



Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5

[^{F1}APPEALS IN RESPECT OF PROTECTION AND HUMAN RIGHTS CLAIMS]

Procedure

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 - (b) ending when it is finally determined, withdrawn or abandoned (or when it lapses under section 99).
- [^{F1}(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.]

^{F2}(3)

[^{F3}(4) ^{F4}

(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 [^{F5}subsection (4B)]).

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Section 104 is up to date with all changes known to be in force on or before 04 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on [^{F6}a ground specified in section 84(1)(a) or (b) or 84(3) (asylum or humanitarian protection)] where the appellant—

^{F7}(a)

(b) gives notice, in accordance with [^{F8}Tribunal Procedure Rules], that he wishes to pursue the appeal in so far as it is brought on that ground.

^{F9}(4C)]

^{F10}(5)

Textual Amendments

- F1** S. 104(2) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 26(a)** (with Sch. 4)
- F2** S. 104(3) omitted (4.4.2005) and repealed (prosp.) by virtue of [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 47, 48(1)-(3), Sch. 2 para. 20(b), **Sch. 4**; S.I. 2005/565, **art. 2** (with savings in arts. 3-9)
- F3** S. 104(4)-(4C) substituted (13.11.2006) for s. 104(4) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), ss. 9, 62; S.I. 2006/2838, **art. 3**
- F4** S. 104(4) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 47(2)**; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F5** Words in s. 104(4A) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 47(3)**; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F6** Words in s. 104(4B) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 47(4)(a)**; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F7** S. 104(4B)(a) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 47(4)(b)**; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F8** Words in s. 104(4B)(b) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 1 para. 26(b)** (with Sch. 4)
- F9** S. 104(4C) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 47(5)**; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F10** S. 104(5) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 47(5)**; S.I. 2014/2771, **art. 2(e)** (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, **art. 2** (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

Modifications etc. (not altering text)

- C1** S. 104 applied (with modifications) by 1997 c. 68, s. 2(2)(j) (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7 para. 20** (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)
- C2** S. 104 applied (30.10.2020) by [The Immigration \(Persons Designated under Sanctions Regulations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1101\)](#), regs. 1, **8(2)**

Changes to legislation:

Nationality, Immigration and Asylum Act 2002, Section 104 is up to date with all changes known to be in force on or before 04 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(1)(1A) substituted for s. 18(1) by [2016 c. 19 Sch. 11 para. 31\(2\)](#)
- s. 22A inserted by [2022 c. 36 s. 13\(7\)](#)
- s. 27(ba) inserted by [2022 c. 36 s. 13\(10\)](#)
- s. 51(2)(d) and word inserted by [2016 c. 19 Sch. 11 para. 26\(6\)](#)
- s. 55(2)(aa) inserted by [2016 c. 19 Sch. 11 para. 26\(7\)](#)
- s. 62(3A) inserted by [2023 c. 37 s. 11\(8\)](#)
- s. 80A(5A) inserted by [2023 c. 37 s. 10\(8\)](#)
- s. 82A inserted by [2022 c. 36 s. 23\(1\)](#)
- s. 94(6B) inserted by [2006 c. 13 s. 13](#)
- s. 106(2)(ua) inserted by [2007 c. 30 s. 19\(3\)](#)
- s. 107(2A) inserted by [2022 c. 36 Sch. 3 para. 5\(a\)](#)
- s. 126(2A) inserted by [S.I. 2019/745 reg. 12\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 12(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 3 para. 1(1)(ga) inserted by [2016 c. 19 Sch. 12 para. 2\(2\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(a))
- Sch. 3 para. 1(2A) inserted by [2016 c. 19 Sch. 12 para. 2\(4\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(b))
- Sch. 3 para. 1A inserted by [2016 c. 19 Sch. 12 para. 3](#)
- Sch. 3 para. 2(1)(ca) inserted by [2016 c. 19 Sch. 12 para. 4\(3\)](#)
- Sch. 3 para. 2A inserted by [2016 c. 19 Sch. 12 para. 5](#)
- Sch. 3 para. 3A-3C inserted by [2016 c. 19 Sch. 12 para. 6](#)
- Sch. 3 para. 7B7C and cross-headings inserted by [2016 c. 19 Sch. 12 para. 9](#)
- Sch. 3 para. 10A10B inserted by [2016 c. 19 Sch. 12 para. 10](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(c))
- Sch. 3 para. 15(aa) inserted by [2016 c. 19 Sch. 12 para. 14\(2\)](#)
- Sch. 3 para. 15(d)-(f) inserted by [2016 c. 19 Sch. 12 para. 14\(4\)](#)
- Sch. 3 para. 7C(1)(c) word substituted by [S.I. 2019/745 reg. 12\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 12(5)(a)(c)(d) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 5 para. 3(1) Sch. 5 para. 3 renumbered as Sch. 5 para. 3(1) by [2005 c. 4 Sch. 4 para. 407\(2\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(2)-(4) inserted by [2005 c. 4 Sch. 4 para. 407\(4\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(1) words inserted by [2005 c. 4 Sch. 4 para. 407\(3\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))