

## SCHEDULES

### SCHEDULE 7

Section 114

#### IMMIGRATION AND ASYLUM APPEALS: CONSEQUENTIAL AMENDMENTS

##### *Immigration Act 1971 (c. 77)*

- 1 In section 33(4) of the Immigration Act 1971 (c. 77) (pending appeal: interpretation) for paragraphs (a) and (b) substitute “in accordance with section 104 of the Nationality, Immigration and Asylum Act 2002 (pending appeals)”.
- 2 In paragraph 2A(9) of Schedule 2 to that Act (control of entry: person with continuing leave) for “Part IV of the Immigration and Asylum Act 1999” substitute “Part 5 of the Nationality, Immigration and Asylum Act 2002 (immigration and asylum appeals)”.
- 3 In paragraph 4(4) of that Schedule (examination and detention of documents) for “an appeal under this Act” substitute “an appeal under the Nationality, Immigration and Asylum Act 2002”.
- 4 In paragraph 8(2) of that Schedule (time within which directions may be given) after “United Kingdom” insert “(ignoring any period during which an appeal by him under the Immigration Acts is pending)”.
- 5 In paragraph 25 of that Schedule (rules) for “section 22 of this Act” substitute “section 106 of the Nationality, Immigration and Asylum Act 2002 (appeals)”.
- 6 In paragraph 29 of that Schedule (bail pending appeal)—
  - (a) in sub-paragraph (1), for the words from “section” to “1999” substitute “Part 5 of the Nationality, Immigration and Asylum Act 2002”, and
  - (b) for the words “Appeal Tribunal” substitute, in each place, “Immigration Appeal Tribunal”.
- 7 In paragraph 2(2) of Schedule 3 to that Act (deportation) for “section 18 of this Act” substitute “section 105 of the Nationality, Immigration and Asylum Act 2002 (notice of decision)”.
- 8 For paragraph 3 of that Schedule (deportation: effect of appeal) substitute—
  - “3 So far as they relate to an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 against a decision of the kind referred to in section 82(2)(j) or (k) of that Act (decision to make deportation order and refusal to revoke deportation order), paragraphs 29 to 33 of Schedule 2 to this Act shall apply for the purposes of this Schedule as if the reference in paragraph 29(1) to Part I of that Schedule were a reference to this Schedule.”

##### *House of Commons Disqualification Act 1975 (c. 24)*

- 9 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) for “Adjudicator appointed for the purposes of the

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Immigration and Asylum Act 1999.” substitute “Adjudicator appointed for the purposes of Part 5 of the Nationality, Immigration and Asylum Act 2002.”.

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 10 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) for “Adjudicator appointed for the purposes of the Immigration and Asylum Act 1999.” substitute “Adjudicator appointed for the purposes of Part 5 of the Nationality, Immigration and Asylum Act 2002.”.

*Race Relations Act 1976 (c. 74)*

- 11 In section 53(1) (restriction of proceedings) for “Part IV of the Immigration and Asylum Act 1999” substitute “Part 5 of the Nationality, Immigration and Asylum Act 2002”.

- 12 Section 57A (immigration cases) shall be amended as follows—
- (a) in subsection (1)(a) for “Part IV of the 1999 Act” substitute “Part 5 of the 2002 Act”,
  - (b) in subsection (5) for the definition of “the Immigration Acts” substitute—
 

““the Immigration Acts” has the meaning given by section 158 of the 2002 Act;”,
  - (c) in that subsection in the definition of “immigration appellate body” for “the 1999 Act” substitute “Part 5 of the 2002 Act”,
  - (d) in that subsection for the definition of “immigration authority” substitute—
 

““immigration authority” means the Secretary of State, an immigration officer or a person responsible for the grant or refusal of entry clearance (within the meaning of section 33(1) of the Immigration Act 1971 (c. 77));”,
  - (e) in that subsection in the definition of “pending” for “Part IV of the 1999 Act” substitute “Part 5 of the 2002 Act”,
  - (f) in that subsection in the definition of “relevant decision” for “Part IV of the 1999 Act” substitute “Part 5 of the 2002 Act”,
  - (g) in that subsection in the definition of “relevant immigration proceedings” for “Part IV of the 1999 Act” substitute “Part 5 of the 2002 Act”, and
  - (h) in that subsection for the definition of “the 1999 Act” substitute—
 

““the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;”,

- 13 In section 62(1)(ba) (persistent discrimination) for “Part IV of the Immigration and Asylum Act 1999” substitute “Part 5 of the Nationality, Immigration and Asylum Act 2002”.

- 14 In section 65(7)(b) (help for aggrieved person) for “Part IV of the Immigration and Asylum Act 1999” substitute “Part 5 of the Nationality, Immigration and Asylum Act 2002”.

- 15 In section 66 (assistance by Commission)—
- (a) in subsection (8) for “Part IV of the Immigration and Asylum Act 1999” substitute “Part 5 of the Nationality, Immigration and Asylum Act 2002”, and

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- (b) in subsection (9)—
  - (i) for “Part IV of the Act of 1999” substitute “Part 5 of the Act of 2002”,
  - (ii) for “rules under section 5 or 8 of that Act;” substitute “rules under that Act;”, and
  - (iii) for “rules under paragraph 3 or 4 of Schedule 4 to that Act.” substitute “rules under that Act.”.

#### *Courts and Legal Services Act 1990 (c. 41)*

- 16 In Schedule 11 to the Courts and Legal Services Act 1990 (judges &c. barred from legal practice) for “Adjudicator for the purposes of the Immigration and Asylum Act 1999 (other than Asylum Support Adjudicator)” substitute “Adjudicator appointed for the purposes of Part 5 of the Nationality, Immigration and Asylum Act 2002”.

#### *Tribunals and Inquiries Act 1992 (c. 53)*

- 17 In paragraph 22 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals)—
- (a) in sub-paragraph (a), for “section 57 of the Immigration and Asylum Act 1999” substitute “section 81 of the Nationality, Immigration and Asylum Act 2002”, and
  - (b) in sub-paragraph (b), for “section 56 of that Act” substitute “section 100 of that Act”.

#### *Judicial Pensions and Retirement Act 1993 (c. 8)*

- 18 In Part II of Schedule 1 to the Judicial Pensions and Retirement Act 1993 (offices which may be qualifying judicial offices) for “Adjudicator for the purposes of the Immigration and Asylum Act 1999 (other than Asylum Support Adjudicator)” substitute “Adjudicator appointed for the purposes of Part 5 of the Nationality, Immigration and Asylum Act 2002”.
- 19 In Schedule 5 to that Act (retirement provisions: the relevant offices) for “Adjudicator for the purposes of the Immigration and Asylum Act 1999 (other than Asylum Support Adjudicator)” substitute “Adjudicator appointed for the purposes of Part 5 of the Nationality, Immigration and Asylum Act 2002”.

#### *Special Immigration Appeals Commission Act 1997 (c. 68)*

- 20 The following shall be substituted for section 2 of the Special Immigration Appeals Commission Act 1997 (jurisdiction: appeals)—

##### **“2 Jurisdiction: appeals**

- (1) A person may appeal to the Special Immigration Appeals Commission against a decision if—
  - (a) he would be able to appeal against the decision under section 82(1) or 83(2) of the Nationality, Immigration and Asylum Act 2002 but for a certificate of the Secretary of State under section 97 of that Act (national security, &c.), or

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- (b) an appeal against the decision under section 82(1) or 83(2) of that Act lapsed under section 99 of that Act by virtue of a certificate of the Secretary of State under section 97 of that Act.
- (2) The following provisions shall apply, with any necessary modifications, in relation to an appeal against an immigration decision under this section as they apply in relation to an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002—
- (a) section 3C of the Immigration Act 1971 (c. 77) (continuation of leave pending variation decision),
  - (b) section 78 of the Nationality, Immigration and Asylum Act 2002 (no removal while appeal pending),
  - (c) section 79 of that Act (deportation order: appeal),
  - (d) section 82(3) of that Act (variation or revocation of leave to enter or remain: appeal),
  - (e) section 84 of that Act (grounds of appeal),
  - (f) section 85 of that Act (matters to be considered),
  - (g) section 86 of that Act (determination of appeal),
  - (h) section 87 of that Act (successful appeal: direction),
  - (i) section 96 of that Act (earlier right of appeal),
  - (j) section 104 of that Act (pending appeal),
  - (k) section 105 of that Act (notice of immigration decision), and
  - (l) section 110 of that Act (grants).
- (3) The following provisions shall apply, with any necessary modifications, in relation to an appeal against the rejection of a claim for asylum under this section as they apply in relation to an appeal under section 83(2) of the Nationality, Immigration and Asylum Act 2002—
- (a) section 85(4) of that Act (matters to be considered),
  - (b) section 86 of that Act (determination of appeal),
  - (c) section 87 of that Act (successful appeal: direction), and
  - (d) section 110 of that Act (grants).
- (4) An appeal against the rejection of a claim for asylum under this section shall be treated as abandoned if the appellants leaves the United Kingdom.
- (5) A person may bring or continue an appeal against an immigration decision under this section while he is in the United Kingdom only if he would be able to bring or continue the appeal while he was in the United Kingdom if it were an appeal under section 82(1) of that Act.
- (6) In this section “immigration decision” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002.”
- 21 Section 2A of that Act (human rights) shall cease to have effect.
- 22 Section 4 of that Act (determination of appeals) shall cease to have effect.
- 23 In section 5 of that Act (procedure)—
- (a) in subsections (1)(a) and (b) and (2) omit “or 2A”, and
  - (b) after subsection (2) insert—

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“(2A) Rules under this section may, in particular, do anything which may be done by rules under section 106 of the Nationality, Immigration and Asylum Act 2002 (appeals: rules).”

24 Section 7A of that Act (pending appeals) shall cease to have effect.

25 In paragraph 5 of Schedule 1 to that Act—

(a) in sub-paragraph (b)(i), for “section 57(2) of the Immigration and Asylum Act 1999” substitute “section 81(3)(a) of the Nationality, Immigration and Asylum Act 2002”, and

(b) in sub-paragraph (b)(ii), for “paragraph 1(3) of Schedule 2” substitute “paragraph 11 of Schedule 5”.

26 Schedule 2 to that Act shall cease to have effect.

#### *Immigration and Asylum Act 1999 (c. 33)*

27 In section 23(1) of the Immigration and Asylum Act 1999 (monitoring refusal of entry clearance) for “section 60(5)” there shall be substituted “section 90 or 91 of the Nationality, Immigration and Asylum Act 2002”.

28 In section 53(4) of that Act (bail) for “this Act” there shall be substituted “the Nationality, Immigration and Asylum Act 2002”.

29 (1) Paragraph 9 of Schedule 4 to that Act (appeals: procedure: Convention cases) shall be amended as follows—

(a) in sub-paragraph (1)(a), omit “(4), (5)”, and

(b) omit sub-paragraphs (4) and (5).

(2) This paragraph is without prejudice to—

(a) the effect after commencement of this paragraph of a certificate issued before commencement, or

(b) the power of the Secretary of State after the commencement of this paragraph to issue a certificate in respect of a claim made before commencement.

#### *Anti-terrorism, Crime and Security Act 2001 (c. 24)*

30 The following shall be substituted for section 27(10) of the Anti-terrorism, Crime and Security Act 2001 (grants)—

“(10) The reference in section 110 of the Nationality, Immigration and Asylum Act 2002 (immigration and asylum appeal: grant to voluntary organisation) to persons who have rights of appeal under Part 5 of that Act shall be treated as including a reference to suspected international terrorists.”

#### *Proceeds of Crime Act 2002 (c. 29)*

31 The following shall be substituted for paragraph 4 of Schedule 2 to the Proceeds of Crime Act 2002 (lifestyle offences: England and Wales: people trafficking)—

“4 (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (c. 77) (assisting unlawful immigration etc.).

(2) An offence under section 145 of the Nationality, Immigration and Asylum Act 2002 (traffic in prostitution).”

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- 32 In paragraph 4 of Schedule 4 to that Act (lifestyle offences: Scotland: people trafficking) for “section 25(1) of the Immigration Act 1971 (assisting illegal entry etc.)” there shall be substituted “section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc.)”.
- 33 The following shall be substituted for paragraph 4 of Schedule 5 to that Act (lifestyle offences: Northern Ireland: people trafficking)—
- “4 (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc.).
- (2) An offence under section 145 of the Nationality, Immigration and Asylum Act 2002 (traffic in prostitution).”