



# UK Borders Act 2007

## 2007 CHAPTER 30

### *Treatment of claimants*

#### **16 Conditional leave to enter or remain**

After section 3(1)(c)(iii) of the Immigration Act 1971 (limited leave to enter or remain: conditions) insert—

- “(iv) a condition requiring him to report to an immigration officer or the Secretary of State; and
- (v) a condition about residence.”

#### **17 Support for failed asylum-seekers**

- (1) This section applies for the purposes of—
  - (a) Part 6 (and section 4) of the Immigration and Asylum Act 1999 (support and accommodation for asylum-seekers),
  - (b) Part 2 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (accommodation centres), and
  - (c) Schedule 3 to that Act (withholding and withdrawal of support).
- (2) A person (A-S) remains (or again becomes) an asylum-seeker, despite the fact that the claim for asylum made by A-S has been determined, during any period when—
  - (a) A-S can bring an in-country appeal against an immigration decision under section 82 of the 2002 Act or section 2 of the Special Immigration Appeals Commission Act 1997 (c. 68), or
  - (b) an in-country appeal, brought by A-S under either of those sections against an immigration decision, is pending (within the meaning of section 104 of the 2002 Act).
- (3) For the purposes of subsection (2)—
  - (a) “in-country” appeal means an appeal brought while the appellant is in the United Kingdom, and
  - (b) the possibility of an appeal out of time with permission shall be ignored.

- (4) For the purposes of the provisions mentioned in subsection (1)(a) and (b), a person's status as an asylum-seeker by virtue of subsection (2)(b) continues for a prescribed period after the appeal ceases to be pending.
- (5) In subsection (4) "prescribed" means prescribed by regulations made by the Secretary of State; and the regulations—
- (a) may contain incidental or transitional provision,
  - (b) may make different provision for different classes of case,
  - (c) shall be made by statutory instrument, and
  - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) This section shall be treated as always having had effect.

## 18 Support for asylum-seekers: enforcement

In Part 6 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seekers) after section 109 (offences: supplemental) insert—

### “109A Arrest

An immigration officer may arrest without warrant a person whom the immigration officer reasonably suspects has committed an offence under section 105 or 106.

### 109B >Entry, search and seizure

- (1) An offence under section 105 or 106 shall be treated as—
- (a) a relevant offence for the purposes of sections 28B and 28D of the Immigration Act 1971, and
  - (b) an offence under Part 3 of that Act (criminal proceedings) for the purposes of sections 28(4), 28E, 28G and 28H (search after arrest, &c.) of that Act.
- (2) The following provisions of the Immigration Act 1971 (c. 77) shall have effect in connection with an offence under section 105 or 106 of this Act as they have effect in connection with an offence under that Act—
- (a) section 28I (seized material: access and copying),
  - (b) section 28J (search warrants: safeguards),
  - (c) section 28K (execution of warrants), and
  - (d) section 28L(1) (interpretation).”

## 19 Points-based applications: no new evidence on appeal

- (1) For section 85(5) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeal: new evidence may be considered: exception) substitute—

“(5) But subsection (4) is subject to the exceptions in section 85A.”

- (2) After section 85 of that Act insert—

**“85A Matters to be considered: new evidence: exceptions**

- (1) This section sets out the exceptions mentioned in section 85(5).
- (2) Exception 1 is that in relation to an appeal under section 82(1) against an immigration decision of a kind specified in section 82(2)(b) or (c) the Tribunal may consider only the circumstances appertaining at the time of the decision.
- (3) Exception 2 applies to an appeal under section 82(1) if—
  - (a) the appeal is against an immigration decision of a kind specified in section 82(2)(a) or (d),
  - (b) the immigration decision concerned an application of a kind identified in immigration rules as requiring to be considered under a “Points Based System”, and
  - (c) the appeal relies wholly or partly on grounds specified in section 84(1) (a), (e) or (f).
- (4) Where Exception 2 applies the Tribunal may consider evidence adduced by the appellant only if it—
  - (a) was submitted in support of, and at the time of making, the application to which the immigration decision related,
  - (b) relates to the appeal in so far as it relies on grounds other than those specified in subsection (3)(c),
  - (c) is adduced to prove that a document is genuine or valid, or
  - (d) is adduced in connection with the Secretary of State’s reliance on a discretion under immigration rules, or compliance with a requirement of immigration rules, to refuse an application on grounds not related to the acquisition of “points” under the “Points Based System”.
- (3) In section 106(2) of that Act after paragraph (u) insert—

“(ua) may make provision, for the purposes of section 85A(4)(a), about the circumstances in which evidence is to be treated, or not treated, as submitted in support of, and at the time of making, an application;”.

**20 Fees**

- (1) Section 42 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (fees: power to set amount in excess of costs) is amended as follows.
- (2) In subsection (2) after paragraph (d) insert—

“(da) an application or process in connection with sponsorship of persons seeking leave to enter or remain in the United Kingdom;”.
- (3) After that subsection insert—

“(2A) Regulations under section 51(3) of the Immigration, Asylum and Nationality Act 2006, specifying the amount of a fee for a claim, application, service, process or other matter in respect of which an order has been made under section 51(1) or (2), may specify an amount which reflects (in addition to any costs referable to the claim, application, service, process or other matter) costs referable to—

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*Status: This is the original version (as it was originally enacted).*

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- (a) any other claim, application, service, process or matter in respect of which the Secretary of State has made an order under section 51(1) or (2),
- (b) the determination of applications for entry clearances (within the meaning given by section 33(1) of the Immigration Act 1971),
- (c) the determination of applications for transit visas under section 41 of the Immigration and Asylum Act 1999, or
- (d) the determination of applications for certificates of entitlement to the right of abode in the United Kingdom under section 10 of the Nationality, Immigration and Asylum Act 2002.”

(4) After subsection (3) insert—

“(3A) The amount of a fee under section 1 of the Consular Fees Act 1980 in respect of a matter specified in subsection (2A)(b) to (d) above may be set so as to reflect costs referable to any claim, application, service, process or other matter in respect of which the Secretary of State has made an order under section 51(1) or (2) of the Immigration, Asylum and Nationality Act 2006.”

## 21 Children

- (1) The Secretary of State shall issue a code of practice designed to ensure that in exercising functions in the United Kingdom the Border and Immigration Agency takes appropriate steps to ensure that while children are in the United Kingdom they are safe from harm.
- (2) The Agency shall—
  - (a) have regard to the code in the exercise of its functions, and
  - (b) take appropriate steps to ensure that persons with whom it makes arrangements for the provision of services have regard to the code.
- (3) The code shall come into force in accordance with provision made by order of the Secretary of State; and an order—
  - (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The Secretary of State shall from time to time review and, if necessary, revise the code; and subsection (3) applies to a revision as to the original code.
- (5) In this section—
  - (a) “the Border and Immigration Agency” means—
    - (i) immigration officers, and
    - (ii) other officials of the Secretary of State, and the Secretary of State, in respect of functions relating to immigration, asylum or nationality, and
  - (b) “child” means an individual who is less than 18 years old.