



# Nationality and Borders Act 2022

## 2022 CHAPTER 36

### PART 2

#### ASYLUM

PROSPECTIVE

#### *Priority removal notices*

#### **20 Priority removal notices**

- (1) The Secretary of State or an immigration officer may serve a person who is liable to removal or deportation from the United Kingdom with a priority removal notice.
- (2) A person who receives such a notice is referred to in this section as the “PRN recipient”.
- (3) A priority removal notice is a notice—
  - (a) requiring the PRN recipient to provide to the Secretary of State (and any other competent authority specified in the notice)—
    - (i) a statement setting out the matters described in section 120(2)(a) to (c) of the Nationality, Immigration and Asylum Act 2002 (reasons and grounds for application etc),
    - (ii) any relevant status information (within the meaning given by section 58(3)), and
    - (iii) any evidence in support of the matters mentioned in sub-paragraphs (i) and (ii), and
  - (b) setting out the date (the “PRN cut-off date”) before which the PRN recipient must comply with that requirement.
- (4) The requirement in subsection (3)(a) does not apply in relation to anything that the PRN recipient has previously provided to the Secretary of State or any other competent authority.

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- (5) Subsection (7) applies if the PRN recipient provides the Secretary of State or any other competent authority with any statement, information or evidence mentioned in subsection (3)(a) on or after the PRN cut-off date.
- (6) Subsection (7) also applies if the PRN recipient provides the First-tier Tribunal, the Upper Tribunal (when acting in the circumstances mentioned in section 22(9)) or the Special Immigration Appeals Commission with any statement, information or evidence mentioned in subsection (3)(a) that—
  - (a) should have been provided in response to the priority removal notice but was not, and
  - (b) is provided on or after the PRN cut-off date.
- (7) The PRN recipient must also provide a statement setting out their reasons for not providing the statement, information or evidence before the PRN cut-off date (and see sections 22 and 26).
- (8) For the purposes of this section, a person is “liable to removal or deportation from the United Kingdom” if they are liable to—
  - (a) removal under section 10 of the Immigration and Asylum Act 1999 (removal of persons unlawfully in the United Kingdom), or
  - (b) deportation under section 3(5) or (6) of the Immigration Act 1971 (deportation of foreign nationals where conducive to the public good or on conviction of offence punishable with imprisonment etc).
- (9) In this section “competent authority” has the same meaning as in Part 5 (see section 69).

#### Commencement Information

**II** S. 20 not in force at Royal Assent, see [s. 87\(1\)](#)

## 21 Priority removal notices: supplementary

- (1) A priority removal notice remains in force until the end of the period of 12 months beginning with—
  - (a) the PRN cut-off date, or
  - (b) if later, the day on which any appeal rights of the PRN recipient in respect of a relevant claim are exhausted.

See section 82A of the Nationality, Immigration and Asylum Act 2002 (the “2002 Act”) for the consequences of a priority removal notice being in force.

- (2) In subsection (1) “relevant claim” means a protection claim or a human rights claim brought by the PRN recipient while the priority removal notice is in force.
- (3) For the purposes of subsection (1), the PRN recipient’s appeal rights in respect of a claim are exhausted at the time when—
  - (a) the PRN recipient’s claim has been determined,
  - (b) the PRN recipient could not bring an appeal in respect of the claim under section 82 of the 2002 Act (ignoring any possibility of an appeal out of time with permission), and

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- (c) no appeal brought by the PRN recipient is pending within the meaning of section 104 of that Act.
- (4) A priority removal notice remains in force until the end of the period mentioned in subsection (1) even if the PRN recipient ceases to be liable to removal or deportation from the United Kingdom during that period.
- (5) A priority removal notice may not be served on a person in relation to whom such a notice is already in force (but this does not prevent a further notice from being served once the previous notice ceases to be in force as mentioned in subsection (1)).
- (6) Subsection (7) applies if the PRN recipient has previously been served with—
  - (a) an evidence notice under section 18,
  - (b) a slavery or trafficking information notice under section 58, or
  - (c) a notice under section 120 of the 2002 Act (requirement to provide reasons and grounds).
- (7) The previous notice ceases to have effect on the service of the priority removal notice.
- (8) Expressions used in this section that are defined for the purposes of section 20 have the same meaning in this section as in that section.

#### Commencement Information

**I2** S. 21 not in force at Royal Assent, see [s. 87\(1\)](#)

## 22 Late compliance with priority removal notice: damage to credibility

- (1) This section applies where—
  - (a) a PRN recipient provided material in response to the priority removal notice served on them,
  - (b) the material was provided late, and
  - (c) a relevant decision is being made.
- (2) This section also applies where—
  - (a) a PRN recipient provided material to the First-tier Tribunal, the Upper Tribunal (when acting in the circumstances mentioned in subsection (9)) or the Special Immigration Appeals Commission,
  - (b) the material should have been provided in response to the priority removal notice served on the PRN recipient but was not,
  - (c) the material was provided late, and
  - (d) a relevant decision is being made.
- (3) A “relevant decision” is being made if—
  - (a) a protection claim or a human rights claim made by the PRN recipient is being considered, or
  - (b) a competent authority is making a reasonable grounds decision or a conclusive grounds decision in relation to the PRN recipient (decisions concerning status as victim of slavery or human trafficking).
- (4) In determining whether to believe a statement made by or on behalf of the PRN recipient, a deciding authority must take account, as damaging the PRN recipient’s

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credibility, of the late provision of the material, unless there are good reasons why it was provided late.

- (5) Tribunal Procedure Rules must secure that, where the First-tier Tribunal or the Upper Tribunal (when acting in the circumstances mentioned in subsection (9)) is making a decision that disposes of proceedings, it must include, as part of its reasons for the decision, a statement explaining—
  - (a) whether it considers that this section applies, and
  - (b) if it considers that this section does apply, how, in making its decision, it has taken account of the fact that the PRN recipient provided the material late.
- (6) Rules under section 5 of the Special Immigration Appeals Commission Act 1997 (SIAC procedure rules) must secure that, where the Special Immigration Appeals Commission is making a decision that determines proceedings, it must include, as part of its reasons for the decision, a statement explaining the matters mentioned in subsection (5)(a) and (b).
- (7) For the purposes of this section, material is provided “late” by the PRN recipient if it is provided on or after the PRN cut-off date.
- (8) In subsection (4) “deciding authority”—
  - (a) in relation to a decision mentioned in subsection (3)(a) means—
    - (i) the Secretary of State,
    - (ii) an immigration officer,
    - (iii) the First-tier Tribunal,
    - (iv) the Upper Tribunal in the circumstances described in subsection (9), or
    - (v) the Special Immigration Appeals Commission;
  - (b) in relation to a decision mentioned in subsection (3)(b), means the competent authority.
- (9) The circumstances are when the Upper Tribunal is acting—
  - (a) under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007 (Upper Tribunal re-making First-tier Tribunal decision on finding of error of law), or
  - (b) in relation to—
    - (i) an expedited appeal within the meaning of section 82A of the Nationality, Immigration and Asylum Act 2002, or
    - (ii) an expedited related appeal within the meaning of section 24 that involves a protection claim or a human rights claim.
- (10) In this section—
 

“competent authority”, “conclusive grounds decision” and “reasonable grounds decision” have the same meanings as in Part 5;

“priority removal notice”, “PRN cut-off date”, “PRN recipient” and “relevant status information” have the same meanings as in section 20.
- (11) Section 26 makes further provision about the effect of a PRN recipient providing evidence late.

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### Commencement Information

**I3** S. 22 not in force at Royal Assent, see [s. 87\(1\)](#)

## 23 Priority removal notices: expedited appeals

(1) After section 82 of the Nationality, Immigration and Asylum Act 2002 insert—

### “82A Expedited appeal to Upper Tribunal in certain cases

- (1) This section applies where —
    - (a) a person (“P”) has been served with a priority removal notice,
    - (b) P has made a protection claim or a human rights claim on or after the PRN cut-off date but while the priority removal notice is still in force, and
    - (c) P has a right under section 82(1) to bring an appeal from within the United Kingdom (see section 92) in relation to the claim.
  - (2) The Secretary of State must certify P’s right of appeal under this section, unless satisfied that there were good reasons for P making the claim on or after the PRN cut-off date (and P’s right of appeal may not be certified if the Secretary of State is satisfied that there were good reasons).
  - (3) If certified under this section, P’s right of appeal under section 82(1) is to the Upper Tribunal instead of the First-tier Tribunal (and any appeal brought pursuant to such a right is referred to in this section as an “expedited appeal”).
  - (4) Tribunal Procedure Rules must make provision with a view to securing that expedited appeals are brought and determined more quickly than an appeal under section 82(1) would, in the normal course of events, be brought and determined by the First-tier Tribunal.
  - (5) Tribunal Procedure Rules must secure that the Upper Tribunal may, if it is satisfied that it is the only way to secure that justice is done in the case of a particular expedited appeal, order that the appeal is to be continued as an appeal to the First-tier Tribunal and accordingly is to be transferred to that Tribunal.
  - (6) In this section, “priority removal notice” and “PRN cut-off date” have the same meanings as in section 20 of the Nationality and Borders Act 2022.”
- (2) In section 13(8) of the Tribunals, Courts and Enforcement Act 2007 (decisions excluded from right to appeal to the Court of Appeal), after paragraph (b) insert—
- “(bza) any decision of the Upper Tribunal on an expedited appeal within the meaning given by section 82A(3) of the Nationality, Immigration and Asylum Act 2002 (expedited appeal against refusal of protection claim or human rights claim).”
- (3) Schedule 3 makes amendments consequential on this section.

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### Commencement Information

**I4** S. 23 not in force at Royal Assent, see [s. 87\(1\)](#)

## 24 Expedited appeals: joining of related appeals

- (1) For the purposes of this section, an “expedited section 82 appeal” is an expedited appeal within the meaning of section 82A of the Nationality, Immigration and Asylum Act 2002 (expedited appeals for claims brought on or after PRN cut-off date).
- (2) For the purposes of this section, a “related appeal” is an appeal 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), other than one which is an expedited section 82 appeal;
  - (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.
- (3) If a person brings an expedited section 82 appeal at a time when a related appeal brought by that person is pending before the First-tier Tribunal, the related appeal is, from that time, to be continued as an appeal to the Upper Tribunal and accordingly is to be transferred to the Upper Tribunal.
- (4) If an expedited section 82 appeal brought by a person is pending, any right that the person would otherwise have to bring a related appeal to the First-tier Tribunal is instead a right to bring it to the Upper Tribunal.
- (5) A related appeal within subsection (3) or brought to the Upper Tribunal as mentioned in (4) is referred to in this section as an “expedited related appeal”.
- (6) Tribunal Procedure Rules must make provision with a view to securing that the Upper Tribunal consolidates an expedited related appeal and the expedited section 82 appeal concerned or hears them together (and see section 82A(4) of the Nationality, Immigration and Asylum Act 2002).
- (7) Tribunal Procedure Rules must secure that the Upper Tribunal may, if it is satisfied that it is the only way to secure that justice is done in the case of a particular expedited related appeal, order that the appeal is to be continued as an appeal to the First-tier Tribunal and accordingly is to be transferred to that Tribunal.
- (8) For the purposes of this section, an appeal is “pending”—
  - (a) in the case of an appeal under section 82 of the Nationality, Immigration and Asylum Act 2002 (including an expedited section 82 appeal), if it is pending within the meaning of section 104 of that Act;
  - (b) in the case of an appeal under section 40A of the British Nationality Act 1981, during the period—
    - (i) beginning when it is instituted, and



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- (ii) ending when it is finally determined or withdrawn;
  - (c) in the case of an appeal under the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020, if it is pending within the meaning of regulation 13 of those Regulations;
  - (d) in the case of an appeal under the regulation 36 of the Immigration (European Economic Area) Regulations 2016, if it is pending within the meaning of Part 6 of those Regulations (see regulation 35).
- (9) In section 13(8) of the Tribunals, Courts and Enforcement Act 2007 (decisions excluded from right to appeal to the Court of Appeal), after paragraph (bza) (inserted by section 22) insert—
- “(bzb) any decision of the Upper Tribunal on an expedited related appeal within the meaning given by section 24 of the Nationality and Borders Act 2022 (expedited appeals against refusal of protection claim or human rights claim: joining of related appeals),”.

#### Commencement Information

I5 S. 24 not in force at Royal Assent, see s. 87(1)

## 25 Civil legal services for recipients of priority removal notices

- (1) In Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services), after paragraph 31 (immigration: accommodation for asylum-seekers etc) insert—

*“Immigration: recipients of priority removal notices*

- 31ZA (1) Civil legal services provided, to an individual who has received a priority removal notice, in relation to—
- (a) the priority removal notice;
  - (b) the individual's immigration status;
  - (c) the lawfulness of the individual's removal from the United Kingdom;
  - (d) immigration detention of the kinds mentioned in paragraph 25(1).

*Condition applying to services described in sub-paragraph (1): overall time limit*

- (2) Civil legal services described in sub-paragraph (1) may be provided for up to (but no more than) 7 hours.
- (3) If a person who has been provided with civil legal services described in sub-paragraph (1) subsequently receives a further priority removal notice, sub-paragraph (2) applies again (so that time spent in providing services following receipt of the earlier notice does not count towards the new limit).

*General exclusions*

- (4) Sub-paragraph (1) is subject to the exclusions in Part 2 of this Schedule.

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### *Specific exclusions*

- (5) The services described in sub-paragraph (1) do not include—
- (a) advocacy;
  - (b) attendance at an interview conducted on behalf of the Secretary of State with a view to reaching a decision on a claim in respect of the rights mentioned in paragraph 30(1), except where regulations provide otherwise;
  - (c) attendance at an interview conducted by the competent authority under the national referral mechanism for the purposes of making a reasonable grounds decision or a conclusive grounds decision;
  - (d) services provided in relation to—
    - (i) any private law rights the individual may have (such as rights under employment law or the law of tort), or
    - (ii) any claim for damages in relation to unlawful detention.

### *Definition*

- (6) In this paragraph “priority removal notice” means a notice under section 20 of the Nationality and Borders Act 2022.”
- (2) In section 9 of that Act (civil legal aid: general cases), after subsection (2) insert—
- “(3) The powers conferred by subsection (2)(b) include power to amend paragraph 31ZA of Part 1 of Schedule 1 (immigration: recipients of priority removal notices) so as to alter the time limit applicable to the provision of services described in sub-paragraph (1) of that paragraph (whether generally or in specified cases or circumstances).
- (4) The Lord Chancellor may by order make provision as to the operation of any overall time limit applicable to the provision of services described in paragraph 31ZA(1), including in particular—
- (a) provision for determining the time available (not exceeding the overall time limit) for the provision of such services in any individual’s case, or
  - (b) provision as to the use that may, or must, be made of some or all of the time available.”
- (3) In regulation 11(9) of the Civil Legal Aid (Merits Criteria) Regulations 2013 ([S.I. 2013/104](#)) (qualifying for civil legal services: cases in which merits criteria do not apply), at the end insert “, or
- (e) in relation to any matter described in paragraph 31ZA of Schedule 1 to the Act (immigration: recipients of priority removal notices).”
- (4) In regulation 5(1) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 ([S.I. 2013/480](#)) (exceptions from requirement to make a determination in respect of an individual’s financial resources), omit the “and” at the end of paragraph (ka) and, after paragraph (l), insert—
- “(m) civil legal services described in paragraph 31ZA of Part 1 of Schedule 1 to the Act (immigration: recipients of priority removal notices).”



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### Commencement Information

**I6** S. 25 not in force at Royal Assent, see [s. 87\(1\)](#)

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

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

- s. 54(6)(c) and word inserted by [2023 c. 37 s. 57\(11\)\(b\)](#)
- s. 63(2A) inserted by [2023 c. 37 s. 29\(3\)](#)
- s. 63(3)(fa)(fb) inserted by [2023 c. 37 s. 29\(4\)\(b\)](#)
- s. 63(5A)(5B) inserted by [2023 c. 37 s. 29\(5\)](#)
- s. 63(8) inserted by [2023 c. 37 s. 28\(9\)](#)
- s. 65(8A) inserted by [2023 c. 37 s. 28\(12\)](#)