

Changes to legislation: There are currently no known outstanding effects for the Nationality and Borders Act 2022, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 10(4)

DEPRIVATION OF CITIZENSHIP WITHOUT NOTICE: JUDICIAL OVERSIGHT

Commencement Information

- I1** Sch. 2 not in force at Royal Assent, see [s. 87\(1\)](#)
I2 [Sch. 2](#) in force at 10.5.2023 by [S.I. 2023/450](#), [reg. 2\(b\)](#)

This is the Schedule to be inserted after Schedule 4 to the British Nationality Act 1981—

“SCHEDULE 4A

Section 40(5E)

DEPRIVATION OF CITIZENSHIP WITHOUT NOTICE: JUDICIAL OVERSIGHT

Deprivation without notice: application to Special Immigration Appeals Commission

- 1 (1) If the Secretary of State proposes to make a conducive grounds deprivation order without notice, the Secretary of State may apply to the Special Immigration Appeals Commission under this paragraph.
- (2) If the Secretary of State makes a conducive grounds deprivation order without notice, the Secretary of State must apply to the Special Immigration Appeals Commission under this paragraph within the period of seven days beginning with the day on which the order is made (unless an application has already been made under sub-paragraph (1)).
- (3) The function of the Commission on an application under this paragraph is to determine whether, in respect of each condition in section 40(5A) on which the Secretary of State relies, the Secretary of State’s view is obviously flawed.
- (4) In determining that question, the Commission must apply the principles that would be applicable on an application for judicial review.
- (5) If the Commission determines that the Secretary of State’s view is obviously flawed in respect of each condition in section 40(5A) on which the Secretary of State relies—
- (a) if the order in question has not been made, section 40(5) applies in relation to the order (notwithstanding section 40(5A));
 - (b) if the order has been made, the Secretary of State must, within the period of 14 days beginning with the day on which the Commission made the determination—
 - (i) give late notice in respect of the order,
 - (ii) revoke the order, or
 - (iii) make an application under sub-paragraph (6).

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- (6) The Secretary of State may (at any time) make an application to the Special Immigration Appeals Commission for fresh consideration of a decision the Secretary of State has made under section 40(5A) where—
- (a) in the opinion of the Secretary of State, circumstances have changed materially since the determination mentioned in sub-paragraph (5), or
 - (b) the Secretary of State wishes to provide further evidence to the Commission.

Sub-paragraphs (3) to (5) apply to an application under this sub-paragraph.

Deprivation of citizenship without notice: review

- 2 (1) Sub-paragraphs (2) to (5) apply if—
- (a) the Secretary of State makes a conducive grounds deprivation order without notice, and
 - (b) the Special Immigration Appeals Commission has not made the determination mentioned in paragraph 1(5) (Secretary of State’s decision obviously flawed).
- (2) The Secretary of State must, at least once in every review period, review the circumstances of the person in respect of whom the order was made (so far as known) and decide whether to give late notice in respect of the order.
- (3) On such a review, the Secretary of State must decide to give late notice to the person unless it appears to the Secretary of State that any of the conditions in section 40(5A) is met (reading any reference in those provisions to notice under section 40(5) as a reference to late notice).
- (4) If the Secretary of State decides at any point to give late notice in respect of the order—
- (a) the Secretary of State must give the notice as soon as reasonably practicable, and
 - (b) once the notice is given, sub-paragraph (2) ceases to apply in relation to the person.
- (5) If on the expiry of the final review period the Secretary of State has not given, or has not decided to give, late notice in respect of the order, the Secretary of State must make an application to the Special Immigration Appeals Commission within the period of seven days beginning with the day after the final day of that review period.
- (6) Sub-paragraphs (3) to (6) of paragraph 1 (except sub-paragraph (5)(a)) apply for the purposes of an application under sub-paragraph (5) as they apply for the purposes of an application under that paragraph.
- (7) For the purposes of this paragraph, each of the following is a “review period”—
- (a) the period of four months beginning with the day after the day on which the Special Immigration Appeals Commission first determined an application in relation to the order under paragraph 1, and
 - (b) each of the next five successive periods of four months.

Interpretation

- 3 (1) In this Schedule, references to making a conducive grounds deprivation order without notice are to making an order under section 40(2) without giving notice under subsection (5) of that section (in reliance on subsection (5A) of that section).
- (2) In this Schedule, “late notice”, in respect of an order under section 40(5), means written notice to the person in respect of whom the order was made specifying—
- (a) that the Secretary of State has made the order,
 - (b) the reasons for the order, and
 - (c) the person’s right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997.”

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