



Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 6

IMMIGRATION PROCEDURE

Applications

118 Leave pending decision on variation application

The following shall be substituted for section 3C of the Immigration Act 1971 (c. 77) (continuation of leave to enter or remain pending decision on application for variation)

“3C Continuation of leave pending variation decision

- (1) This section applies if—
 - (a) a person who has limited leave to enter or remain in the United Kingdom applies to the Secretary of State for variation of the leave,
 - (b) the application for variation is made before the leave expires, and
 - (c) the leave expires without the application for variation having been decided.
- (2) The leave is extended by virtue of this section during any period when—
 - (a) the application for variation is neither decided nor withdrawn,
 - (b) an appeal under section 82(1) of the Nationality, Asylum and Immigration Act 2002 could be brought against the decision on the application for variation (ignoring any possibility of an appeal out of time with permission), or
 - (c) an appeal under that section against that decision is pending (within the meaning of section 104 of that Act).

Status: Point in time view as at 31/01/2020.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Cross Heading: Applications is up to date with all changes known to be in force on or before 26 May 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)

- (3) Leave extended by virtue of this section shall lapse if the applicant leaves the United Kingdom.
- (4) A person may not make an application for variation of his leave to enter or remain in the United Kingdom while that leave is extended by virtue of this section.
- (5) But subsection (4) does not prevent the variation of the application mentioned in subsection (1)(a).
- (6) In this section a reference to an application being decided is a reference to notice of the decision being given in accordance with regulations under section 105 of that Act (notice of immigration decision)."

119 Deemed leave on cancellation of notice

In paragraph 6(3) of Schedule 2 to the Immigration Act 1971 (c. 77) (deemed leave on cancellation of notice of refusal) after “and the immigration officer does not at the same time give him indefinite or limited leave to enter” there shall be inserted “ or require him to submit to further examination ”.

[^{F1}120 Requirement to state additional grounds for application

- (1) Subsection (2) applies to a person (“P”) if—
 - (a) P has made a protection claim or a human rights claim,
 - (b) P has made an application to enter or remain in the United Kingdom, or
 - (c) a decision to deport or remove P has been or may be taken.
- (2) The Secretary of State or an immigration officer may serve a notice on P requiring P to provide a statement setting out—
 - (a) P's reasons for wishing to enter or remain in the United Kingdom,
 - (b) any grounds on which P should be permitted to enter or remain in the United Kingdom, and
 - (c) any grounds on which P should not be removed from or required to leave the United Kingdom.
- (3) A statement under subsection (2) need not repeat reasons or grounds set out in—
 - (a) P's protection or human rights claim,
 - (b) the application mentioned in subsection (1)(b), or
 - (c) an application to which the decision mentioned in subsection (1)(c) relates.
- (4) Subsection (5) applies to a person (“P”) if P has previously been served with a notice under subsection (2) and—
 - (a) P requires leave to enter or remain in the United Kingdom but does not have it, or
 - (b) P has leave to enter or remain in the United Kingdom only by virtue of section 3C ^{F2}... of the Immigration Act 1971 (continuation of leave pending decision or appeal).
- (5) Where P's circumstances have changed since the Secretary of State or an immigration officer was last made aware of them (whether in the application or claim mentioned in subsection (1) or in a statement under subsection (2) or this subsection) so that P has—

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- (a) additional reasons for wishing to enter or remain in the United Kingdom,
- (b) additional grounds on which P should be permitted to enter or remain in the United Kingdom, or
- (c) additional grounds on which P should not be removed from or required to leave the United Kingdom,

P must, as soon as reasonably practicable, provide a supplementary statement to the Secretary of State or an immigration officer setting out the new circumstances and the additional reasons or grounds.

(6) In this section—

“human rights claim” and “protection claim” have the same meanings as in Part 5;

references to “grounds” are to grounds on which an appeal under Part 5 may be brought (see section 84).]

Textual Amendments

- F1** S. 120 substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 55](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F2** Words in s. 120(4)(b) omitted (1.12.2016) by virtue of [Immigration Act 2016 \(c. 19\)](#), [ss. 64\(3\)](#), 94(1) (with s. 64(5)); [S.I. 2016/1037](#), reg. 5(h)

Modifications etc. (not altering text)

- C1** S. 120 applied (1.4.2003) by [S.I. 2000/2326](#), reg. 26A (as inserted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), [reg. 2\(7\)](#))
- C2** S. 120 applied (with modifications) by [S.I. 2006/1003](#), Sch. 2 para. 4(8)(9) (as substituted (6.4.2015) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2015 \(S.I. 2015/694\)](#), reg. 2, [Sch. 1 para. 16\(b\)](#))
- C3** S. 120 applied (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), reg. 1(2)(b), [Sch. 2 para. 2\(2\)](#))
- C4** S. 120 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), [Sch. 2 paras. 1-3](#))

121 Compliance with procedure

The following shall be inserted after section 31A(3) of the Immigration Act 1971 (procedural requirements for application)—

“(3A) Regulations under this section may provide that a failure to comply with a specified requirement of the regulations—

- (a) invalidates an application,
- (b) does not invalidate an application, or
- (c) invalidates an application in specified circumstances (which may be described wholly or partly by reference to action by the applicant, the Secretary of State, an immigration officer or another person).”

Status:

Point in time view as at 31/01/2020.

Changes to legislation:

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