



# Immigration Act 1971

## 1971 CHAPTER 77

### PART I

#### REGULATION OF ENTRY INTO AND STAY IN UNITED KINGDOM

#### **1 General principles**

- (1) All those who are in this Act expressed to have the right of abode in the United Kingdom shall be free to live in, and to come and go into and from, the United Kingdom without let or hindrance except such as may be required under and in accordance with this Act to enable their right to be established or as may be otherwise lawfully imposed on any person.
- (2) Those not having that right may live, work and settle in the United Kingdom by permission and subject to such regulation and control of their entry into, stay in and departure from the United Kingdom as is imposed by this Act; and indefinite leave to enter or remain in the United Kingdom shall, by virtue of this provision, be treated as having been given under this Act to those in the United Kingdom at its coming into force, if they are then settled there (and not exempt under this Act from the provisions relating to leave to enter or remain).
- (3) Arrival in and departure from the United Kingdom on a local journey from or to any of the Islands (that is to say, the Channel Islands and Isle of Man) or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the United Kingdom on so arriving, except in so far as any of those places is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act the United Kingdom and those places, or such of them as are not so excluded, are collectively referred to as " the common travel area " .
- (4) The rules laid down by the Secretary of State as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the United Kingdom of persons not having the right of abode shall include provision for admitting (in such cases and subject to such restrictions as may be provided by the rules, and subject or not to conditions as to length of stay or otherwise) persons coming for the purpose

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of taking employment, or for purposes of study, or as visitors, or as dependants of persons lawfully in or entering the United Kingdom.

- (5) The rules shall be so framed that Commonwealth citizens settled in the United Kingdom at the coming into force of this Act and their wives and children are not, by virtue of anything in the rules, any less free to come into and go from the United Kingdom than if this Act had not been passed.

## 2 **Statement of right of abode, and related amendments as to citizenship by registration**

- (1) A person is under this Act to have the right of abode in the United Kingdom if—
- (a) he is a citizen of the United Kingdom and Colonies who has that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or
  - (b) he is a citizen of the United Kingdom and Colonies born to or legally adopted by a parent who had that citizenship at the time of the birth or adoption, and the parent either—
    - (i) then had that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or
    - (ii) had been born to or legally adopted by a parent who at the time of that birth or adoption so had it; or
  - (c) he is a citizen of the United Kingdom and Colonies who has at any time been settled in the United Kingdom and Islands and had at that time (and while such a citizen) been ordinarily resident there for the last five years or more ; or
  - (d) he is a Commonwealth citizen born to or legally adopted by a parent who at the time of the birth or adoption had citizenship of the United Kingdom and Colonies by his birth in the United Kingdom or in any of the Islands.
- (2) A woman is under this Act also to have the right of abode in the United Kingdom if she is a Commonwealth citizen and either—
- (a) is the wife of any such citizen of the United Kingdom and Colonies as is mentioned in subsection (1)(a), (b) or (c) above or any such Commonwealth citizen as is mentioned in subsection (1)(d); or
  - (b) has at any time been the wife—
    - (i) of a person then being such a citizen of the United Kingdom and Colonies or Commonwealth citizen; or
    - (ii) of a British subject who but for his death would on the date of commencement of the British Nationality Act 1948 have been such a citizen of the United Kingdom and Colonies as is mentioned in subsection (1)(a) or (b);

but in subsection (1)(a) and (b) above references to registration as a citizen of the United Kingdom and Colonies shall not, in the case of a woman, include registration after the passing of this Act under or by virtue of section 6(2) (wives) of the British Nationality Act 1948 unless she is so registered by virtue of her marriage to a citizen of the United Kingdom and Colonies before the passing of this Act.

- (3) In relation to the parent of a child born after the parent's death, references in subsection (1) above to the time of the child's birth shall be replaced by references to the time of the parent's death; and for purposes of that subsection—
- (a) " parent" includes the mother of an illegitimate child; and

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- (b) references to birth in the United Kingdom shall include birth on a ship or aircraft registered in the United Kingdom, or on an unregistered ship or aircraft of the Government of the United Kingdom, and similarly with references to birth in any of the Islands; and
  - (c) references to citizenship of the United Kingdom and Colonies shall, in relation to a time before the year 1949, be construed as references to British nationality and, in relation to British nationality and to a time before the 31st March 1922, "the United Kingdom" shall mean Great Britain and Ireland ; and
  - (d) subject to section 8(5) below, references to a person being settled in the United Kingdom and Islands are references to his being ordinarily resident there without being subject under the immigration laws to any restriction on the period for which he may remain.
- (4) In subsection (1) above, any reference to registration in the United Kingdom shall extend also to registration under arrangements made by virtue of section 8(2) of the British Nationality Act 1948 (registration in independent Commonwealth country by United Kingdom High Commissioner), but, in the case of a registration by virtue of section 7 (children) of that Act, only if the registration was effected before the passing of this Act.
- (5) The law with respect to registration as a citizen of the United Kingdom and Colonies shall be modified as provided by Schedule 1 to this Act.
- (6) In the following provisions of this Act the word " patrial " is used of persons having the right of abode in the United Kingdom.

### **3 General provisions for regulation and control**

- (1) Except as otherwise provided by or under this Act, where a person is not patrial—
- (a) he shall not enter the United Kingdom unless given leave to do so in accordance with this Act;
  - (b) he may be given leave to enter the United Kingdom (or, when already there, leave to remain in the United Kingdom) either for a limited or for an indefinite period;
  - (c) if he is given a limited leave to enter or remain in the United Kingdom, it may be given subject to conditions restricting his employment or occupation in the United Kingdom, or requiring him to register with the police, or both.
- (2) The Secretary of State shall from time to time (and as soon as may be) lay before Parliament statements of the rules, or of any changes in the rules, laid down by him as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the United Kingdom of persons required by this Act to have leave to enter, including any rules as to the period for which leave is to be given and the conditions to be attached in different circumstances ; and section 1(4) above shall not be taken to require uniform provision to be made by the rules as regards admission of persons for a purpose or in a capacity specified in section 1(4) (and in particular, for this as well as other purposes of this Act, account may be taken of citizenship or nationality).

If a statement laid before either House of Parliament under this subsection is disapproved by a resolution of that House passed within the period of forty days beginning with the date of laying (and exclusive of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than

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four days), then the Secretary of State shall as soon as may be make such changes or further changes in the rules as appear to him to be required in the circumstances, so that the statement of those changes be laid before Parliament at latest by the end of the period of forty days beginning with the date of the resolution (but exclusive as aforesaid).

- (3) In the case of a limited leave to enter or remain in the United Kingdom,—
- (a) a person's leave may be varied, whether by restricting, enlarging or removing the limit on its duration, or by adding, varying or revoking conditions, but if the limit on its duration is removed, any conditions attached to the leave shall cease to apply; and
  - (b) the limitation on and any conditions attached to a person's leave may be imposed (whether originally or on a variation) so that they will, if not superseded, apply also to any subsequent leave he may obtain after an absence from the United Kingdom within the period limited for the duration of the earlier leave.
- (4) A person's leave to enter or remain in the United Kingdom shall lapse on his going to a country or territory outside the common travel area (whether or not he lands there), unless within the period for which he had leave he returns to the United Kingdom in circumstances in which he is not required to obtain leave to enter; but, if he does so return, his previous leave (and any limitation on it or conditions attached to it) shall continue to apply.
- (5) A person who is not patrial shall be liable to deportation from the United Kingdom—
- (a) if, having only a limited leave to enter or remain, he does not observe a condition attached to the leave or remains beyond the time limited by the leave; or
  - (b) if the Secretary of State deems his deportation to be conducive to the public good; or
  - (c) if another person to whose family he belongs is or has been ordered to be deported.
- (6) Without prejudice to the operation of subsection (5) above, a person who is not patrial shall also be liable to deportation from the United Kingdom if, after he has attained the age of seventeen, he is convicted of an offence for which he is punishable with imprisonment and on his conviction is recommended for deportation by a court empowered by this Act to do so.
- (7) Where it appears to Her Majesty proper so to do by reason of restrictions or conditions imposed on citizens of the United Kingdom and Colonies when leaving or seeking to leave any country or the territory subject to the government of any country, Her Majesty may by Order in Council make provision for prohibiting persons who are nationals or citizens of that country and are not patrial from embarking in the United Kingdom, or from doing so elsewhere than at a port of exit, or for imposing restrictions or conditions on them when embarking or about to embark in the United Kingdom; and Her Majesty may also make provision by Order in Council to enable those who are not patrial to be, in such cases as may be prescribed by the Order, prohibited in the interests of safety from so embarking on a ship or aircraft specified or indicated in the prohibition.

Any Order in Council under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (8) When any question arises under this Act whether or not a person is patrial, or is entitled to any exemption under this Act, it shall lie on the person asserting it to prove that he is.
- (9) A person seeking to enter the United Kingdom and claiming to be patrial by virtue of section 2(1)(c) or (d) or section 2(2) above shall prove it by means of such certificate of patriality as may be specified in the immigration rules, unless in the case of a woman claiming to be patrial by virtue of section 2(2) she shows that she is a citizen of the United Kingdom and Colonies and is patrial by virtue of section 2(2) apart from any reference therein to section 2(1)(c) or (d).

#### **4 Administration of control**

- (1) The power under this Act to give or refuse leave to enter the United Kingdom shall be exercised by immigration officers, and the power to give leave to remain in the United Kingdom, or to vary any leave under section 3 (3)(a) (whether as regards duration or conditions), shall be exercised by the Secretary of State; and, unless otherwise allowed by this Act, those powers shall be exercised by notice in writing given to the person affected, except that the powers under section 3(3)(a) may be exercised generally in respect of any class of persons by order made by statutory instrument.
- (2) The provisions of Schedule 2 to this Act shall have effect with respect to—
  - (a) the appointment and powers of immigration officers and medical inspectors for purposes of this Act;
  - (b) the examination of persons arriving in or leaving the United Kingdom by ship or aircraft, and the special powers exercisable in the case of those who arrive as, or with a view to becoming, members of the crews of ships and aircraft; and
  - (c) the exercise by immigration officers of their powers in relation to entry into the United Kingdom, and the removal from the United Kingdom of persons refused leave to enter or entering or remaining unlawfully; and
  - (d) the detention of persons pending examination or pending removal from the United Kingdom;and for other purposes supplementary to the foregoing provisions of this Act.
- (3) The Secretary of State may by regulations made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make provision as to the effect of a condition under this Act requiring a person to register with the police; and the regulations may include provision—
  - (a) as to the officers of police by whom registers are to be maintained, and as to the form and content of the registers;
  - (b) as to the place and manner in which anyone is to register and as to the documents and information to be furnished by him, whether on registration or on any change of circumstances;
  - (c) as to the issue of certificates of registration and as to the payment of fees for certificates of registration;and the regulations may require anyone who is for the time being subject to such a condition to produce a certificate of registration to such persons and in such circumstances as may be prescribed by the regulations.
- (4) The Secretary of State may by order made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make such provision as appears to him to be expedient in connection with this Act for records to be made and kept of persons staying at hotels and other premises where lodging

or sleeping accommodation is provided, and for persons (whether patrial or not) who stay at any such premises to supply the necessary information.

## **5 Procedure for, and further provisions as to, deportation**

- (1) Where a person is under section 3(5) or (6) above liable to deportation, then subject to the following provisions of this Act the Secretary of State may make a deportation order against him, that is to say an order requiring him to leave and prohibiting him from entering the United Kingdom; and a deportation order against a person shall invalidate any leave to enter or remain in the United Kingdom given him before the order is made or while it is in force.
- (2) A deportation order against a person may at any time be revoked by a further order of the Secretary of State, and shall cease to have effect if he becomes patrial.
- (3) A deportation order shall not be made against a person as belonging to the family of another person if more than eight weeks have elapsed since the other person left the United Kingdom after the making of the deportation order against him ; and a deportation order made against a person on that ground shall cease to have effect if he ceases to belong to the family of the other person, or if the deportation order made against the other person ceases to have effect.
- (4) For purposes of deportation the following shall be those who are regarded as belonging to another person's family—
  - (a) where that other person is a man, his wife and his or her children under the age of eighteen; and
  - (b) where that other person is a woman, her children under the age of eighteen ;
 and for purposes of this subsection an adopted child, whether legally adopted or not, may be treated as the child of the adopter and, if legally adopted, shall be regarded as the child only of the adopter; an illegitimate child (subject to the foregoing rule as to adoptions) shall be regarded as the child of the mother ; and " wife " includes each of two or more wives.
- (5) The provisions of Schedule 3 to this Act shall have effect with respect to the removal from the United Kingdom of persons against whom deportation orders are in force and with respect to the detention or control of persons in connection with ' deportation.
- (6) Where a person is liable to deportation under section 3(5)(c) or (6) above but, without a deportation order being made against him, leaves the United Kingdom to live permanently abroad, the Secretary of State may make payments of such amounts as he may determine to meet that person's expenses in so leaving the United Kingdom, including travelling expenses for members of his family or household.

## **6 Recommendations by court for deportation**

- (1) Where under section 3(6) above a person convicted of an offence is liable to deportation on the recommendation of a court, he may be recommended for deportation by any court having power to sentence him for the offence unless the court commits him to be sentenced or further dealt with for that offence by another court:

Provided that in Scotland the power to recommend a person for deportation shall be exercisable only by the sheriff or the High Court of Justiciary, and shall not be exercisable by the latter on an appeal unless the appeal is against a conviction on indictment or against a sentence upon such a conviction.

- (2) A court shall not recommend a person for deportation unless he has been given not less than seven days notice in writing stating that a person is not liable to deportation if he is patrial, describing the persons who are patrial and stating (so far as material) the effect of section 3(8) above and section 7 below ; but the powers of adjournment conferred by section 14(3) of the Magistrates' Courts Act 1952, section 26 of the Criminal Justice (Scotland) Act 1949 or any corresponding enactment for the time being in force in Northern Ireland shall include power to adjourn, after convicting an offender, for the purpose of enabling a notice to be given to him under this subsection or, if a notice was so given to him less than seven days previously, for the purpose of enabling the necessary seven days to elapse.
- (3) For purposes of section 3(6) above—
- (a) a person shall be deemed to have attained the age of seventeen at the time of his conviction if, on consideration of any available evidence, he appears to have done so to the court making or considering a recommendation for deportation ; and
  - (b) the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any enactment restricting the imprisonment of young offenders or first offenders;
- and for purposes of deportation a person who on being charged with an offence is found to have committed it shall, notwithstanding any enactment to the contrary and notwithstanding that the court does not proceed to conviction, be regarded as a person convicted of the offence, and references to conviction shall be construed accordingly.
- (4) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.
- (5) Where a court recommends or purports to recommend a person for deportation, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or against the conviction on which it is made ; but—
- (a) except in Scotland, the recommendation shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence ; and
  - (b) in Scotland, a person recommended for deportation may, without prejudice to any other form of appeal under any rule of law, appeal against the recommendation in the same manner as against a conviction.
- (6) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the conviction on which it was made ; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal or, in Scotland, until the expiration of twenty-eight days from the date of the recommendation.
- (7) For the purpose of giving effect to any of the provisions of this section in its application to Scotland, the High Court of Justiciary shall have power to make rules by act of adjournal.

## **7 Exemption from deportation for certain existing residents**

- (1) Notwithstanding anything in section 3(5) or (6) above but subject to the provisions of this section, a Commonwealth citizen or citizen of the Republic of Ireland who was

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such a citizen at the coming into force of this Act and was then ordinarily resident in the United Kingdom—

- (a) shall not be liable to deportation under section 3(5)(b) if at the time of the Secretary of State's decision he had at all times since the coming into force of this Act been ordinarily resident in the United Kingdom and Islands; and
  - (b) shall not be liable to deportation under section 3(5)(a), (b) or (c) if at the time of the Secretary of State's decision he had for the last five years been ordinarily resident in the United Kingdom and Islands ; and
  - (c) shall not on conviction of an offence be recommended for deportation under section 3(6) if at the time of the conviction he had for the last five years been ordinarily resident in the United Kingdom and Islands.
- (2) A person who has at any time become ordinarily resident in the United Kingdom or in any of the Islands shall not be treated for the purposes of this section as having ceased to be so by reason only of his having remained there in breach of the immigration laws.
- (3) The "last five years" before the material time under subsection (1)(b) or (c) above is to be taken as a period amounting in total to five years exclusive of any time during which the person claiming exemption under this section was undergoing imprisonment or detention by virtue of a sentence passed for an offence on a conviction in the United Kingdom and Islands, and the period for which he was imprisoned or detained by virtue of the sentence amounted to six months or more.
- (4) For purposes of subsection (3) above—
- (a) " sentence " includes any order made on conviction of an offence; and
  - (b) two or more sentences for consecutive (or partly consecutive) terms shall be treated as a single sentence; and
  - (c) a person shall be deemed to be detained by virtue of a sentence—
    - (i) at any time when he is liable to imprisonment or detention by virtue of the sentence, but is unlawfully at large; and
    - (ii) (unless the sentence is passed after the material time) during any period of custody by which under any relevant enactment the term to be served under the sentence is reduced.

In paragraph (c)(ii) above " relevant enactment" means section 67 of the Criminal Justice Act 1967 (or, before that section operated, section 17(2) of the Criminal Justice Administration Act 1962) and any similar enactment which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands.

- (5) Nothing in this section shall be taken to exclude the operation of section 3(8) above in relation to an exemption under this section.

## **8 Exceptions for seamen, aircrews and other special cases**

- (1) Where a person arrives at a place in the United Kingdom as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either—
- (a) there is in force a deportation order made against him; or
  - (b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom; or



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(c) an immigration officer requires him to submit to examination in accordance with Schedule 2 to this Act;

he may without leave enter the United Kingdom at that place and remain until the departure of the ship or aircraft on which he is required by his engagement to leave.

(2) The Secretary of State may by order exempt any person or class of persons, either unconditionally or subject to such conditions as may be imposed by or under the order, from all or any of the provisions of this Act relating to those who are not patrial.

An order under this subsection, if made with respect to a class of persons, shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The provisions of this Act relating to those who are not patrial shall not apply to any person so long as he is a member of a mission (within the meaning of the Diplomatic Privileges Act 1964), a person who is a member of the family and forms part of the household of such a member, or a person otherwise entitled to the like immunity from jurisdiction as is conferred by that Act on a diplomatic agent.

(4) The provisions of this Act relating to those who are not patrial, other than the provisions relating to deportation, shall also not apply to any person so long as either—

- (a) he is subject, as a member of the home forces, to service law; or
- (b) being a member of a Commonwealth force or of a force raised under the law of any associated state, colony, protectorate or protected state, is undergoing or about to undergo training in the United Kingdom with any body, contingent or detachment of the home forces; or
- (c) he is serving or posted for service in the United Kingdom as a member of a visiting force or of any force raised as aforesaid or as a member of an international headquarters or defence organisation designated for the time being by an Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964.

(5) Where a person having a limited leave to enter or remain in the United Kingdom becomes entitled to an exemption under this section, that leave shall continue to apply after he ceases to be entitled to the exemption, unless it has by then expired; and a person is not to be regarded for purposes of this Act as having been settled in the United Kingdom and Islands at any time when he was entitled to an exemption under subsection (3) or (4)(b) or (c) above or, unless the order otherwise provides, under subsection (2) or to any corresponding exemption under the former immigration laws or under the immigration laws of any of the Islands.

(6) In this section " the home forces " means any of Her Majesty's forces other than a Commonwealth force or a force raised under the law of any associated state, colony, protectorate or protected state ; " Commonwealth force " means a force of any country to which provisions of the Visiting Forces Act 1952 apply without an Order in Council under section 1 of the Act; and " visiting force " means a body, contingent or detachment of the forces of a country to which any of those provisions apply, being a body, contingent or detachment for the time being present in the United Kingdom on the invitation of Her Majesty's Government in the United Kingdom.

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## **9 Further provisions as to common travel area**

- (1) Subject to subsection (5) below, the provisions of Schedule 4 to this Act shall have effect for the purpose of taking account in the United Kingdom of the operation in any of the Islands of the immigration laws there.
- (2) Persons who lawfully enter the United Kingdom on a local journey from a place in the common travel area after having either—
  - (a) entered any of the Islands or the Republic of Ireland on coming from a place outside the common travel area; or
  - (b) left the United Kingdom while having a limited leave to enter or remain which has since expired ;

if they are not patrial (and are not to be regarded under Schedule 4 to this Act as having leave to enter the United Kingdom), shall be subject in the United Kingdom to such restrictions on the period for which they may remain, and such conditions restricting their employment or occupation or requiring them to register with the police or both, as may be imposed by an order of the Secretary of State and may be applicable to them.
- (3) Any provision of this Act applying to a limited leave or to conditions attached to a limited leave shall, unless otherwise provided, have effect in relation to a person subject to any restriction or condition by virtue of an order under subsection (2) above as if the provisions of the order applicable to him were terms on which he had been given leave under this Act to enter the United Kingdom.
- (4) Section 1(3) above shall not be taken to affect the operation of a deportation order; and, subject to Schedule 4 to this Act, a person who is not patrial may not by virtue of section 1(3) enter the United Kingdom without leave on a local journey from a place in the common travel area if either—
  - (a) he is on arrival in the United Kingdom given written notice by an immigration officer stating that, the Secretary of State having issued directions for him not to be given entry to the United Kingdom on the ground that his exclusion is conducive to the public good as being in the interests of national security, he is accordingly refused leave to enter the United Kingdom ; or
  - (b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom.
- (5) If it appears to the Secretary of State necessary so to do by reason of differences between the immigration laws of the United Kingdom and any of the Islands, he may by order exclude that island from section 1(3) above for such purposes as may be specified in the order, and references in this Act to the Islands other than any reference in section 2 shall apply to an island so excluded so far only as may be provided by order of the Secretary of State.
- (6) The Secretary of State shall also have power by order to exclude the Republic of Ireland from section 1(3) for such purposes as may be specified in the order.
- (7) An order of the Secretary of State under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **10 Entry otherwise than by sea or air**

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act shall have effect in relation to persons entering or seeking to enter the United Kingdom

on arrival otherwise than by ship or aircraft as they have effect in the case of a person arriving by ship or aircraft; and any such Order may make such adaptations or modifications of those provisions, and such provisions supplementary thereto, as appear to Her Majesty to be necessary or expedient for the purposes of the Order.

- (2) The provision made by an Order in Council under this section may include provision for excluding the Republic of Ireland from section 1 (3) of this Act either generally or for any specified purposes.
- (3) No recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

## **11 Construction of references to entry, and other phrases relating to travel**

- (1) A person arriving in the United Kingdom by ship or aircraft shall for purposes of this Act be deemed not to enter the United Kingdom unless and until he disembarks, and on disembarkation at a port shall further be deemed not to enter the United Kingdom so long as he remains in such area (if any) at the port as may be approved for this purpose by an immigration officer ; and a person who has not otherwise entered the United Kingdom shall be deemed not to do so as long as he is detained, or temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act.
- (2) In this Act " disembark " means disembark from a ship or aircraft, and " embark " means embark in a ship or aircraft; and, except in subsection (1) above,—
  - (a) references to disembarking in the United Kingdom do not apply to disembarking after a local journey from a place in the United Kingdom or elsewhere in the common travel area; and
  - (b) references to embarking in the United Kingdom do not apply to embarking for a local journey to a place in the United Kingdom or elsewhere in the common travel area.
- (3) Except in so far as the context otherwise requires, references in this Act to arriving in the United Kingdom by ship shall extend to arrival by any floating structure, and " disembark " shall be construed accordingly; but the provisions of this Act specially relating to members of the crew of a ship shall not by virtue of this provision apply in relation to any floating structure not being a ship.
- (4) For purposes of this Act " common travel area " has the meaning given by section 1(3), and a journey is, in relation to the common travel area, a local journey if but only if it begins and ends in the common travel area and is not made by a ship or aircraft which—
  - (a) in the case of a journey to a place in the United Kingdom, began its voyage from, or has during its voyage called at, a place not in the common travel area ; or
  - (b) in the case of a journey from a place in the United Kingdom, is due to end its voyage in, or call in the course of its voyage at, a place not in the common travel area.
- (5) A person who enters the United Kingdom lawfully by virtue of section 8(1) above, and seeks to remain beyond the time limited by section 8(1), shall be treated for purposes of this Act as seeking to enter the United Kingdom.

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## PART II

### APPEALS

#### *The appellate authorities*

#### **12 Immigration Appeal Tribunal and adjudicators**

The Immigration Appeal Tribunal and adjudicators provided for by the Immigration Appeals Act 1969 shall continue for purposes of this Act, and—

- (a) members of the Tribunal shall continue to be appointed by the Lord Chancellor and adjudicators by the Secretary of State; and
- (b) the provisions of Schedule 1 to that Act shall continue to apply, as set out in Schedule 5 to this Act with the required adaptation of references to that Act, but with the substitution also of references to the Minister for the Civil Service for references to the Treasury.

#### *Appeals to adjudicator or Tribunal in first instance*

#### **13 Appeals against exclusion from United Kingdom**

- (1) Subject to the provisions of this Part of this Act, a person who is refused leave to enter the United Kingdom under this Act may appeal to an adjudicator against the decision that he requires leave or against the refusal.
- (2) Subject to the provisions of this Part of this Act, a person who, on an application duly made, is refused a certificate of patriality or an entry clearance may appeal to an adjudicator against the refusal.
- (3) A person not holding a certificate of patriality shall not be entitled to appeal on the ground that he is patrial by virtue of section 2(1)(c) or (d) or section 2(2) above against a decision that he requires leave to enter the United Kingdom unless in the case of a woman who is a citizen of the United Kingdom and Colonies the ground of appeal is that she is patrial by virtue of section 2(2) apart from any reference therein to section 2(1)(c) or (d); and a person shall not be entitled to appeal against a refusal of leave to enter so long as he is in the United Kingdom, unless he was refused leave at a port of entry and at a time when he held a current entry clearance or was a person named in a current work permit.
- (4) An appeal against a refusal of leave to enter shall be dismissed by the adjudicator if he is satisfied that the appellant was at the time of the refusal an illegal entrant, and an appeal against a refusal of an entry clearance shall be dismissed by the adjudicator if he is satisfied that a deportation order was at the time of the refusal in force in respect of the appellant.
- (5) A person shall not be entitled to appeal against a refusal of leave to enter, or against a refusal of an entry clearance, if the Secretary of State certifies that directions have been given by the Secretary of State (and not by a person acting under his authority) for the appellant not to be given entry to the United Kingdom on the ground that his exclusion is conducive to the public good, or if the leave to enter or entry clearance was refused in obedience to any such directions.

## **14 Appeals against conditions**

- (1) Subject to the provisions of this Part of this Act, a person who has a limited leave under this Act to enter or remain in the United Kingdom may appeal to an adjudicator against any variation of the leave (whether as regards duration or conditions), or against any refusal to vary it; and a variation shall not take effect so long as an appeal is pending under this subsection against the variation, nor shall an appellant be required to leave the United Kingdom by reason of the expiration of his leave so long as his appeal is pending under this subsection against a refusal to enlarge or remove the limit on the duration of the leave.
- (2) Subject to the provisions of this Part of this Act, a person who, on ceasing to be entitled to an exemption under any provision of section 8 above other than section 8(1), or on ceasing while in the United Kingdom to be patrial, is given a limited leave to remain may appeal to an adjudicator against any provision limiting the duration of the leave or attaching a condition to it; and so long as an appeal is pending under this subsection against any provision, effect shall not be given to that provision.
- (3) A person shall not be entitled to appeal under subsection (1) above against any variation of his leave which reduces its duration, or against any refusal to enlarge or remove the limit on its duration, if the Secretary of State certifies that the appellant's departure from the United Kingdom would be conducive to the public good, as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature, or the decision questioned by the appeal was taken on that ground by the Secretary of State (and not by a person acting under his authority).
- (4) A person shall not be entitled to appeal under subsection (1) above against any variation made by statutory instrument, or against any refusal of the Secretary of State to make a statutory instrument.

## **15 Appeals in respect of deportation orders**

- (1) Subject to the provisions of this Part of this Act, a person may appeal to an adjudicator against—
  - (a) a decision of the Secretary of State to make a deportation order against him by virtue of section 3(5) above; or
  - (b) a refusal by the Secretary of State to revoke a deportation order made against him.
- (2) A deportation order shall not be made against a person by virtue of section 3(5) above so long as an appeal may be brought against the decision to make it nor, if such an appeal is duly brought, so long as the appeal is pending; but, in calculating the period of eight weeks limited by section 5(3) above for making a deportation order against a person as belonging to the family of another person, there shall be disregarded any period during which there is pending an appeal against the decision to make it.
- (3) A person shall not be entitled to appeal against a decision to make a deportation order against him if the ground of the decision was that his deportation is conducive to the public good as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature.
- (4) A person shall not be entitled to appeal under this section against a refusal to revoke a deportation order, if the Secretary of State certifies that the appellant's exclusion from

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the United Kingdom is conducive to the public good or if revocation was refused on that ground by the Secretary of State (and not by a person acting under his authority).

- (5) A person shall not be entitled to appeal under this section against a refusal to revoke a deportation order so long as he is in the United Kingdom, whether because he has not complied with the requirement to leave or because he has contravened the prohibition on entering.
- (6) On an appeal against a decision to make a deportation order against a person as belonging to the family of another person, or an appeal against a refusal to revoke a deportation order so made, the appellant shall not be allowed, for the purpose of showing that he does not or did not belong to another person's family, to dispute any statement made with a view to obtaining leave for the appellant to enter or remain in the United Kingdom (including any statement made to obtain an entry clearance) unless the appellant shows that the statement was not so made by him or by any person acting with his authority and that, when he took the benefit of the leave, he did not know any such statement had been made to obtain it or, if he did know, was under the age of eighteen.
- (7) An appeal under this section shall be to the Appeal Tribunal in the first instance, instead of to an adjudicator, if—
  - (a) it is an appeal against a decision to make a deportation order and the ground of the decision was that the deportation of the appellant is conducive to the public good; or
  - (b) it is an appeal against a decision to make a deportation order against a person as belonging to the family of another person, or an appeal against a refusal to revoke a deportation order so made; or
  - (c) there is pending a related appeal to which paragraph (b) above applies.
- (8) Where an appeal to an adjudicator is pending under this section, and before the adjudicator has begun to hear it a related appeal is brought, the appeal to the adjudicator shall be dealt with instead by the Appeal Tribunal and be treated as an appeal duly made to the Tribunal in the first instance.
- (9) In relation to an appeal under this section in respect of a deportation order against any person (whether an appeal against a decision to make or against a refusal to revoke the order), any other appeal under this section is a "related appeal" if it is an appeal in respect of a deportation order against another person as belonging to the family of the first-mentioned person.

## **16 Appeals against validity of directions for removal**

- (1) Subject to the provisions of this Part of this Act, where directions are given under this Act for a person's removal from the United Kingdom either—
  - (a) on the ground that he is an illegal entrant or on the ground specifically that he has entered the United Kingdom in breach of a deportation order; or
  - (b) under the special powers conferred by Schedule 2 to this Act in relation to members of the crew of a ship or aircraft or persons coming to the United Kingdom to join a ship or aircraft as a member of the crew;

then he may appeal to an adjudicator against those directions on the ground that in the facts of his case there was in law no power to give them on the ground on which they were given.

- (2) A person shall not be entitled to appeal under this section so long as he is in the United Kingdom, unless he is appealing against directions given by virtue of a deportation order (whether on the ground specifically that he has returned in breach of that order or on the ground that he is an illegal entrant) and is appealing on the ground that he is not the person named in that order.
- (3) Where a person appeals under this section against directions given by virtue of a deportation order, he shall not be allowed to dispute the original validity of that order.
- (4) An appeal under this section against directions given as mentioned in subsection (1) (b) shall be dismissed by the adjudicator, notwithstanding that the ground of appeal may be made out, if he is satisfied that there was power to give the like directions on the ground that the appellant was an illegal entrant.

## **17 Appeals against removal on objection to destination**

- (1) Subject to the provisions of this Part of this Act, where directions are given under this Act for a person's removal from the United Kingdom either—
  - (a) on his being refused leave to enter ; or
  - (b) on a deportation order being made against him; or
  - (c) on his having entered the United Kingdom in breach of a deportation order;he may appeal to an adjudicator against the directions on the ground that he ought to be removed (if at all) to a different country or territory specified by him.
- (2) Where a person appeals under section 13(1) above on being refused leave to enter the United Kingdom, and either—
  - (a) before he does so, directions have been given for his removal from the United Kingdom to any country or territory; or
  - (b) before or after he does so, the Secretary of State or an immigration officer serves on him notice that any directions which may be given for his removal by virtue of the refusal will be for his removal to a country or territory or one of several countries or territories specified in the notice ;then he may on that appeal object to the country or territory to which he would be removed in pursuance of the directions, or to that specified in the notice (or to one or more of those specified), and claim that he ought to be removed (if at all) to a different country or territory specified by him.
- (3) Where a person appeals under section 15 above against a decision to make a deportation order against him, and before or after he does so the Secretary of State serves on him notice that any directions which may be given for his removal by virtue of the deportation order will be for his removal to a country or territory or one of several countries or territories specified in the notice, then he may on that appeal object to the country or territory specified in the notice (or to one or more of those specified), and claim that he ought to be removed (if at all) to a different country or territory specified by him.
- (4) Where by virtue of subsection (2) or (3) above a person is able to object to a country or territory on an appeal under section 13(1) or 15, and either he does not object to it on that appeal or his objection to it on that appeal is not sustained, then he shall not be entitled to appeal under this section against any directions subsequently given by virtue of the refusal or order in question, if their effect will be his removal to that country or territory.

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- (5) A person shall not be entitled to appeal under this section against any directions given on his being refused leave to enter the United Kingdom, unless either he is also appealing under section 13(1) against the decision that he requires leave to enter or he was refused leave at a port of entry and at a time when he held a current entry clearance or was a person named in a current work permit.

## **18 Notice of matters in respect of which there are rights of appeal**

- (1) The Secretary of State may by regulations provide—
- (a) for written notice to be given to a person of any such decision or action taken in respect of him as is appealable under this Part of this Act (whether or not he is in the facts of his case entitled to appeal) or would be so appealable but for the ground on which it is taken;
  - (b) for any such notice to include a statement of the reasons for the decision or action and, where the action is the giving of directions for the removal of any person from the United Kingdom, of the country or territory to which he is to be removed ;
  - (c) for any such notice to be accompanied by a statement containing particulars of the rights of appeal available under this Part of this Act and of the procedure by which those rights may be exercised;
  - (d) for the form of any such notice or statement and the way in which a notice is to be or may be given.
- (2) For the purpose of any proceedings under this Part of this Act a statement included in a notice in pursuance of regulations under this section shall be conclusive of the person by whom and of the ground on which any decision or action was taken.
- (3) The power to make regulations under this section shall be exercisable by statutory instrument, and any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **19 Determination of appeals by adjudicators**

- (1) Subject to sections 13(4) and 16(4) above, and to any restriction on the grounds of appeal, an adjudicator on an appeal to him under this Part of this Act—
- (a) shall allow the appeal if he considers—
    - (i) that the decision or action against which the appeal is brought was not in accordance with the law or with any immigration rules applicable to the case; or
    - (ii) where the decision or action involved the exercise of a discretion by the Secretary of State or an officer, that the discretion should have been exercised differently; and
  - (b) in any other case, shall dismiss the appeal.
- (2) For the purposes of subsection (1)(a) above the adjudicator may review any determination of a question of fact on which the decision or action was based; and for the purposes of subsection (1)(a)(ii) no decision or action which is in accordance with the immigration rules shall be treated as having involved the exercise of a discretion by the Secretary of State by reason only of the fact that he has been requested by or on behalf of the appellant to depart, or to authorise an officer to depart, from the rules and has refused to do so.



- (3) Where an appeal is allowed, the adjudicator shall give such directions for giving effect to the determination as the adjudicator thinks requisite, and may also make recommendations with respect to any other action which the adjudicator considers should be taken in the case under this Act; and, subject to section 20(2) below, it shall be the duty of the Secretary of State and of any officer to whom directions are given under this subsection to comply with them.
- (4) Where in accordance with section 15 above a person appeals to the Appeal Tribunal in the first instance, this section shall apply with the substitution of references to the Tribunal for references to an adjudicator.

*Appeals from adjudicator to Tribunal, and review of decisions*

**20 Appeal to Tribunal from determination of adjudicator**

- (1) Subject to any requirement of rules of procedure as to leave to appeal, any party to an appeal to an adjudicator may, if dissatisfied with his determination thereon, appeal to the Appeal Tribunal, and the Tribunal may affirm the determination or make any other determination which could have been made by the adjudicator.
- (2) Directions given by an adjudicator under section 19(3) above need not be complied with so long as an appeal can be brought against his determination and, if such an appeal is duly brought, so long as the appeal is pending; and if the Tribunal affirm his determination allowing the appeal, they may alter or add to his directions and recommendations under section 19(3) or replace them with their own directions and recommendations, and the provisions of that subsection shall apply to directions given by them accordingly.
- (3) Where an appeal is dismissed by an adjudicator but allowed by the Tribunal, section 19(3) above shall apply with the substitution of references to the Tribunal for references to the adjudicator.

**21 Reference of cases for further consideration**

- (1) Where in any case—
  - (a) an adjudicator has dismissed an appeal, and there has been no further appeal to the Appeal Tribunal, or the Tribunal has dismissed an appeal made to them in the first instance by virtue of section 15 above; or
  - (b) the Appeal Tribunal has affirmed the determination of an adjudicator dismissing an appeal, or reversed the determination of an adjudicator allowing an appeal;the Secretary of State may at any time refer for consideration under this section any matter relating to the case which was not before the adjudicator or Tribunal.
- (2) Any reference under this section shall be to an adjudicator or to the Appeal Tribunal, and the adjudicator or Tribunal shall consider the matter which is the subject of the reference and report to the Secretary of State the opinion of the adjudicator or Tribunal thereon.

### *Supplementary*

## **22 Procedure**

- (1) The Secretary of State may make rules (in this Act referred to as " rules of procedure ")—
  - (a) for regulating the exercise of the rights of appeal conferred by this Part of this Act;
  - (b) for prescribing the practice and procedure to be followed on or in connection with appeals thereunder, including the mode and burden of proof and admissibility of evidence on such an appeal; and
  - (c) for other matters preliminary or incidental to or arising out of such appeals, including proof of the decisions of adjudicators or the Appeal Tribunal.
- (2) Rules of procedure may include provision—
  - (a) enabling the Tribunal, on an appeal from an adjudicator, to remit the appeal to an adjudicator for determination by him in accordance with any directions of the Tribunal, or for further evidence to be obtained with a view to determination by the Tribunal; or
  - (b) enabling any functions of the Tribunal which relate to matters preliminary or incidental to an appeal, or which are conferred by Part II of Schedule 2 to this Act, to be performed by a single member of the Tribunal; or
  - (c) conferring on adjudicators or the Tribunal such ancillary powers as the Secretary of State thinks necessary for the purposes of the exercise of their functions.
- (3) The rules of procedure shall provide that any appellant shall have the right to be legally represented.
- (4) Where on an appeal under this Part of this Act it is alleged—
  - (a) that a passport or other travel document, certificate of patriality, entry clearance or work permit (or any part thereof or entry therein) on which a party relies is a forgery; and
  - (b) that the disclosure to that party of any matters relating to the method of detection would be contrary to the public interest;then (without prejudice to the generality of the power to make rules of procedure) the adjudicator or Tribunal shall arrange for the proceedings to take place in the absence of that party and his representatives while the allegation at (b) above is inquired into by the adjudicator or Tribunal and, if it appears to the adjudicator or Tribunal that the allegation is made out, for such further period as appears necessary in order to ensure that those matters can be presented to the adjudicator or Tribunal without any disclosure being directly or indirectly made contrary to the public interest.
- (5) If under the rules of procedure leave to appeal to the Tribunal is required in cases where an adjudicator dismisses an appeal under section 13 above, then the authority having power to grant leave to appeal shall grant it—
  - (a) in any case where the appeal was against a decision that the appellant required leave to enter the United Kingdom, and the authority is satisfied that at the time of the decision he held a certificate of patriality; and
  - (b) in any case where the appeal was against a refusal of leave to enter, and the authority is satisfied that at the time of the refusal the appellant held

an entry clearance and that the dismissal of the appeal was not required by section 13(4).

- (6) A person who is required under or in accordance with rules of procedure to attend and give evidence or produce documents before an adjudicator or the Tribunal, and fails without reasonable excuse to comply with the requirement, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (7) The power to make rules of procedure shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **23 Financial support for organisations helping persons with rights of appeal**

The Secretary of State may with the consent of the Treasury make grants to any voluntary organisation which provides advice or assistance for, or other services for the welfare of, persons who have rights of appeal under this Part of this Act.

## **PART III**

### **CRIMINAL PROCEEDINGS**

### **24 Illegal entry and similar offences**

- (1) A person who is not patrial shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases:—
  - (a) if contrary to this Act he knowingly enters the United Kingdom in breach of a deportation order or without leave;
  - (b) if, having only a limited leave to enter or remain in the United Kingdom, he knowingly either—
    - (i) remains beyond the time limited by the leave; or
    - (ii) fails to observe a condition of the leave ;
  - (c) if, having lawfully entered the United Kingdom without leave by virtue of section 8(1) above, he remains without leave beyond the time allowed by section 8(1);
  - (d) if, without reasonable excuse, he fails to comply with any requirement imposed on him under Schedule 2 to this Act to report to a medical officer of health, or to attend, or submit to a test or examination, as required by such an officer;
  - (e) if, without reasonable excuse, he fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence or as to reporting to the police or to an immigration officer;
  - (f) if he disembarks in the United Kingdom from a ship or aircraft after being placed on board under Schedule 2 or 3 to this Act with a view to his removal from the United Kingdom;
  - (g) if he embarks in contravention of a restriction imposed by or under an Order in Council under section 3(7) of this Act.

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- (2) A constable or immigration officer may arrest without warrant anyone who has, or whom he, with reasonable cause, suspects to have, committed or attempted to commit an offence under this section other than an offence under subsection (1)(d) above.
- (3) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(a), (b)(i) and (c) above.
- (4) In proceedings for an offence against subsection (1)(a) above of entering the United Kingdom without leave,—
  - (a) any stamp purporting to have been imprinted on a passport or other travel document by an immigration officer on a particular date for the purpose of giving leave shall be presumed to have been duly so imprinted, unless the contrary is proved ;
  - (b) proof that a person had leave to enter the United Kingdom shall lie on the defence if, but only if, he is shown to have entered within six months before the date when the proceedings were commenced.

## **25 Assisting illegal entry, and harbouring**

- (1) Any person knowingly concerned in making or carrying out arrangements for securing or facilitating the entry into the United Kingdom of anyone whom he knows or has reasonable cause for believing to be an illegal entrant shall be guilty of an offence, punishable on summary conviction with a fine of not more than £400 or with imprisonment for not more than six months, or with both, or on conviction on indictment with a fine or with imprisonment for not more than seven years, or with both.
- (2) Without prejudice to subsection (1) above a person knowingly harbouring anyone whom he knows or has reasonable cause for believing to be either an illegal entrant or a person who has committed an offence under section 24(1)(b) or (c) above, shall be guilty of an offence, punishable on summary conviction with a fine of not more than £400 or with imprisonment for not more than six months, or with both.
- (3) A constable or immigration officer may arrest without warrant anyone who has, or whom he, with reasonable cause, suspects to have, committed an offence under subsection (1) above.
- (4) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under this section.
- (5) Subsection (1) above shall apply to things done outside as well as to things done in the United Kingdom where they are done—
  - (a) by a citizen of the United Kingdom and Colonies;
  - (b) by a British subject by virtue of section 2 of the British Nationality Act 1948 (continuance of certain subjects of the Republic of Ireland as British subjects);
  - (c) by a British subject without citizenship by virtue of section 13 or 16 of that Act (which relate respectively to British subjects whose citizenship had not been ascertained at the commencement of that Act and to persons who had ceased to be British on loss of British nationality by a parent);
  - (d) by a British subject by virtue of the British Nationality Act 1965 ; or
  - (e) by a British protected person (within the meaning of the British Nationality Act 1948).

- (6) Where a person convicted on indictment of an offence under subsection (1) above is at the time of the offence—
- (a) the owner or one of the owners of a ship, aircraft or vehicle used or intended to be used in carrying out the arrangements in respect of which the offence is committed ; or
  - (b) a director or manager of a company which is the owner or one of the owners of any such ship, aircraft or vehicle; or
  - (c) captain of any such ship or aircraft;

then subject to subsections (7) and (8) below the court before which he is convicted may order the forfeiture of the ship, aircraft or vehicle.

In this subsection (but not in subsection (7) below) " owner " in relation to a ship, aircraft or vehicle which is the subject of a hire-purchase agreement, includes the person in possession of it under that agreement and, in relation to a ship or aircraft, includes a charterer.

- (7) A court shall not order a ship or aircraft to be forfeited under subsection (6) above on a person's conviction, unless—
- (a) in the case of a ship, it is of less than 500 tons gross tonnage or, in the case of an aircraft (not being a hovercraft), it is of less than 5,700 kilogrammes operating weight; or
  - (b) the person convicted is at the time of the offence the owner or one of the owners, or a director or manager of a company which is the owner or one of the owners, of the ship or aircraft; or
  - (c) the ship or aircraft, under the arrangements in respect of which the offence is committed, has been used for bringing more than 20 persons at one time to the United Kingdom as illegal entrants, and the intention to use the ship or aircraft in bringing persons to the United Kingdom as illegal entrants was known to, or could by the exercise of reasonable diligence, have been discovered by, some person on whose conviction the ship or aircraft would have been liable to forfeiture in accordance with paragraph (b) above.

In this subsection " operating weight " means in relation to an aircraft the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world, in the most favourable circumstances, in accordance with the certificate of airworthiness in force in respect of the aircraft.

- (8) A court shall not order a ship, aircraft or vehicle to be forfeited under subsection (6) above, where a person claiming to be the owner of the ship, aircraft or vehicle or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

## **26 General offences in connection with administration of Act**

- (1) A person shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases—
- (a) if, without reasonable excuse, he refuses or fails to submit to examination under Schedule 2 to this Act;
  - (b) if, without reasonable excuse, he refuses or fails to furnish or produce any information in his possession, or any documents in his possession or control,

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which he is on an examination under that Schedule required to furnish or produce;

- (c) if on any such examination or otherwise he makes or causes to be made to an immigration officer or other person lawfully acting in the execution of this Act a return, statement or representation which he knows to be false or does not believe to be true;
  - (d) if, without lawful authority, he alters any certificate of patriality, entry clearance, work permit or other document issued or made under or for the purposes of this Act, or uses for the purposes of this Act, or has in his possession for such use, any passport, certificate of patriality, entry clearance, work permit or other document which he knows or has reasonable cause to believe to be false ;
  - (e) if, without reasonable excuse, he fails to complete and produce a landing or embarkation card in accordance with any order under Schedule 2 to this Act;
  - (f) if, without reasonable excuse, he fails to comply with any requirement of regulations under section 4(3) or of an order under section 4(4) above ;
  - (g) if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this Act.
- (2) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(c) and (d) above.

## **27 Offences by persons connected with ships or aircraft or with ports**

A person shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases—

- (a) if, being the captain of a ship or aircraft,—
  - (i) he knowingly permits a person to disembark in the United Kingdom when required under Schedule 2 or 3 to this Act to prevent it, or fails without reasonable excuse to take any steps he is required by or under Schedule 2 to take in connection with the disembarkation or examination of passengers or for furnishing a passenger list or particulars of members of the crew; or
  - (ii) he fails, without reasonable excuse, to comply with any directions given him under Schedule 2 or 3 with respect to the removal of a person from the United Kingdom;
- (b) if, as owner or agent of a ship or aircraft,—
  - (i) he arranges, or is knowingly concerned in any arrangements, for the ship or aircraft to call at a port other than a port of entry contrary to any provision of Schedule 2 to this Act; or
  - (ii) he fails, without reasonable excuse, to take any steps required by an order under Schedule 2 for the supply to passengers of landing or embarkation cards; or
  - (iii) he fails, without reasonable excuse, to make arrangements for the removal of a person from the United Kingdom when required to do so by directions given under Schedule 2 or 3 to this Act;
- (c) if, as owner or agent of a ship or aircraft or as a person concerned in the management of a port, he fails, without reasonable excuse, to take any steps required by Schedule 2 in relation to the embarkation or disembarkation of passengers where a control area is designated.

## **28 Proceedings**

- (1) Where the offence is one to which, under section 24, 25 or 26 above, an extended time limit for prosecutions is to apply, then—
  - (a) an information relating to the offence may in England and Wales be tried by a magistrates' court if it is laid within six months after the commission of the offence, or if it is laid within three years after the commission of the offence and not more than two months after the date certified by a chief officer of police to be the date on which evidence sufficient to justify proceedings came, to the notice of an officer of his police force; and
  - (b) summary proceedings for the offence may in Scotland be commenced within six months after the commission of the offence, or within three years after the commission of the offence and not more than two months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings came to his knowledge; and
  - (c) a complaint charging the commission of the offence may in Northern Ireland be heard and determined by a magistrates' court if it is made within six months after the commission of the offence, or if it is made within three years after the commission of the offence and not more than two months after the date certified by an officer of police not below the rank of assistant chief constable to be the date on which evidence sufficient to justify the proceedings came to the notice of the police in Northern Ireland.
- (2) For purposes of subsection (1)(b) above proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay; and a certificate of the Lord Advocate as to the date on which such evidence as is mentioned in subsection (1)(b) came to his knowledge shall be conclusive evidence.
- (3) For the purposes of the trial of a person for an offence under this Part of this Act, the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which he may be.
- (4) Any powers exercisable under this Act in the case of any person may be exercised notwithstanding that proceedings for an offence under this Part of this Act have been taken against him.

## **PART IV**

### **SUPPLEMENTARY**

## **29 Contributions for expenses of persons returning abroad**

- (1) The Secretary of State may, in such cases as he may with the approval of the Treasury determine, make payments of such amount as may be so determined to meet or provide for expenses of persons who are not patrial in leaving the United Kingdom for a country or territory where they intend to reside permanently, including travelling expenses for members of their families or households.
- (2) The Secretary of State shall, so far as practicable, administer this section so as to secure that a person's expenses in leaving the United Kingdom are not met by or out of a payment made by the Secretary of State unless it is shown that it is in that person's interest to leave the United Kingdom and that he wishes to do so.

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### **30 Return of mental patients**

- (1) In the following enactments (which provide in relation to England, Wales and Northern Ireland and in relation to Scotland, respectively, for aliens receiving treatment for mental illness as in-patients to be removed, where proper arrangements have been made, to a country or territory outside the United Kingdom and Islands), that is to say,—
- (a) section 90 of the Mental Health Act 1959 ; and
  - (b) section 82 of the Mental Health (Scotland) Act 1960;
- there shall in each case be substituted for the words " any patient being an alien " the words "any patient who is not patrial within the meaning of the Immigration Act 1971 and ".
- (2) Under section 90 of the Mental Health Act 1959 (as under section 82 of the Mental Health (Scotland) Act 1960) the Secretary of State shall only authorise the removal of a patient if it appears to him to be in the interests of the patient; and accordingly in section 90 after the words " and for his care or treatment there " there shall be inserted the words " and that it is in the interests of the patient to remove him ".

### **31 Expenses**

There shall be defrayed out of moneys provided by Parliament any expenses incurred by a Secretary of State under or by virtue of this Act—

- (a) by way of administrative expenses (including any additional expenses under the British Nationality Acts 1948 to 1965 which are attributable to Schedule 1 to this Act); or
- (b) in connection with the removal of any person from the United Kingdom under Schedule 2 or 3 to this Act or the departure with him of his dependants, or his or their maintenance pending departure ; or
- (c) on account of the remuneration, allowances and other sums payable to or in respect of the adjudicators and members of the Immigration Appeal Tribunal, or of the remuneration of the officers and servants appointed for the adjudicators or Tribunal, or of the expenses of the adjudicators or Tribunal; or
- (d) on the making of any grants or payments under section 23 or 29 above.

### **32 General provisions as to Orders in Council, etc.**

- (1) Any power conferred by Part I of this Act to make, an Order in Council or order (other than a deportation order) or to give any directions includes power to revoke or vary the Order in Council, order or directions.
- (2) Any document purporting to be an order, notice or direction made or given by the Secretary of State for the purposes of this Act and to be signed by him or on his behalf, and any document purporting to be a certificate of the Secretary of State so given and to be signed by him, shall be received in evidence, and shall, until the contrary is proved, be deemed to be made or issued by him.
- (3) Prima facie evidence of any such order, notice, direction or certificate as aforesaid may, in any legal proceedings or proceedings under Part II of this Act, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the order, notice, direction or certificate.



- (4) Where an order under section 8(2) above applies to persons specified in a schedule to the order, or any directions of the Secretary of State given for the purposes of this Act apply to persons specified in a schedule to the directions, prima facie evidence of the provisions of the order or directions other than the schedule and of any entry contained in the schedule may, in any legal proceedings or proceedings under Part II of this Act, be given by the production of a document purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the said provisions and of the relevant entry.

### **33 Interpretation**

- (1) For purposes of this Act, except in so far as the context otherwise requires—
- " aircraft " includes hovercraft, " airport " includes hover-port and " port" includes airport;
  - " captain " means master (of a ship) or commander (of an aircraft);
  - " certificate of patriality " means such a certificate as is referred to in section 3(9) above;
  - " crew ", in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the captain, and " member of the crew " shall be construed accordingly ;
  - " entrant " means a person entering or seeking to enter the United Kingdom, and " illegal entrant" means a person unlawfully entering or seeking to enter in breach of a deportation order or of the immigration laws, and includes also a person who has so entered;
  - " entry clearance " means a visa, entry certificate or other document which, in accordance with the immigration rules, is to be taken as evidence of a person's eligibility, though not patrial, for entry into the United Kingdom (but does not include a work permit);
  - " immigration laws " means this Act and any law for purposes similar to this Act which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands;
  - " immigration rules " means the rules for the time being laid down as mentioned in section 3(2) above ;
  - " the Islands " means the Channel Islands and the Isle of Man, and " the United Kingdom and Islands" means the United Kingdom and the Islands taken together;
  - " legally adopted " means adopted in pursuance of an order made by any court in the United Kingdom and Islands or by any adoption specified as an overseas adoption by order of the Secretary of State under section 4 of the Adoption Act 1968 ;
  - " limited leave " and " indefinite leave " mean respectively leave under this Act to enter or remain in the United Kingdom which is, and one which is not, limited as to duration;
  - " settled " shall be construed in accordance with section 2(3)(d) above but, where used in relation to the United Kingdom only, as if any reference in section 2(3)(d) or in section 8(5) to the Islands were omitted ;
  - " ship " includes every description of vessel used in navigation ;
  - " work permit " means a permit indicating, in accordance with the immigration rules, that a person named in it is eligible, though not patrial, for entry into the United Kingdom for the purpose of taking employment.

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- (2) It is hereby declared that, except as otherwise provided in this Act, a person is not to be treated for the purposes of any provision of this Act as ordinarily resident in the United Kingdom or in any of the Islands at a time when he is there in breach of the immigration laws.
- (3) The ports of entry for purposes of this Act, and the ports of exit for purposes of any Order in Council under section 3(7) above, shall be such ports as may from time to time be designated for the purpose by order of the Secretary of State made by statutory instrument.
- (4) For purposes of this Act an appeal under Part II shall, subject to any express provision to the contrary, be treated as pending during the period beginning when notice of appeal is duly given and ending when the appeal is finally determined or withdrawn; and in the case of an appeal to an adjudicator, the appeal shall not be treated as finally determined so long as a further appeal can be brought by virtue of section 20 nor, if such an appeal is duly brought, until it is determined or withdrawn.
- (5) This Act shall not be taken to supersede or impair any power exercisable by Her Majesty in relation to aliens by virtue of Her prerogative.

### **34 Repeal, transitional and temporary**

- (1) Subject to the following provisions of this section, the enactments mentioned in Schedule 6 to this Act are hereby repealed, as from the coming into force of this Act, to the extent mentioned in column 3 of the Schedule ; and—
  - (a) this Act, as from its coming into force, shall apply in relation to entrants or others arriving in the United Kingdom at whatever date before or after it comes into force; and
  - (b) after this Act comes into force anything done under or for the purposes of the former immigration laws shall have effect, in so far as any corresponding action could be taken under or for the purposes of this Act, as if done by way of action so taken, and in relation to anything so done this Act shall apply accordingly.
- (2) Without prejudice to the generality of subsection (1)(a) and (b) above, a person refused leave to land by virtue of the Aliens Restriction Act 1914 shall be treated as having been refused leave to enter under this Act, and a person given leave to land by virtue of that Act shall be treated as having been given leave to enter under this Act; and similarly with the Commonwealth Immigrants Acts 1962 and 1968.
- (3) A person treated in accordance with subsection (2) above as having leave to enter the United Kingdom—
  - (a) shall be treated as having an indefinite leave, if he is not at the coming into force of this Act subject to a condition limiting his stay in the United Kingdom; and
  - (b) shall be treated, if he is then subject to such a condition, as having a limited leave of such duration, and subject to such conditions (capable of being attached to leave under this Act), as correspond to the conditions to which he is then subject, but not to conditions not capable of being so attached.

This subsection shall have effect in relation to any restriction or requirement imposed by Order in Council under the Aliens Restriction Act 1914 as if it had been imposed by way of a landing condition.

- (4) Notwithstanding anything in the foregoing provisions of this Act, the former immigration laws shall continue to apply, and this Act shall not apply,—
- (a) in relation to the making of deportation orders and matters connected therewith in any case where a decision to make the order has been notified to the person concerned before the coming into force of this Act;
  - (b) in relation to removal from the United Kingdom and matters connected therewith (including detention pending removal or pending the giving of directions for removal) in any case where a person is to be removed in pursuance of a decision taken before the coming into force of this Act or in pursuance of a deportation order to the making of which paragraph (a) above applies;
  - (c) in relation to appeals against any decision taken or other thing done under the former immigration laws, whether taken or done before the coming into force of this Act or by virtue of this subsection.
- (5) Subsection (1) above shall not be taken as empowering a court on appeal to recommend for deportation a person whom the court below could not recommend for deportation, or as affecting any right of appeal in respect of a recommendation for deportation made before this Act comes into force, or as enabling a notice given before this Act comes into force and not complying with section 6(2) to take the place of the notice required by section 6(2) to be given before a person is recommended for deportation.
- (6) So long as section 2 of the Southern Rhodesia Act 1965 remains in force, this Act shall have effect subject to such provision as may (before or after this Act comes into force) be made by Order in Council under and for the purposes of that section.

### **35 Commencement, and interim provisions**

- (1) Except as otherwise provided by this Act, Parts I to III of this Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and references to the coming into force of this Act shall be construed as references to the beginning of the day so appointed.
- (2) Section 25 above, except section 25(2), and section 28 in its application to offences under section 25(1) shall come into force at the end of one month beginning with the date this Act is passed.
- (3) The provisions of section 28(1) and (2) above shall have effect, as from the passing of this Act, in relation to offences under section 4A (unauthorised landing) of the Commonwealth Immigrants Act 1962 as amended by the Commonwealth Immigrants Act 1968, other than offences committed six months or more before the passing of this Act, as those provisions are expressed to have effect in relation to offences to which the extended time limit for prosecutions is to apply under sections 24, 25 and 26 above ; but where proceedings for an offence under section 4A of the Commonwealth Immigrants Act 1962 would have been out of time but for this subsection, section 4A(4) (under which, in certain cases, a person not producing a passport duly stamped by an immigration officer is presumed for purposes of that section to have landed in contravention of it, unless the contrary is proved) shall not apply.
- (4) Section 1(2A)(d) of the Commonwealth Immigrants Act 1962 (which was inserted by section 1 of the Commonwealth Immigrants Act 1968, and excludes from the control

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on immigration under those Acts, among other persons, certain persons registered in the United Kingdom or in an independent country of the Commonwealth as citizens of the United Kingdom and Colonies) shall not apply—

- (a) to a woman registered after the passing of this Act under or by virtue of section 6(2) (wives) of the British Nationality Act 1948, unless so registered either—
    - (i) by virtue of her marriage to a citizen of the United Kingdom and Colonies before the passing of this Act; or
    - (ii) by virtue of her marriage to such a citizen who at the time of her registration or at his death before that time was excluded from the control on immigration under the Commonwealth Immigrants Acts 1962 and 1968 by section 1(2) of the 1962 Act; nor
  - (b) to anyone registered after the passing of this Act under or by virtue of section 7 (children) of the British Nationality Act 1948, unless so registered in the United Kingdom.
- (5) So much of section 1 of the Aliens Restriction (Amendment) Act 1919 as limits the duration of that section, and section 5 of the Commonwealth Immigrants Act 1962 in so far as it limits the duration of Part I of that Act, shall cease to have effect on the passing of this Act.

### **36 Power to extend to Islands**

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the Islands ; and any Order in Council under this subsection may be varied or revoked by a further Order in Council.

### **37 Short title and extent**

- (1) This Act may be cited as the Immigration Act 1971.
- (2) It is hereby declared that this Act extends to Northern Ireland, and (without prejudice to any provision of Schedule 1 to this Act as to the extent of that Schedule) where an enactment repealed by this Act extends outside the United Kingdom, the repeal shall be of like extent.