

## SCHEDULE 2

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

#### 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—

“(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

*Status: This is the original version (as it was originally made).*

- (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)”.