

## SCHEDULE 2

Regulation 11

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

#### **Application of provisions of the 2002 Act in connection with appeals to the Tribunal**

1. The following provisions of the 2002 Act apply in connection with an appeal to the Tribunal under these Regulations as they apply in connection with an appeal under section 82(1) of that Act (but subject to the general modifications specified in paragraph 2 and the specific modifications specified in paragraph 3)—

- (a) section 72(1);
- (b) sections 78 to 79;
- (c) section 105 and any regulations made under that section;
- (d) section 106 and any rules made pursuant to that section(2);
- (e) sections 107 and 108(3);
- (f) sections 112 and 113(4);
- (g) section 120.

#### **General modifications**

- 2.—(1) The provisions mentioned in paragraph 1 have effect as if—
- (a) references to “this Act”, or provisions of the 2002 Act, were references to the Act, or provisions of it, as applied by this Schedule;
  - (b) references to an appeal under section 82 or section 82(1), however expressed, were references to an appeal to the Tribunal under these Regulations;
  - (c) references to proceedings under section 82 were references to proceedings before the Tribunal under these Regulations.
- (2) But—
- (a) sub-paragraph (1)(a) does not apply to the reference to section 84 of the 2002 Act inserted by paragraph 3(2) of this Schedule;
  - (b) sub-paragraph (1) is also subject to the specific modifications made in paragraph 3.

#### **Specific modifications**

- 3.—(1) The specific modifications to the provisions of the 2002 Act are as follows.
- (2) Section 72 has effect as if—
- (a) in subsection (9), for paragraph (a), there were substituted—

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- (1) Section 72 was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (“the 2004 Act”), Schedule 2, paragraph 17, the UK Borders Act 2007, section 39, the Immigration Act 2014 (“the 2014 Act”), Schedule 9, paragraph 31, and S.I. 2010/21.
  - (2) Section 106 was amended by the 2004 Act, Schedule 2, paragraph 21, the 2014 Act, Schedule 9, paragraph 39, and S.I. 2010/21. Section 107 was amended by the 2004 Act, Schedule 2, paragraph 22, the Tribunals, Courts and Enforcement Act 2007 (c. 15) (“the 2007 Act”), Schedule 8, paragraph 54, the 2014 Act, Schedule 9, paragraph 50, and S.I. 2010/21. Section 108 was amended by the 2004 Act, Schedule 2, paragraph 23, and the 2014 Act, Schedule 9, paragraph 54.
  - (3) Section 107 was amended by the 2004 Act, section 47 and Schedule 2, paragraph 22, the 2007 Act, Schedule 8, paragraph 54, the 2014 Act, Schedule 9, paragraph 50, and S.I. 2010/21. Section 108 was amended by the 2004 Act, Schedule 2, paragraph 23, and the 2014 Act, Schedule 9, paragraph 51.
  - (4) Section 112 was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, section 29 and Schedule 2, paragraph 24, the Immigration, Asylum and Nationality Act 2006 (c. 13) (“the 2006 Act”), section 7, the Immigration Act 2014 (“the 2014 Act”), Schedule 9, paragraph 52 and by S.I. 2010/21. Section 113 was amended by the 2006 Act, section 12, and the 2014 Act, Schedule 9, paragraph 53.

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

- “(a) a person appeals to the First-tier Tribunal under the 2020 Regulations against a decision and makes a section 120 statement (within the meaning of regulation 9 of those Regulations) which relies wholly or partly on the ground of appeal mentioned in section 84(1)(a) or (3)(a) of this Act (breach of the United Kingdom’s obligations under the Refugee Convention), and”;
  - (b) in subsection (10), “or Commission” were omitted.
- (3) Section 78 has effect as if—
  - (a) in subsection (1), for “appeal under section 82(1)” there were substituted “appeal to the First-tier Tribunal (“the Tribunal”) under the 2020 Regulations”;
  - (b) after subsection (1), there were inserted—
    - “(1A) But subsection (1) does not apply in relation to a relevant appellant.
    - (1B) A person is a “relevant appellant” for the purposes of this section if—
      - (a) the person’s removal is certified under regulation 16(3) of the 2020 Regulations, and
      - (b) the relevant appealable decision in respect of which the person’s removal is certified in accordance with that provision is the decision in relation to which the appeal to the Tribunal under the 2020 Regulations is pending.
    - (1C) A relevant appellant may not be removed from, or required to leave, the United Kingdom in accordance with a provision of the Immigration Acts before the end of the relevant period except—
      - (a) in a duly substantiated case of urgency,
      - (b) where they are detained pursuant to the sentence or order of any court, or
      - (c) where they have entered the United Kingdom and are removable as an illegal entrant under Schedule 2 to the Immigration Act 1971.
- But those exceptions do not apply at any time when the removal of the appellant is prohibited under subsection (1F).
- (1D) For the purposes of subsection (1C), “the relevant period” is the period of one month beginning with the day on which the relevant appellant is notified of the decision to remove them.
- (1E) Subsection (1F) applies to a relevant appellant who applies to the appropriate court or tribunal (whether by means of judicial review or otherwise) for an interim order to suspend enforcement of the decision to remove them from the United Kingdom.
- (1F) A relevant appellant to whom this subsection applies may not be removed from, or required to leave, the United Kingdom in accordance with a provision of the Immigration Acts until such time as the decision on the interim order has been taken unless—
  - (a) the decision to remove them is based on a previous judicial decision,
  - (b) they have had previous access to judicial review, or
  - (c) the decision to remove them is based on imperative grounds of public security.”;
- (c) in subsection (2), for “section 104” there were substituted “regulation 13 of the 2020 Regulations”;
- (d) in subsection (4), for “section 92” there were substituted “the 2020 Regulations”;
- (e) after subsection (4), there were inserted—
  - “(5) Nothing in this section prevents the removal from the United Kingdom of a person who is admitted to the United Kingdom on bail pursuant to Schedule 3 to the 2020 Regulations.”.

(4) Section 78A(3)(b) has effect as if for “section 104” there were substituted “regulation 13 of the 2020 Regulations”.

(5) Section 79 has effect as if—

(a) in subsection (1), for the words from “section 82(1)” to “relating to” there were substituted “the 2020 Regulations to the First-tier Tribunal against”;

(b) after subsection (1), there were inserted—

“(1A) But subsection (1) does not prevent the Secretary of State making a deportation order in respect of a person (“P”) if—

(a) P’s removal is certified under regulation 16(3) of the 2020 Regulations, and

(b) the decision to make the deportation order in respect of P is the relevant appealable decision in respect of which P’s removal was certified under that provision.”;

(c) in subsection (2), for “section 104” there were substituted “regulation 13 of the 2020 Regulations”.

(6) Section 105 has effect as if, in subsection (4), for the words from “means” to the end there were substituted “has the meaning given in regulation 2 of the 2020 Regulations”.

(7) Section 106 has effect as if, in subsections (3) and (4), “or by virtue of section 109” were omitted.

(8) Section 107(3) has effect as if “or by virtue of section 109” were omitted.

(9) Section 113 has effect as if, before the definition of “asylum claim”, there were inserted—

““the 2020 Regulations” means the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020;”.

(10) Section 120(6) has effect as if at the end of the definition of “grounds” in subsection (6) there were inserted “, or on which an appeal to the Tribunal under the 2020 Regulations may be brought (see regulation 8 of those Regulations)”.