
STATUTORY INSTRUMENTS

2016 No. 994

IMMIGRATION

The Immigration (Jersey) Order 2016

Made - - - - 12th October 2016

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the 12th day of October 2016

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 170(7) of the Immigration and Asylum Act 1999⁽¹⁾ and section 76(6) of the Immigration Act 2014⁽²⁾, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Immigration (Jersey) Order 2016 and comes into force on the seventh day after the day on which it is registered by the Royal Court of Jersey.

(2) In this Order—

“the 1999 Act” means the Immigration and Asylum Act 1999;

“the 2003 Order” means the Immigration and Asylum Act 1999 (Jersey) Order 2003⁽³⁾;

“the 2014 Act” means the Immigration Act 2014; and

“Jersey” means the Bailiwick of Jersey.

(3) For the purposes of construing provisions of the 2014 Act as part of the law of Jersey, a reference to an enactment which extends to Jersey is construed as a reference to that enactment as it has effect in Jersey.

Consequential amendment and saving

2.—(1) In the Schedule to the 2003 Order omit the entry relating to section 5 of the 1999 Act (charges).

(1) 1999 c. 33.

(2) 2014 c. 22.

(3) S.I. 2003/1252.

(2) Notwithstanding paragraph (1), any Order of the Minister for Home Affairs under section 5 of the 1999 Act having effect when this Order comes into force shall continue to have effect until the Minister for Home Affairs makes an Order under sections 67A, 67B and 67C the 2014 Act as extended to Jersey by this Order.

Extension of the Immigration Act 2014 to Jersey

3. Sections 68 to 70 of the 2014 Act shall extend to Jersey subject to the modifications specified in the Schedule to this Order.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE

Article 3

Modifications of sections 68 to 70 of the Immigration Act 2014 (Fees) as they extend to Jersey

1. Before section 68 insert the following sections 67A, 67B and 67C –

“67A Fees (the Minister)

(1) The Minister may by Order provide for fees to be charged in respect of the exercise of any function in connection with immigration or nationality exercised by –

- (a) the Lieutenant-Governor;
- (b) a Minister (within the meaning of Article 1(1) of the States of Jersey Law 2005);
- (c) an immigration officer or any other States’ employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005,

other than a function exercised by the Lieutenant-Governor under arrangements made with the Secretary of State under section 43 of the British Nationality Act 1981.

(2) An Order under subsection (1) may not provide for a fee to be charged in respect of the exercise of a function otherwise than in connection with an application or claim, or on request.

(3) An Order under subsection (1) may set fees—

- (a) of a fixed amount; or
- (b) of an amount calculated by reference to an hourly rate or other factor.

(4) In respect of any fee set by an Order under subsection (1), the Order may—

- (a) provide for exceptions;
- (b) provide for the reduction, waiver or refund of part or all of a fee (whether by conferring a discretion or otherwise);
- (c) make provision about—
 - (i) the consequences of failure to pay a fee;
 - (ii) enforcement;
 - (iii) when a fee may or must be paid.

(5) This section is without prejudice to any other power to charge a fee.

(6) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders made under this section.

(7) In this section and sections 67B and 67C —

“enactment” includes an enactment of the United Kingdom having effect in Jersey;

“function” includes a power or a duty;

“function in connection with immigration or nationality” includes a function in connection with an enactment that relates wholly or partly to immigration or nationality;

“Jersey” means the Bailiwick of Jersey;

“Minister” means Minister for Home Affairs.

(8) Any reference in this section and in section 67C to the exercise of a function includes a reference to its exercise in particular circumstances, including its exercise—

- (a) at particular times or in a particular place;
- (b) under particular arrangements;

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

(c) otherwise in particular ways,
and, for this purpose, “arrangements” includes arrangements for the convenience of applicants, claimants or persons making requests for the exercise of a function.

67B Fees orders (the Minister): supplemental

- (1) A fee under section 67A may relate to something done outside Jersey.
- (2) Fees payable by virtue of section 67A may be recovered as a debt due to the Minister.
- (3) Fees charged under an Order made under section 67A shall form part of the annual income of the States.

67C Power to charge fees for attendance services in particular cases

(1) This section applies where a person exercises a function in connection with immigration or nationality in respect of which a fee is chargeable by virtue of an Order made under section 67A (a “chargeable function”) in a particular case and—

- (a) in doing so attends at a place outside Jersey, and time, agreed with a person (“the client”); and
- (b) does so at the request of the client.

It is immaterial whether or not the client is a person in respect of whom the chargeable function is exercised.

(2) In this section “attendance service” means the service described in subsection (1) except so far as it consists of the exercise of a chargeable function.

(3) The following are to be disregarded in determining whether a fee is chargeable in respect of a function by virtue of an Order made under section 67A—

- (a) any exception provided for by the Order;
- (b) any power so provided to waive or refund a fee.

(4) The person exercising the chargeable function may charge the client such fee for the purposes of recovering the costs of providing the attendance service as the person may determine.

- (5) Fees payable by virtue of subsection (4) may be recovered as a debt due to the States.
- (6) Fees charged under subsection (4) shall form part of the annual income of the States.
- (7) This section is without prejudice to section 67A or any other power to charge a fee.”.

2. In section 68 –

- (a) in subsection (1) after “immigration or nationality” insert “, other than functions for which a fee may be charged by virtue of an Order made by the Minister under section 67A or by virtue of section 67C.”; and
- (b) in subsection (12)-
 - (i) in the definition of “function in connection with immigration or nationality” for “the United Kingdom” substitute “Jersey”;
 - (ii) after that definition insert –
 - ““Jersey” means the Bailiwick of Jersey”;
 - “Minister” means Minister for Home Affairs;”.

3. In section 69–

- (a) in subsection (2) for “the United Kingdom” substitute “Jersey”;

(b) after subsection (4) insert–

“(4A) Notwithstanding subsections (3) and (4), in relation to a function exercised by the Lieutenant-Governor under arrangements made with the Secretary of State under section 43 of the British Nationality Act 1981 –

- (a) fees payable by virtue of section 68 may be recovered as a debt due to the Minister; and
- (b) fees paid by virtue of section 68 shall form part of the annual income of the States.”.

4. In section 70–

(a) in subsection (1) for “the United Kingdom” substitute “Jersey”; and

(b) after subsection (6) insert–

“(6A) Notwithstanding subsections (5) and (6), in relation to a function exercised by the Lieutenant-Governor under arrangements made with the Secretary of State under section 43 of the British Nationality Act 1981–

- (a) fees paid by virtue of this section shall form part of the annual income of the States; and
- (b) a fee payable by virtue of this section may be recovered as a debt due to the Minister.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to Jersey, with modifications, sections 68 to 70 of the Immigration Act 2014 (c. 22) relating to fees. The sections in their extended form make provision as regards the respective powers of the Minister for Home Affairs (of Jersey) and the Secretary of State to provide for fees to be charged in respect of the exercise of any function in connection with immigration or nationality.