



Illegal Migration Act 2023

2023 CHAPTER 37

Legal proceedings

48 Upper Tribunal consideration of new matters

- (1) **This section** applies where the Upper Tribunal is considering—
 - (a) an appeal by a person under section 44(2) (appeals in relation to suspensive claims), or
 - (b) an application by a person under section 45(2) (permission to appeal: claims certified as clearly unfounded),in relation to a decision of the Secretary of State under section 42(2)(b) or 43(2)(b) (refusal of suspensive claim).
- (2) The Upper Tribunal may consider any matter which it considers relevant to the substance of the decision.
- (3) But the Upper Tribunal must not consider a new matter unless the condition in subsection (5) is met.
- (4) A matter is a “new matter” if—
 - (a) it is raised by the person in the course of the appeal or application, and
 - (b) the person did not provide details of the matter to the Secretary of State before the end of the claim period for the suspensive claim (see sections 42(7) and 43(7)).
- (5) The condition in **this subsection** is that—
 - (a) within the relevant period the Secretary of State has given the Upper Tribunal consent to consider the new matter, or
 - (b) where the Secretary of State has not given such consent within the relevant period, the Upper Tribunal determines that there were compelling reasons for the person not to have provided details of the matter to the Secretary of State before the end of the claim period.

Status: This is the original version (as it was originally enacted).

- (6) The Secretary of State may provide consent under subsection (5)(a) only if the Secretary of State considers that there were compelling reasons for the person not to have provided details of the matter before the end of the claim period.
- (7) In subsection (5) “relevant period” means the period of 3 working days beginning with the day after the day on which the new matter is raised by the person in the course of the appeal or application.
- (8) There is no right of appeal under section 13 of the Tribunals, Courts and Enforcement Act 2007 (right of appeal to Court of Appeal etc) in relation to a decision of the Upper Tribunal to make or not to make a determination under subsection (5)(b).
- (9) See also section 51 (finality of certain decisions by the Upper Tribunal).