



# Immigration, Asylum and Nationality Act 2006

## 2006 CHAPTER 13

### *Appeals*

#### **F1** Variation of leave to enter or remain

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##### **Textual Amendments**

- F1** Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

##### **Commencement Information**

- I1** S. 1 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(1))

#### **F2** Removal

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##### **Textual Amendments**

- F1** Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

##### **Commencement Information**

- I2** S. 2 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(1))

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### **F13 Grounds of appeal**

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#### **Textual Amendments**

- F1** Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

#### **Commencement Information**

- I3** S. 3 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(1))

### **F14 Entry clearance**

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#### **Textual Amendments**

- F1** Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

#### **Commencement Information**

- I4** S. 4 in force at 1.4.2008 by [S.I. 2008/310](#), art. 3(a) (with art. 4)

### **F15 Failure to provide documents**

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#### **Textual Amendments**

- F1** Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [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))

#### **Commencement Information**

- I5** S. 5 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(1))

### **F16 Refusal of leave to enter**

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#### **Textual Amendments**

- F1** Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [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)

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(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))

#### Commencement Information

**I6** S. 6 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(2))

## 7 Deportation

- (1) After section 97 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals: national security) insert—

### “97A National security: deportation

- (1) This section applies where the Secretary of State certifies that the decision to make a deportation order in respect of a person was taken on the grounds that his removal from the United Kingdom would be in the interests of national security.
- (2) Where this section applies—
- (a) section 79 shall not apply,
  - (b) the Secretary of State shall be taken to have certified the decision to make the deportation order under section 97, and
  - (c) for the purposes of section 2(5) of the Special Immigration Appeals Commission Act 1997 (c. 68) (appeals from within United Kingdom) it shall be assumed that section 92 of this Act—
    - (i) would not apply to an appeal against the decision to make the deportation order by virtue of section 92(2) to (3D),
    - (ii) would not apply to an appeal against that decision by virtue of section 92(4)(a) in respect of an asylum claim, and
    - (iii) would be capable of applying to an appeal against that decision by virtue of section 92(4)(a) in respect of a human rights claim unless the Secretary of State certifies that the removal of the person from the United Kingdom would not breach the United Kingdom's obligations under the Human Rights Convention.
- (3) A person in respect of whom a certificate is issued under subsection (2)(c) (iii) may appeal to the Special Immigration Appeals Commission against the issue of the certificate; and for that purpose the Special Immigration Appeals Commission Act 1997 shall apply as to an appeal against an immigration decision to which section 92 of this Act applies.
- (4) The Secretary of State may repeal this section by order.”
- (2) In section 112 of that Act (regulations, &c.) after subsection (5A) insert—
- “(5B) An order under section 97A(4)—
- (a) must be made by statutory instrument,
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (c) may include transitional provision.”

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#### Commencement Information

**I7** S. 7 in force at 31.8.2006 by [S.I. 2006/2226](#), [art. 3](#), [Sch. 1](#)

### 8 Legal aid

- (1) Section 103D of the Nationality, Immigration and Asylum Act 2002 (c. 41) (reconsideration: legal aid) shall be amended as follows.
- (2) In subsection (2) for the words “where the Tribunal has decided an appeal following reconsideration pursuant to an order made” substitute “ where an order for reconsideration is made ”.
- (3) For subsection (3) substitute—
  - “(3) The Tribunal may order payment out of that Fund of the appellant's costs—
    - (a) in respect of the application for reconsideration;
    - (b) in respect of preparation for reconsideration;
    - (c) in respect of the reconsideration.”

#### Commencement Information

**I8** S. 8 in force at 30.4.2007 by [S.I. 2007/1109](#), [art. 3](#)

### 9 Abandonment of appeal

For section 104(4) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (pending appeal: deemed abandonment) substitute—

- “(4) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant leaves the United Kingdom.
- (4A) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom (subject to subsections (4B) and (4C)).
- (4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground relating to the Refugee Convention specified in section 84(1)(g) where the appellant—
  - (a) is granted leave to enter or remain in the United Kingdom for a period exceeding 12 months, and
  - (b) gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.
- (4C) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground specified in section 84(1)(b) where the appellant gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.”

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#### Commencement Information

**I9** S. 9 in force at 13.11.2006 by [S.I. 2006/2838](#), [art. 3](#)

## 10 Grants

Section 110(grants to advisory organisations) of the Nationality, Immigration and Asylum Act 2002 shall cease to have effect.

#### Commencement Information

**I10** S. 10 in force at 16.6.2006 by [S.I. 2006/1497](#), [art. 3](#), [Sch.](#)

## 11 Continuation of leave

(1) Section 3C of the Immigration Act 1971 (c. 77) (continuation of leave to enter or remain pending variation decision) shall be amended as follows.

(2) In subsection (2)(b) (continuation pending possible appeal) after “could be brought” insert “, while the appellant is in the United Kingdom”.

(3) In subsection (2)(c) (continuation pending actual appeal) after “against that decision” insert “, brought while the appellant is in the United Kingdom,”.

(4) For subsection (6) (decision) substitute—

“(6) The Secretary of State may make regulations determining when an application is decided for the purposes of this section; and the regulations—

- (a) may make provision by reference to receipt of a notice,
- (b) may provide for a notice to be treated as having been received in specified circumstances,
- (c) may make different provision for different purposes or circumstances,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(5) After section 3C insert—

### “3D Continuation of leave following revocation

(1) This section applies if a person's leave to enter or remain in the United Kingdom—

- (a) is varied with the result that he has no leave to enter or remain in the United Kingdom, or
- (b) is revoked.

(2) The person's leave is extended by virtue of this section during any period when—

- (a) an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 could be brought, while the person is in the United

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Kingdom, against the variation or revocation (ignoring any possibility of an appeal out of time with permission), or

(b) an appeal under that section against the variation or revocation, brought while the appellant is in the United Kingdom, is pending (within the meaning of section 104 of that Act).

(3) A person's leave as extended by virtue of this section shall lapse if he 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.”

<sup>F2</sup>(6) .....

#### Textual Amendments

**F2** S. 11(6) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [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))

#### Commencement Information

**I11** S. 11 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(3)-(5))

PROSPECTIVE

## 12 Asylum and human rights claims: definition

(1) Section 113(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals: interpretation) shall be amended as follows.

(2) For the definition of “asylum claim” substitute—

“asylum claim—

(a) means a claim made by a person that to remove him from or require him to leave the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention, but

(b) does not include a claim which, having regard to a former claim, falls to be disregarded for the purposes of this Part in accordance with immigration rules,”.

(3) For the definition of “human rights claim” substitute—

“human rights claim—

(a) means a claim made by a person that to remove him from or require him to leave the United Kingdom<sup>F3</sup> or to refuse him entry into the United Kingdom] would be unlawful under section 6 of the Human Rights Act 1998 (c. 42) (public authority not to act contrary to Convention)<sup>F4</sup> ..., but

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(b) does not include a claim which, having regard to a former claim, falls to be disregarded for the purposes of this Part in accordance with immigration rules.”.

#### Textual Amendments

- F3** Words in s. 12(3) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 57\(2\)\(a\)](#); [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))
- F4** Words in s. 12(3) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 57\(2\)\(b\)](#); [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))

PROSPECTIVE

### <sup>F5</sup>13 Appeal from within United Kingdom: certification of unfounded claim

#### Textual Amendments

- F5** [S. 13](#) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 57\(3\)](#); [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))

## 14 Consequential amendments

Schedule 1 (which makes amendments consequential on the preceding provisions of this Act) shall have effect.

#### Commencement Information

- I12** [S. 14](#) in force at 31.8.2006 for specified purposes by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

**Status:**

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**Changes to legislation:**

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