



# Asylum and Immigration Appeals Act 1993

## 1993 CHAPTER 23

An Act to make provision about persons who claim asylum in the United Kingdom and their dependants; to amend the law with respect to certain rights of appeal under the Immigration Act 1971; and to extend the provisions of the Immigration (Carriers' Liability) Act 1987 to transit passengers. [1st July 1993]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1** Act amended (2.10.2000) by 1999 c. 33, s. 65(1); S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3)  
Act modified (1.9.2001) by 2001 c. 17, s. 32(7) (with ss. 27(3), 39, 78); S.I. 2001/2161, art. 2

### *Introductory*

## **1 Interpretation.**

In this Act—

“the 1971 Act” means the <sup>M1</sup>Immigration Act 1971;

“claim for asylum” means a claim made by a person (whether before or after the coming into force of this section) that it would be contrary to the United Kingdom's obligations under the Convention for him to be removed from, or required to leave, the United Kingdom; and

“the Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention.

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*Changes to legislation: There are currently no known outstanding effects for the Asylum and Immigration Appeals Act 1993. (See end of Document for details)*

#### Commencement Information

**II** [S. 1](#) in force at 26.7.1993; [s. 1](#) not in force at Royal Assent so far as it relates to ss. 4-11, see [s. 14\(1\)\(3\)](#); [s.1](#) in force so far as relating to ss. 4-11 at 26.7.1993 by [S.I. 1993/1655](#), [art.2](#)

#### Marginal Citations

**M1** [1971 c. 77](#).

## 2 Primacy of Convention.

Nothing in the immigration rules (within the meaning of the 1971 Act) shall lay down any practice which would be contrary to the Convention.

### *Treatment of persons who claim asylum*

## [<sup>F13</sup> Fingerprinting.

- (1) Where a person (“the claimant”) has made a claim for asylum, an immigration officer, constable, prison officer or officer of the Secretary of State authorised for the purposes of this section may—
  - (a) take such steps as may be reasonably necessary for taking the claimant’s fingerprints; or
  - (b) by notice in writing require the claimant to attend at a place specified in the notice in order that such steps may be taken.
- (2) The powers conferred by subsection (1) above may be exercised not only in relation to the claimant but also in relation to any dependant of his; but in the exercise of the power conferred by paragraph (a) of that subsection, fingerprints shall not be taken from a person under the age of sixteen (“the child”) except in the presence of a person of full age who is—
  - (a) the child’s parent or guardian; or
  - (b) a person who for the time being takes responsibility for the child and is not an immigration officer, constable, prison officer or officer of the Secretary of State.
- (3) Where the claimant’s claim for asylum has been finally determined or abandoned—
  - (a) the powers conferred by subsection (1) above shall not be exercisable in relation to him or any dependant of his; and
  - (b) any requirement imposed on him or any dependant of his by a notice under subsection (1)(b) above shall no longer have effect.
- (4) A notice given to any person under paragraph (b) of subsection (1) above—
  - (a) shall give him a period of at least seven days within which he is to attend as mentioned in that paragraph; and
  - (b) may require him so to attend at a specified time of day or between specified times of day.
- (5) Any immigration officer or constable may arrest without warrant a person who has failed to comply with a requirement imposed on him by a notice under subsection (1)(b) above (unless the requirement no longer has effect) and, where a person is arrested under this subsection,—

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- (a) he may be removed to a place where his fingerprints may conveniently be taken, and
  - (b) (whether or not he is so removed) there may be taken such steps as may be reasonably necessary for taking his fingerprints,
- before he is released.
- (6) Fingerprints of a person which are taken by virtue of this section must be destroyed not later than the earlier of—
- (a) the end of the period of one month beginning with any day on which he is given indefinite leave under the 1971 Act to enter or remain in the United Kingdom; and
  - (b) the end of the period of ten years beginning with the day on which the fingerprints are taken.
- (7) Where fingerprints taken by virtue of this section are destroyed—
- (a) any copies of the fingerprints shall also be destroyed; and
  - (b) if there are any computer data relating to the fingerprints, the Secretary of State shall, as soon as it is practicable to do so, make it impossible for access to be gained to the data.
- (8) If—
- (a) subsection (7)(b) above falls to be complied with, and
  - (b) the person to whose fingerprints the data relate asks for a certificate that it has been complied with,
- such a certificate shall be issued to him by the Secretary of State not later than the end of the period of three months beginning with the day on which he asks for it.
- (9) In this section—
- (a) “immigration officer” means an immigration officer appointed for the purposes of the 1971 Act; and
  - (b) “dependant”, in relation to the claimant, means a person—
    - (i) who is his spouse or a child of his under the age of eighteen; and
    - (ii) who has neither a right of abode in the United Kingdom nor indefinite leave under the 1971 Act to enter or remain in the United Kingdom.
- (10) Nothing in this section shall be taken to limit the power conferred by paragraph 18(2) of Schedule 2 to the 1971 Act.]

**Textual Amendments**

**F1** S. 3 repealed (11.12.2000) by 1999 c. 33, s. 169(3), Sch. 16 and omitted (*prosp.*) by ss. 169(1), 170(4), Sch. 14 paras. 99, 100; S.I. 2000/3099, art. 3, Sch.

**F2**4 .....

**Textual Amendments**

**F2** S. 4 repealed (3.4.2000) by 1999 c. 33, ss. 120(6), 121(3), 169(1)(3), Sch. 14 paras. 99, 101, Sch. 16; S.I. 2000/464, art. 2, Sch.

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F35 .....

**Textual Amendments**

**F3** S. 5 repealed (3.4.2000) by 1999 c. 33, ss. 120(6), 121(3), 169(1)(3), Sch. 14 paras. 99, 101, **Sch. 16**; S.I. 2000/464, art. 2, **Sch.**

[F46 **Protection of claimants from deportation etc.**

During the period beginning when a person makes a claim for asylum and ending when the Secretary of State gives him notice of the decision on the claim, he may not be removed from, or required to leave, the United Kingdom.]

**Textual Amendments**

**F4** S. 6 omitted (*retrospective* to 26.7.1993) by virtue of 1999 c. 33, ss. 169(1), 170(3)(s), **Sch. 14 para. 102**

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

**C2** S. 6 excluded (1.9.1996) by 1996 c. 49, s. 2(1); S.I. 1996/2053, art. 2, **Sch. Pt. II**

F57 .....

**Textual Amendments**

**F5** S. 7 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 103, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)

*Rights of appeal*

F68 .....

**Textual Amendments**

**F6** S. 8 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3, Sch. 2 para. 3(2)(4)); and s. 8(1)-(4) continued for specified purposes (14.3.2003) by S.I. 2003/754, art. 4, Sch. 2 para. 4

F79 .....

**Textual Amendments**

**F7** S. 9 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)

*Status: Point in time view as at 04/04/2003.*

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## [<sup>F8</sup>9A] **Bail pending appeal from Immigration Appeal Tribunal**

- (1) Where a person (“an appellant”)—
  - [<sup>F9</sup>(a) has an appeal under [<sup>F10</sup>Part 5 of the Nationality, Immigration and Asylum Act 2002] which is pending by reason of an appeal, or an application for leave to appeal;]
  - (b) is for the time being detained under Part I of Schedule 2 to that Act (general provisions as to control on entry etc.),he may be released on bail in accordance with this section.
- (2) An immigration officer not below the rank of chief immigration officer, a police officer not below the rank of inspector or an adjudicator may release an appellant on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before the appropriate appeal court at a time and place named in the recognizance or bail bond.
- (3) The Immigration Appeal Tribunal may release an appellant on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before the appropriate appeal court at a time and place named in the recognizance or bail bond; and where—
  - (a) the appeal, or the application for leave to appeal, under section 9 above is by the Secretary of State; or
  - (b) the appellant has been granted leave to appeal under that section, and has duly given notice of appeal,the Tribunal shall, if the appellant so requests, exercise its powers under this subsection.
- (4) Sub-paragraphs (5) and (6) of paragraph 29 (grant of bail pending appeal) of Schedule 2 to the 1971 Act shall apply for the purposes of this section as they apply for the purposes of that paragraph.
- (5) Paragraphs 30 to 33 of that Schedule shall apply as if—
  - (a) any reference to paragraph 29 included a reference to this section;
  - (b) the reference in paragraph 30(2) to paragraph 29(3) or (4) included a reference to subsection (3) above; and
  - (c) any reference in paragraphs 31 to 33 to the Immigration Appeal Tribunal included a reference to the appropriate appeal court.
- [<sup>F11</sup>(6) In this section ‘the appropriate appeal court’ means—
  - (a) if the appeal is from the determination of an adjudicator made in Scotland, the Court of Session; and
  - (b) in any other case, the Court of Appeal.]

### Textual Amendments

- F8** S. 9A inserted (1.9.1996) by 1996 c. 49, s. 12(2), **Sch. 3 para. 3**; S.I. 1996/2053, art. 2, **Sch. Pt. II**
- F9** S. 9A(1)(a) substituted (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 99, **105**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)
- F10** Words in s. 9A(1)(a) substituted (4.4.2003) by *The Nationality, Immigration and Asylum Act 2002 (Consequential and Incidental Provisions) Order 2003* (S.I. 2003/1016), art. 2(2), **Sch. para. 6(a)** (with Sch. para. 7)
- F11** S. 9A(6) substituted (4.4.2003) by *The Nationality, Immigration and Asylum Act 2002 (Consequential and Incidental Provisions) Order 2003* (S.I. 2003/1016), art. 2(2), **Sch. para. 6(b)** (with Sch. para. 7)

*Status: Point in time view as at 04/04/2003.*

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

- C3** S. 9A savings for effects of 1999 c. 33, Sch. 14 paras. 105, 106 (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(3)(a)**
- C4** S. 9A modified (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(3)(b)**
- C5** S. 9A modified (1.4.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), **s. 68(1)-(5)**, 162(1) (with s. 159); S.I. 2003/754, art. 2(1), Sch. 1
- C6** S. 9A restricted (11.9.2000) by S.I. 2000/2444, **art. 3 Sch. 2 para. 3(3)(a)**  
S. 9A applied (11.9.2000) by S.I. 2000/2444, **art. 3 Sch. 2 para. 3(3)(b)**

**F12** **10** .....

**Textual Amendments**

- F8** S. 9A inserted (1.9.1996) by 1996 c. 49, s. 12(2), **Sch. 3 para. 3**; S.I. 1996/2053, art. 2, **Sch. Pt. II**
- F12** S. 10 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)

**F13** **11**] .....

**Textual Amendments**

- F8** S. 9A inserted (1.9.1996) by 1996 c. 49, s. 12(2), **Sch. 3 para. 3**; S.I. 1996/2053, art. 2, **Sch. Pt. II**
- F13** S. 11 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)

*Visas for transit passengers*

**12 Carriers' liability for transit passengers.**

**F14** .....

**Textual Amendments**

- F14** S. 12 repealed (8.12.2002) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 107, Sch. 16; S.I. 2002/2815, **art. 2, Sch.**

*Supplementary*

**13 Financial provision.**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any expenditure incurred by the Secretary of State under this Act; and

*Status: Point in time view as at 04/04/2003.*

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- (b) any increase attributable to this Act in the sums payable out of such money under any other enactment.
- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

#### **14 Commencement.**

- (1) Sections 4 to 11 above (and section 1 above so far as it relates to those sections) shall not come into force until such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions or for different purposes.
- (2) An order under subsection (1) above—
  - (a) shall be made by statutory instrument; and
  - (b) may contain such transitional and supplemental provisions as the Secretary of State thinks necessary or expedient.
- (3) Without prejudice to the generality of subsections (1) and (2) above, with respect to any provision of section 4 above an order under subsection (1) above may appoint different days in relation to different descriptions of asylum-seekers and dependants of asylum-seekers; and any such descriptions may be framed by reference to nationality, citizenship, origin or other connection with any particular country or territory, but not by reference to race, colour or religion.

#### **Subordinate Legislation Made**

P1 [S. 14\(2\)](#) power fully exercised (2.7.1993): 26.7.1993 appointed day by [S.I. 1993/1655](#)

#### **15 Extent.**

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.
- (2) This Act extends to Northern Ireland.

#### **16 Short title.**

This Act may be cited as the Asylum and Immigration Appeals Act 1993.

*Status: Point in time view as at 04/04/2003.*

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## SCHEDULES

### [<sup>F15F16</sup>SCHEDULE 1]

#### Textual Amendments

- F15** Sch. 1 (paras. 1-9) repealed (E.W.) (20.1.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. VIII**; S.I. 1996/2959, **art. 2**
- F16** Sch. 1 repealed (3.4.2000) by 1999 c. 33, ss. 120(6), 121(3), 169(1)(3), Sch. 14 paras. 99, 101, **Sch. 16**; S.I. 2000/464, art. 2, **Sch.**

### <sup>F35</sup> SCHEDULE 2

#### Textual Amendments

- F35** Sch. 2 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3, Sch. 2 para. 3(2)(4))

#### *New appeal rights to replace rights under the 1971 Act*

- 1 No appeal may be brought under Part II of the 1971 Act on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act.

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

- C7** Sch. 2 para. 1 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(a)**

#### *Scope of new rights of appeal*

- 2 A person may not bring an appeal on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act unless, before the time of the refusal, variation, decision or directions (as the case may be), he has made a claim for asylum.



*Status: Point in time view as at 04/04/2003.*

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

- C8** Sch. 2 para. 2 continued (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), [Sch. 2 para. 4\(5\)\(b\)](#)

*Other grounds of appeal*

- 3 Where an appeal is brought by a person on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act, the special adjudicator shall in the same proceedings deal with—
- (a) any appeal against the refusal, variation, decision or directions (as the case may be) which the person is entitled to bring under Part II of the 1971 Act on any other ground on which he seeks to rely; and
  - (b) any appeal brought by the person under that Part of that Act against any other decision or action.

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

- C9** Sch. 2 para. 3 continued (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), [Sch. 2 para. 4\(5\)\(c\)](#)

*Application of procedures in the 1971 Act*

- .....
- 4 (1) Subject to sub-paragraphs (3) and (4) of this paragraph and to paragraph 5 below, the provisions of the 1971 Act specified in sub-paragraph (2) below shall have effect as if section 8 of this Act were contained in Part II of that Act.
- (2) The provisions referred to in sub-paragraph (1) above are—
- (a) section 18 (notice of decisions appealable under that Part and statement of appeal rights etc.);
  - (b) section 19 (determination of appeals under that Part by adjudicators);
  - (c) section 20 (appeal from adjudicator to Immigration Appeal Tribunal);
  - (d) section 21 (references of cases by Secretary of State for further consideration);
  - (e) section 22(1) to (4), (6) and (7) (rules of procedure for appeals);
  - (f) section 23 (grants to voluntary organisations helping persons with rights of appeal);
  - (ff) section 33(4) (duration of appeals); and
  - (g) Schedule 5 (provisions about adjudicators and Immigration Appeal Tribunal).
- (3) Rules of procedure under section 22 may make special provision in relation to—
- (a) proceedings on appeals on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act; and

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*Status: Point in time view as at 04/04/2003.*

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- (b) proceedings in which, by virtue of paragraph 3 above, a special adjudicator is required to deal both with an appeal on any of those grounds and another appeal.
- (4) So much of paragraph 5 of Schedule 5 as relates to the allocation of duties among the adjudicators shall have effect subject to subsection (5) of section 8 of this Act.

*Special appeal procedures for claims without foundation*

- [<sup>F375</sup> (1) This paragraph applies to an appeal by a person on any of the grounds mentioned in subsections (1) to (4) of section 8 of this Act if the Secretary of State has certified that, in his opinion, the person's claim on the ground that it would be contrary to the United Kingdom's obligations under the Convention for him to be removed from, or be required to leave, the United Kingdom is one to which—
- (a) sub-paragraph (2), (3) or (4) below applies; and
  - (b) sub-paragraph (5) below does not apply.
- (2) This sub-paragraph applies to a claim if the country or territory to which the appellant is to be sent is designated in an order made by the Secretary of State by statutory instrument as a country or territory in which it appears to him that there is in general no serious risk of persecution.
- (3) This sub-paragraph applies to a claim if, on his arrival in the United Kingdom, the appellant was required by an immigration officer to produce a valid passport and either—
- (a) he failed to produce a passport without giving a reasonable explanation for his failure to do so; or
  - (b) he produced a passport which was not in fact valid and failed to inform the officer of that fact.
- (4) This sub-paragraph applies to a claim if—
- (a) it does not show a fear of persecution by reason of the appellant's race, religion, nationality, membership of a particular social group, or political opinion;
  - (b) it shows a fear of such persecution, but the fear is manifestly unfounded or the circumstances which gave rise to the fear no longer subsist;
  - (c) it is made at any time after the appellant—
    - (i) has been refused leave to enter under the 1971 Act,
    - (ii) has been recommended for deportation by a court empowered by that Act to do so,
    - (iii) has been notified of the Secretary of State's decision to make a deportation order against him by virtue of section 3(5) of that Act, or
    - (iv) has been notified of his liability to removal under paragraph 9 of Schedule 2 to that Act;
  - (d) it is manifestly fraudulent, or any of the evidence adduced in its support is manifestly false; or
  - (e) it is frivolous or vexatious.
- (5) This sub-paragraph applies to a claim if the evidence adduced in its support establishes a reasonable likelihood that the appellant has been tortured in the country or territory to which he is to be sent.

*Status: Point in time view as at 04/04/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Asylum and Immigration Appeals Act 1993. (See end of Document for details)*

- (6) Rules of procedure under section 22 of the 1971 Act may make special provision in relation to appeals to which this paragraph applies.
- (7) If on an appeal to which this paragraph applies the special adjudicator agrees that the claim is one to which—
- (a) sub-paragraph (2), (3) or (4) above applies; and
  - (b) sub-paragraph (5) above does not apply,
- section 20(1) of that Act shall not confer on the appellant any right to appeal to the Immigration Appeal Tribunal.
- (8) The first order under this paragraph shall not be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (9) A statutory instrument containing a subsequent order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this paragraph—
- “immigration officer” means an immigration officer appointed for the purposes of the 1971 Act;
  - “passport”, in relation to an appellant, means a passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship.]

#### Textual Amendments

**F37** Sch. 2 para. 5 substituted (21.10.1996) by 1996 c. 49, s. 1; S.I. 1996/2127, art. 2, Sch. Pt. II

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

**C10** Sch. 2 para. 5 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), Sch. 2 para. 4(5)(d)

#### *Exception for national security*

- 6 Subsection (5) of section 13, subsection (3) of section 14 and subsections (3) and (4) of section 15 of the 1971 Act shall have effect in relation to the rights of appeal conferred by section 8(1), (2) and (3)(a) and (b) of this Act respectively as they have effect in relation to the rights of appeal conferred by subsection (1) of those sections of that Act but as if references to a person’s exclusion, departure or deportation being conducive to the public good were references to its being in the interests of national security.

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

**C11** Sch. 2 para. 6 continued (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), Sch. 2 para. 4(5)(e)

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*Status: Point in time view as at 04/04/2003.*

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*Suspension of variation of limited leave pending appeal*

- 7 The limitation on the taking effect of a variation and on a requirement to leave the United Kingdom contained in subsection (1) of section 14 of the 1971 Act shall have effect as if appeals under section 8(2) of this Act were appeals under that subsection.

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

- C12** Sch. 2 para. 7 continued (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002](#) (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(f)**

*Deportation order not to be made while appeal pending*

- 8 In section 15(2) of the 1971 Act references to an appeal against a decision to make a deportation order shall include references to an appeal against such a decision under section 8(3)(a) of this Act.

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

- C13** Sch. 2 para. 8 continued (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002](#) (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(g)**

*Stay of removal directions pending appeal and bail*

- 9 Part II of Schedule 2, and paragraph 3 of Schedule 3, to the 1971 Act shall have effect as if the references to appeals under section 13(1), 15(1)(a) and 16 of that Act included (respectively) appeals under section 8(1), (3) and (4) of this Act and as if sub-paragraph (5) of paragraph 28 of Schedule 2 were omitted.

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

- C14** Sch. 2 para. 9 continued (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002](#) (Commencement No. 4) Order 2003 (S.I. 2003/754), **Sch. 2 para. 4(5)(h)**

**Status:**

Point in time view as at 04/04/2003.

**Changes to legislation:**

There are currently no known outstanding effects for the Asylum and Immigration Appeals Act 1993.