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STATUTORY INSTRUMENTS

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**2016 No. 1052**

**The Immigration (European Economic Area) Regulations 2016**

**PART 6**

**APPEALS UNDER THESE REGULATIONS**

**Appeals to the Commission**

**38.**—(1) An appeal against an EEA decision lies to the Commission where paragraph (2) or (4) applies.

(2) This paragraph applies if the Secretary of State certifies that the EEA decision was taken—

- (a) by the Secretary of State wholly or partly on a ground listed in paragraph (3); or
- (b) in accordance with a direction of the Secretary of State which identifies the person to whom the decision relates and which is given wholly or partly on a ground listed in paragraph (3).

(3) The ground mentioned in paragraph (2) are that the person's exclusion or removal from the United Kingdom is—

- (a) in the interests of national security; or
- (b) in the interests of the relationship between the United Kingdom and another country.

(4) This paragraph applies if the Secretary of State certifies that the EEA decision was taken wholly or partly in reliance on information which the Secretary of State considers must not be made public—

- (a) in the interests of national security;
- (b) in the interests of the relationship between the United Kingdom and another country; or
- (c) otherwise in the public interest.

(5) In paragraphs (2) and (4) the reference to the Secretary of State is a reference to the Secretary of State acting in person.

(6) Where a certificate is issued under paragraph (2) or (4) in respect of a pending appeal to the First-tier Tribunal or Upper Tribunal the appeal must lapse.

(7) An appeal against an EEA decision lies to the Commission where an appeal lapses by virtue of paragraph (6).

(8) The 1997 Act applies to an appeal to the Commission under this regulation as it applies to an appeal under section 2 of that Act.

(9) Where the 1997 Act applies to an appeal to the Commission under this regulation, section 2(2) of that Act is to be treated as though it applies the 2002 Act to that appeal in the form modified by Schedule 2 to these Regulations.