

SCHEDULE 4

Regulation 17

Consequential amendments

PART 1

Amendment of primary legislation

Amendment of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision)

1. In section 3C of the 1971 Act⁽¹⁾, in subsection (2)—
 - (a) omit “or” at the end of paragraph (c);
 - (b) after that paragraph insert—
 - “(ca) an appeal could be brought under the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020 (“the 2020 Regulations”), while the appellant is in the United Kingdom, against the decision on the application for variation (ignoring any possibility of an appeal out of time with permission),
 - (cb) an appeal under the 2020 Regulations against that decision, brought while the appellant is in the United Kingdom, is pending (within the meaning of those Regulations), or”.

Amendment of section 2C of the Special Immigration Appeals Commission Act 1997 (jurisdiction: review of certain exclusion decisions)

- 2.—(1) Section 2C of the 1997 Act⁽²⁾ is amended as follows.
 - (2) In subsection (1), after “non-EEA national”, in both places where it appears, insert “or relevant person”.
 - (3) In subsection (2), after “non-EEA national” insert “or relevant person”.
 - (4) In subsection (5), after the definition of “non-EEA national”, insert—

““relevant person” has the same meaning as it has for the purposes of section 11(2)(f) and (g) of the European Union (Withdrawal Agreement) Act 2020 (see section 11(7) of that Act);”.

PART 2

Amendment of subordinate legislation

Amendment of the Immigration (Notices) Regulations 2003

- 3.—(1) The Immigration (Notices) Regulations 2003⁽³⁾ are amended as follows.
 - (2) In regulation 2, after the definition of “the 2002 Act” insert—

““citizens’ rights immigration decision” means a decision which can be appealed against under the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020.”

(1) Section 3C was inserted by the Immigration and Asylum Act 1999, section 3, and substituted by the Nationality, Immigration and Asylum Act 2002, section 118. It was amended by the Immigration, Asylum and Nationality Act 2006, section 11, the Immigration Act 2014, Schedule 9, paragraph 21, and the Immigration Act 2016, section 62.

(2) Section 2C was inserted by the Justice and Security Act 2013 (c. 18), section 15.

(3) S.I. 2003/658, as amended by S.I. 2006/2168 and 2014/2768. There are other amending instruments but none is relevant.

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(3) In regulation 4, in paragraph (1), for “or any EEA decision” substitute “, any EEA decision or any citizens’ rights immigration decision”.

Amendment of the Special Immigration Appeals Commission (Procedure) Rules 2003

4.—(1) The Special Immigration Appeals Commission (Procedure) Rules 2003⁽⁴⁾ are amended as follows.

(2) In rule 2, after the definition of “the 2016 Act”⁽⁵⁾, insert—

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

(3) In rule 6⁽⁶⁾—

(a) omit the “and” at the end of paragraph (a);

(b) after that paragraph, insert—

“(aa) appeals to the Commission under regulation 7 of the 2020 Regulations; and”

(4) In rule 7⁽⁷⁾, in paragraph (1), after “the 2002 Act”, insert “or regulation 7 of the 2020 Regulations”.

(5) In rule 8⁽⁸⁾—

(a) in paragraph (1), for “or section 97A(3) of the 2002 Act” substitute “, section 97A(3) of the 2002 Act or regulation 7 of the 2020 Regulations”;

(b) in paragraph (2), in sub-paragraph (b), after “Act”, insert “or regulation 15 of the 2020 Regulations”;

(c) after paragraph (4A), insert—

“(4B) Paragraph (4C) applies where—

(a) an appellant (“A”) applies for an administrative review of an appealable decision (“the original decision”) under the relevant rules, and

(b) A had not, before A receives notice of the decision on administrative review, given a notice of appeal to the Commission under regulation 7 of the 2020 Regulations against the original decision.

(4C) Where this paragraph applies, A must give a notice of appeal to the Commission under regulation 7 of the 2020 Regulations against the original decision—

(a) if A is in detention under the Immigration Acts, not later than 5 days after A receives the notice of the decision on administrative review;

(b) otherwise—

(i) if A is in the United Kingdom, not later than 10 days after A receives the notice of the decision on administrative review, or

(ii) if A is outside the United Kingdom, subject to paragraph (4D), not later than 28 days after A receives the notice of the decision on administrative review.

(4D) Where A—

(a) is in the United Kingdom when A receives the notice of the decision on administrative review, and

⁽⁴⁾ [S.I. 2003/1034](#).

⁽⁵⁾ The definition of “the 2016 Act” was inserted by [S.I. 2018/736](#).

⁽⁶⁾ Rule 6 was substituted by [S.I. 2013/2995](#). It was amended by [S.I. 2015/867](#).

⁽⁷⁾ Rule 7 was amended by [S.I. 2007/1285](#). There are other amending instruments but none is relevant.

⁽⁸⁾ Rule 8 was amended by [S.I. 2007/1285](#) and [2013/2995](#).

(b) may not appeal against the original decision while in the United Kingdom by reason of regulation 15 of the 2020 Regulations,

a notice of appeal against the original decision must be given not later than 28 days after A's departure from the United Kingdom.

(4E) In this rule—

“appealable decision” has the meaning given in regulation 2 of the 2020 Regulations;

“relevant rules” means residence scheme immigration rules or relevant entry clearance immigration rules (within the meanings given in section 17 of the European Union (Withdrawal Agreement) Act 2020).”.

(6) In rule 12(9)—

(a) the existing paragraph is renumbered as paragraph (1) of that rule;

(b) in paragraph (1) (as renumbered), in sub-paragraph (a)(i), after “the 2002 Act” insert “or regulation 13(3) of the 2020 Regulations”;

(c) after that paragraph, insert—

“(2) A party to an appeal under the 2020 Regulations must notify the Commission if they are aware that the appeal is to be treated as abandoned under regulation 13 of those Regulations.

(3) Where an appeal would otherwise be treated as abandoned under regulation 13(3) of the 2020 Regulations but the appellant wishes to pursue their appeal, the appellant must provide a notice to the Commission and to each other party within the relevant period.

(4) For the purposes of paragraph (3), “the relevant period” is the period of 28 days beginning with the day on which the appellant was sent notice of the grant of leave to enter or remain in the United Kingdom.”.

Amendment of the Tribunal Procedure (Upper Tribunal) Rules 2008

5.—(1) The Tribunal Procedure (Upper Tribunal) Rules 2008(10) are amended as follows.

(2) In rule 1, in paragraph (3), in the definition of “immigration case”—

(a) omit “or” before “regulation 26”,

(b) after “asylum case” insert “, or the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020”.

(3) In rule 17A—

(a) after paragraph (1) insert—

“(1A) A party to an appeal under the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020 (“the 2020 Regulations”) before the Upper Tribunal must also notify the Upper Tribunal if they are aware that the appeal is to be treated as abandoned under regulation 13(3) of those Regulations.”;

(b) in paragraph (2), after “Regulations 2006” insert “or regulation 13(3) of the 2020 Regulations”;

(c) in paragraph (3), after “Act 2002”, insert “or regulation 13(3) of the 2020 Regulations”.

(9) Rule 12 has been amended by S.I. 2007/1285, 2013/2995 and 2015/867.

(10) S.I. 2008/2698, as amended by S.I. 2010/44 and 2013/2067. There are other amending instruments but none is relevant.

Amendment of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

6.—(1) The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014⁽¹¹⁾ are amended as follows.

(2) In rule 1, after the definition of “the 2007 Act” insert—
““the 2020 Regulations” means the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020;”.

(3) In rule 16—
(a) after paragraph (1) insert—
“(1A) A party to an appeal under the 2020 Regulations must also notify the Tribunal if they are aware that the appeal is to be treated as abandoned under regulation 13 of those Regulations.”;
(b) in paragraph (2), after “2006 Regulations” insert “or regulation 13(3) of the 2020 Regulations”;
(c) in paragraph (3), after “the 2002 Act” insert “or regulation 13(3) of the 2020 Regulations”.

(4) In rule 19, after paragraph (3), insert—
“(3A) But paragraphs (2) and (3) do not apply in relation to the bringing of an appeal against a citizens’ rights immigration decision.
“A citizens’ rights immigration decision” is a decision which can be appealed against under the 2020 Regulations.

(3B) The notice of appeal in relation to an appeal against a citizens’ rights immigration decision must be received—

- (a) if the person is in the United Kingdom, not later than 14 days after the appellant is sent the notice of the decision;
- (b) if the person is outside the United Kingdom, not later than 28 days after the appellant receives the notice of the decision.

But this paragraph is subject to paragraph (3D).

(3C) Paragraph (3D) applies where—

- (a) a person (“P”) applies for an administrative review of a citizens’ rights immigration decision (“the original decision”) under the relevant rules, and
- (b) P had not, before P receives notice of the decision on administrative review, started proceedings in relation to the original decision.

(3D) Where this paragraph applies, the notice of appeal against the original decision must be received—

- (a) if P is in the United Kingdom, not later than 14 days after P is sent the notice of the decision on administrative review;
- (b) if P is outside the United Kingdom, not later than 28 days after P receives the notice of the decision on administrative review.

(3E) In this rule, “the relevant rules” means residence scheme immigration rules or relevant entry clearance immigration rules (within the meanings given in section 17 of the European Union (Withdrawal Agreement) Act 2020).”.

(11) S.I. 2014/2604, to which there are amendments not relevant to this instrument.

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