

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: Immigration Act 2016, Cross Heading: Power to support people making further submissions in relation to protection claims is up to date with all changes known to be in force on or before 15 July 2023.

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

SCHEDULES

SCHEDULE 11

SUPPORT FOR CERTAIN CATEGORIES OF MIGRANT

PART 1

AMENDMENTS OF THE IMMIGRATION ACTS

PROSPECTIVE

Power to support people making further submissions in relation to protection claims

- 3 (1) Section 94 of the Immigration and Asylum Act 1999 (interpretation of Part 6) is amended as follows.
- (2) In subsection (1)—
- (a) for the definition of “asylum-seeker” substitute—

““asylum-seeker” means a person falling within subsection (2A) or (2B) (but see also subsection (3C));”;
 - (b) omit the definition of “claim for asylum”;
 - (c) before the definition of “housing accommodation” insert—

““further qualifying submissions” has the meaning given by subsection (2C);”;
 - (d) after the definition of “Northern Ireland authority” insert—

““protection claim” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002;”.
- (3) After subsection (2) insert—
- “(2A) A person is an asylum-seeker for the purposes of this Part if—
- (a) the person is at least 18 years old,
 - (b) the person has made a protection claim, and
 - (c) the person's claim—
 - (i) has been recorded by the Secretary of State, but
 - (ii) has not been determined.
- (2B) A person is also an asylum-seeker for the purposes of this Part if—
- (a) the person is at least 18 years old,
 - (b) the person has made further qualifying submissions (see subsection (2C)), and
 - (c) the person's submissions—

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- (i) have been recorded by the Secretary of State, but
- (ii) have not been determined before the end of such period as may be prescribed.

(2C) A person makes “further qualifying submissions” if—

- (a) the person makes submissions to the Secretary of State that the person's removal from the United Kingdom would breach any of the obligations mentioned in section 82(2)(a)(i) or (ii) of the Nationality, Immigration and Asylum Act 2002 (protection claims), and
- (b) the submissions fall to be considered by the Secretary of State under paragraph 353 of the immigration rules.”

(4) In subsection (3), for “claim for asylum” substitute “ protection claim ”.

(5) After subsection (3) insert—

“(3A) For the purposes of this Part, further qualifying submissions made by a person are determined—

- (a) at the end of a prescribed period beginning with the relevant day (see subsection (3B)), or
- (b) in a case where no period is prescribed for the purposes of paragraph (a), at the end of the relevant day.

(3B) In subsection (3A) “the relevant day” means the day on which the Secretary of State notifies the person that the submissions made by the person are to be—

- (a) accepted,
- (b) rejected without being treated as a fresh protection claim, or
- (c) treated as a fresh protection claim.

(3C) If—

- (a) further qualifying submissions made by a person are rejected without being treated as a fresh protection claim, and
- (b) the person is granted permission to apply for judicial review of that rejection,

the person is to be treated as an asylum-seeker for the purposes of this Part during the review period (see subsection (3D)).

(3D) In subsection (3C) “the review period” means the period—

- (a) beginning with the day on which permission to apply for judicial review is granted, and
- (b) ending with—
 - (i) a prescribed period beginning with the day on which the judicial review is disposed of, or
 - (ii) in a case where no period is prescribed for the purposes of sub-paragraph (i), that day.”

(6) In subsection (8), after “subsection (3)” insert “ or (3B) ”.

In consequence of the repeal made by paragraph 3(2)(b)—

- (a) in section 96 of the Immigration and Asylum Act 1999 (ways in which support may be provided), in subsection (1)(c), for “claim for asylum” substitute “ protection claim ”;

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- (b) in section 141 of that Act (fingerprinting)—
 - (i) in subsections (7)(e), (8)(e) and (9)(e), for “claim for asylum” substitute “ protection claim ”, and
 - (ii) in subsection (15), for “ “Claim for asylum”” substitute “ “Protection claim” ”;
- (c) in section 167 of that Act (interpretation), in subsection (1), in the definition of “claim for asylum”, for “Parts V and VI and section 141” substitute “ Part 5 ”;
- (d) in Schedule 8 to that Act (provision of support: regulations), in paragraph 9(2)(b), for “claim for asylum” substitute “ protection claim ”;
- (e) in section 135 of the Criminal Justice and Immigration Act 2008 (support: supplemental), in subsection (5), for “claim for asylum” substitute “ protection claim ”.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)