



Illegal Migration Act 2023

2023 CHAPTER 37

Legal proceedings

43 Removal conditions suspensive claims

- (1) This section applies where, within the claim period, a person makes a removal conditions suspensive claim to the Secretary of State.
- (2) The Secretary of State must, before the end of the decision period, consider the claim and make one of the following decisions—
 - (a) that the person does not meet the removal conditions, or
 - (b) that the person meets the removal conditions.
- (3) If the Secretary of State makes a decision under subsection (2)(b), the Secretary of State may also certify that the claim is clearly unfounded (see sections 44(1)(c) and 45 (appeals)).
- (4) In considering a removal conditions suspensive claim in circumstances where it is reasonable to expect a person to have provided certain evidence and they have not done so, the Secretary of State must take into account the fact that the person has not provided such evidence.
- (5) A claim under subsection (1) must—
 - (a) contain compelling evidence that the person does not meet the removal conditions,
 - (b) contain the prescribed information, and
 - (c) be made in the prescribed form and manner.

In this subsection “prescribed” means prescribed in regulations made by the Secretary of State.

- (6) Before the end of the claim period or the decision period in relation to a removal conditions suspensive claim, the Secretary of State may, by notice to the person concerned, extend the period where the Secretary of State considers it appropriate to do so.

Changes to legislation: There are currently no known outstanding effects for the Illegal Migration Act 2023, Section 43. (See end of Document for details)

(7) In this section—

“claim period” means the period of 8 days beginning with the day on which the person is given the removal notice;

“decision period” means the period of 4 days beginning with—

- (a) the day on which the person makes the removal conditions suspensive claim, or
- (b) where section 46(3) or (6) (out of time claims) applies, the day on which the Secretary of State makes the decision mentioned in section 46(3) or is given notice of the determination of the Upper Tribunal mentioned in section 46(6) (as the case may be).

Commencement Information

II S. 43 in force at Royal Assent for specified purposes, see s. 68(4)(k)

Changes to legislation:

There are currently no known outstanding effects for the Illegal Migration Act 2023, Section 43.