



# Asylum and Immigration Appeals Act 1993

## 1993 CHAPTER 23

An Act to make provision about persons who claim asylum in the United Kingdom and their dependants; to amend the law with respect to certain rights of appeal under the Immigration Act 1971; and to extend the provisions of the Immigration (Carriers' Liability) Act 1987 to transit passengers. [1st July 1993]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1** Act amended (2.10.2000) by 1999 c. 33, s. 65(1); S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3)  
Act modified (1.9.2001) by 2001 c. 17, s. 32(7) (with ss. 27(3), 39, 78); S.I. 2001/2161, art. 2

### *Introductory*

## **1 Interpretation.**

In this Act—

“the 1971 Act” means the <sup>M1</sup>Immigration Act 1971;

“claim for asylum” means a claim made by a person (whether before or after the coming into force of this section) that it would be contrary to the United Kingdom's obligations under the Convention for him to be removed from, or required to leave, the United Kingdom; and

“the Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention.

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*Changes to legislation: There are currently no known outstanding effects for the Asylum and Immigration Appeals Act 1993. (See end of Document for details)*

#### Commencement Information

- II** S. 1 in force at 26.7.1993; s. 1 not in force at Royal Assent so far as it relates to ss. 4-11, see s. 14(1)(3); s.1 in force so far as relating to ss. 4-11 at 26.7.1993 by S.I. 1993/1655, art.2

#### Marginal Citations

- M1** 1971 c. 77.

## 2 Primacy of Convention.

Nothing in the immigration rules (within the meaning of the 1971 Act) shall lay down any practice which would be contrary to the Convention.

### *Treatment of persons who claim asylum*

## [<sup>F13</sup> Fingerprinting.

- (1) Where a person (“the claimant”) has made a claim for asylum, an immigration officer, constable, prison officer or officer of the Secretary of State authorised for the purposes of this section may—
  - (a) take such steps as may be reasonably necessary for taking the claimant’s fingerprints; or
  - (b) by notice in writing require the claimant to attend at a place specified in the notice in order that such steps may be taken.
- (2) The powers conferred by subsection (1) above may be exercised not only in relation to the claimant but also in relation to any dependant of his; but in the exercise of the power conferred by paragraph (a) of that subsection, fingerprints shall not be taken from a person under the age of sixteen (“the child”) except in the presence of a person of full age who is—
  - (a) the child’s parent or guardian; or
  - (b) a person who for the time being takes responsibility for the child and is not an immigration officer, constable, prison officer or officer of the Secretary of State.
- (3) Where the claimant’s claim for asylum has been finally determined or abandoned—
  - (a) the powers conferred by subsection (1) above shall not be exercisable in relation to him or any dependant of his; and
  - (b) any requirement imposed on him or any dependant of his by a notice under subsection (1)(b) above shall no longer have effect.
- (4) A notice given to any person under paragraph (b) of subsection (1) above—
  - (a) shall give him a period of at least seven days within which he is to attend as mentioned in that paragraph; and
  - (b) may require him so to attend at a specified time of day or between specified times of day.
- (5) Any immigration officer or constable may arrest without warrant a person who has failed to comply with a requirement imposed on him by a notice under subsection (1)(b) above (unless the requirement no longer has effect) and, where a person is arrested under this subsection,—

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- (a) he may be removed to a place where his fingerprints may conveniently be taken, and
  - (b) (whether or not he is so removed) there may be taken such steps as may be reasonably necessary for taking his fingerprints,
- before he is released.
- (6) Fingerprints of a person which are taken by virtue of this section must be destroyed not later than the earlier of—
- (a) the end of the period of one month beginning with any day on which he is given indefinite leave under the 1971 Act to enter or remain in the United Kingdom; and
  - (b) the end of the period of ten years beginning with the day on which the fingerprints are taken.
- (7) Where fingerprints taken by virtue of this section are destroyed—
- (a) any copies of the fingerprints shall also be destroyed; and
  - (b) if there are any computer data relating to the fingerprints, the Secretary of State shall, as soon as it is practicable to do so, make it impossible for access to be gained to the data.
- (8) If—
- (a) subsection (7)(b) above falls to be complied with, and
  - (b) the person to whose fingerprints the data relate asks for a certificate that it has been complied with,
- such a certificate shall be issued to him by the Secretary of State not later than the end of the period of three months beginning with the day on which he asks for it.
- (9) In this section—
- (a) “immigration officer” means an immigration officer appointed for the purposes of the 1971 Act; and
  - (b) “dependant”, in relation to the claimant, means a person—
    - (i) who is his spouse or a child of his under the age of eighteen; and
    - (ii) who has neither a right of abode in the United Kingdom nor indefinite leave under the 1971 Act to enter or remain in the United Kingdom.
- (10) Nothing in this section shall be taken to limit the power conferred by paragraph 18(2) of Schedule 2 to the 1971 Act.]

**Textual Amendments**

**F1** S. 3 repealed (11.12.2000) by 1999 c. 33, s. 169(3), Sch. 16 and omitted (*prosp.*) by ss. 169(1), 170(4), Sch. 14 paras. 99, 100); S.I. 2000/3099, art. 3, Sch.

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**Textual Amendments**

**F2** S. 4 repealed (3.4.2000) by 1999 c. 33, ss. 120(6), 121(3), 169(1)(3), Sch. 14 paras. 99, 101, Sch. 16; S.I. 2000/464, art. 2, Sch.

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**Textual Amendments**

F3 S. 5 repealed (3.4.2000) by 1999 c. 33, ss. 120(6), 121(3), 169(1)(3), Sch. 14 paras. 99, 101, Sch. 16; S.I. 2000/464, art. 2, Sch.

[F46 **Protection of claimants from deportation etc.**

During the period beginning when a person makes a claim for asylum and ending when the Secretary of State gives him notice of the decision on the claim, he may not be removed from, or required to leave, the United Kingdom.]

**Textual Amendments**

F4 S. 6 omitted (*retrospective* to 26.7.1993) by virtue of 1999 c. 33, ss. 169(1), 170(3)(s), Sch. 14 para. 102

**Modifications etc. (not altering text)**

C2 S. 6 excluded (1.9.1996) by 1996 c. 49, s. 2(1); S.I. 1996/2053, art. 2, Sch. Pt. II

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**Textual Amendments**

F5 S. 7 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 103, Sch. 16; S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3)

*Rights of appeal*

F68 .....

**Textual Amendments**

F6 S. 8 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, Sch. 16; S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3, Sch. 2 para. 3(2)(4))

F79 .....

**Textual Amendments**

F7 S. 9 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, Sch. 16; S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3)

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## [<sup>F8</sup>9A] **Bail pending appeal from Immigration Appeal Tribunal**

- (1) Where a person (“an appellant”)—
  - [ has an appeal under Part IV of the Immigration and Asylum Act 1999 which
  - <sup>F9</sup>(a) is pending by reason of an appeal, or an application for leave to appeal;]
  - (b) is for the time being detained under Part I of Schedule 2 to that Act (general provisions as to control on entry etc.),he may be released on bail in accordance with this section.
- (2) An immigration officer not below the rank of chief immigration officer, a police officer not below the rank of inspector or an adjudicator may release an appellant on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before the appropriate appeal court at a time and place named in the recognizance or bail bond.
- (3) The Immigration Appeal Tribunal may release an appellant on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before the appropriate appeal court at a time and place named in the recognizance or bail bond; and where—
  - (a) the appeal, or the application for leave to appeal, under section 9 above is by the Secretary of State; or
  - (b) the appellant has been granted leave to appeal under that section, and has duly given notice of appeal,the Tribunal shall, if the appellant so requests, exercise its powers under this subsection.
- (4) Sub-paragraphs (5) and (6) of paragraph 29 (grant of bail pending appeal) of Schedule 2 to the 1971 Act shall apply for the purposes of this section as they apply for the purposes of that paragraph.
- (5) Paragraphs 30 to 33 of that Schedule shall apply as if—
  - (a) any reference to paragraph 29 included a reference to this section;
  - (b) the reference in paragraph 30(2) to paragraph 29(3) or (4) included a reference to subsection (3) above; and
  - (c) any reference in paragraphs 31 to 33 to the Immigration Appeal Tribunal included a reference to the appropriate appeal court.
- (6) In this section “the appropriate appeal court” has the same meaning as in [<sup>F10</sup>paragraph 23 of Schedule 4 of the Immigration and Asylum Act 1999].

### Textual Amendments

- F8** S. 9A inserted (1.9.1996) by 1996 c. 49, s. 12(2), **Sch. 3 para. 3**; S.I. 1996/2053, art. 2, **Sch. Pt. II**
- F9** S. 9A(1)(a) substituted (2.10.2000) by 1999 c. 33, s. 169(1), **Sch. 14 paras. 99, 105**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)
- F10** Words in s. 9A(6) substituted (2.10.2000) by 1999 c. 33, s. 169(1), **Sch. 14 paras. 99, 106**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)

### Modifications etc. (not altering text)

- C3** S. 9A amended (prosp.) by **Nationality, Immigration and Asylum Act 2002 (c. 41)**, ss. {68(1)(b)}, 162(1)
- C4** S. 9A restricted (11.9.2000) by **S.I. 2000/2444, art. 3 Sch. 2 para. 3(3)(a)**

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S. 9A applied (11.9.2000) by S.I. 2000/2444, **art. 3 Sch. 2 para. 3(3)(b)**

**F11 10** .....

**Textual Amendments**

**F8** S. 9A inserted (1.9.1996) by 1996 c. 49, s. 12(2), **Sch. 3 para. 3**; S.I. 1996/2053, art. 2, **Sch. Pt. II**

**F11** S. 10 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)

**F12 11]** .....

**Textual Amendments**

**F8** S. 9A inserted (1.9.1996) by 1996 c. 49, s. 12(2), **Sch. 3 para. 3**; S.I. 1996/2053, art. 2, **Sch. Pt. II**

**F12** S. 11 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3)

*Visas for transit passengers*

**12 Carriers’ liability for transit passengers.**

- (1) The <sup>M2</sup>Immigration (Carriers’ Liability) Act 1987 shall be amended as follows.
- (2) In subsection (1)(b) of section 1 (liability of carrier of person who requires a visa for entry but fails to produce one) for the words “, a visa valid for that purpose,” there shall be substituted the words “ or by virtue of section 1A below requires a visa for passing through the United Kingdom, a visa valid for the purpose of entering or (as the case may be) passing through the United Kingdom, ”.
- (3) After that section there shall be inserted—

**“1A Visas for transit passengers.**

- (1) The Secretary of State may by order require persons of any description specified in the order who on arrival in the United Kingdom pass through to another country or territory without entering the United Kingdom to hold a visa for that purpose.
- (2) An order under this section—
  - (a) may specify a description of persons by reference to nationality, citizenship, origin or other connection with any particular country or territory, but not by reference to race, colour or religion;
  - (b) shall not provide for the requirement imposed by the order to apply to any person who under the Immigration Act 1971 has the right of abode in the United Kingdom and may provide for any category of persons of a description specified in the order to be exempted from the requirement imposed by the order; and

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(c) may make provision about the method of application for visas required by the order.

(3) An order 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.”

#### Marginal Citations

M2 1987 c. 24.

### Supplementary

#### 13 Financial provision.

- (1) There shall be paid out of money provided by Parliament—
  - (a) any expenditure incurred by the Secretary of State under this Act; and
  - (b) any increase attributable to this Act in the sums payable out of such money under any other enactment.
- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

#### 14 Commencement.

- (1) Sections 4 to 11 above (and section 1 above so far as it relates to those sections) shall not come into force until such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions or for different purposes.
- (2) An order under subsection (1) above—
  - (a) shall be made by statutory instrument; and
  - (b) may contain such transitional and supplemental provisions as the Secretary of State thinks necessary or expedient.
- (3) Without prejudice to the generality of subsections (1) and (2) above, with respect to any provision of section 4 above an order under subsection (1) above may appoint different days in relation to different descriptions of asylum-seekers and dependants of asylum-seekers; and any such descriptions may be framed by reference to nationality, citizenship, origin or other connection with any particular country or territory, but not by reference to race, colour or religion.

#### Subordinate Legislation Made

P1 S. 14(2) power fully exercised (2.7.1993): 26.7.1993 appointed day by S.I. 1993/1655

#### 15 Extent.

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.

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(2) This Act extends to Northern Ireland.

**16 Short title.**

This Act may be cited as the Asylum and Immigration Appeals Act 1993.



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## SCHEDULES

### [<sup>F13</sup><sup>F14</sup>SCHEDULE 1]

#### Textual Amendments

- F13** Sch. 1 (paras. 1-9) repealed (E.W.) (20.1.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. VIII**; S.I. 1996/2959, **art. 2**
- F14** Sch. 1 repealed (3.4.2000) by 1999 c. 33, ss. 120(6), 121(3), 169(1)(3), Sch. 14 paras. 99, 101, **Sch. 16**; S.I. 2000/464, art. 2, **Sch.**

### <sup>F33</sup>SCHEDULE 2

#### Textual Amendments

- F33** Sch. 2 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 99, 104, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3, Sch. 2 para. 3(2)(4))

**Status:**

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**Changes to legislation:**

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