appeal is made under Part II (including that Part as it applies by virtue of Schedule 2 to the 1993 Act and by virtue of section 3 of the 1996 Act)—
- (a) paragraph 28 of Schedule 2 (stay on directions for removal) (including that paragraph as applied by paragraph 9 of Schedule 2 to the 1993 Act) is to continue to have effect;
  - (b) the following provisions are not to have effect—
    - (i) paragraph 29(1) of Schedule 2 (grant of bail pending appeal) (including that paragraph as applied by paragraph 9 of Schedule 2 to the 1993 Act and by

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section 3(6) of the 1996 Act), as amended by paragraph 66 of Schedule 14 to the 1999 Act;

- (ii) paragraph 3 of Schedule 3 (effect of appeals) (including that paragraph as applied by paragraph 9 of Schedule 2 to the 1993 Act), as amended by paragraph 69 of Schedule 14 to the 1999 Act.

### **Transitional provisions relating to the appeals provisions of the 1993 Act**

**3.**—(1) In this paragraph, a reference to a section or to a Schedule is to be read as a reference to a section of, or a Schedule to, the 1993 Act, unless otherwise specified.

(2) In section 8 (asylum appeals)—

- (a) subsection (1) is to continue to have effect where the decision to refuse leave to enter was made before 2nd October 2000;
- (b) subsection (2) is to continue to have effect where the decision to vary, or to refuse to vary, the limited leave to enter or remain was made before 2nd October 2000;
- (c) subsection (3) is to continue to have effect where the decision to make a deportation order, or the decision to refuse to revoke a deportation order, was made before 2nd October 2000;
- (d) subsection (4) is to continue to have effect where the directions for a person's removal from the United Kingdom were given before 2nd October 2000.

(3) Where an appeal is made under Part II of the 1971 Act (including that Part as it applies by virtue of Schedule 2)—

- (a) section 9A (bail pending appeal from Immigration Appeal Tribunal), as amended by paragraphs 105 and 106 of Schedule 14 to the 1999 Act, is not to have effect;
- (b) the reference in section 9A (without the amendments made by the 1999 Act) to section 9 (appeals from Immigration Appeal Tribunal) is to include a reference to paragraph 23 of Schedule 4 to the 1999 Act (appeals from Immigration Appeal Tribunal).

(4) Where an appeal is made under section 8, the section 8 appeals provisions are to continue to have effect.

(5) In this paragraph “the section 8 appeals provisions” means—

- (a) paragraph 1 of Schedule 2 (asylum appeal rights to replace rights under the 1971 Act);
- (b) paragraph 2 of Schedule 2 (scope of asylum right of appeal);
- (c) paragraph 3 of Schedule 2 (other grounds for appeal);
- (d) paragraph 5 of Schedule 2 (special appeals procedures for claims without foundation);
- (e) paragraph 6 of Schedule 2 (exception for national security);
- (f) paragraph 7 of Schedule 2 (suspension of variation of limited leave pending appeal);
- (g) paragraph 8 of Schedule 2 (deportation order not to be made while appeal pending);
- (h) paragraph 9 of Schedule 2 (stay of removal directions pending appeal and bail).

(6) Where an appeal is made under section 8, the reference in paragraph 5 of Schedule 2 to section 20(1) of the 1971 Act (appeals to the Immigration Appeal Tribunal) is to include a reference to paragraph 22(1) of Schedule 4 to the 1999 Act (appeals to the Immigration Appeal Tribunal).

### **Transitional provisions relating to the appeals provisions of the 1996 Act**

**4.**—(1) Sections 2 (removal etc of asylum claimants to safe third countries) and 3 (appeals against certificates under section 2) of the 1996 Act are to continue to have effect where a certificate under section 2(1) of that Act has been issued before 2nd October 2000.

(2) Where an appeal is made under section 3(1) of the 1996 Act, section 3(6) of that Act (grant of bail pending appeal) is to continue to have effect.

**Transitional provisions relating to the 1997 Act**

**5.—**(1) Section 2(2) of the 1997 Act (appeals to the Commission), as amended by paragraph 120 of Schedule 14 to the 1999 Act, is not to have effect where the refusal of entry clearance was made before 2nd October 2000.

(2) Subsections (1) to (6) of section 2A of the 1997 Act (jurisdiction: human rights), as inserted by paragraph 121 of Schedule 14 to the 1999 Act, are not to have effect where the appealable decision was taken before 2nd October 2000.