



Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5

[^{F1}APPEALS IN RESPECT OF PROTECTION AND HUMAN RIGHTS CLAIMS]

Appeal from adjudicator

100 Immigration Appeal Tribunal

[^{F1}(1) There shall continue to be an Immigration Appeal Tribunal.

(2) Schedule 5 (which makes provision about the Tribunal) shall have effect.]

Textual Amendments

F1 Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 26(5)(a)**, 47, 48(1)-(3), **Sch. 4**; S.I. 2005/565, **art. 2(a)** (with savings in arts. 3-9)

101 Appeal to Tribunal

[^{F2}(1) A party to an appeal to an adjudicator under section 82 or 83 may, with the permission of the Immigration Appeal Tribunal, appeal to the Tribunal against the adjudicator's determination on a point of law.

(2) A party to an application to the Tribunal for permission to appeal under subsection (1) may apply to the High Court or, in Scotland, to the Court of Session for a review of the Tribunal's decision on the ground that the Tribunal made an error of law.

(3) Where an application is made under subsection (2)—

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Cross Heading: Appeal from adjudicator is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) it shall be determined by a single judge by reference only to written submissions,
- (b) the judge may affirm or reverse the Tribunal’s decision,
- (c) the judge’s decision shall be final, and
- (d) if, in an application to the High Court, the judge thinks the application had no merit he shall issue a certificate under this paragraph (which shall be dealt with in accordance with Civil Procedure Rules).

(4) The Lord Chancellor may by order repeal subsections (2) and (3).]

Textual Amendments

F2 Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 26(5)(a)**, 47, 48(1)-(3), **Sch. 4**; S.I. 2005/565, **art. 2(a)** (with savings in arts. 3-9)

Modifications etc. (not altering text)

- C1** Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326, Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), **reg. 2(10)** (with transitional provisions in **reg. 3**))
- Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))
- C2** S. 101(1) extended (9.6.2003) by [S.I. 2003/754, Sch. 2 para. 1\(4A\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)
- C3** S. 101(2)(3) applied (with modifications) (9.6.2003) by [S.I. 2003/754, Sch. 2 para. 1\(4B\)\(a\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)

102 Decision

- [^{F3}(1) On an appeal under section 101 the Immigration Appeal Tribunal may—
- (a) affirm the adjudicator’s decision;
 - (b) make any decision which the adjudicator could have made;
 - (c) remit the appeal to an adjudicator;
 - (d) affirm a direction given by the adjudicator under section 87;
 - (e) vary a direction given by the adjudicator under that section;
 - (f) give any direction which the adjudicator could have given under that section.
- (2) In reaching their decision on an appeal under section 101 the Tribunal may consider evidence about any matter which they think relevant to the adjudicator’s decision, including evidence which concerns a matter arising after the adjudicator’s decision.
- (3) But where the appeal under section 82 was against refusal of entry clearance or refusal of a certificate of entitlement—
- (a) subsection (2) shall not apply, and
 - (b) the Tribunal may consider only the circumstances appertaining at the time of the decision to refuse.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Cross Heading: Appeal from adjudicator is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) In remitting an appeal to an adjudicator under subsection (1)(c) the Tribunal may, in particular—
- (a) require the adjudicator to determine the appeal in accordance with directions of the Tribunal;
 - (b) require the adjudicator to take additional evidence with a view to the appeal being determined by the Tribunal.]

Textual Amendments

- F3** Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 26\(5\)\(a\)](#), 47, 48(1)-(3), [Sch. 4](#); S.I. 2005/565, [art. 2\(a\)](#) (with savings in [arts. 3-9](#))

Modifications etc. (not altering text)

- C4** Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326](#), [Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), [reg. 2\(10\)](#) (with transitional provisions in [reg. 3](#)))
- Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), [arts. 3, 4](#) (with transitional provisions in [arts. 3, 4](#), [Sch. 2](#) (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))
- S. 102 applied (with modifications) (9.6.2003) by [S.I. 2003/754](#), [Sch. 2 para. 1\(4B\)\(a\)](#) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), [art. 4](#))

103 Appeal from Tribunal

- [^{F4}(1) Where the Immigration Appeal Tribunal determines an appeal under section 101 a party to the appeal may bring a further appeal on a point of law—
- (a) where the original decision of the adjudicator was made in Scotland, to the Court of Session, or
 - (b) in any other case, to the Court of Appeal.
- (2) An appeal under this section may be brought only with the permission of—
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the court referred to in subsection (1)(a) or (b).
- (3) The remittal of an appeal to an adjudicator under section 102(1)(c) is not a determination of the appeal for the purposes of subsection (1) above.]

Textual Amendments

- F4** Ss. 100-103 cease to have effect (4.4.2005) and repealed (prosp.) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 26\(5\)\(a\)](#), 47, 48(1)-(3), [Sch. 4](#); S.I. 2005/565, [art. 2\(a\)](#) (with savings in [arts. 3-9](#))

Modifications etc. (not altering text)

- C5** Ss. 101-103 applied (1.4.2003) by [S.I. 2000/2326](#), [Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), [reg. 2\(10\)](#) (with transitional provisions in [reg. 3](#)))

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Cross Heading: Appeal from adjudicator is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Ss. 101-103 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#), [S.I. 2003/1339](#) and [S.I. 2003/2993](#)))
S. 103 applied (with modifications) (9.6.2003) by [S.I. 2003/754](#), Sch. 2 para. 1(4B)(a) (as amended by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) \(Amendment\) \(No. 2\) Order 2003 \(S.I. 2003/1339\)](#), **art. 4**)

Changes to legislation:

Nationality, Immigration and Asylum Act 2002, Cross Heading: Appeal from adjudicator is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

View outstanding changes

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- s. 18(1)(1A) substituted for s. 18(1) by [2016 c. 19 Sch. 11 para. 31\(2\)](#)
- s. 22A inserted by [2022 c. 36 s. 13\(7\)](#)
- s. 27(ba) inserted by [2022 c. 36 s. 13\(10\)](#)
- s. 51(2)(d) and word inserted by [2016 c. 19 Sch. 11 para. 26\(6\)](#)
- s. 55(2)(aa) inserted by [2016 c. 19 Sch. 11 para. 26\(7\)](#)
- s. 62(3A) inserted by [2023 c. 37 s. 11\(8\)](#)
- s. 80A(5A) inserted by [2023 c. 37 s. 10\(8\)](#)
- s. 82A inserted by [2022 c. 36 s. 23\(1\)](#)
- s. 94(6B) inserted by [2006 c. 13 s. 13](#)
- s. 106(2)(ua) inserted by [2007 c. 30 s. 19\(3\)](#)
- s. 107(2A) inserted by [2022 c. 36 Sch. 3 para. 5\(a\)](#)
- s. 126(2A) inserted by [S.I. 2019/745 reg. 12\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 12(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 3 para. 1(1)(ga) inserted by [2016 c. 19 Sch. 12 para. 2\(2\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(a))
- Sch. 3 para. 1(2A) inserted by [2016 c. 19 Sch. 12 para. 2\(4\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(b))
- Sch. 3 para. 1A inserted by [2016 c. 19 Sch. 12 para. 3](#)
- Sch. 3 para. 2(1)(ca) inserted by [2016 c. 19 Sch. 12 para. 4\(3\)](#)
- Sch. 3 para. 2A inserted by [2016 c. 19 Sch. 12 para. 5](#)
- Sch. 3 para. 3A-3C inserted by [2016 c. 19 Sch. 12 para. 6](#)
- Sch. 3 para. 7B7C and cross-headings inserted by [2016 c. 19 Sch. 12 para. 9](#)
- Sch. 3 para. 10A10B inserted by [2016 c. 19 Sch. 12 para. 10](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(c))
- Sch. 3 para. 15(aa) inserted by [2016 c. 19 Sch. 12 para. 14\(2\)](#)
- Sch. 3 para. 15(d)-(f) inserted by [2016 c. 19 Sch. 12 para. 14\(4\)](#)
- Sch. 3 para. 7C(1)(c) word substituted by [S.I. 2019/745 reg. 12\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 12(5)(a)(c)(d) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 5 para. 3(1) Sch. 5 para. 3 renumbered as Sch. 5 para. 3(1) by [2005 c. 4 Sch. 4 para. 407\(2\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(2)-(4) inserted by [2005 c. 4 Sch. 4 para. 407\(4\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(1) words inserted by [2005 c. 4 Sch. 4 para. 407\(3\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))