

SCHEDULE 2

APPLICATIONS FOR LEAVE TO REMAIN IN THE UNITED KINGDOM

Interpretation

1. In this Schedule—

“Article 3 or Refugee Convention application” means an application for leave to remain in the United Kingdom made on the basis that the applicant is—

- (a) a person making a claim for asylum which has either not been determined or has been granted;
- (b) a person who has been granted humanitarian protection under the immigration rules;
- (c) a person claiming that, due to an ongoing medical condition, removal from the United Kingdom would be incompatible with Article 3 of the European Convention on Human Rights;
- (d) a person who is a dependant of a refugee or person granted humanitarian protection under the immigration rules and is applying for leave to remain in the United Kingdom under paragraphs 352A to 352FI of the immigration rules; or
- (e) a child who was born in the United Kingdom to a person referred to in paragraphs (a) or (b);

“claim for asylum” has the meaning given by section 94(1) of the 1999 Act⁽¹⁾;

“a competent authority” means a designated competent authority of the United Kingdom for the purposes of the Trafficking Convention⁽²⁾;

“positive conclusive grounds decision” means a decision made by a competent authority that the applicant is either—

- (a) a victim of human trafficking; or
- (b) a victim of slavery, servitude or forced or compulsory labour;

“specified human rights application” means an application for limited leave to remain in the United Kingdom under—

- (a) paragraph 276ADE(1) of the immigration rules;
- (b) section R-LTRP.1.1. (a), (b) and (d) of Appendix FM to the immigration rules;
- (c) section R-LTRPT.1.1. (a), (b) and (d) of Appendix FM to the immigration rules; or
- (d) any other application other than an Article 3 or Refugee Convention application in which the applicant relies solely or primarily on a claim that to remove the applicant from the United Kingdom or to require the applicant to leave the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998⁽³⁾ (public authority not to act contrary to Convention rights);

“the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings⁽⁴⁾;

(1) Section 94(1) was amended by section 60 of the 2002 Act and [S.I. 2008/2833](#). It was also amended by section 44 of the 2002 Act but those amendments are not yet in force and have been prospectively repealed from a date to be appointed by paragraph 41 of Schedule 11 to the 2016 Act. Section 94(1) has also been prospectively amended from a date to be appointed by paragraphs 3 and 7 of Schedule 11 to the 2016 Act.

(2) The designated competent authorities for the United Kingdom for the purposes of the Trafficking Convention are the Home Office (postal address: UKVI, Waterside Court, 471 Kirkstall Road, Leeds LS4 2QB) and the United Kingdom Human Trafficking Centre (postal address: UKHTC, PO Box 8000, London SE11 5EN).

(3) [1998 c. 42](#); section 6(4) repealed by paragraph 66 of Schedule 9 to the Constitutional Reform Act 2005 (c. 4).

(4) Cm 8414. The Convention entered into force in respect of the United Kingdom on 1st April 2009.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“Trafficking Convention reason” means a reason, in accordance with the United Kingdom’s obligations under the Trafficking Convention, that the applicant’s stay in the United Kingdom is necessary⁽⁵⁾—

- (a) because of the applicant’s personal situation;
- (b) because the applicant is co-operating with a police investigation or criminal proceedings; or
- (c) in order to pursue a claim for compensation against the applicant’s trafficker or modern slavery facilitator.

(2) For the purposes of this Schedule a claim for asylum is determined on—

- (a) the day on which the Secretary of State notifies the claimant of the decision on the claim;
- (b) if the claimant has appealed against the Secretary of State’s decision, the day on which the appeal is disposed of; or
- (c) if the claimant has brought an appeal from within the United Kingdom under section 82 of the 2002 Act⁽⁶⁾ or section 2 of the Special Immigration Appeals Commission Act 1997⁽⁷⁾ the day on which the appeal is disposed of.

(5) Further information is available in the Competent Authority guidance on www.gov.uk.

(6) Section 82 was substituted by section 15(2) of the 2014 Act.

(7) 1997 c.68; section 2 was substituted by paragraph 20 of Schedule 7 to the 2002 Act and was amended by paragraph 2 of Schedule 9 to the 2014 Act, and section 64(2) of the 2016 Act; the amendments made to section 2 by paragraph 26 of Schedule 9 to the 2014 Act are not yet in force.