



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 2

#### ASYLUM

##### *Appeals*

#### **27 Accelerated detained appeals**

- (1) In this section “accelerated detained appeal” means a relevant appeal (see subsection (6)) brought—
  - (a) by a person who—
    - (i) was detained under a relevant detention provision (see subsection (7)) at the time at which they were given notice of the decision which is the subject of the appeal, and
    - (ii) remains in detention under a relevant detention provision, and
  - (b) against a decision that—
    - (i) is of a description prescribed by regulations made by the Secretary of State, and
    - (ii) when made, was certified by the Secretary of State under this section.
- (2) The Secretary of State may only certify a decision under this section if the Secretary of State considers that any relevant appeal brought in relation to the decision would likely be disposed of expeditiously.
- (3) Tribunal Procedure Rules must secure that the following time limits apply in relation to an accelerated detained appeal—
  - (a) any notice of appeal must be given to the First-tier Tribunal not later than 5 working days after the date on which the appellant was given notice of the decision against which the appeal is brought;
  - (b) the First-tier Tribunal must make a decision on the appeal, and give notice of that decision to the parties, not later than 25 working days after the date on which the appellant gave notice of appeal to the tribunal;

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*Status: This is the original version (as it was originally enacted).*

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- (c) any application (whether to the First-tier Tribunal or the Upper Tribunal) for permission to appeal to the Upper Tribunal must be determined by the tribunal concerned not later than 20 working days after the date on which the applicant was given notice of the First-tier Tribunal’s decision.
- (4) A relevant appeal ceases to be an accelerated detained appeal on the appellant being released from detention under any relevant detention provision.
- (5) Tribunal Procedure Rules must secure that the First-tier Tribunal or (as the case may be) the Upper Tribunal may, if it is satisfied that it is the only way to secure that justice is done in a particular case, order that a relevant appeal is to cease to be an accelerated detained appeal.
- (6) For the purposes of this section, a “relevant appeal” is an appeal to the First-tier Tribunal under any of the following—
  - (a) section 82(1) of the Nationality, Immigration and Asylum Act 2002 (appeals in respect of protection and human rights claims);
  - (b) section 40A of the British Nationality Act 1981 (appeal against deprivation of citizenship);
  - (c) the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020 ([S.I. 2020/61](#)) (appeal rights in respect of EU citizens’ rights immigration decisions etc);
  - (d) regulation 36 of the Immigration (European Economic Area) Regulations 2016 ([S.I. 2016/1052](#)) (appeals against EEA decisions) as it continues to have effect following its revocation.
- (7) For the purposes of this section, a “relevant detention provision” is any of the following—
  - (a) paragraph 16(1), (1A) or (2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal);
  - (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation);
  - (c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal);
  - (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation).
- (8) In this section “working day” means any day except—
  - (a) a Saturday or Sunday, Christmas Day, Good Friday or 26 to 31 December, and
  - (b) any day that is a bank holiday under section 1 of the Banking and Financial Dealings Act 1971 in the part of the United Kingdom where the appellant concerned is detained.
- (9) Regulations under this section are subject to negative resolution procedure.

## **28 Claims certified as clearly unfounded: removal of right of appeal**

- (1) The Nationality, Immigration and Asylum Act 2002 is amended in accordance with subsections (2) and (3).
- (2) In section 92 (place from which an appeal may be brought or continued)—
  - (a) in each of subsections (2)(a) and (3)(a), for “94(1) or (7) (claim clearly unfounded or removal to a safe third country)” substitute “94(7) (removal to a safe country)”;

- (b) in each of subsections (6) and (8), for “94(1) or (7)” substitute “94(7)”.
- (3) In section 94 (appeal from within the United Kingdom: unfounded human rights or protection claim)—
  - (a) after subsection (3) insert—
    - “(3A) A person may not bring an appeal under section 82 against a decision if the claim to which the decision relates has been certified under subsection (1).”;
    - (b) in subsection (4), for “Those States” substitute “The States”;
    - (c) for the heading substitute “Certification of human rights or protection claims as unfounded or removal to safe country”.
- (4) The amendments made by this section do not apply in relation to a protection claim or human rights claim that was certified by the Secretary of State under section 94(1) before the coming into force of this section.