

Nationality, Immigration and Asylum Act 2002

Part 5

Immigration and Asylum Appeals

Part 6

Immigration Procedure

Keeling Schedule

Showing changes which would be effected by the
Immigration Bill appeals clauses 11 and 12 and
Schedule 8 Part 4 as amended in Commons
Committee

(Bill 128, ordered by the House of Commons to be
printed, 19 November 2013)

This schedule has been prepared by the Home Office. It is intended for illustrative purposes only to assist the reader of the Bill to understand the changes to Parts 5 and 6 of the Nationality, Immigration and Asylum Act 2002 which would be made by the Bill.

Notes

An ellipsis indicates that a text has been previously repealed (e.g. Section 93)

When text is **repealed or omitted** – text is struck through and presented in red text

When new text is **inserted**

- Text is surrounded with square brackets and inserted in red text

When existing text is **substituted**

- Text to be replaced is struck through and presented in red text. The text replacing it is presented straight afterwards enclosed with square brackets and also in red text

Part 5 Immigration and Asylum Appeals

[Appeal to Tribunal]

81 Meaning of “the Tribunal”

In this Part “the Tribunal” means the First-tier Tribunal.

~~82 Right of appeal: general~~

~~(1) Where an immigration decision is made in respect of a person he may appeal [to the Tribunal].~~

~~(2) In this Part “immigration decision” means—~~

- ~~(a) refusal of leave to enter the United Kingdom,~~
- ~~(b) refusal of entry clearance,~~
- ~~(c) refusal of a certificate of entitlement under section 10 of this Act,~~
- ~~(d) refusal to vary a person's leave to enter or remain in the United Kingdom if the result of the refusal is that the person has no leave to enter or remain,~~
- ~~(e) variation of a person's leave to enter or remain in the United Kingdom if when the variation takes effect the person has no leave to enter or remain,~~
- ~~(f) revocation under section 76 of this Act of indefinite leave to enter or remain in the United Kingdom,~~
- ~~(g) a decision that a person is to be removed from the United Kingdom by way of directions under [section 10(1)(a), (b), (ba) or (c)] of the Immigration and Asylum Act 1999 (c 33) (removal of person unlawfully in United Kingdom),~~
- ~~(h) a decision that an illegal entrant is to be removed from the United Kingdom by way of directions under paragraphs 8 to 10 of Schedule 2 to the Immigration Act 1971 (c 77) (control of entry: removal),~~
- ~~[(ha) a decision that a person is to be removed from the United Kingdom by way of directions under section 47 of the Immigration, Asylum and Nationality Act 2006 (removal: persons with statutorily extended leave),]~~
- ~~(i) a decision that a person is to be removed from the United Kingdom by way of directions given by virtue of paragraph 10A of that Schedule (family),~~
- ~~[(ia) a decision that a person is to be removed from the United Kingdom by way of directions under paragraph 12(2) of Schedule 2 to the Immigration Act 1971 (c 77) (seamen and aircrews),]~~

~~[(ib)—a decision to make an order under section 2A of that Act (deprivation of right of abode),]~~

~~(j)—a decision to make a deportation order under section 5(1) of that Act, and~~

~~(k)—refusal to revoke a deportation order under section 5(2) of that Act.~~

~~(3)—...~~

~~[(3A)—Subsection (2)(j) does not apply to a decision to make a deportation order which states that it is made in accordance with section 32(5) of the UK Borders Act 2007; but—~~

~~(a)—a decision that section 32(5) applies is an immigration decision for the purposes of this Part, and~~

~~(b)—a reference in this Part to an appeal against an automatic deportation order is a reference to an appeal against a decision of the Secretary of State that section 32(5) applies.]~~

~~(4)—The right of appeal under subsection (1) is subject to the exceptions and limitations specified in this Part.~~

[82 Right of appeal to the Tribunal

(1) A person (“P”) may appeal to the Tribunal where—

- (a) the Secretary of State has decided to refuse a protection claim made by P,
- (b) the Secretary of State has decided to refuse a human rights claim made by P, or
- (c) the Secretary of State has decided to revoke P’s protection status.

(2) For the purposes of this Part—

- (a) a “protection claim” is a claim made by a person (“P”) that removal of P from the United Kingdom—
 - (i) would breach the United Kingdom’s obligations under the Refugee Convention, or
 - (ii) would breach the United Kingdom’s obligations in relation to persons eligible for a grant of humanitarian protection;
- (b) P’s protection claim is refused if the Secretary of State makes one or more of the following decisions—
 - (i) that removal of P from the United Kingdom would not breach the United Kingdom’s obligations under the Refugee Convention;
 - (ii) that removal of P from the United Kingdom would not breach the United Kingdom’s obligations in relation to persons eligible for a grant of humanitarian protection;
- (c) a person has “protection status” if the person has been granted leave to enter or remain in the United Kingdom as a refugee or as a person eligible for a grant of humanitarian protection;

- (d) “humanitarian protection” is to be construed in accordance with the immigration rules;
 - (e) “refugee” has the same meaning as in the Refugee Convention.
- (3) The right of appeal under subsection (1) is subject to the exceptions and limitations specified in this Part]

~~83 Appeal: asylum claim~~

- ~~(1) This section applies where a person has made an asylum claim and —~~
 - ~~(a) his claim has been rejected by the Secretary of State, but~~
 - ~~(b) he has been granted leave to enter or remain in the United Kingdom for a period exceeding one year (or for periods exceeding one year in aggregate).~~
- ~~(2) The person may appeal [to the Tribunal] against the rejection of his asylum claim.~~

~~[83A Appeal: variation of limited leave]~~

- ~~[(1) This section applies where —~~
 - ~~(a) a person has made an asylum claim,~~
 - ~~(b) he was granted limited leave to enter or remain in the United Kingdom as a refugee within the meaning of the Refugee Convention,~~
 - ~~(c) a decision is made that he is not a refugee, and~~
 - ~~(d) following the decision specified in paragraph (c) he has limited leave to enter or remain in the United Kingdom otherwise than as a refugee.~~
- ~~(2) The person may appeal to the Tribunal against the decision to curtail or to refuse to extend his limited leave.]~~

~~84 Grounds of appeal~~

- ~~(1) An appeal under section 82(1) against an immigration decision must be brought on one or more of the following grounds —~~
 - ~~(a) that the decision is not in accordance with immigration rules;~~
 - ~~(b) that the decision is unlawful by virtue of ... [Article 20A of the Race Relations (Northern Ireland) Order 1997] [or by virtue of section 29 of the Equality Act 2010 (discrimination in the exercise of public functions etc) so far as relating to race as defined by section 9(1) of that Act] (discrimination by public authorities);~~

- ~~(c)—that the decision is unlawful under section 6 of the Human Rights Act 1998 (c 42) (public authority not to act contrary to Human Rights Convention) as being incompatible with the appellant's Convention rights;~~
- ~~(d)—that the appellant is an EEA national or a member of the family of an EEA national and the decision breaches the appellant's rights under the [EU] Treaties in respect of entry to or residence in the United Kingdom;~~
- ~~(e)—that the decision is otherwise not in accordance with the law;~~
- ~~(f)—that the person taking the decision should have exercised differently a discretion conferred by immigration rules;~~
- ~~(g)—that removal of the appellant from the United Kingdom in consequence of the immigration decision would breach the United Kingdom's obligations under the Refugee Convention or would be unlawful under section 6 of the Human Rights Act 1998 as being incompatible with the appellant's Convention rights.~~
- ~~(2)—In subsection (1)(d) “EEA national” means a national of a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time).~~
- ~~(3)—An appeal under section 83 must be brought on the grounds that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention.~~
- ~~[(4)—An appeal under section 83A must be brought on the grounds that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention.]~~

[84 Grounds of appeal

- (1) An appeal under section 82(1)(a) (refusal of protection claim) must be brought on one or more of the following grounds —
 - (a) that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention;
 - (b) that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;
 - (c) that removal of the appellant from the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).
- (2) An appeal under section 82(1)(b) (refusal of human rights claim) must be brought on the ground that the decision is unlawful under section 6 of the Human Rights Act 1998.

- (3) An appeal under section 82(1)(c) (revocation of protection status) must be brought on one or more of the following grounds –
- (a) that the decision to revoke the appellant’s protection status breaches the United Kingdom’s obligations under the Refugee Convention;
 - (b) that the decision to revoke the appellant’s protection status breaches the United Kingdom’s obligations in relation to persons eligible for a grant of humanitarian protection.]

85 Matters to be considered

- (1) An appeal under section 82(1) against a decision shall be treated by the Tribunal as including an appeal against any decision in respect of which the appellant has a right of appeal under section 82(1).
- (2) If an appellant under section 82(1) makes a statement under section 120, the Tribunal shall consider any matter raised in the statement which constitutes a ground of appeal of a kind listed in section ~~84(1)~~ [84] against the decision appealed against.
- (3) Subsection (2) applies to a statement made under section 120 whether the statement was made before or after the appeal was commenced.
- (4) On an appeal under section 82(1) ~~[783(2) or 83A(2)]~~ against a decision the Tribunal may consider ~~evidence about~~ any matter which it thinks relevant to the substance of the decision, including ~~evidence which concerns~~ a matter arising after the date of the decision.

~~[(5) — But subsection (4) is subject to the exceptions in section 85A.]~~

~~[(5) But the Tribunal must not consider a new matter unless the Secretary of State has given the Tribunal consent to do so.~~

- (6) A matter is a “new matter” if –
- (a) it constitutes a ground of appeal of a kind listed in section 84 or any reason that the appellant has for wishing to enter or remain in the United Kingdom, and
 - (b) the Secretary of State has not previously considered the matter in the context of –
 - (i) the decision mentioned in section 82(1), or
 - (ii) a statement made by the appellant under section 120.]

~~85A Matters to be considered: new evidence: exceptions]~~

~~[(1) — This section sets out the exceptions mentioned in section 85(5).]~~

~~[(2) — Exception 1 is that in relation to an appeal under section 82(1) against an immigration decision of a kind specified in section 82(2)(b) or (c) the Tribunal may consider only the circumstances appertaining at the time of the decision.~~

- ~~(3) — Exception 2 applies to an appeal under section 82(1) if —~~
- ~~(a) — the appeal is against an immigration decision of a kind specified in section 82(2)(a) or (d),~~
 - ~~(b) — the immigration decision concerned an application of a kind identified in immigration rules as requiring to be considered under a “Points Based System”, and~~
 - ~~(c) — the appeal relies wholly or partly on grounds specified in section 84(1)(a), (c) or (f).~~
- ~~(4) — Where Exception 2 applies the Tribunal may consider evidence adduced by the appellant only if it —~~
- ~~(a) — was submitted in support of, and at the time of making, the application to which the immigration decision related,~~
 - ~~(b) — relates to the appeal in so far as it relies on grounds other than those specified in subsection (3)(c),~~
 - ~~(c) — is adduced to prove that a document is genuine or valid, or~~
 - ~~(d) — is adduced in connection with the Secretary of State's reliance on a discretion under immigration rules, or compliance with a requirement of immigration rules, to refuse an application on grounds not related to the acquisition of “points” under the “Points Based System”.~~
- ~~[(5) — Tribunal Procedure Rules may make provision, for the purposes of subsection (4)(a), about the circumstances in which evidence is to be treated, or not treated, as submitted in support of, and at the time of making, an application.]]~~

86 Determination of appeal

- (1) This section applies on an appeal under section 82(1) ~~[, 83 or 83A].~~
- (2) The Tribunal must determine —
 - (a) any matter raised as a ground of appeal ~~(whether or not by virtue of section 85(1))~~, and
 - (b) any matter which section 85 requires it to consider.
- ~~(3) — [The Tribunal] must allow the appeal in so far as [it] thinks that —~~
 - ~~(a) — a decision against which the appeal is brought or is treated as being brought was not in accordance with the law (including immigration rules), or~~
 - ~~(b) — a discretion exercised in making a decision against which the appeal is brought or is treated as being brought should have been exercised differently.~~

~~(4) For the purposes of subsection (3) a decision that a person should be removed from the United Kingdom under a provision shall not be regarded as unlawful if it could have been lawfully made by reference to removal under another provision.~~

~~(5) In so far as subsection (3) does not apply, [the Tribunal] shall dismiss the appeal.~~

~~(6) Refusal to depart from or to authorise departure from immigration rules is not the exercise of a discretion for the purposes of subsection (3)(b).~~

~~87 Successful appeal: direction~~

~~(1) If [the Tribunal] allows an appeal under section 82[, 83 or 83A] [it] may give a direction for the purpose of giving effect to [its] decision.~~

~~(2) A person responsible for making an immigration decision shall act in accordance with any relevant direction under subsection (1).~~

~~[(3) But a direction under this section shall not have effect while—~~

~~(a) an application for permission to appeal under section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007 could be made or is awaiting determination,~~

~~(b) permission to appeal to the Upper Tribunal or a court under either of those sections has been granted and the appeal is awaiting determination, or~~

~~(c) an appeal has been remitted under section 12 or 14 of that Act and is awaiting determination.]~~

~~(4) A direction under subsection (1) shall be treated [as part of the Tribunal's decision on the appeal for the purposes of section [11 of the Tribunals, Courts and Enforcement Act 2007]].~~

Exceptions and limitations

~~88 Ineligibility~~

~~(1) This section applies to an immigration decision of a kind referred to in section 82(2)(a), (b), (d) or (e).~~

~~(2) A person may not appeal under section 82(1) against an immigration decision which is taken on the grounds that he or a person of whom he is a dependant—~~

~~(a) does not satisfy a requirement as to age, nationality or citizenship specified in immigration rules,~~

~~(b) does not have an immigration document of a particular kind (or any immigration document),~~

- ~~{(ba)—has failed to supply a medical report or a medical certificate in accordance with a requirement of immigration rules,}~~
- ~~(c)—is seeking to be in the United Kingdom for a period greater than that permitted in his case by immigration rules, or~~
- ~~(d)—is seeking to enter or remain in the United Kingdom for a purpose other than one for which entry or remaining is permitted in accordance with immigration rules.~~
- ~~(3)—In subsection (2)(b) “immigration document” means—~~
- ~~(a)—entry clearance,~~
- ~~(b)—a passport,~~
- ~~(c)—a work permit or other immigration employment document within the meaning of section 122, and~~
- ~~(d)—a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport.~~
- ~~(4)—Subsection (2) does not prevent the bringing of an appeal on any or all of the grounds referred to in section 84(1)(b), (c) and (g).~~

~~[88A Ineligibility: entry clearance~~

- ~~(1)—This section applies to an immigration decision of a kind referred to in section 82(2)(a), (b), (d) or (e).~~
- ~~(2)—A person may not appeal under section 82(1) against an immigration decision which is taken on the grounds that he or a person of whom he is a dependant—~~
- ~~(a)—does not satisfy a requirement as to age, nationality or citizenship specified in immigration rules,~~
- ~~(b)—does not have an immigration document of a particular kind (or any immigration document),~~
- ~~{(ba)—has failed to supply a medical report or a medical certificate in accordance with a requirement of immigration rules,}~~
- ~~(c)—is seeking to be in the United Kingdom for a period greater than that permitted in his case by immigration rules, or~~
- ~~(d)—is seeking to enter or remain in the United Kingdom for a purpose other than one for which entry or remaining is permitted in accordance with immigration rules.~~
- ~~(3)—In subsection (2)(b) “immigration document” means—~~
- ~~(a)—entry clearance,~~
- ~~(b)—a passport,~~

- ~~(c) — a work permit or other immigration employment document within the meaning of section 122, and~~
- ~~(d) — a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport.~~
- ~~(4) — Subsection (2) does not prevent the bringing of an appeal on any or all of the grounds referred to in section 84(1)(b), (c) and (g).~~

[88A Entry clearance]

~~[(1) — A person may not appeal under section 82(1) against refusal of entry clearance if the decision to refuse is taken on grounds which —~~

- ~~(a) — relate to a provision of immigration rules, and~~
- ~~(b) — are specified for the purpose of this section by order of the Secretary of State.~~

~~(2) — Subsection (1) —~~

- ~~(a) — does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c), and~~
- ~~(b) — is without prejudice to the effect of section 88 in relation to an appeal under section 82(1) against refusal of entry clearance.~~

~~[(1) — A person may not appeal under section 82(1) against refusal of an application for entry clearance unless the application was made for the purpose of —~~

- ~~(a) — ...~~
- ~~(b) — entering as the dependant of a person in circumstances prescribed by regulations for the purpose of this subsection.~~

~~(2) — Regulations under subsection (1) may, in particular —~~

- ~~(a) — ...~~
- ~~(b) — provide for the determination of whether one person is dependent on another;~~
- ~~(c) — make provision by reference to the [circumstances of the applicant or of the person] on whom he depends, or of both (and the regulations may, in particular, include provision by reference to —~~
 - ~~(i) — whether or not a person is lawfully settled in the United Kingdom within such meaning as the regulations may assign;~~
 - ~~(ii) — the duration of two individuals' residence together);~~
- ~~(d) — make provision by reference to an applicant's purpose in entering as a dependant;~~
- ~~(e) — make provision by reference to immigration rules;~~
- ~~(f) — confer a discretion.~~

~~(3) Subsection (1) —~~

~~(a) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c), and~~

~~(b) is without prejudice to the effect of section 88 in relation to an appeal under section 82(1) against refusal of entry clearance.]]~~

~~[89 Refusal of leave to enter]~~

~~[(1) A person may not appeal under section 82(1) against refusal of leave to enter the United Kingdom unless —~~

~~(a) on his arrival in the United Kingdom he had entry clearance, and~~

~~(b) the purpose of entry specified in the entry clearance is the same as that specified in his application for leave to enter.~~

~~(2) Subsection (1) does not prevent the bringing of an appeal on any or all of the grounds referred to in section 84(1)(b), (c) and (g).]~~

~~90 Non-family visitor~~

~~(1) A person who applies for entry clearance for the purpose of entering the United Kingdom as a visitor may appeal under section 82(1) against refusal of entry clearance only if the application was made for the purpose of visiting a member of the applicant's family.~~

~~(2) In subsection (1) the reference to a member of the applicant's family shall be construed in accordance with regulations.~~

~~(3) Regulations under subsection (2) may, in particular, make provision wholly or partly by reference to the duration of two individuals' residence together.~~

~~(4) Subsection (1) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c).~~

~~91 Student~~

~~(1) A person may not appeal under section 82(1) against refusal of entry clearance if he seeks it —~~

~~(a) in order to follow a course of study for which he has been accepted and which will not last more than six months,~~

~~(b) in order to study but without having been accepted for a course, or~~

~~(c)—as the dependant of a person seeking entry clearance for a purpose described in paragraph (a) or (b).~~

~~(2)—Subsection (1) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c).~~

92 ~~Appeal from within United Kingdom: general~~

~~(1)—A person may not appeal under section 82(1) while he is in the United Kingdom unless his appeal is of a kind to which this section applies.~~

~~(2)—This section applies to an appeal against an immigration decision of a kind specified in section 82(2)(c), (d), (e), (f) [, (ha)] and (j).~~

~~[(2A)—So far as it relates to an immigration decision of a kind specified in section 82(2)(e), subsection (2) is subject to section 97B.]~~

~~[(3)—This section also applies to an appeal against refusal of leave to enter the United Kingdom if—~~

~~(a)—at the time of the refusal the appellant is in the United Kingdom, and~~

~~(b)—on his arrival in the United Kingdom the appellant had entry clearance.~~

~~(3A)—But this section does not apply by virtue of subsection (3) if subsection (3B) or (3C) applies to the refusal of leave to enter.~~

~~(3B)—This subsection applies to a refusal of leave to enter which is a deemed refusal under paragraph 2A(9) of Schedule 2 to the Immigration Act 1971 (c 77) resulting from cancellation of leave to enter by an immigration officer—~~

~~(a)—under paragraph 2A(8) of that Schedule, and~~

~~(b)—on the grounds specified in paragraph 2A(2A) of that Schedule.~~

~~(3C)—This subsection applies to a refusal of leave to enter which specifies that the grounds for refusal are that the leave is sought for a purpose other than that specified in the entry clearance.~~

~~(3D)—This section also applies to an appeal against refusal of leave to enter the United Kingdom if at the time of the refusal the appellant—~~

~~(a)—is in the United Kingdom,~~

~~(b)—has a work permit, and~~

~~(c)—is any of the following (within the meaning of the British Nationality Act 1981 (c 61))—~~

~~(i)—a British overseas territories citizen,~~

~~(ii)—a British Overseas citizen,~~

~~(iii)—a British National (Overseas),~~

~~(iv) — a British protected person, or~~

~~(v) — a British subject.]~~

~~(4) — This section also applies to an appeal against an immigration decision if the appellant —~~

~~(a) — has made an asylum claim, or a human rights claim, while in the United Kingdom, or~~

~~(b) — is an EEA national or a member of the family of an EEA national and makes a claim to the Secretary of State that the decision breaches the appellant's rights under the [EU] Treaties in respect of entry to or residence in the United Kingdom.~~

[92 Place from which an appeal may be brought or continued

(1) This section applies to determine the place from which an appeal under section 82(1) may be brought or continued.

(2) In the case of an appeal under section 82(1)(a) (protection claim appeal) —

- (a) the appeal must be brought from within the United Kingdom unless the claim to which the appeal relates has been certified under section 94(1) or (7) (claim clearly unfounded or removal to safe third country);
- (b) the appeal must be brought from outside the United Kingdom if the claim to which the appeal relates has been certified under section 94(1) or (7).

(3) In the case of an appeal under section 82(1)(b) (human rights claim appeal) —

- (a) the appeal must be brought from within the United Kingdom if the claim to which the appeal relates —
 - (i) was made while the appellant was in the United Kingdom, and
 - (ii) has not been certified under section 94(1) or (7) (claim clearly unfounded or removal to safe third country) or section 94B (certification of human rights claims made by foreign criminals);
- (b) the appeal must be brought from outside the United Kingdom if the claim to which the appeal relates —
 - (i) was made while the appellant was outside the United Kingdom, or
 - (ii) has been certified under section 94(1) or (7) or section 94B.

(4) In the case of an appeal under section 82(1)(c) (revocation of protection status) —

- (a) the appeal must be brought from within the United Kingdom if the decision to which the appeal relates was made while the appellant was in the United Kingdom;
- (b) the appeal must be brought from outside the United Kingdom if the decision to which the appeal relates was made while the appellant was outside the United Kingdom.

(5) If, after an appeal under section 82(1)(a) or (b) has been brought from within the United Kingdom, the Secretary of State certifies the claim to which the appeal relates under section 94(1) or (7) or section 94B, the appeal must be continued from outside the United Kingdom.

(6) Where a person brings or continues an appeal under section 82(1)(a) (refusal of protection claim) from outside the United Kingdom, for the purposes of considering whether the grounds of appeal are satisfied the appeal is to be treated as if the person were not outside the United Kingdom.

(7) Where an appellant brings an appeal from within the United Kingdom but leaves the United Kingdom before the appeal is finally determined, the appeal is to be treated as abandoned unless the claim to which the appeal relates has been certified under section 94(1) or (7) or section 94B.]

93 ...

94 Appeal from within United Kingdom: unfounded human rights or **asylum protection** claim

~~(1) This section applies to an appeal under section 82(1) where the appellant has made an asylum claim or a human rights claim (or both).~~

~~[(1A)—A person may not bring an appeal against an immigration decision of a kind specified in section 82(2)(c), (d), (e) or (ha)] in reliance on section 92(2) if the Secretary of State certifies that the claim or claims mentioned in subsection (1) above is or are clearly unfounded.]~~

~~(2)—A person may not bring an appeal to which this section applies [in reliance on section 92(4)(a)] if the Secretary of State certifies that the claim or claims mentioned in subsection (1) is or are clearly unfounded.~~

~~[(1) The Secretary of State may certify a protection claim or human rights claim as clearly unfounded.]~~

(3) If the Secretary of State is satisfied that ~~an asylum claimant or human rights~~ [a] claimant is entitled to reside in a State listed in subsection (4) he shall certify the claim under subsection ~~(2)~~ [(1)] unless satisfied that it is not clearly unfounded.

(4) Those States are —

(a) ...

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(g) ...

- (h) . . .
- (i) . . .
- (j) . . .
- (k) the Republic of Albania,
- (l) . . .
- (m) . . .
- (n) Jamaica,
- (o) Macedonia,
- (p) the Republic of Moldova, . . .
- (q) . . .,
- (r) . . .
- (s) Bolivia,
- (t) Brazil,
- (u) Ecuador,
- (v) . . .
- (w) South Africa, and
- (x) Ukraine,
- (y) India,
- (z) Mongolia,
- (aa) Ghana (in respect of men),
- (bb) Nigeria (in respect of men),
- (cc) Bosnia-Herzegovina,
- (dd) Gambia (in respect of men),
- (ee) Kenya (in respect of men),
- (ff) Liberia (in respect of men),
- (gg) Malawi (in respect of men),
- (hh) Mali (in respect of men),
- (ii) Mauritius,
- (jj) Montenegro,
- (kk) Peru,
- (ll) Serbia,
- (mm) Sierra Leone (in respect of men),
- (nn) Kosovo,
- (oo) South Korea.

(5) The Secretary of State may by order add a State, or part of a State, to the list in subsection (4) if satisfied that —

(a) there is in general in that State or part no serious risk of persecution of persons entitled to reside in that State or part, and

(b) removal to that State or part of persons entitled to reside there will not in general contravene the United Kingdom's obligations under the Human Rights Convention.

(5A) If the Secretary of State is satisfied that the statements in subsection (5) (a) and (b) are true of a State or part of a State in relation to a description of person, an order under subsection (5) may add the State or part to the list in subsection (4) in respect of that description of person.

(5B) Where a State or part of a State is added to the list in subsection (4) in respect of a description of person, subsection (3) shall have effect in relation to a claimant only if the Secretary of State is satisfied that he is within that description (as well as being satisfied that he is entitled to reside in the State or part).

(5C) A description for the purposes of subsection (5A) may refer to –

(a) gender,

(b) language,

(c) race,

(d) religion,

(e) nationality,

(f) membership of a social or other group,

(g) political opinion, or

(h) any other attribute or circumstance that the Secretary of State thinks appropriate.

(5D) In deciding whether the statements in subsection (5) (a) and (b) are true of a State or part of a State, the Secretary of State –

(a) shall have regard to all the circumstances of the State or part (including its laws and how they are applied), and

(b) shall have regard to information from any appropriate source (including other member States and international organisations).

(6) The Secretary of State may by order amend the list in subsection (4) so as to omit a State or part added under subsection (5); and the omission may be –

(a) general, or

(b) effected so that the State or part remains listed in respect of a description of person.

(6A) Subsection (3) shall not apply in relation to ~~an asylum claimant or human rights~~ [a] claimant who –

- (a) is the subject of a certificate under section 2 or 70 of the Extradition Act 2003 (c 41),
 - (b) is in custody pursuant to arrest under section 5 of that Act,
 - (c) is the subject of a provisional warrant under section 73 of that Act,
 - (d) is the subject of an authority to proceed under section 7 of the Extradition Act 1989 (c 33) or an order under paragraph 4(2) of Schedule 1 to that Act, or
 - (e) is the subject of a provisional warrant under section 8 of that Act or of a warrant under paragraph 5(1)(b) of Schedule 1 to that Act.
- (7) ~~A person may not bring an appeal to which this section applies in reliance on section 92(4) if the Secretary of State certifies that~~ [The Secretary of State may certify a protection claim or human rights claim made by a person if] —
- (a) it is proposed to remove the person to a country of which he is not a national or citizen, and
 - (b) there is no reason to believe that the person's rights under the Human Rights Convention will be breached in that country.
- (8) In determining whether a person in relation to whom a certificate has been issued under subsection (7) may be removed from the United Kingdom, the country specified in the certificate is to be regarded as —
- (a) a place where a person's life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular social group, or political opinion, and
 - (b) a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention [or with the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection].
- ~~(9) — Where a person in relation to whom a certificate is issued under this section subsequently brings an appeal under section 82(1) while outside the United Kingdom, the appeal shall be considered as if he had not been removed from the United Kingdom.~~

94A European Common List of Safe Countries of Origin

- (1) The Secretary of State shall by order prescribe a list of States to be known as the “European Common List of Safe Countries of Origin”.
- (2) Subsections (3) and (4) apply where a person makes ~~an asylum claim~~ [a protection claim] or a human rights claim (or both) and that person is —
 - (a) a national of a State which is listed in the European Common List of Safe Countries of Origin, or

- (b) a Stateless person who was formerly habitually resident in such a State.
- (3) The Secretary of State shall consider the claim or claims mentioned in subsection (2) to be unfounded unless satisfied that there are serious grounds for considering that the State in question is not safe in the particular circumstances of the person mentioned in that subsection.
- (4) The Secretary of State shall also certify the claim or claims mentioned in subsection (2) under section ~~94(2)~~ [94(1)] unless satisfied that the claim or claims is or are not clearly unfounded.
- (5) An order under subsection (1) –
 - (a) may be made only if the Secretary of State thinks it necessary for the purpose of complying with the United Kingdom's obligations under EU law,
 - (b) may include transitional, consequential or incidental provision,
 - (c) shall be made by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[94B Appeal from within the United Kingdom: certification of human rights claims made by persons liable to deportation

- (1) This section applies where a human rights claim has been made by a person (“P”) who is liable to deportation under-
 - (a) Section 3(5)(a) of the Immigration Act 1971 (Secretary of State deeming deportation conducive to public good), or
 - (b) Section 3 (6) of that Act (court recommending deportation following conviction).
- (2) The Secretary of State may certify the claim if the Secretary of State considers that, despite the appeals process not having been begun or not having been exhausted, removal of C to the country or territory to which C is proposed to be removed, pending the outcome of an appeal in relation to C’s claim, would not be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).
- (3) The grounds upon which the Secretary of State may certify a claim under subsection (2) include (in particular) that C would not, before the appeals process is exhausted, face a real risk of serious irreversible harm if removed to the country or territory to which C is proposed to be removed.
- (4) In this section, “foreign criminal” has the same meaning as in Part 5A (see section 117D).]

~~95 Appeal from outside United Kingdom: removal~~

~~A person who is outside the United Kingdom may not appeal under section 82(1) on the ground specified in section 84(1)(g) (except in a case to which section 94(9) applies).~~

96 Earlier right of appeal

~~(1) An appeal under section 82(1) against an immigration decision ("the new decision") in respect of a person may not be brought [A person may not bring an appeal under section 82 against a decision ("the new decision")] if the Secretary of State or an immigration officer certifies —~~

- ~~(a) that the person was notified of a right of appeal under that section against another immigration decision ("the old decision") (whether or not an appeal was brought and whether or not any appeal brought has been determined),~~
- ~~(b) that the claim or application to which the new decision relates relies on a matter [ground] that could have been raised in an appeal against the old decision, and~~
- ~~(c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter [ground] not having been raised in an appeal against the old decision.~~

~~(2) — An appeal under section 82(1) against an immigration decision ("the new decision") in respect of a person may not be brought if the Secretary of State or an immigration officer certifies —~~

- ~~(a) — that the person received a notice under section 120 by virtue of an application other than that to which the new decision relates or by virtue of a decision other than the new decision,~~
- ~~(b) — that the new decision relates to an application or claim which relies on a matter that should have been, but has not been, raised in a statement made in response to that notice, and~~
- ~~(c) — that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in a statement made in response to that notice.]~~

~~[(2) A person may not bring an appeal under section 82 if the Secretary of State or an immigration officer certifies —~~

- ~~(a) that the person has received a notice under section 120(2),~~
- ~~(b) that the appeal relies on a ground that should have been, but has not been, raised in a statement made under section 120(2) or (5), and~~
- ~~(c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that ground not having been raised in a statement under section 120(2) or (5).]~~

- (4) In subsection (1) “notified” means notified in accordance with regulations under section 105.
- (5) Subsections (1) and (2) apply to prevent a person's right of appeal whether or not he has been outside the United Kingdom since an earlier right of appeal arose or since a requirement under section 120 was imposed.
- (6) In this section a reference to an appeal under section 82(1) includes a reference to an appeal under section 2 of the Special Immigration Appeals Commission Act 1997 (c 68) which is or could be brought by reference to an appeal under section 82(1).
- (7) A certificate under subsection (1) or (2) shall have no effect in relation to an appeal instituted before the certificate is issued.

97 National security, &c

- (1) An appeal under section 82(1) ~~[, 83(2) or 83A(2)]~~ against a decision in respect of a person may not be brought or continued if the Secretary of State certifies that the decision is or was taken –
- (a) by the Secretary of State wholly or partly on a ground listed in subsection (2), or
 - (b) in accordance with a direction of the Secretary of State which identifies the person to whom the decision relates and which is given wholly or partly on a ground listed in subsection (2).
- (2) The grounds mentioned in subsection (1) are that the person's exclusion or removal from the United Kingdom is –
- (a) in the interests of national security, or
 - (b) in the interests of the relationship between the United Kingdom and another country.
- (3) An appeal under section 82(1) ~~[, 83(2) or 83A(2)]~~ against a decision may not be brought or continued if the Secretary of State certifies that the decision is or was taken wholly or partly in reliance on information which in his opinion should not be made public –
- (a) in the interests of national security,
 - (b) in the interests of the relationship between the United Kingdom and another country, or
 - (c) otherwise in the public interest.
- (4) In subsections (1)(a) and (b) and (3) a reference to the Secretary of State is to the Secretary of State acting in person.

97A National security: deportation

(1) This section applies where the Secretary of State certifies that the decision to make a deportation order in respect of a person was taken on the grounds that his removal from the United Kingdom would be in the interests of national security.

(1A) This section also applies where the Secretary of State certifies, in the case of a person in respect of whom a deportation order has been made which states that it is made in accordance with section 32(5) of the UK Borders Act 2007, that the person's removal from the United Kingdom would be in the interests of national security.

(2) Where this section applies –

- (a) section 79 shall not apply,
- (b) the Secretary of State shall be taken to have certified the decision to make the deportation order under section 97, and
- (c) section 2(5) of the Special Immigration Appeals Commission Act 1997 (whether appeals brought against decisions certified under section 97 may be brought from within the United Kingdom) does not apply, but see instead the following provisions of this section.

(2A) The person while in the United Kingdom may not bring or continue an appeal under section 2 of the Special Immigration Appeals Commission Act 1997 –

- (a) against the decision to make the deportation order, or
 - (b) against any refusal to revoke the deportation order,
- unless the person has made a human rights claim while in the United Kingdom.

(2B) Subsection (2A) does not allow the person while in the United Kingdom to bring or continue an appeal if the Secretary of State certifies that removal of the person –

- (a) to the country or territory to which the person is proposed to be removed, and
- (b) despite the appeals process not having been begun or not having been exhausted, would not ~~breach the United Kingdom's obligations under the Human Rights Convention.~~ [be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).]

(2C) The grounds upon which a certificate may be given under subsection (2B) include (in particular) –

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

~~(2D) — Subsection (2A) does not allow the person while in the United Kingdom to bring an appeal on a non-human rights ground, or to continue an appeal so far as brought on non-human rights grounds, if the Secretary of State certifies that removal of the person —~~

~~(a) — to the country or territory to which the person is proposed to be removed, and~~

~~(b) — despite the appeals process, so far as relating to appeal on non-human rights grounds, not having been begun or not having been exhausted,~~

~~would not breach the United Kingdom's obligations under the Human Rights Convention.~~

~~(2E) — In subsection (2D) “non-human rights ground” means any ground other than the ground that removal of the person from the United Kingdom in consequence of the decision to make the deportation order would be unlawful under section 6 of the Human Rights Act 1998 as being incompatible with a person's Convention rights.~~

(2F) If a certificate in respect of a person is given under subsection (2B), the person may apply to the Special Immigration Appeals Commission to set aside the certificate.

(2G) If a person makes an application under subsection (2F) then the Commission, in determining whether the certificate should be set aside, must apply the principles that would be applied in judicial review proceedings.

(2H) The Commission's determination of a review under subsection (2F) is final.

(2J) The Commission may direct that a person who has made and not withdrawn an application under subsection (2F) is not to be removed from the United Kingdom at a time when the review has not been finally determined by the Commission.

(2K) Sections 5 and 6 of the Special Immigration Appeals Commission Act 1997 apply in relation to reviews under subsection (2F) (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).

(2L) Any exercise of power to make rules under section 5 of that Act in relation to reviews under subsection (2F) is to be with a view to securing that proceedings on such reviews are handled expeditiously.

~~(3) — A person in respect of whom a certificate is issued under subsection [(2D)] may appeal to the Special Immigration Appeals Commission against the issue of the certificate; and for that purpose the Special Immigration Appeals Commission Act 1997 shall apply as to an appeal against an immigration decision to which section 92 of this Act applies.~~

(4) The Secretary of State may repeal this section by order.

[97B Variation of leave on grounds of public good: rights of appeal]

~~[(1) This section applies to an immigration decision of a kind referred to in section 82(2)(e) if the Secretary of State, acting in person, certifies that the decision is or was taken wholly or partly on the ground that it is no longer conducive to the public good for the person to have leave to enter or remain in the United Kingdom.~~

~~(2) If the person concerned is outside the United Kingdom when the immigration decision is taken, an appeal under section 82(1) against that decision may be brought only from outside the United Kingdom.~~

~~(3) Accordingly, the person concerned may not enter the United Kingdom for the purposes of an appeal against that decision and the person's appeal against that decision is not one of a kind to which section 92 applies.]~~

~~98 Other grounds of public good~~

~~(1) This section applies to an immigration decision of a kind referred to in section 82(2)(a) or (b).~~

~~(2) An appeal under section 82(1) against an immigration decision may not be brought or continued if the Secretary of State certifies that the decision is or was taken—~~

~~(a) by the Secretary of State wholly or partly on the ground that the exclusion or removal from the United Kingdom of the person to whom the decision relates is conducive to the public good, or~~

~~(b) in accordance with a direction of the Secretary of State which identifies the person to whom the decision relates and which is given wholly or partly on that ground.~~

~~(3) In subsection (2)(a) and (b) a reference to the Secretary of State is to the Secretary of State acting in person.~~

~~(4) Subsection (2) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c).~~

~~(5) Subsection (2) does not prevent the bringing of an appeal against an immigration decision of the kind referred to in section 82(2)(a) on the grounds referred to in section 84(1)(g).~~

99 Sections [97 and] 98[Section 97]: appeal in progress

(1) This section applies where a certificate is issued under section . . . 97 ~~or 98~~ in respect of a pending appeal.

(2) The appeal shall lapse.

100 ...

101 ...

102 ...

103 ...

Procedure

103A ...

103B ...

103C ...

103D ...

103E ...

104 Pending appeal

- (1) An appeal under section 82(1) is pending during the period –
 - (a) beginning when it is instituted, and
 - (b) ending when it is finally determined, withdrawn or abandoned (or when it lapses under section 99).
- (2) An appeal under section 82(1) is not finally determined for the purpose of subsection (1)(b) while –
 - (a) an application for permission to appeal under section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007 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, or
 - (c) an appeal has been remitted under section 12 or 14 of that Act and is awaiting determination.
- (3) ...

~~[(4)—An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant leaves the United Kingdom.~~

(4A) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom (subject to ~~subsections (4B) and (4C)~~ [subsection (4B)]).

(4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on ~~the ground relating to the Refugee Convention specified in section 84(1)(g)~~ [a ground specified in section 84 (1)(a) or (b) or 84 (3) (asylum or humanitarian protection)] where the appellant —

~~(a) — is granted leave to enter or remain in the United Kingdom for a period exceeding 12 months, and~~

(b) gives notice, in accordance with Tribunal Procedure Rules, that he wishes to pursue the appeal in so far as it is brought on that ground.

~~(4C) — Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground specified in section 84(1)(b) where the appellant gives notice, in accordance with [Tribunal Procedure Rules], that he wishes to pursue the appeal in so far as it is brought on that ground.]~~

~~(5) — An appeal under section 82(2)(a), (c), (d), (e) or (f) shall be treated as finally determined if a deportation order is made against the appellant.~~

105 Notice of immigration decision

(1) The Secretary of State may make regulations requiring a person to be given written notice where an ~~immigration~~ [appealable] decision is taken in respect of him.

(2) The regulations may, in particular, provide that a notice under subsection (1) of ~~a decision against which the person is entitled to appeal under section 82(1)~~ [an appealable decision] must state —

(a) that there is a right of appeal under ~~that section~~ [section 82], and

(b) how and when that right may be exercised.

(3) The regulations may make provision (which may include presumptions) about service.

~~[(4) In this section “appealable decision” means a decision mentioned in section 82 (1).]~~

106 Rules

(1) ...

(1A) ...

(2) ...

(3) In the case of an appeal under section 82, ~~83 or 83A~~ or by virtue of section 109, Tribunal Procedure Rules may enable the Tribunal to certify that the appeal had no merit (and shall make provision for the consequences of the issue of a certificate).

(4) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed in accordance with Tribunal Procedure Rules in connection with proceedings under section 82, ~~83 or 83A~~ or by virtue of section 109 to attend before . . . the Tribunal—

- (a) to give evidence, or
- (b) to produce a document.

(5) A person who is guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

107 Practice directions

(1) . . .

(1A) . . .

(2) . . .

(3) In the case of proceedings under section 82, ~~83 or 83A~~ or by virtue of section 109, or proceedings in the Upper Tribunal arising out of such proceedings, practice directions under section 23 of the Tribunals, Courts and Enforcement Act 2007—

- (a) may require the Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter; and
- (b) may require the Upper Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter.

(3A) In subsection (3) the reference to a decision of the Tribunal includes—

- (a) a decision of the Asylum and Immigration Tribunal, and
- (b) a decision of the Immigration Appeal Tribunal.

(4) . . .

(5) . . .

(6) . . .

(7) . . .

108 Forged document: proceedings in private

(1) This section applies where it is alleged—

- (a) that a document relied on by a party to an appeal under section 82~~[, 83 or 83A]~~ is a forgery, and

- (b) that disclosure to that party of a matter relating to the detection of the forgery would be contrary to the public interest.
- (2) The Tribunal –
 - (a) must investigate the allegation in private, and
 - (b) may proceed in private so far as necessary to prevent disclosure of the matter referred to in subsection (1)(b).

General

109 European Union and European Economic Area

- (1) Regulations may provide for, or make provision about, an appeal against an immigration decision taken in respect of a person who has or claims to have a right under any of the [EU] Treaties.
- (2) The regulations may –
 - (a) apply a provision of this Act or the Special Immigration Appeals Commission Act 1997 (c 68) with or without modification;
 - (b) make provision similar to a provision made by or under this Act or that Act;
 - (c) disapply or modify the effect of a provision of this Act or that Act.
- (3) In subsection (1) “immigration decision” means a decision about –
 - (a) a person's entitlement to enter or remain in the United Kingdom, or
 - (b) removal of a person from the United Kingdom.

110 . . .

111 . . .

112 Regulations, &c

- (1) Regulations under this Part shall be made by the Secretary of State.
- (2) Regulations . . . under this Part . . . –
 - (a) must be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations . . . under this Part –
 - (a) may make provision which applies generally or only in a specified case or in specified circumstances,

- (b) may make different provision for different cases or circumstances,
- (c) may include consequential, transitional or incidental provision, and
- d) may include savings.

~~[(3A) An order under section 88A—~~

~~(a) must be made by statutory instrument,~~

~~(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, and~~

~~(c) may include transitional provision.]~~

(4) An order under section 94(5) ~~or 115(8)~~—

- (a) must be made by statutory instrument,
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, and
- (c) may include transitional provision.

(5) An order under section 94(6) ~~94(6) or 115(9)~~—

- (a) must be made by statutory instrument,
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
- (c) may include transitional provision.

(5A) If an instrument makes provision under section 94(5) and 94(6) —

- (a) subsection (4)(b) above shall apply, and
- (b) subsection (5)(b) above shall not apply.

(5B) An order under section 97A(4) —

- (a) must be made by statutory instrument,
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
- (c) may include transitional provision.

(6) ...

(7) ...

113 Interpretation

(1) In this Part, unless a contrary intention appears —

“asylum claim” means a claim made by a person to the Secretary of State at a place designated by the Secretary of State that to remove the person from or require him to leave

the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention,

~~["humanitarian protection" has the meaning given in section 82 (2);~~

~~"protection claim" has the meaning given in section 82 (2);~~

~~"protection status" has the meaning given in section 82 (2);]~~

~~"entry clearance" has the meaning given by section 33(1) of the Immigration Act 1971 (c 77) (interpretation);~~

"human rights claim" means a claim made by a person to the Secretary of State at a place designated by the Secretary of State that to remove the person from or require him to leave the United Kingdom would be unlawful under *section 6* of the Human Rights Act 1998 (c 42) (public authority not to act contrary to Convention) as being incompatible with his Convention rights,

"the Human Rights Convention" has the same meaning as "the Convention" in the Human Rights Act 1998 and "Convention rights" shall be construed in accordance with section 1 of that Act,

~~"illegal entrant" has the meaning given by section 33(1) of the Immigration Act 1971,~~

"immigration rules" means rules under section 1(4) of ~~that Act~~ [the Immigration Act 1971] (general immigration rules),

~~"prescribed" means prescribed by regulations,~~

"the Refugee Convention" means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol,

~~"visitor" means a visitor in accordance with immigration rules, and~~

~~"work permit" has the meaning given by section 33(1) of the Immigration Act 1971 (c 77) (interpretation);~~

~~(2)—A reference to varying leave to enter or remain in the United Kingdom does not include a reference to adding, varying or revoking a condition of leave.~~

114 Repeal

- (1) Part IV of the Immigration and Asylum Act 1999 (c 33) (appeals) shall cease to have effect.
- (2) Schedule 6 (which makes transitional provision in connection with the repeal of Part IV of that Act and its replacement by this Part) shall have effect.
- (3) Schedule 7 (consequential amendments) shall have effect.

~~115 Appeal from within United Kingdom: unfounded human rights or asylum claim: transitional provision~~

- ~~(1) A person may not bring an appeal under section 65 or 69 of the Immigration and Asylum Act 1999 (human rights and asylum) while in the United Kingdom if—~~
- ~~(a) the Secretary of State certifies that the appeal relates to a human rights claim or an asylum claim which is clearly unfounded, and~~
 - ~~(b) the person does not have another right of appeal while in the United Kingdom under Part IV of that Act.~~
- ~~(2) A person while in the United Kingdom may not bring an appeal under section 69 of that Act, or raise a question which relates to the Human Rights Convention under section 77 of that Act, if the Secretary of State certifies that—~~
- ~~(a) it is proposed to remove the person to a country of which he is not a national or citizen, and~~
 - ~~(b) there is no reason to believe that the person's rights under the Human Rights Convention will be breached in that country.~~
- ~~(3) A person while in the United Kingdom may not bring an appeal under section 65 of that Act (human rights) if the Secretary of State certifies that—~~
- ~~(a) it is proposed to remove the person to a country of which he is not a national or citizen, and~~
 - ~~(b) there is no reason to believe that the person's rights under the Human Rights Convention will be breached in that country.~~
- ~~(4) In determining whether a person in relation to whom a certificate has been issued under subsection (2) or (3) may be removed from the United Kingdom, the country specified in the certificate is to be regarded as—~~
- ~~(a) a place where a person's life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular social group, or political opinion, and~~
 - ~~(b) a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention.~~

~~(5) — Where a person in relation to whom a certificate is issued under this section subsequently brings an appeal or raises a question under section 65, 69 or 77 of that Act while outside the United Kingdom, the appeal or question shall be considered as if he had not been removed from the United Kingdom.~~

~~(6) — If the Secretary of State is satisfied that a person who makes a human rights claim or an asylum claim is entitled to reside in a State listed in subsection (7), he shall issue a certificate under subsection (1) unless satisfied that the claim is not clearly unfounded.~~

~~(7) — Those States are —~~

~~(a) — the Republic of Cyprus,~~

~~(b) — the Czech Republic,~~

~~(c) — the Republic of Estonia,~~

~~(d) — the Republic of Hungary,~~

~~(e) — the Republic of Latvia,~~

~~(f) — the Republic of Lithuania,~~

~~(g) — the Republic of Malta,~~

~~(h) — the Republic of Poland,~~

~~(i) — the Slovak Republic,~~

~~(j) — the Republic of Slovenia,~~

~~[(k) — the Republic of Albania,~~

~~(l) — Bulgaria,~~

~~(m) — Serbia and Montenegro,~~

~~(n) — Jamaica,~~

~~(o) — Macedonia,~~

~~(p) — the Republic of Moldova, and~~

~~(q) — Romania].~~

~~(8) — The Secretary of State may by order add a State, or part of a State, to the list in subsection (7) if satisfied that —~~

~~(a) — there is in general in that State or part no serious risk of persecution of persons entitled to reside in that State or part, and~~

~~(b) — removal to that State or part of persons entitled to reside there will not in general contravene the United Kingdom's obligations under the Human Rights Convention.~~

~~(9) — The Secretary of State may by order remove from the list in subsection (7) a State or part added under subsection (8).~~

~~(10) — In this section “asylum claim” and “human rights claim” have the meanings given by section 113 but —~~

- ~~(a) — a reference to a claim in that section shall be treated as including a reference to an allegation, and~~
- ~~(b) — a reference in that section to making a claim at a place designated by the Secretary of State shall be ignored.~~

Part 6 – Immigration Procedure

~~120 Requirement to state additional grounds for application~~

- ~~(1) — This section applies to a person if —~~
- ~~a) — he has made an application to enter or remain in the United Kingdom, or~~
 - ~~(b) — an immigration decision within the meaning of section 82 has been taken or may be taken in respect of him.~~
- ~~(2) — The Secretary of State or an immigration officer may by notice in writing require the person to state —~~
- ~~(a) — his reasons for wishing to enter or remain in the United Kingdom,~~
 - ~~(b) — any grounds on which he should be permitted to enter or remain in the United Kingdom, and~~
 - ~~(c) — any grounds on which he should not be removed from or required to leave the United Kingdom.~~
- ~~(3) — A statement under subsection (2) need not repeat reasons or grounds set out in —~~
- ~~(a) — the application mentioned in subsection (1)(a), or~~
 - ~~(b) — an application to which the immigration decision mentioned in subsection (1)(b) relates.~~

[120 Requirement to state additional grounds for application etc

- (1) Subsection (2) applies to a person (“P”) if —
 - (a) P has made a protection claim or a human rights claim,
 - (b) P has made an application to enter or remain in the United Kingdom, or
 - (c) a decision to deport or remove P has been or may be taken.
- (2) The Secretary of State or an immigration officer may serve a notice on P requiring P to provide a statement setting out —
 - (a) P’s reasons for wishing to enter or remain in the United Kingdom,
 - (b) any grounds on which P should be permitted to enter or remain in the United Kingdom, and

- (c) any grounds on which P should not be removed from or required to leave the United Kingdom.
- (3) A statement under subsection (2) need not repeat reasons or grounds set out in —
 - (a) P's protection or human rights claim,
 - (b) the application mentioned in subsection (1) (b), or
 - (c) an application to which the decision mentioned in subsection (1)(c) relates.
- (4) Subsection (5) applies to a person ("P") if P has previously been served with a notice under subsection (2) and —
 - (a) P requires leave to enter or remain in the United Kingdom but does not have it, or
 - (b) P has leave to enter or remain in the United Kingdom only by virtue of section 3C or 3D of the Immigration Act 1971 (continuation of leave pending decision or appeal).
- (5) Where P's circumstances have changed since the Secretary of State or an immigration officer was last made aware of them (whether in the application or claim mentioned in subsection (1) or in a statement under subsection (2) or this subsection) so that P has —
 - (a) additional reasons for wishing to enter or remain in the United Kingdom,
 - (b) additional grounds on which P should be permitted to enter or remain in the United Kingdom, or
 - (c) additional grounds on which P should not be removed from or required to leave the United Kingdom,

P must, as soon as reasonably practicable, provide a supplementary statement to the Secretary of State or an immigration officer setting out the new circumstances and the additional reasons or grounds.
- (6) In this section —
 - "human rights claim" and "protection claim" have the same meanings as in Part 5;
 - references to "grounds" are to grounds on which an appeal under Part 5 may be brought (see section 84).]