

## SCHEDULE 2

Article 4

### Transitional provisions

#### **Interpretation**

1. Unless the context otherwise requires, article 5 of this Order applies to this Schedule as it applies to an enactment which extends to the Isle of Man by virtue of this Order.

#### **Transitional provision relating to the Immigration Act 1971**

2.—(1) Section 3C of the 1971 Act (continuation of leave pending variation decision) shall apply in relation to an application made before 1st May 2008, in respect of which no decision has been made on or before 1st May 2008, as it applies to such an application made after 1st May 2008.

(2) Section 3D of the 1971 Act (continuation of leave following revocation) shall apply only in relation to a decision made on or after 1st May 2008.

(3) Section 5 of the 1971 Act (procedure for, and further provisions as to, deportation) shall continue to have effect in relation to any person on whom the Governor has, before 1st May 2008, served a notice of his decision to make a deportation order; and, for the purposes of that section, such a person shall be taken to be a person who is liable to deportation under section 3(5) of the 1971 Act.

(4) Section 13 of the 1971 Act (appeals against exclusion from the Isle of Man) shall continue to have effect where the decision to refuse leave to enter the Isle of Man, or to refuse a certificate of entitlement or an entry clearance, was made before 1st May 2008.

(5) Section 14 of the 1971 Act (appeals against conditions) shall continue to have effect where the decision to vary, or the refuse to vary, the limited leave to enter or remain was made before 1st May 2008.

(6) Section 15 of the 1971 Act (appeals in respect of deportation orders) shall continue to have effect where the decision to refuse to revoke a deportation order was made before 1st May 2008.

(7) Section 16 of the 1971 Act (appeals against validity of directions for removal) shall continue to have effect where the directions for a person's removal from the Isle of Man were given before 1st May 2008.

(8) Section 17 of the 1971 Act (appeals against removal on objection to destination) shall continue to have effect where the directions for a person's removal from the Isle of Man were given, or the notice specifying the destination of his removal was served, before 1st May 2008.

(9) Section 21 (references of cases by Governor for further consideration) shall continue to have effect where the Governor has referred a matter for consideration under that section before 1st May 2008.

(10) Where an appeal is made under Part II of the 1971 Act—

(a) paragraph 28 of Schedule 2 to the 1971 Act (stay on directions for removal) shall continue to have effect;

(b) the following provisions of the 1971 Act shall not have effect—

(i) paragraph 29(1) of Schedule 2 (grant of bail pending appeal);

(ii) paragraph 3 of Schedule 3 (effect of appeals).

#### **Transitional provision relating to the Asylum and Immigration Act 1996**

3. Section 8 of the 1996 Act shall not apply to employment which began before 1st May 2008.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Transitional provision relating to the Immigration and Asylum Act 1999**

4. Section 10 of the 1999 Act (removal of certain persons unlawfully in the United Kingdom) shall not have effect in relation to any person on whom the Governor has, before 1st May 2008, served a notice of his intention to make a deportation order.

### **Transitional provision relating to the Nationality, Immigration and Asylum Act 2002**

5.—(1) Subject to subparagraph (2) below, the new appeals provisions shall not have effect in relation to events which took place before 1st May 2008 and, notwithstanding the revocation of the Immigration (Isle of Man) Order 1997, the old appeals provisions shall continue to have effect in relation to such events.

(2) The following provisions of the 2002 Act—

- (a) section 78 (no removal while appeal pending), and
- (b) section 79 (deportation order: appeal),

shall have effect in relation to an appeal pending under the old appeals provisions as they have effect in relation to an appeal pending under section 82(1) of the 2002 Act.

(3) The adjudicators for the purposes of Part 5 of the 2002 Act shall be treated as the adjudicators for the purposes of the old appeals provisions.

(4) In the application of section 96 of the 2002 Act—

- (a) a reference to an appeal or right of appeal under a provision of that Act includes a reference to an appeal or right of appeal under the old appeals provisions,
- (b) a reference to a requirement imposed under that Act includes a reference to a requirement of a similar nature imposed the old appeals provisions,
- (c) a reference to a statement made in response to a notice under a provision of that Act includes a reference to anything done in compliance with a requirement under the old appeals provisions, and
- (d) a reference to notification by virtue of that Act includes a reference to notification by virtue of any other enactment.

(5) In this paragraph—

- (a) “the new appeals provisions” means sections 82 to 99 of the 2002 Act, together with any provision (including subordinate legislation) of—

- (i) the 2002 Act;
- (ii) the 1971 Act (as amended by the 2002 Act) and the 1999 Act;

which refer to those provisions;

- (b) “the old appeals provisions” means sections 13 to 17 of the 1971 Act, together with—

- (i) any subordinate legislation which applies to those provisions (unless specific provision is made to the contrary); and
- (ii) any provision of the 1971 Act or the 1988 Act which refers to those provisions.

(6) For the purposes of this paragraph, an event has taken place under the 1971 Act where—

- (a) a notice was served;
- (b) a decision was made or taken; and
- (c) directions were given.

(7) For the purposes of this paragraph—

- (a) a notice was served,

- (b) a decision was made or taken, and
- (c) directions were given,

on the day on which it was or they were sent to the person concerned, if sent by post or by fax, or delivered to that person, if delivered by hand.

(8) In subparagraph (7) “the person concerned” means the person who is the subject of the notice, decision, directions or certificate or the person who appears to be his representative.

### **Transitional provision relating to the Immigration, Asylum and Nationality Act 2006**

6.—(1) Sections 2 and 5 of the 2006 Act shall apply only in respect of a decision made on or after 1st May 2008.

(2) Where, immediately before 1st May 2008, a passport or other document produced or found in accordance with paragraph 4 of Schedule 2 to the 1971 Act is being examined or detained by an immigration officer under paragraph 4(2A) or paragraph 4(4) of that Schedule, paragraph 4(4) as substituted by section 27 of the 2006 Act shall apply to the examination or detention of those documents on or after 1st May 2008 as if it had been in force on the date on which the passport or other document was produced or found, and paragraph 4(2A) shall cease to have effect.

(3) Paragraph 4(5) of Schedule 2 to the 1971 Act as substituted by section 27 of the 2006 Act shall apply only where the examination under paragraph 2, 2A or 3 of that Schedule begins on or after 1st May 2008.