STATUTORY INSTRUMENTS

2001 No. 867

IMMIGRATION

The Immigration and Asylum Appeals (One-Stop Procedure) (Amendment) Regulations 2001

Made - - - - -	*8th March 2001*
Laid before Parliament	*12th March 2001*
Coming into force - -	*2nd April 2001*

The Secretary of State, in exercise of the powers conferred upon him by sections 74, 75 and 166 of the Immigration and Asylum Act 1999(**a**) hereby makes the following Regulations:

1. These Regulations may be cited as the Immigration and Asylum Appeals (One-Stop Procedure) (Amendment) Regulations 2001 and shall come into force on 2nd April 2001.

2.—(1) The Immigration and Asylum Appeals (One-Stop Procedure) Regulations 2000(**b**) are amended as follows.

(2) For the form of notice shown in Part I of the Schedule, there is substituted the form of notice shown in Part I of the Schedule to these Regulations.

(3) For the form of notice shown in Part II of the Schedule, there is substituted the form of notice shown in Part II of the Schedule to these Regulations.

Home Office
8th March 2001

Barbara Roche
Minister of State

(**a**) 1999 c. 33.
(**b**) S.I. 2000/2244.

SCHEDULE Regulation 2(2)

PART I

ONE-STOP NOTICE

Section 74, Immigration and Asylum Act 1999

To:

You have been given a **notice of decision;** you have, or a member of your family has, a right to appeal that decision to an adjudicator.(*) Under section 74 of the Immigration and Asylum Act 1999 I must also give you this one-stop notice. It requires you to state any **additional grounds** which you have or may have for wishing to enter or remain in the United Kingdom.

If you have not yet taken advice on your position, I strongly advise you to do so now.
The STATEMENT OF ADDITIONAL GROUNDS should be completed and returned to arrive within 10 working days of receipt by you or your representative(**)

Additional grounds

The **notice of decision** takes into account the reasons you gave for wishing to enter or remain in the United Kingdom. *You are now required to state any reasons you think you have or may have for staying in the United Kingdom which you have not previously disclosed: these will be your "additional grounds".* The decision will be reviewed in the light of what you say. It is in your own interest to now disclose all your grounds for staying in the United Kingdom. But you should not make false claims: do not, for example, apply for asylum unless you have genuine reasons for believing that you qualify in the terms of the 1951 Convention.

Section 74(7) of the Immigration and Asylum Act 1999 says that, if you wish to claim asylum, you must do so in your statement. And if you wish to claim that in taking the decision, the decision maker breached your human rights or racially discriminated against you, you must give notice of your claim in your statement.

Your statement

You must use the form STATEMENT OF ADDITIONAL GROUNDS which accompanies this notice.

The form must be:

- completed in English
- completed in full
- signed by yourself or your representative if you have one
- returned as instructed below so as to arrive within 10 working days of when you or your representative received it. Saturdays, Sundays and bank and public holidays are not included when counting the 10 days.(**)

(*) If you have already appealed under the Immigration and Asylum Act 1999 against an earlier decision, we may issue a certificate under section 73 of the Act which cuts off or limits your appeal against this new decision. This is likely to happen if your grounds for appeal were dealt with at the earlier appeal or could have been mentioned then and we think your claim was made to delay your removal from the United Kingdom.

(**) If your right of appeal is to the Special Immigration Appeals Commission the period is only **5 working days.**

Consequences of failure to disclose additional grounds

The purpose of this procedure is to make sure that there is no unnecessary delay in dealing with your case. Where you have a right of appeal already, it is important that the adjudicator should be able to deal with all the aspects of your case which he is entitled to consider on one single occasion. If you believe you qualify to stay in the United Kingdom, then it is clearly of benefit to you to have a final and comprehensive decision as quickly as possible.

If you raise additional grounds after the period allowed to return the statement, you may lose the chance to have any decision on them reviewed by an independent adjudicator. It may be concluded that they were put forward late to delay your removal from the United Kingdom or the removal of a member of your family. Even if you still have an opportunity to appeal, the appeal may be limited and the fact that you had not disclosed your grounds when required to do so would not be in your favour.

There are safeguards for exceptional circumstances: for example if you only became aware of a reason for staying in the United Kingdom after you returned the statement or if you can give a reasonable excuse for not mentioning additional grounds when asked to do so.

If you have already appealed under the Immigration and Asylum Act 1999 against an earlier decision, we may issue a certificate under section 73 of the Act which cuts off or limits your appeal against this new decision. This is likely to happen if your grounds for appeal were dealt with at the earlier appeal or could have been mentioned then.

The consequences of raising additional grounds late may be serious: you should always disclose your reasons for wishing to stay here and any change of circumstances without delay.

Your right to appeal the decision

If you have been given this form because you are a member of the family of someone who has a right of appeal, but you do not yourself have a right of appeal, this paragraph does not apply to you. The **notice of decision** tells you if you can appeal the decision. If you do have a right of appeal, a **notice of appeal** form will be attached to the **statement of additional** grounds.

- If you do not agree with the reason given for my decision in the **notice of decision,** then you should explain why in your **notice of appeal.** What you say there is your **"grounds of appeal".** The statement of additional grounds is for matters different from those which have already been considered.
- If you make a valid **appeal** and submit **additional grounds,** arguments provided in support of those grounds will be considered. If the decision is maintained in the light of those arguments you will be told why. If the **additional grounds** could have formed part of your appeal if you had disclosed them earlier then the grounds will be included in the material which the adjudicator can consider and you can add to your **grounds of appeal** in the light of our reasons for maintaining the decision before your papers are sent to the adjudicator. If the **additional grounds** could not have formed part of your appeal if you had disclosed them earlier then the adjudicator cannot consider those grounds and you will not be able to add to your **grounds of appeal.** Remember that if you have already appealed under the Immigration and Asylum Act 1999, we may issue a certificate under section 73 of the Act which cuts off or limits your right of appeal. Please do not separate the **statement of additional grounds** form and the **notice of appeal** form. There is also a copy of the **notice of decision** attached to the appeal form: this is for the use of the adjudicator if you appeal, and appeal procedures require you to return it with the appeal form. If you make a photocopy of these papers, or send them by fax, please ensure that all the pages are kept together and in the correct order.
- You may, if you wish, put forward additional grounds without making an appeal. Likewise you should not put forward additional grounds with your appeal if you genuinely have none to suggest. But in either case, please return both forms together. If you submit neither an appeal nor additional grounds then you should comply with any instructions to leave the United Kingdom which you have been given.

Service of statement of additional grounds

The statement may be returned by post to the following address:

[to be inserted by signatory]

The statement may be returned by hand to the following address:

[to be inserted by signatory]

The statement may be sent by fax to the following fax number:

[to be inserted by signatory]

If you are **detained** the statement may be served by giving it to the person who has custody of you.(*)

Please remember:

- keep any evidence of posting or receipt which you are given
- use a reliable postal service which offers speedy delivery if you can
- if you have been given a **notice of appeal** make sure it is attached to your **statement of additional grounds**
- keep this notice with your copy of the notice of refusal

Family applications

If you have received this notice in a package of notices and forms relating to yourself and other members of your family, please return all the statement and appeals forms together if possible. An envelope was enclosed with the package.

[Signature]

[Immigration Officer/On behalf of the Secretary of State]

[Date]

If you have not seen, or need a further copy of the guidance on how to obtain help ("Getting advice on Immigration Matters") your nearest Citizen's Advice Bureau can assist. The leaflet is also available at the Immigration and Nationality Directorate's website: http://www.homeoffice.gov.uk/ind/hpg.htm.

PART II

Regulation 2(3)

ONE-STOP NOTICE

Section 75, Immigration and Asylum Act 1999

To:

You have made a claim for asylum, or a claim that it would be in breach of your human rights for you to be removed from, or required to leave, the United Kingdom.

You are also one of the following:

- an illegal entrant, **or**
- a person who is liable to be removed as an overstayer under section 10 of the Immigration and Asylum Act 1999, or
- a person who has arrived in the United Kingdom without leave to enter, an entry clearance, or a current work permit in which you are named.

Alternatively you have applied for leave to enter or remain in the United Kingdom as the spouse or dependent of such a person, or because such a person is dependent on you.

Under section 75 of the Immigration and Asylum Act 1999 I must give you this **one-stop notice.** It requires you to state any **additional grounds** which you have or may have for wishing to enter or remain in the United Kingdom.

(*) This does not apply if your right of appeal is to the Special Immigration Appeals Commission. The statement should be returned by fax or post.

If you have not yet taken advice on your position, I strongly advise you to do so now.

The STATEMENT OF ADDITIONAL GROUNDS should be completed and returned to arrive within 10 working days of receipt by you or your representative.

Additional grounds

You are now required to state any reasons you think you have or may have for staying in the United Kingdom which you have not previously disclosed when making your application: these will be your "additional grounds". They will be considered together with the application which you have already made.

If you are claiming asylum personally you should now put forward any human rights arguments you may have. If you have made a claim based on your own human rights, you should now put forward any reasons you have for thinking that you qualify for asylum. If your overall claim is refused, you will have the opportunity to appeal that decision to an adjudicator. Your appeal would address both issues at once. You should also mention any other reasons you have for wishing to stay here, but you may not be entitled to raise them at an appeal.

If you are not the person who has made an asylum or human rights claim, but are the spouse or dependant of such a person or they are dependent on you, and their application is refused, your application will also be refused. If you have any reason to think that you have grounds to make an asylum or human rights claim in your own individual right, you should give them now. If your claim is refused you will have the chance to appeal to an independent adjudicator. You should also mention any other reasons you have for wishing to stay here, but you may not be entitled to raise them at an appeal.

If you have already appealed under the Immigration and Asylum Act 1999 against an earlier decision, we may issue a certificate under section 73 of the Act which cuts off or limits any appeal against a decision on the claim you are now making. This is likely to happen if we think that you made the claim in order to delay your removal from the United Kingdom.

Your statement

You must use the form **STATEMENT OF ADDITIONAL GROUNDS** which accompanies this notice.

The form must be:

- completed in English
- completed in full
- signed by yourself or your representative if you have one
- returned as instructed below so as to arrive within 10 working days of when you or your representative received it. Saturdays, Sundays, bank and public holidays are not included when counting the 10 days.

Consequence of failure to disclose additional grounds

The purpose of this procedure is to make sure that there is no unnecessary delay in dealing with your case. Where you have a right of appeal, it is important that the adjudicator should be able to deal with all the aspects of your case which he is entitled to consider on one single occasion. If you believe you qualify to stay in the United Kingdom, then it is clearly of benefit to you to have a final and comprehensive decision as quickly as possible.

If you raise additional grounds after the period allowed, you may lose the chance to have any decision on them reviewed by an independent adjudicator. It may be concluded that they were put forward late to delay your removal from the United Kingdom or the removal of a member of your family. Even if you still have an opportunity to appeal, the appeal may be limited and the fact that you had not disclosed your grounds when required to do so would not be in your favour.

There are safeguards for exceptional circumstances: for example if you only became aware of a reason for staying in the United Kingdom after you return the statement or you can give a reasonable excuse for not mentioning additional grounds when asked to do so.

The consequences of raising additional grounds late may be serious: you should always disclose your reasons for wishing to stay here and any change of circumstances without delay.

Service of statement of additional grounds

The statement may be returned by post to the following address:

[to be inserted by signatory]

The statement may be returned by hand to the following address:

[to be inserted by signatory]

The statement may be sent by fax to the following fax number:

[to be inserted by signatory]

If you are detained the statement may be served by giving it to the person who has custody of you.

Please remember:

- keep any evidence of posting or receipt which you are given
- use a reliable postal service which offers speedy delivery if you can
- keep this notice

Family applications

If you have received this notice in a package of notices and forms relating to yourself and other members of your family, please return all the statements together if possible. An envelope was enclosed with the package.

[Signature]

Immigration Officer/On behalf of the Secretary of State]

[Date]

If you have not seen, or need a further copy of the guidance on how to obtain help ("Getting advice on Immigration Matters") your nearest Citizen's Advice Bureau can assist. The leaflet is also available at the Immigration and Nationality Directorate's website: http//www.homeoffice.gov.uk/ind/hpg.htm.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Immigration and Asylum Appeals (One-Stop Procedure) Regulations 2000 by changing the forms of the section 74 and section 75 notices which are shown in Parts I and II of the Schedule to those Regulations.

The changes to the section 74 notice reflect amendments to the Immigration and Asylum Act 1999 by the Race Relations (Amendment) Act 2000. These amendments give a right of appeal to a person who alleges that an authority has, in taking any decision under the Immigration Acts relating to that person's entitlement to enter or remain in the United Kingdom, racially discriminated against him. These amendments also provide that a person must include any complaint of racial discrimination in the statement of additional grounds served with the section 74 notice.

Both the section 74 and section 75 notice have also been amended to clarify the position of persons whose right of appeal to the Immigration Appellate Authority may be cut off or limited because a certificate has been issued under section 73 of the Immigration and Asylum Act 1999.

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The Immigration and Asylum Appeals (One-Stop Procedure) (Amendment) Regulations 2001

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