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STATUTORY INSTRUMENTS

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**2020 No. 61**

**The Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020**

**PART 2**

Appeals in respect of citizens' rights immigration decisions

CHAPTER 1

Appeals: general

*[<sup>F1</sup>Decisions other than those relating to frontier workers]*

**Textual Amendments**

**F1** Pt. 2 Ch. 1 cross-heading inserted (4.11.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2)(3), **24(3)**

**Right of appeal against decisions relating to leave to enter or remain in the United Kingdom made by virtue of residence scheme immigration rules**

- 3.—(1) A person (“P”) may appeal against a decision made on or after exit day—
- (a) to vary P's leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules<sup>M1</sup>, so that P does not have leave to enter or remain in the United Kingdom,
  - (b) to cancel P's leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,
  - (c) not to grant any leave to enter or remain in the United Kingdom in response to P's relevant application, or
  - (d) not to grant indefinite leave to enter or remain in the United Kingdom in response to P's relevant application (where limited leave to enter or remain is granted, or P had limited leave to enter or remain when P made the relevant application).

[<sup>F2</sup>(2) In this regulation, “relevant application” means an application for leave to enter or remain in the United Kingdom made under residence scheme immigration rules—

- (a) on or after exit day, or
- (b) before exit day if a decision is made on that application on or after 8th May 2023.]

#### Textual Amendments

- F2** Reg. 3(2) substituted (8.5.2023) by [The Immigration \(Citizens' Rights Appeals\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/441\)](#), regs. 1(2), 3

#### Commencement Information

- I1** Reg. 3 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

#### Marginal Citations

- M1** See section 17(1) of the EUWAA for the meaning of “residence scheme immigration rules”.

### Right of appeal against decisions under section 76 of the 2002 Act to revoke indefinite leave to enter or remain by virtue of residence scheme immigration rules

4. A person may appeal against a decision made on or after exit day under section 76(1) or (2) of the 2002 Act <sup>M2</sup> to revoke their indefinite leave to enter or remain in the United Kingdom which was granted by virtue of residence scheme immigration rules.

#### Commencement Information

- I2** Reg. 4 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

#### Marginal Citations

- M2** Section 76(2) was amended by paragraph 3(3)(a) of Schedule 9 to the [Immigration Act 2014 \(c. 22\)](#).

### Right of appeal against decisions made in connection with scheme entry clearance

5. A person may appeal against a decision made on or after exit day—
- where the person applies for scheme entry clearance on or after exit day, to refuse their application,
  - to cancel or revoke their scheme entry clearance,
  - where they have scheme entry clearance, to refuse them leave to enter the United Kingdom under article 7(1) of the Immigration (Leave to Enter and Remain) Order 2000 <sup>M3</sup>, or
  - to cancel or vary leave to enter the United Kingdom which they have by virtue of having arrived in the United Kingdom with scheme entry clearance.

#### Commencement Information

- I3** Reg. 5 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

#### Marginal Citations

- M3** [S.I. 2000/1161](#); to which there are amendments not relevant to these Regulations.

**Right of appeal against decisions to make a deportation order [<sup>F3</sup>in respect of a person other than a person claiming to be a frontier worker][<sup>F4</sup> or a person with a healthcare right of entry]**

6.—(1) A person to whom paragraph (2) applies may appeal against a decision, made on or after exit day, to make a deportation order under section 5(1) of the 1971 Act in respect of them.

(2) This paragraph applies to a person who—

- (a) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, or
- (b) is in the United Kingdom (whether or not the person has entered within the meaning of section 11(1) of the 1971 Act <sup>M4</sup>) having arrived with scheme entry clearance.

[<sup>F5</sup>(3) But paragraph (2) does not apply to a person if the decision to remove that person was taken—

- (a) under regulation 23(6)(b) of the Immigration (European Economic Area) Regulations 2016 (“the 2016 Regulations”), where the decision to remove was taken before the revocation of the 2016 Regulations, or
- (b) otherwise, under regulation 23(6)(b) of the 2016 Regulations as it continues to have effect by virtue of the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020 or the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.]

(4) The references in paragraph (2) to a person who has leave to enter or remain include references to a person who would have had leave to enter or remain but for the making of a deportation order under section 5(1) of the 1971 Act.

**Textual Amendments**

- F3** Words in reg. 6 heading inserted (4.11.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2)(3), **24(4)**
- F4** Words in reg. 6 heading inserted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), **2(4)(a)**
- F5** Reg. 6(3) substituted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), **2(4)(b)**

**Commencement Information**

- I4** Reg. 6 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

**Marginal Citations**

- M4** Section 11(1) was amended by the [Immigration and Asylum Act 1999 \(c. 33\)](#), [Schedule 14](#), paragraph 48, the [Nationality, Immigration and Asylum Act 2002](#), section 62(8), and the [Immigration Act 2016 \(c. 19\)](#), [Schedule 10](#), paragraph 15.

*F<sup>6</sup> Decisions relating to frontier workers*

**Textual Amendments**

- F6** Regs. 6A-6F and cross-heading inserted (4.11.2020 for specified purposes, 31.12.2020 in so far as not already in force) by The Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020 (S.I. 2020/1213), regs. 1(2)(3), **24(5)** (as amended (22.12.2020) by S.I. 2020/1372, regs. 1, **7(3)**)

**Right of appeal against decisions relating to issue, renewal or revocation of frontier worker permits**

- 6A.** A person may appeal against a decision—
- (a) to refuse to issue a frontier worker permit to them,
  - (b) to refuse to renew their frontier worker permit, or
  - (c) to revoke their frontier worker permit.

**Right of appeal against decisions to refuse frontier workers admission to the United Kingdom**

**6B.**—(1) A person may appeal against a decision made under regulation 12 of the 2020 Regulations (a “refusal of admission decision”).

- (2) But a person cannot bring an appeal under paragraph (1) without producing—
  - (a) a valid identity document, or
  - (b) where paragraph (3) applies, sufficient evidence to satisfy the Secretary of State that they are a frontier worker.
- (3) This paragraph applies where—
  - (a) the refusal of admission decision was made before 1st July 2021, or
  - (b) the person bringing the appeal is an Irish citizen.

**Right of appeal against decision to revoke admission to the United Kingdom**

**6C.**—(1) A person who has been admitted to the United Kingdom under regulation 6 of the 2020 Regulations may appeal against a decision under regulation 14 of those Regulations to revoke that admission.

- (2) But a person cannot bring an appeal under paragraph (1) without producing a valid identity document.

**Right of appeal against certain decisions to remove frontier workers from the United Kingdom**

**6D.**—(1) A frontier worker who has entered the United Kingdom may appeal against a decision to remove that person taken by virtue of regulation 15(1)(a) or (c) of the 2020 Regulations.

- (2) But a person cannot bring an appeal under paragraph (1) without producing a valid identity document.

**Right of appeal against decisions to make deportation order in respect of frontier workers**

**6E.**—(1) A frontier worker who has entered the United Kingdom may appeal against a decision to make a deportation order under section 5(1) of the 1971 Act in respect of them.

- (2) But paragraph (1) does not apply to a person if the decision to remove that person was taken—
- (a) under regulation 23(6)(b) of the Immigration (European Economic Area) Regulations 2016 (“the 2016 Regulations”), where the decision to remove was taken before the revocation of the 2016 Regulations, or
  - (b) otherwise, under regulation 23(6)(b) of the 2016 Regulations as it continues to have effect by virtue of the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020 or the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.
- (3) In addition, a person cannot bring an appeal under paragraph (1) without producing—
- (a) a valid identity document, and
  - (b) if they do not have a valid frontier worker permit, sufficient evidence to satisfy the Secretary of State that they are a frontier worker.
- (4) For the purposes of paragraph (3)(b), a person is to be treated as having a valid frontier worker permit if they would hold such a permit but for its revocation following a decision to make a deportation order under section 5(1) of the 1971 Act in respect of them.

#### **Alternative evidence of identity and nationality**

**6F.** Where a provision of this Part requires a person to hold or produce a valid identity document, the Secretary of State may accept alternative evidence of identity and nationality where the person is unable to obtain or produce the required document due to circumstances beyond the person's control.]

*<sup>F7</sup>Decisions relating to persons with a healthcare right of entry*

#### **Textual Amendments**

**F7** Regs. 6G-6J and cross-heading inserted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), 2(5)

#### **Right of appeal against decisions relating to leave to enter or remain in the United Kingdom granted to or obtained by a person with a healthcare right of entry**

- 6G.—**(1) A person (“P”) may appeal against a decision made on or after IP completion day—
- (a) to vary P's healthcare leave, so that P does not have leave to enter or remain in the United Kingdom,
  - (b) to cancel P's healthcare leave,
  - (c) where P applies on or after IP completion day for leave to enter or remain in the United Kingdom under Appendix S2, not to grant such leave to P, or
  - (d) not to vary P's leave to enter or remain in the United Kingdom granted by virtue of Appendix S2 in response to P's relevant application.
- (2) In this regulation, “relevant application” means an application for, or as the case may be, to vary, leave to enter or remain in the United Kingdom made under Appendix S2 on or after IP completion day.

#### **Right of appeal against decisions made in connection with healthcare entry clearance**

**6H.** A person may appeal against a decision made on or after IP completion day

- (a) where the person applies for healthcare entry clearance on or after IP completion day, to refuse their application,
- (b) to cancel or revoke their healthcare entry clearance,
- (c) where they have healthcare entry clearance, to refuse them leave to enter the United Kingdom under article 7(1) of the Immigration (Leave to Enter and Remain) Order 2000, or
- (d) to cancel or vary the leave to enter the United Kingdom which they have by virtue of having arrived in the United Kingdom with healthcare entry clearance.

#### **Right of appeal against decision to vary leave under article 5 of the 1972 Order**

**6I.** A person (“P”) may appeal against a decision, made on or after IP completion day, to vary their leave to enter or remain in the United Kingdom if—

- (a) P is in the United Kingdom, and
- (b) Article 5 of the 1972 Order applied to P on their entry to the United Kingdom.

#### **Right of appeal against decisions to make a deportation order in respect of a person with a healthcare right of entry**

**6J.**—(1) A person to whom paragraph (2) applies may appeal against a decision, made on or after IP completion day, to make a deportation order under section 5(1) of the 1971 Act in respect of them.

(2) This paragraph applies to a person —

- (a) who has healthcare leave,
- (b) who is in the United Kingdom (whether or not the person has entered within the meaning of section 11(1) of the 1971 Act) having arrived with healthcare entry clearance, or
- (c) to whom Article 5 of the 1972 Order applied on their entry to the United Kingdom.

(3) But paragraph (2) does not apply to a person if the decision to remove that person was taken—

- (a) under regulation 23(6)(b) of the Immigration (European Economic Area) Regulations 2016 (“the 2016 Regulations”), where the decision to remove is taken before the 2016 Regulations are revoked, or
- (b) otherwise, under regulation 23(6)(b) of the 2016 Regulations as it continues to have effect by virtue of the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020 or the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

(4) The reference in paragraph (2) to a person who has healthcare leave includes reference to a person who would have such leave but for the making of a deportation order under section 5(1) of the 1971 Act.]

#### **Appeal to the Tribunal or the Special Immigration Appeals Commission**

7.—(1) An appeal under these Regulations lies to the Tribunal.

(2) Except that a person may appeal to the Special Immigration Appeals Commission against an appealable decision if—

- (a) the decision is certified under paragraph 1 or 2 of Schedule 1, or
- (b) an appeal against that decision lapses by virtue of paragraph 3 of that Schedule.

(3) Schedule 1 also makes provision for the application of the 1997 Act to appeals to the Special Immigration Appeals Commission (see Part 2 of that Schedule).

### Commencement Information

**I5** Reg. 7 in force at 31.1.2020 on exit day, see reg. 1(2) and 2018 c. 16, s. 20(1)-(5)

### Grounds of appeal

**8.**—(1) An appeal under these Regulations must be brought on one or both of the following two grounds.

(2) The first ground of appeal is that the decision breaches any right which the appellant has by virtue of—

- (a) Chapter 1, or Article 24(2) [<sup>F8</sup>, 24(3), 25(2) or 25(3)] of Chapter 2, of Title II [<sup>F9</sup>, or Article 32(1)(b) of Title III,] of Part 2 of the withdrawal agreement,
- (b) Chapter 1, or Article 23(2) [<sup>F10</sup>, 23(3), 24(2) or 24(3)] of Chapter 2, of Title II [<sup>F11</sup>, or Article 31(1)(b) of Title III,] of Part 2 of the EEA EFTA separation agreement, or
- (c) Part 2 [<sup>F12</sup>, or Article 26a(1)(b),] of the Swiss citizens' rights agreement <sup>M5</sup>.

(3) The second ground of appeal is that—

- (a) where the decision is mentioned in regulation 3(1)(a) or (b) or 5, it is not in accordance with the provision of the immigration rules by virtue of which it was made;
- (b) where the decision is mentioned in regulation 3(1)(c) or (d), it is not in accordance with residence scheme immigration rules;
- (c) where the decision is mentioned in regulation 4, it is not in accordance with section 76(1) or (2) of the 2002 Act (as the case may be);
- (d) where the decision is mentioned in regulation 6, it is not in accordance with section 3(5) or (6) of the 1971 Act (as the case may be).
- [<sup>F13</sup>(e) where the decision is mentioned in regulation 6A, 6B, 6C or 6D, it is not in accordance with regulation 9, 11, 12, 14, 15(1)(a) or 15(1)(c) of the 2020 Regulations (as the case may be);
- (f) where the decision is mentioned in regulation 6E, it is not in accordance with section 3(5) or 3(6) of the 1971 Act, or regulation 15(1)(b) of the 2020 Regulations (as the case may be).]
- [<sup>F14</sup>(g) where the decision is mentioned in regulation 6G(1)(a) or (1)(b) or 6H, it is not in accordance with the provision of the immigration rules by virtue of which it was made;
- (h) where the decision is mentioned in regulation 6G(1)(c) or (1)(d), it is not made in accordance with Appendix S2;
- (i) where the decision is mentioned in regulation 6I, it is not made in accordance with the provision of, or made under, the 1971 Act (including the immigration rules) by virtue of which it was made;
- (j) where the decision is mentioned in regulation 6J, it is not in accordance with section 3(5) or (6) of the 1971 Act, or Appendix S2 (as the case may be).]

(4) But this is subject to regulation 9.

### Textual Amendments

**F8** Words in reg. 8(2)(a) substituted (4.11.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2)(3), [24\(6\)\(a\)\(i\)](#)

- F9** Words in reg. 8(2)(a) inserted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), **2(6)(a)(i)**
- F10** Words in reg. 8(2)(b) substituted (4.11.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2)(3), **24(6)(a)(ii)**
- F11** Words in reg. 8(2)(b) inserted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), **2(6)(a)(ii)**
- F12** Words in reg. 8(2)(c) inserted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), **2(6)(a)(iii)**
- F13** Reg. 8(3)(e)(f) inserted (4.11.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2)(3), **24(6)(b)**
- F14** Reg. 8(3)(g)-(j) inserted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), **2(6)(b)**

#### Commencement Information

- I6** Reg. 8 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

#### Marginal Citations

- M5** See section 39(1) of the EUWAA for the meanings of “EEA EFTA separation agreement”, “Swiss citizens' rights agreement” and “withdrawal agreement”.

### Matters to be considered by the relevant authority

**9.—(1)** If an appellant makes a section 120 statement, the relevant authority must consider any matter raised in that statement which constitutes a specified ground of appeal against the decision appealed against. For the purposes of this paragraph, a “specified ground of appeal” is a ground of appeal of a kind listed in regulation 8 or section 84 of the 2002 Act <sup>M6</sup>.

(2) In this regulation, “section 120 statement” means a statement made under section 120 of the 2002 Act <sup>M7</sup> and includes any statement made under that section, as applied by Schedule 1 or 2 to these Regulations.

(3) For the purposes of this regulation, it does not matter whether a section 120 statement is made before or after the appeal under these Regulations is commenced.

(4) The relevant authority may also consider any matter which it thinks relevant to the substance of the decision appealed against, including a matter arising after the date of the decision.

(5) But the relevant authority must not consider a new matter without the consent of the Secretary of State.

(6) A matter is a “new matter” if—

- (a) it constitutes a ground of appeal of a kind listed in regulation 8 or section 84 of the 2002 Act, and
- (b) the Secretary of State has not previously considered the matter in the context of—
  - (i) the decision appealed against under these Regulations, or
  - (ii) a section 120 statement made by the appellant.

#### Commencement Information

- I7** Reg. 9 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)



#### **Marginal Citations**

- M6** Section 84 was substituted by the [Immigration Act 2014 \(c. 22\), section 15](#).
- M7** Section 120 was substituted by the Immigration Act 2014, Schedule 9, paragraph 55, and amended by the [Immigration Act 2016 \(c. 19\), section 64](#).

#### **Determination of appeal**

- 10.** On an appeal under these Regulations, the relevant authority must determine—
- any matter raised as a ground of appeal, and
  - any other matter which regulation 9 requires it to consider.

#### **Commencement Information**

- I8** Reg. 10 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

### CHAPTER 2

Appeals before the Tribunal: admission on bail and other procedural matters

#### **Application of the 2002 Act to appeals to the Tribunal**

- 11.** Schedule 2 makes provision for the application of the 2002 Act to appeals to the Tribunal.

#### **Commencement Information**

- I9** Reg. 11 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

#### **Admission on bail to the United Kingdom to make submissions in person in connection with an appeal**

**12.** Schedule 3 contains provisions about admission on bail to the United Kingdom for the purposes of making submissions in person in connection with an appeal.

#### **Commencement Information**

- I10** Reg. 12 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

### CHAPTER 3

Procedural matters and certification

#### **Pending appeal**

- 13.—**(1) An appeal under these Regulations is to be treated as pending during the period which—
- begins when the notice of appeal is given in accordance with the relevant rules, and
  - ends when the appeal is finally determined, withdrawn or abandoned (or lapses under paragraph 3 of Schedule 1).
- (2) An appeal is not finally determined for the purposes of paragraph (1)(b) while (as the case may be)—

- (a) an application for permission to appeal under section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007<sup>M8</sup> could be made or is awaiting determination,
  - (b) permission to appeal under either of those sections has been granted and the appeal is awaiting determination,
  - (c) an appeal has been remitted under section 12 or 14 of that Act and is awaiting determination,
  - (d) any of the following applications could be made—
    - (i) an application for leave to appeal under section 7 of the applied 1997 Act;
    - (ii) an application for a certificate under section 7B of the applied 1997 Act;
    - (iii) an application for permission to appeal under section 7C of the applied 1997 Act<sup>M9</sup>, or
  - (e) leave to appeal under section 7, or permission to appeal under section 7C, of the applied 1997 Act has been granted and the appeal is awaiting determination.
- (3) An appeal under [F15]regulations 3 to 6] is to be treated as abandoned if the appellant (“A”) is granted leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules.
- (4) But paragraph (3) does not apply where—
- (a) A is not granted indefinite leave to enter or remain in the United Kingdom, or A's indefinite leave to enter or remain in the United Kingdom is cancelled or revoked, and
  - (b) A gives notice, in accordance with the relevant rules, that A wishes to pursue the appeal insofar as it relates to a decision not to grant A, or to cancel or revoke A's, indefinite leave to enter or remain in the United Kingdom.
- [F16(4A) An appeal under regulation 6A is to be treated as abandoned if the appellant is issued with a frontier worker permit.
- (4B) An appeal under regulation 6B is to be treated as abandoned if the appellant is admitted to the United Kingdom under regulation 6 of the 2020 Regulations.]
- [F17(4C) An appeal under regulations 6G to 6J is to be treated as abandoned if the appellant—
- (a) is granted leave to enter or remain in the United Kingdom by virtue of Appendix S2, or
  - (b) obtains leave to enter the United Kingdom by passing through an automated gate in accordance with article 8B of the Immigration (Leave to Enter and Remain) Order 2000 as a person seeking to enter the United Kingdom as an S2 Healthcare Visitor under Appendix S2.
- (4D) An appeal under regulation 6G(d) is also to be treated as abandoned if the appellant's leave to enter or remain in the United Kingdom granted by virtue of Appendix S2 is varied, however that variation may have effect, so that the appellant has leave to enter or remain under Appendix S2.
- (4E) An appeal under regulation 6I or 6J is also to be treated as abandoned if the Secretary of State agrees that Article 5 of the 1972 Order applies to the appellant.]
- (5) An appeal under these Regulations is not to be treated as abandoned solely because the appellant leaves the United Kingdom.
- (6) In this regulation—
- “the applied 1997 Act” means the 1997 Act as it applies for the purposes of these Regulations by virtue of Part 2 of Schedule 1;
  - “the relevant rules”—
  - (a) where the appeal is before the Tribunal, means Tribunal Procedure Rules<sup>M10</sup>;

- (b) where the appeal is before the Special Immigration Appeals Commission, means rules made under section 5 of the 1997 Act, insofar as they apply in relation to an appeal under these Regulations, or rules made under section 5 of the applied 1997 Act<sup>M11</sup>.

#### Textual Amendments

- F15** Words in reg. 13(3) substituted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), **2(7)(a)**
- F16** Reg. 13(4A)(4B) inserted (4.11.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2)(3), **24(7)**
- F17** Reg. 13(4C)-(4E) inserted (31.12.2020 immediately after IP completion day) by [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(a), **2(7)(b)**

#### Commencement Information

- I11** Reg. 13 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

#### Marginal Citations

- M8** [2007 c. 15](#).
- M9** Sections 7B and 7C of the 1997 Act were inserted by the [Criminal Justice and Courts Act 2015 \(c. 2\), section 68](#).
- M10** See section 22 of the [Tribunal, Courts and Enforcement Act 2007 \(c. 15\)](#) for the meaning of "Tribunal Procedure Rules". The relevant Tribunal Procedure Rules are currently the [Tribunal Procedure \(First-tier Tribunal\) \(Immigration and Asylum Chamber\) Rules 2014 \(S.I. 2014/2604\)](#).
- M11** The relevant rules are currently the [Special Immigration Appeals Commission \(Procedure\) Rules 2003 \(S.I. 2003/1034\)](#).

### [<sup>F18</sup>Continuation of leave during specified appeals

**13A.—(1)** This regulation applies where—

- (a) a relevant appealable decision has been made in relation to a person ("P"),
- (b) P has entered and is in the United Kingdom at the date of the relevant appealable decision, and
- (c) the Secretary of State has not certified P's removal under regulation 15(4), 16(3) or 16A(3).

(2) P's leave to enter or remain is extended during any period when an appeal against the relevant appealable decision could be brought (ignoring the possibility of an appeal out of time with permission) or is pending.

(3) P may not make an application for variation of their leave to enter or remain in the United Kingdom while their leave is extended by this regulation.

(4) In this regulation, "relevant appealable decision" means an appealable decision as described in regulation 3(1)(a) or regulation 4.

(5) Leave extended by this regulation remains subject to Part IV of the Immigration (Leave to Enter and Remain) Order 2000.]

#### Textual Amendments

- F18** [Reg. 13A](#) inserted (8.5.2023) by [The Immigration \(Citizens' Rights Appeals\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/441\)](#), regs. 1(2), **4**

**Place from which an appeal may be brought or continued: general**

14.—(1) A person may bring or continue an appeal under these Regulations—

- (a) from within the United Kingdom, or
- (b) from outside the United Kingdom.

(2) Nothing in this regulation entitles a person to enter the United Kingdom for the purposes of bringing or continuing an appeal.

(3) This regulation is subject to regulation 15.

<p><b>Commencement Information</b></p> <p><b>I12</b> Reg. 14 in force at 31.1.2020 on exit day, see reg. 1(2) and <a href="#">2018 c. 16, s. 20(1)-(5)</a></p>
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**National security decisions: place from which an appeal may be brought or continued, certification of removal etc.**

15.—(1) This regulation applies where the Secretary of State certifies, under paragraph 1 or 2 of Schedule 1, that an appealable decision in relation to a person (“P”) was taken in the interests of national security. Such a decision is referred to in this regulation as a “national security decision”.

<sup>F19</sup>(2) .....

(3) P, while in the United Kingdom, may not bring or continue an appeal under these Regulations against the national security decision unless P has made a human rights claim while in the United Kingdom.

(4) Paragraph (3) does not allow P while in the United Kingdom to bring or continue an appeal under these Regulations if the Secretary of State certifies that removal of P—

- (a) to the country or territory to which P is proposed to be removed, and
- (b) despite the appeals process in relation to the national security decision not having been begun or not having been exhausted,

would not be unlawful under section 6 of the Human Rights Act 1998.

(5) The grounds upon which a certificate may be given under paragraph (4) include (in particular)

—

- (a) that P would not, before the appeals process in relation to the national security decision is exhausted, face a real risk of serious irreversible harm if removed to the country or territory to which P is proposed to be removed;
- (b) that the whole or part of any human rights claim made by P is clearly unfounded.

(6) If a certificate in respect of P is given under paragraph (4), P may not be removed from, or required to leave, the United Kingdom in accordance with a provision of the Immigration Acts <sup>M12</sup> before the end of the relevant period except—

- (a) in a duly substantiated case of urgency,
- (b) where P is detained pursuant to the sentence or order of any court, or
- (c) where P has entered the United Kingdom and are removable as an illegal entrant under Schedule 2 to the 1971 Act.

But those exceptions do not apply at any time when the removal of P is prohibited by a direction given under paragraph (10) by the Special Immigration Appeals Commission (“the Commission”).

(7) P may make an application to the Commission to set aside the certificate.

(8) If P makes an application under paragraph (7) then the Commission, in determining whether the certificate should be set aside, must apply the principles that would be applied in judicial review proceedings.

(9) The Commission's determination of a review under paragraph (7) is final.

(10) Where P has made and not withdrawn an application under paragraph (7), the Commission may direct that P is not to be removed from the United Kingdom at a time when the review has not been finally determined by the Commission.

(11) Sections 5 and 6 of the 1997 Act apply in relation to reviews under paragraph (7) (and to applicants for such reviews) as they apply in relation to appeals under section 2 or 2B of that Act (and to persons bringing such appeals).

(12) Any exercise of the power to make rules under section 5 of that Act in relation to reviews under paragraph (7) is to be made with a view to securing that proceedings on such reviews are handled expeditiously.

(13) For the purposes of this regulation—

“human rights claim” has the meaning given in section 113(1) of the 2002 Act;

“relevant period” means the period of one month beginning with the day on which P is notified of the decision to remove them.

#### Textual Amendments

**F19** Reg. 15(2) omitted (8.5.2023) by virtue of [The Immigration \(Citizens' Rights Appeals\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/441\)](#), regs. 1(2), 5

#### Commencement Information

**I13** Reg. 15 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

#### Marginal Citations

**M12** See the definition of “the Immigration Acts” in Schedule 1 to the [Interpretation Act 1978 \(c. 30\)](#).

### Other appealable decisions: certification of removal

**16.**—(1) This regulation applies where—

- (a) a relevant appealable decision has been made in relation to a person (“P”), and
- (b) a decision has been made to make a deportation order under section 5(1) of the 1971 Act in respect of P (whether or not that decision is the relevant appealable decision and whether or not the order has been made).

(2) Where the deportation decision is not the relevant appealable decision mentioned in paragraph (1)(a), it does not matter for the purposes of paragraph (1)(b) whether the deportation decision is made before or after the relevant appealable decision.

(3) Where this regulation applies, the Secretary of State may certify that removal of P—

- (a) to the country or territory to which P is proposed to be removed, and
- (b) despite the appeals process in relation to the relevant appealable decision not having been begun or not having been exhausted,

would not be unlawful under section 6 of the Human Rights Act 1998.

(4) The grounds upon which a certificate may be given under paragraph (3) include (in particular) that P would not, before the appeals process in relation to the relevant appealable decision is

exhausted, face a real risk of serious irreversible harm if removed to the country or territory to which P is proposed to be removed.

(5) In this regulation, “relevant appealable decision” means an appealable decision other than a decision which has been certified under paragraph 1 or 2 of Schedule 1 as taken in the interests of national security.

(6) See sections 78 and 79 of the 2002 Act, as applied by Schedule 1 or 2 to these Regulations, for the consequences of certification under this regulation.

#### Commencement Information

**I14** Reg. 16 in force at 31.1.2020 on exit day, see reg. 1(2) and [2018 c. 16, s. 20\(1\)-\(5\)](#)

#### [<sup>F20</sup>Other appealable decisions: certification of removal in cases of abuse of rights or fraud

**16A.**—(1) This regulation applies where a relevant appealable decision has been made in relation to a person (“P”) and that decision was taken by the Secretary of State, whether in whole or in part, because of abuse of rights or fraud.

- (2) For the purposes of this regulation, abuse of rights or fraud includes:
- (a) entering, attempting to enter, or assisting another person to enter or attempt to enter, a marriage, civil partnership or durable partnership of convenience, or
  - (b) fraudulently obtaining or attempting to obtain, or assisting another fraudulently to obtain or to attempt to obtain, entry clearance under relevant entry clearance immigration rules or leave to enter or remain in the United Kingdom under residence scheme immigration rules.
- (3) Where this regulation applies, the Secretary of State may certify that removal of P—
- (a) to the country or territory to which P is proposed to be removed, and
  - (b) despite the appeals process in relation to the relevant appealable decision having not been begun or not having been exhausted,

would not be unlawful under section 6 of the Human Rights Act 1998.

(4) The grounds upon which a certificate may be given under paragraph (3) include (in particular) that P would not, before the appeals process in relation to the relevant appealable decision is exhausted, face a real risk of serious irreversible harm if removed to the country or territory to which P is proposed to be removed.

(5) In this regulation, “relevant appealable decision” means an appealable decision other than a decision which has been certified under paragraph 1 or 2 of Schedule 1 as taken in the interests of national security.

(6) See sections 78 and 79 of the 2002 Act, as applied by Schedule 1 or 2 to these Regulations, for the consequences of certification under this regulation.]

#### Textual Amendments

**F20** [Reg. 16A](#) inserted (8.5.2023) by [The Immigration \(Citizens' Rights Appeals\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/441\)](#), regs. 1(2), [6](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020, PART 2.