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**CHAPTER 12
SECTION 3****THE ONE STOP PROCEDURE****1. INTRODUCTION**

The aim of the one-stop procedure is to make applicants give all their reasons for wanting to enter or remain in the UK as early as possible. This should allow us to deal with their applications quickly, taking into account all the reasons why they wish to remain here. Applications made late will be considered but, where the application relies on a matter which could have or should have been raised earlier and where there is no satisfactory reason for it not having been raised earlier, we can issue a certificate under section 96 of the Nationality, Immigration and Asylum Act 2002. The effect of a certificate is to prevent the applicant from exercising the right of appeal against refusal.

The existence of the one-stop process does not affect the responsibility of applicants to tell us of any relevant change in their circumstances as soon as possible.

2. SECTION 120: THE ONE-STOP NOTICE

Section 120 of the 2002 Act provides for a one-stop notice to be served on any applicant at any time. It also allows us to serve a one-stop notice on a person who has not made an application, but in respect of whom an immigration decision has been or may be taken. This covers enforcement situations in which, before taking removal action, we want to oblige someone formally to tell us if they have any reasons for remaining in the UK. "Immigration decision" here means any of the decisions listed in section 82 (see paragraph 2 of section 1 above). It does not apply to a decision to grant humanitarian protection or discretionary leave following the refusal of asylum; there is usually no point in serving a one-stop notice on a person who will be remaining in the UK for the foreseeable future and whose circumstances may change in the meantime.

The one-stop notice must be given in writing. It will require the recipient to state his reasons for wishing to enter or remain in the UK, any grounds on which he should be permitted to enter or remain in the UK, and any grounds on which he should not be removed from or required to leave the UK. A person need not repeat grounds or reasons set out in an earlier application. The one-stop notice will warn the applicant of the penalties that may result from non-compliance with this requirement. There is no time limit within which the applicant must return a one-stop statement, and no obligation for IND to wait for a statement before making a decision. However, in each case the caseworker should tell the applicant how long it will be before a decision is taken. The caseworker is free to set an appropriate time limit that is reasonable in the circumstances of the case, but care should be taken to treat applicants equitably, and standard periods should be given. The statement must be considered if it arrives late - even if an appeal has been lodged.

It is in the applicant's interest to participate in the process, partly because full information will allow us to make an informed decision and partly because the AIT is

obliged (under section 85(2)) to consider any matter raised in a one-stop statement which constitutes a ground of appeal. Non-compliance opens up the possibility that we will issue a certificate under section 96. The effect of a certificate is to prevent the applicant from exercising a right of appeal against refusal on any of the grounds included in the certificate.

There is no statutory requirement to serve the one-stop notice on people with any particular immigration status or at any particular point in the application process. There is no obligation to serve the notice at all, although if we fail to do so we may not be able to certify a later right of appeal. In asylum and human rights cases the notice should be served at an early stage. Where an application has been made in-time under the Immigration Rules, it will not normally be necessary to serve a one-stop notice at this point. If a notice is served, it should be served together with a form on which the applicant can explain any additional grounds. A careful note should be made of the date and means of service, in case of litigation later. A copy should be kept on file.

Unsuccessful applicants who have a right of appeal in the UK should usually be given a one-stop notice with the refusal notice and appeal form. The one-stop notice can be served as a paragraph within the notice of decision or the reasons for refusal letter. There will be a box on the appeal form in which the appellant can enter any additional grounds. Grounds of appeal (that relate to existing issues) will not normally require a response, and there is no need for a letter if the appellant has simply put grounds of appeal into the additional grounds box on the form.

The wording for the one-stop notice is not set out in legislation. However, for the sake of consistency all caseworkers should use the standard wording at **Annex A**. Any departures from this wording should be cleared with the Appeals and Judicial Review Unit in AAPD.

Throughout the process, it remains the applicant's responsibility to tell us of any new matters that arise. The one-stop notice and the one-stop statement merely provide a back-up, and a reference point for some of the penalties under section 96 that may follow non-compliance. It is important that all applicants are aware of the need to state all their grounds and reasons for wishing to enter or remain in the UK as soon as they can. They must tell us immediately of any relevant change in their circumstances, and may risk losing credibility or even appeal rights if they do not.

3. SECTION 96: THE ONE-STOP CERTIFICATE - CONSEQUENCES OF FAILURE TO COMPLY WITH A ONE-STOP NOTICE OR RAISE A MATTER IN AN EARLIER APPEAL

3.1 Background and transitional provisions

Section 96 of the 2002 Act was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. The amended section 96 provides a procedure for dealing with:

- (a) applications and claims made post-appeal, or after the applicant has had the chance to appeal but has not done so. Section 96 applies when a person has had the opportunity to appeal under section 82 of the 2002 Act (or - in some cases where there would have been such an appeal but for security

concerns - under the Special Immigration Appeals Commission Act 1997) against a decision served on or after 2 October 2000; and

- (b) applications and claims made after the applicant has received a one-stop notice by virtue of an earlier application or earlier decision.

Certificates can be issued on behalf of the Secretary of State or by an immigration officer.

3.2 **When a certificate under section 96 can be issued and the effect**

If a certificate is issued under section 96, an appeal under section 82(1) cannot be brought.

Section 96(1) deals with cases where the person has had an earlier right of appeal. A certificate can be issued under section 96(1) if:

- the person was notified of a right of appeal against another immigration decision (the old decision), whether or not an appeal was brought and whether or not any appeal brought has been determined, and,
- the claim or application to which the new decision relates relies on a matter that could have been raised in an appeal against the old decision, and,
- 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 an appeal against the old decision.

Section 96(2) deals with cases where the person has previously been served with a one-stop notice. A certificate can be issued under section 96(2) if:

- the person received a one-stop notice 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, and,
- 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 in response to that one-stop notice, and
- in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for the matter not having been raised in response to that one stop notice.

A certificate under section 96 shall have no effect in relation to an appeal that has been instituted before the certificate was issued.

3.3 **Applicants returning from abroad**

Applicants who have been outside the United Kingdom since the relevant one-stop notice was served or right of appeal was notified are subject to certification. The absence can be ignored for the purposes of section 96 certification. Section 96(5) refers.

3.4 **Fresh asylum and human rights claims**

A person who has already had an appeal is unlikely to obtain a further right of appeal except on asylum or human rights grounds. There may be a further appeal if a distinct new application has been made; for example a claim to be a refugee *sur place* as a result of events occurring since the earlier appeal, or a human rights claim based on a post-appeal marriage.

3.5 **Further submissions - cases where there is an earlier refused asylum or human rights claim**

In a case where a person has made a previous asylum or human rights claim, and this has been refused and there is no appeal pending, any further asylum or human rights submissions should first of all be considered in the context of paragraph 353 of the Immigration Rules (see the API on further representations and fresh applications). If there is no fresh claim a new decision is not necessary and there is no further right of appeal. In this kind of case, section 96 certification should **not** be considered. Only if the decision is that there is a fresh claim (because the test in paragraph 353 of the Immigration Rules is satisfied) should section 96 certification be considered.

3.6 **Considering the substance of the application or grounds**

The fact that a certificate may be issued does not affect the need to first of all give substantive consideration to the fresh application or grounds of appeal and respond appropriately. Caseworkers should only consider certification under section 96 if they have first considered the application, reached a conclusion on the matters advanced by the applicant and decided to refuse to grant leave.