



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART I

IMMIGRATION: GENERAL

Leave to enter, or remain in, the United Kingdom

1 Leave to enter.

In the 1971 Act, after section 3, insert—

“3A Further provision as to leave to enter.

- (1) The Secretary of State may by order make further provision with respect to the giving, refusing or varying of leave to enter the United Kingdom.
- (2) An order under subsection (1) may, in particular, provide for—
 - (a) leave to be given or refused before the person concerned arrives in the United Kingdom;
 - (b) the form or manner in which leave may be given, refused or varied;
 - (c) the imposition of conditions;
 - (d) a person’s leave to enter not to lapse on his leaving the common travel area.
- (3) The Secretary of State may by order provide that, in such circumstances as may be prescribed—
 - (a) an entry visa, or
 - (b) such other form of entry clearance as may be prescribed,is to have effect as leave to enter the United Kingdom.
- (4) An order under subsection (3) may, in particular—
 - (a) provide for a clearance to have effect as leave to enter—

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- (i) on a prescribed number of occasions during the period for which the clearance has effect;
 - (ii) on an unlimited number of occasions during that period;
 - (iii) subject to prescribed conditions; and
 - (b) provide for a clearance which has the effect referred to in paragraph (a) (i) or (ii) to be varied by the Secretary of State or an immigration officer so that it ceases to have that effect.
- (5) Only conditions of a kind that could be imposed on leave to enter given under section 3 may be prescribed.
- (6) In subsections (3), (4) and (5) “prescribed” means prescribed in an order made under subsection (3).
- (7) The Secretary of State may, in such circumstances as may be prescribed in an order made by him, give or refuse leave to enter the United Kingdom.
- (8) An order under subsection (7) may provide that, in such circumstances as may be prescribed by the order, paragraphs 2, 4, 6, 7, 8, 9 and 21 of Part I of Schedule 2 to this Act are to be read, in relation to the exercise by the Secretary of State of functions which he has as a result of the order, as if references to an immigration officer included references to the Secretary of State.
- (9) Subsection (8) is not to be read as affecting any power conferred by subsection (10).
- (10) An order under this section may—
- (a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
 - (b) make different provision for different cases.
- (11) This Act and any provision made under it has effect subject to any order made under this section.
- (12) An order under this section must be made by statutory instrument.
- (13) But no such order is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.”

2 Leave to remain.

In the 1971 Act, after section 3A, insert—

“3B Further provision as to leave to remain.

- (1) The Secretary of State may by order make further provision with respect to the giving, refusing or varying of leave to remain in the United Kingdom.
- (2) An order under subsection (1) may, in particular, provide for—
 - (a) the form or manner in which leave may be given, refused or varied;
 - (b) the imposition of conditions;
 - (c) a person’s leave to remain in the United Kingdom not to lapse on his leaving the common travel area.
- (3) An order under this section may—

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- (a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
 - (b) make different provision for different cases.
- (4) This Act and any provision made under it has effect subject to any order made under this section.
- (5) An order under this section must be made by statutory instrument.
- (6) But no such order is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.”

3 Continuation of leave pending decision.

In the 1971 Act, after section 3B, insert—

“3C Continuation of leave pending decision.

- (1) This section applies if—
- (a) a person who has limited leave to enter or remain in the United Kingdom applies to the Secretary of State, before his leave expires, for it to be varied; and
 - (b) when it expires, no decision has been taken on the application.
- (2) His leave is to be treated as continuing until the end of the period allowed under rules made under paragraph 3 of Schedule 4 to the Immigration and Asylum Act 1999 for bringing an appeal against a decision on the application.
- (3) An application for variation of a person’s leave to enter or remain in the United Kingdom may not be made while that leave is treated as continuing as a result of this section.
- (4) But subsection (3) does not prevent the variation of an application mentioned in subsection (1).”

4 [F1 Accommodation]

[F2(1)] The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of persons—

- (a) temporarily admitted to the United Kingdom under paragraph 21 of Schedule 2 to the 1971 Act;
- (b) released from detention under that paragraph; or
- (c) released on bail from detention under any provision of the Immigration Acts.

[F3(2)] The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of a person if—

- (a) he was (but is no longer) an asylum-seeker, and
 - (b) his claim for asylum was rejected.
- (3) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of a dependant of a person for whom facilities may be provided under subsection (2).

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- (4) The following expressions have the same meaning in this section as in Part VI of this Act (as defined in section 94)—
- (a) asylum-seeker,
 - (b) claim for asylum, and
 - (c) dependant.]
- [^{F4}(5) The Secretary of State may make regulations specifying criteria to be used in determining—
- (a) whether or not to provide accommodation, or arrange for the provision of accommodation, for a person under this section;
 - (b) whether or not to continue to provide accommodation, or arrange for the provision of accommodation, for a person under this section.
- (6) The regulations may, in particular—
- (a) provide for the continuation of the provision of accommodation for a person to be conditional upon his performance of or participation in community activities in accordance with arrangements made by the Secretary of State;
 - (b) provide for the continuation of the provision of accommodation to be subject to other conditions;
 - (c) provide for the provision of accommodation (or the continuation of the provision of accommodation) to be a matter for the Secretary of State's discretion to a specified extent or in a specified class of case.
- (7) For the purposes of subsection (6)(a)—
- (a) “community activities” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and
 - (b) the Secretary of State may, in particular—
 - (i) appoint one person to supervise or manage the performance of or participation in activities by another person;
 - (ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;
 - (iii) pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.
- (8) Regulations by virtue of subsection (6)(a) may, in particular, provide for a condition requiring the performance of or participation in community activities to apply to a person only if the Secretary of State has made arrangements for community activities in an area that includes the place where accommodation is provided for the person.
- (9) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.]
- [^{F5}(10) The Secretary of State may make regulations permitting a person who is provided with accommodation under this section to be supplied also with services or facilities of a specified kind.
- (11) Regulations under subsection (10)—
- (a) may, in particular, permit a person to be supplied with a voucher which may be exchanged for goods or services,
 - (b) may not permit a person to be supplied with money,

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- (c) may restrict the extent or value of services or facilities to be provided, and
- (d) may confer a discretion.]

Textual Amendments

- F1** S. 4 heading substituted (7.11.2002) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 49\(2\)](#) (with [s. 159](#))
- F2** S. 4 renumbered (7.11.2002) as s. 4(1) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 49\(2\)](#) (with [s. 159](#))
- F3** S. 4(2)-(4) added (7.11.2002) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 49\(1\)](#) (with [s. 159](#))
- F4** S. 4(5)-(9) added (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 10\(1\), 48\(3\)](#) (with [s. 10\(6\)\(7\)](#)); [S.I. 2004/2999, art. 2, Sch.](#)
- F5** S. 4(10)(11) added (16.6.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\), ss. 43\(7\), 62\(1\)\(2\)](#); [S.I. 2006/1497, art. 3, Sch.](#)

Modifications etc. (not altering text)

- C1** S. 4 restricted (8.1.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 55](#) (with [s. 159](#)); [S.I. 2002/2811, art. 2, Sch.](#)
S. 4 restricted (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 51, 162\(1\)](#) (with [s. 159](#))

F6 5 Charges.

Textual Amendments

- F6** S. 5 repealed (2.4.2007) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\), s. 62\(1\)\(2\), Sch. 2 para. 3, Sch. 3](#); [S.I. 2007/1109, arts. 4, 5, Sch.](#)

Exemption from immigration control

6 Members of missions other than diplomatic agents.

In the 1971 Act, in section 8 (exceptions for certain categories of person), for subsection (3A) (members of diplomatic missions) substitute—

“(3A) For the purposes of subsection (3), a member of a mission other than a diplomatic agent (as defined by the 1964 Act) is not to count as a member of a mission unless—

- (a) he was resident outside the United Kingdom, and was not in the United Kingdom, when he was offered a post as such a member; and
- (b) he has not ceased to be such a member after having taken up the post.”

7 Persons ceasing to be exempt.

In the 1971 Act, after section 8, insert—

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“8A Persons ceasing to be exempt.

- (1) A person is exempt for the purposes of this section if he is exempt from provisions of this Act as a result of section 8(2) or (3).
- (2) If a person who is exempt—
 - (a) ceases to be exempt, and
 - (b) requires leave to enter or remain in the United Kingdom as a result, he is to be treated as if he had been given leave to remain in the United Kingdom for a period of 90 days beginning on the day on which he ceased to be exempt.
- (3) If—
 - (a) a person who is exempt ceases to be exempt, and
 - (b) there is in force in respect of him leave for him to enter or remain in the United Kingdom which expires before the end of the period mentioned in subsection (2),
 his leave is to be treated as expiring at the end of that period.”

8 Persons excluded from the United Kingdom under international obligations.

In the 1971 Act, after section 8A, insert—

“8B Persons excluded from the United Kingdom under international obligations.

- (1) An excluded person must be refused—
 - (a) leave to enter the United Kingdom;
 - (b) leave to remain in the United Kingdom.
- (2) A person’s leave to enter or remain in the United Kingdom is cancelled on his becoming an excluded person.
- (3) A person’s exemption from the provisions of this Act as a result of section 8(1), (2) or (3) ceases on his becoming an excluded person.
- (4) “Excluded person” means a person—
 - (a) named by or under, or
 - (b) of a description specified in, a designated instrument.
- (5) The Secretary of State may by order designate an instrument if it is a resolution of the Security Council of the United Nations or an instrument made by the Council of the European Union and it—
 - (a) requires that a person is not to be admitted to the United Kingdom (however that requirement is expressed); or
 - (b) recommends that a person should not be admitted to the United Kingdom (however that recommendation is expressed).
- (6) Subsections (1) to (3) are subject to such exceptions (if any) as may be specified in the order designating the instrument in question.
- (7) An order under this section must be made by statutory instrument.

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(8) Such a statutory instrument shall be laid before Parliament without delay.”

Removal from the United Kingdom

9 Treatment of certain overstayers.

- (1) During the regularisation period overstayers may apply, in the prescribed manner, for leave to remain in the United Kingdom.
- (2) The regularisation period begins on the day prescribed for the purposes of this subsection and is not to be less than three months.
- (3) The regularisation period ends—
 - (a) on the day prescribed for the purposes of this subsection; or
 - (b) if later, on the day before that on which section 65 comes into force.
- (4) Section 10 and paragraph 12 of Schedule 15 come into force on the day after that on which the regularisation period ends
- (5) The Secretary of State must publicise the effect of this section in the way appearing to him to be best calculated to bring it to the attention of those affected.
- (6) “Overstayer” means a person who, having only limited leave to enter or remain in the United Kingdom, remains beyond the time limited by the leave.

[^{F7}10 Removal of persons unlawfully in the United Kingdom

- (1) A person may be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer if the person requires leave to enter or remain in the United Kingdom but does not have it.
- (2) Where a person (“P”) is liable to be or has been removed from the United Kingdom under subsection (1), a member of P's family who meets the following three conditions may also be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer, provided that the Secretary of State or immigration officer has given the family member written notice of the intention to remove him or her.
- (3) The first condition is that the family member is—
 - (a) P's partner,
 - (b) P's child, or a child living in the same household as P in circumstances where P has care of the child,
 - (c) in a case where P is a child, P's parent, or
 - (d) an adult dependent relative of P.
- (4) The second condition is that—
 - (a) in a case where the family member has leave to enter or remain in the United Kingdom, that leave was granted on the basis of his or her family life with P;
 - (b) in a case where the family member does not have leave to enter or remain in the United Kingdom, in the opinion of the Secretary of State or immigration officer the family member—

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- (i) would not, on making an application for such leave, be granted leave in his or her own right, but
 - (ii) would be granted leave on the basis of his or her family life with P, if P had leave to enter or remain.
- (5) The third condition is that the family member is neither a British citizen, nor is he or she entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972.
- (6) A notice given to a family member under subsection (2) invalidates any leave to enter or remain in the United Kingdom previously given to the family member.
- (7) For the purposes of removing a person from the United Kingdom under subsection (1) or (2), the Secretary of State or an immigration officer may give any such direction for the removal of the person as may be given under paragraphs 8 to 10 of Schedule 2 to the 1971 Act.
- (8) But subsection (7) does not apply where a deportation order is in force against a person (and any directions for such a person's removal must be given under Schedule 3 to the 1971 Act).
- (9) The following paragraphs of Schedule 2 to the 1971 Act apply in relation to directions under subsection (7) (and the persons subject to those directions) as they apply in relation to directions under paragraphs 8 to 10 of Schedule 2 (and the persons subject to those directions)—
- (a) paragraph 11 (placing of person on board ship or aircraft);
 - (b) paragraph 16(2) to (4) (detention of person where reasonable grounds for suspecting removal directions may be given or pending removal in pursuance of directions);
 - (c) paragraph 17 (arrest of person liable to be detained and search of premises for person liable to arrest);
 - (d) paragraph 18 (supplementary provisions on detention);
 - (e) paragraph 18A (search of detained person);
 - (f) paragraph 18B (detention of unaccompanied children);
 - (g) paragraphs 19 and 20 (payment of expenses of custody etc);
 - (h) paragraph 21 (temporary admission to UK of person liable to detention);
 - (i) paragraphs 22 to 25 (bail);
 - (j) paragraphs 25A to 25E (searches etc).
- (10) The Secretary of State may by regulations make further provision about—
- (a) the time period during which a family member may be removed under subsection (2);
 - (b) the service of a notice under subsection (2).
- (11) In this section “child” means a person who is under the age of 18.]

Textual Amendments

- F7** S. 10 substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 1**, 75(3); [S.I. 2014/2771](#), art. 2(a) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

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Modifications etc. (not altering text)

- C2** S. 10 applied (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), regs. 1(2)(b), **32(2)**

F8 11 Removal of asylum claimant under standing arrangement with member States

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Textual Amendments

- F8** S. 11 repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 33(2), 48(3), **Sch. 4**; S.I. 2004/2523, art. 2, Sch. (with art. 3)

F9 12 Removal of asylum claimants in other circumstances.

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Textual Amendments

- F9** S. 12 repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 33(2), 48(3), **Sch. 4**; S.I. 2004/2523, art. 2, Sch. (with art. 3)

13 Proof of identity of persons to be removed or deported.

- (1) This section applies if a person—
 - (a) is to be removed from the United Kingdom to a country of which he is a national or citizen; but
 - (b) does not have a valid passport or other document establishing his identity and nationality or citizenship and permitting him to travel.
- (2) If the country to which the person is to be removed indicates that he will not be admitted to it unless identification data relating to him are provided by the Secretary of State, he may provide them with such data.
- (3) In providing identification data, the Secretary of State must not disclose whether the person concerned has made a claim for asylum.
- (4) For the purposes of paragraph 4(1) of Schedule 4 to the ^{M1}Data Protection Act 1998, the provision under this section of identification data is a transfer of personal data which is necessary for reasons of substantial public interest.
- (5) “Identification data” means—
 - (a) fingerprints taken under section 141; or
 - (b) data collected in accordance with regulations made under section 144.
- (6) “Removed” means removed as a result of directions given under section 10 or under Schedule 2 or 3 to the 1971 Act.

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Marginal Citations

M1 1998 c.29.

14 Escorts for persons removed from the United Kingdom under directions.

- (1) Directions for, or requiring arrangements to be made for, the removal of a person from the United Kingdom may include or be amended to include provision for the person who is to be removed to be accompanied by an escort consisting of one or more persons specified in the directions.
- (2) The Secretary of State may by regulations make further provision supplementing subsection (1).
- (3) The regulations may, in particular, include provision—
 - (a) requiring the person to whom the directions are given to provide for the return of the escort to the United Kingdom;
 - (b) requiring him to bear such costs in connection with the escort (including, in particular, remuneration) as may be prescribed;
 - (c) as to the cases in which the Secretary of State is to bear those costs;
 - (d) prescribing the kinds of expenditure which are to count in calculating the costs incurred in connection with escorts.

^{F10}15 Protection of claimants from removal or deportation.

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Textual Amendments

F10 S. 15 repealed (1.4.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 77(5), 162(1), [Sch. 9](#) (with s. 159); [S.I. 2003/754](#), art. 2(1), Sch. 1 (with arts. 3, 4, Sch. 2 paras. 1(2), 5)

PROSPECTIVE

Provision of financial security

16 Security on grant of entry clearance.

- (1) In such circumstances as may be specified, the Secretary of State may require security to be given, with respect to a person applying for entry clearance, before clearance is given.
- (2) In such circumstances as may be specified—
 - (a) the Secretary of State may accept security with respect to a person who is applying for entry clearance but for whom security is not required; and
 - (b) in determining whether to give clearance, account may be taken of any security so provided.
- (3) “Security” means—

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- (a) the deposit of a sum of money by the applicant, his agent or any other person, or
 - (b) the provision by the applicant, his agent or any other person of a financial guarantee of a specified kind,
- with a view to securing that the applicant will, if given leave to enter the United Kingdom for a limited period, leave the United Kingdom at the end of that period.
- (4) Immigration rules must make provision as to the circumstances in which a security provided under this section—
- (a) is to be repaid, released or otherwise cancelled; or
 - (b) is to be forfeited or otherwise realised by the Secretary of State.
- (5) No security provided under this section may be forfeited or otherwise realised unless the person providing it has been given an opportunity, in accordance with immigration rules, to make representations to the Secretary of State.
- (6) Immigration rules may, in particular—
- (a) fix the maximum amount that may be required, or accepted, by way of security provided under this section;
 - (b) specify the form and manner in which such a security is to be given or may be accepted;
 - (c) make provision, where such a security has been forfeited or otherwise realised, for the person providing it to be reimbursed in such circumstances as may be specified;
 - (d) make different provision for different cases or descriptions of case.
- (7) “Specified” means specified by immigration rules.
- (8) Any security forfeited or otherwise realised by the Secretary of State under this section must be paid into the Consolidated Fund.

17 Provision of further security on extension of leave.

- (1) This section applies if security has been provided under section 16(1) or (2) with respect to a person who, having entered the United Kingdom (with leave to do so), applies—
- (a) to extend his leave to enter the United Kingdom; or
 - (b) for leave to remain in the United Kingdom for a limited period.
- (2) The Secretary of State may refuse the application if security of such kind as the Secretary of State considers appropriate is not provided, or continued, with respect to the applicant.
- (3) Immigration rules must make provision as to the circumstances in which a security provided under this section—
- (a) is to be repaid, released or otherwise cancelled; or
 - (b) is to be forfeited or otherwise realised by the Secretary of State.
- (4) No security provided under this section may be forfeited or otherwise realised unless the person providing it has been given an opportunity, in accordance with immigration rules, to make representations to the Secretary of State.

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- (5) Subsection (7) of section 16 applies in relation to this section as it applies in relation to that section.
- (6) Any security forfeited or otherwise realised by the Secretary of State under this section must be paid into the Consolidated Fund.

Information

18 Passenger information.

In the 1971 Act, in Schedule 2, after paragraph 27, insert—

Passenger information

- “27B (1) This paragraph applies to ships or aircraft—
- (a) which have arrived, or are expected to arrive, in the United Kingdom; or
 - (b) which have left, or are expected to leave, the United Kingdom.
- (2) If an immigration officer asks the owner or agent (“the carrier”) of a ship or aircraft for passenger information, the carrier must provide that information to the officer.
- (3) The officer may ask for passenger information relating to—
- (a) a particular ship or particular aircraft of the carrier;
 - (b) particular ships or aircraft (however described) of the carrier; or
 - (c) all of the carrier’s ships or aircraft.
- (4) The officer may ask for—
- (a) all passenger information in relation to the ship or aircraft concerned; or
 - (b) particular passenger information in relation to that ship or aircraft.
- (5) A request under sub-paragraph (2)—
- (a) must be in writing;
 - (b) must state the date on which it ceases to have effect; and
 - (c) continues in force until that date, unless withdrawn earlier by written notice by an immigration officer.
- (6) The date may not be later than six months after the request is made.
- (7) The fact that a request under sub-paragraph (2) has ceased to have effect as a result of sub-paragraph (5) does not prevent the request from being renewed.
- (8) The information must be provided—
- (a) in such form and manner as the Secretary of State may direct; and
 - (b) at such time as may be stated in the request.
- (9) “Passenger information” means such information relating to the passengers carried, or expected to be carried, by the ship or aircraft as may be specified.

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(10) “Specified” means specified in an order made by statutory instrument by the Secretary of State.

(11) Such an instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Modifications etc. (not altering text)

C3 S. 18 extended (Guernsey) (with modifications) (12.10.2011) by [The Immigration \(Guernsey\) Order 2011 \(S.I. 2011/2444\)](#), art. 6, **Sch. 3**

C4 S. 18 modified (coming into force in accordance with art. 1(1) of the modifying S.I.) by [The Immigration \(Jersey\) Order 2012 \(S.I. 2012/1763\)](#), art. 3, **Sch. 2**

Commencement Information

II S. 18 wholly in force; s. 18 not in force at Royal Assent see s. 170(4); s. 18 in force for certain purposes at 1.3.2000 and 3.4.2000 insofar as not already in force by [S.I. 2000/464](#), art. 2, **Sch.**

^{F11}19 Notification of non-EEA arrivals.

Textual Amendments

F11 S. 19 omitted (12.2.2015) by virtue of [Counter-Terrorism and Security Act 2015 \(c. 6\)](#), s. 52(5), **Sch. 5 para. 3**

20 [^{F12}Power to supply information etc to Secretary of State]

(1) This section applies to information held by—

- [^{F13}(a) a public authority, or
- (b) any specified person, for purposes specified in relation to that person.]

[^{F14}(1A) This section also applies to a document or article which—

- (a) comes into the possession of [^{F15}a public authority or someone acting on behalf of a public authority] , or
- (b) is discovered by [^{F16}a public authority or someone acting on behalf of a public authority] .]

[^{F17}(1B) This section does not apply to—

- (a) information which is held by the Crown Prosecution Service, or
- (b) a document or article which comes into the possession of, or is discovered by, the Crown Prosecution Service, or someone acting on behalf of the Crown Prosecution Service,

if section 40 of the UK Borders Act 2007 applies to the information, document or article.]

(2) The information [^{F18}, document or article] may be supplied to the Secretary of State for use for immigration purposes.

[^{F19}(2A) The Secretary of State may—

Status: Point in time view as at 01/02/2017. This version of this part contains provisions that are prospective.

Changes to legislation: Immigration and Asylum Act 1999, Part I is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) retain for immigration purposes a document or article supplied to him under subsection (2), and
- (b) dispose of a document or article supplied to him under subsection (2) in such manner as he thinks appropriate (and the reference to use in subsection (2) includes a reference to disposal).]

[^{F20}(2B) Subsection (2A)(a) does not affect any other power of the Secretary of State to retain a document or article.]

- (3) “Immigration purposes” means any of the following—
- (a) the administration of immigration control under the Immigration Acts;
 - (b) the prevention, detection, investigation or prosecution of criminal offences under those Acts;
 - (c) the imposition of penalties or charges under Part II;
 - (d) the provision of support for asylum-seekers and their dependants under Part VI;
 - [^{F21}(da) anything else that is done in connection with the exercise of a function under any of the Immigration Acts;]
 - (e) such other purposes as may be specified.

[^{F22}(3A) Public authority” means a person with functions of a public nature but does not include—

- (a) Her Majesty's Revenue and Customs,
- (b) either House of Parliament or a person exercising functions in connection with proceedings in Parliament,
- (c) the Scottish Parliament or a person exercising functions in connection with proceedings in the Scottish Parliament,
- (d) the National Assembly for Wales or a person exercising functions in connection with proceedings in that Assembly, or
- (e) the Northern Ireland Assembly or a person exercising functions in connection with proceedings in that Assembly.]

^{F23}(4)

(5) “Specified” means specified in an order made by the Secretary of State.

(6) This section does not limit the circumstances in which information [^{F24}, documents or articles] may be supplied apart from this section.

[^{F25}(7) Nothing in this section authorises information, a document or an article to be supplied if to do so would contravene a restriction on the disclosure of information (however imposed).]

Textual Amendments

- F12** S. 20 heading substituted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), ss. **55(2)**, 94(1); S.I. 2016/603, reg. 3(h)
- F13** S. 20(1)(a)(b) substituted for s. 20(1)(a)-(f) (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), ss. **55(3)**, 94(1); S.I. 2016/603, reg. 3(h)
- F14** S. 20(1A) inserted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. **132(2)**, 162(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F15** Words in s. 20(1A)(a) substituted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), ss. **55(4)**, 94(1); S.I. 2016/603, reg. 3(h)

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- F16** Words in s. 20(1A)(b) substituted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 55(4)**, 94(1); S.I. 2016/603, reg. 3(h)
- F17** S. 20(1B) inserted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 55(5)**, 94(1); S.I. 2016/603, reg. 3(h)
- F18** Words in s. 20(2) inserted (10.2.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 132(3)**, 162(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F19** S. 20(2A) inserted (10.2.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 132(4)**, 162(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F20** S. 20(2B) inserted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 55(6)**, 94(1); S.I. 2016/603, reg. 3(h)
- F21** S. 20(3)(da) inserted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 55(7)**, 94(1); S.I. 2016/603, reg. 3(h)
- F22** S. 20(3A) inserted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 55(8)**, 94(1); S.I. 2016/603, reg. 3(h)
- F23** S. 20(4) omitted (12.7.2016) by virtue of Immigration Act 2016 (c. 19), **ss. 55(9)**, 94(1); S.I. 2016/603, reg. 3(h)
- F24** Words in s. 20(6) inserted (10.2.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 132(5)**, 162(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F25** S. 20(7) inserted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 55(10)**, 94(1); S.I. 2016/603, reg. 3(h)

Modifications etc. (not altering text)

- C5** S. 20 modified (10.2.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 131**, 162(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- C6** S. 20 restricted (7.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 2 para. 17** (with s. 22); S.I. 2005/1126, art. 2(1)

[^{F26}20A Duty to supply nationality documents to Secretary of State

- (1) This section applies to a nationality document which the Secretary of State has reasonable grounds for believing is lawfully in the possession of a person listed in Schedule A1.
- (2) The Secretary of State may direct the person to supply the document to the Secretary of State if the Secretary of State suspects that—
 - (a) a person to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and
 - (b) the document may facilitate the removal.
- (3) A person to whom a direction is given must, as soon as is practicable, supply the document to the Secretary of State.
- (4) If the document was originally created in hard copy form and the person possesses the original document, it must be supplied to the Secretary of State unless it is required by the person for the performance of any of the person's functions.
- (5) If the original document is required by the person for the performance of any of the person's functions—
 - (a) the person must, as soon as is practicable, supply a copy of the document to the Secretary of State, and
 - (b) if subsequently the person no longer requires the original document, the person must supply it to the Secretary of State as soon as is practicable after it is no longer required.

Status: Point in time view as at 01/02/2017. This version of this part contains provisions that are prospective.

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- (6) Subsection (5)(b) does not apply if the Secretary of State notifies the person that the original document is no longer required.
- (7) If subsection (5) applies the person may make a copy of the original document before supplying it to the Secretary of State.
- (8) The Secretary of State may retain a nationality document supplied under this section while the Secretary of State suspects that—
 - (a) a person to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and
 - (b) retention of the document may facilitate the removal.
- (9) Subsection (8) does not affect any other power of the Secretary of State to retain a document.
- (10) The Secretary of State may dispose of a nationality document supplied under this section in such manner as the Secretary of State thinks appropriate.
- (11) Nothing in this section authorises or requires a document to be supplied if to do so would contravene a restriction on the disclosure of information (however imposed).
- (12) The Secretary of State may by regulations amend Schedule A1 so as to add, modify or remove a reference to a person or description of person.
- (13) Regulations under subsection (12) may not amend Schedule A1 so as to apply this section to—
 - (a) either House of Parliament or a person exercising functions in connection with proceedings in Parliament,
 - (b) the Scottish Parliament or a person exercising functions in connection with proceedings in the Scottish Parliament,
 - (c) the National Assembly for Wales or a person exercising functions in connection with proceedings in that Assembly, or
 - (d) the Northern Ireland Assembly or a person exercising functions in connection with proceedings in that Assembly.
- (14) In this section “nationality document” means a document which might—
 - (a) establish a person's identity, nationality or citizenship, or
 - (b) indicate the place from which a person has travelled to the United Kingdom or to which a person is proposing to go.]

Textual Amendments

F26 S. 20A inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), ss. **55(11)**, 94(1); S.I. 2016/603, reg. 3(h)

21 Supply of information by Secretary of State.

- (1) This section applies to information held by the Secretary of State in connection with the exercise of functions under any of the Immigration Acts.
- (2) The information may be supplied to—
 - (a) a chief officer of police, for use for police purposes;

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- [^{F27}(b) the National Crime Agency, for use in connection with the discharge of any function of that Agency;]
 - (d) the Commissioners of Customs and Excise, or a person providing services to them, for use for customs purposes; or
 - (e) any specified person, for use for purposes specified in relation to that person.
- (3) “Police purposes” means any of the following—
- (a) the prevention, detection, investigation or prosecution of criminal offences;
 - (b) safeguarding national security;
 - (c) such other purposes as may be specified.
- ^{F28}(4)
- (6) “Customs purposes” means any of the Commissioners’ functions in relation to—
- (a) the prevention, detection, investigation or prosecution of criminal offences;
 - (b) the prevention, detection or investigation of conduct in respect of which penalties which are not criminal penalties are provided for by or under any enactment;
 - (c) the assessment or determination of penalties which are not criminal penalties;
 - (d) checking the accuracy of information relating to, or provided for purposes connected with, any matter under the care and management of the Commissioners or any assigned matter (as defined by section 1(1) of the ^{M2}Customs and Excise Management Act 1979);
 - (e) amending or supplementing any such information (where appropriate);
 - (f) legal or other proceedings relating to anything mentioned in paragraphs (a) to (e);
 - (g) safeguarding national security; and
 - (h) such other purposes as may be specified.
- (7) “Chief officer of police” and “specified” have the same meaning as in section 20.
- (8) This section does not limit the circumstances in which information may be supplied apart from this section.

Textual Amendments

- F27** S. 21(2)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 66\(2\)](#); [S.I. 2013/1682](#), art. 3(v)
- F28** S. 21(4) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 66\(3\)](#); [S.I. 2013/1682](#), art. 3(v)

Marginal Citations

- M2** 1979 c. 2.

Employment: code of practice

22 Restrictions on employment: code of practice.

In the ^{M3}Asylum and Immigration Act 1996, after section 8, insert—

Status: Point in time view as at 01/02/2017. This version of this part contains provisions that are prospective.
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“8A Code of practice.

- (1) The Secretary of State must issue a code of practice as to the measures which an employer is to be expected to take, or not to take, with a view to securing that, while avoiding the commission of an offence under section 8, he also avoids unlawful discrimination.
- (2) “Unlawful discrimination” means—
 - (a) discrimination in contravention of section 4(1) of the ^{M4}Race Relations Act 1976 (“the 1976 Act”); or
 - (b) in relation to Northern Ireland, discrimination in contravention of Article 6(1) of the ^{M5}Race Relations (Northern Ireland) Order 1997 (“the 1997 Order”).
- (3) Before issuing the code, the Secretary of State must—
 - (a) prepare and publish a draft of the proposed code; and
 - (b) consider any representations about it which are made to him.
- (4) In preparing the draft, the Secretary of State must consult—
 - (a) the Commission for Racial Equality;
 - (b) the Equality Commission for Northern Ireland; and
 - (c) such organisations and bodies (including organisations or associations of organisations representative of employers or of workers) as he considers appropriate.
- (5) If the Secretary of State decides to proceed with the code, he must lay a draft of the code before both Houses of Parliament.
- (6) The draft code may contain modifications to the original proposals made in the light of representations to the Secretary of State.
- (7) After laying the draft code before Parliament, the Secretary of State may bring the code into operation by an order made by statutory instrument.
- (8) An order under subsection (7)—
 - (a) shall be subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code.
- (9) A failure on the part of any person to observe a provision of the code does not of itself make him liable to any proceedings.
- (10) But the code is admissible in evidence—
 - (a) in proceedings under the 1976 Act before an employment tribunal;
 - (b) in proceedings under the 1997 Order before an industrial tribunal.
- (11) If any provision of the code appears to the tribunal to be relevant to any question arising in such proceedings, that provision is to be taken into account in determining the question.

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- (12) The Secretary of State may from time to time revise the whole or any part of the code and issue the code as revised.
- (13) The provisions of this section also apply (with appropriate modifications) to any revision, or proposed revision, of the code.”

Commencement Information

I2 S. 22 wholly in force at 22.5.2001; s. 22 not in force at royal assent; S. 22 in force for certain purposes at 19.2.2001 by S.I. 2001/239, art. 2, Sch. and s. 22 in force so far as not already in force at 22.5.2001 by S.I. 2001/1394, art. 2, Sch.

Marginal Citations

M3 1996 c. 49.
M4 1976 c. 74.
M5 S.I. 1997/869 (N.I. 6).

Monitoring entry clearance

^{F29}**23 Monitoring refusals of entry clearance.**

Textual Amendments

F29 S. 23 repealed (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 28; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

Reporting suspicious marriages

24 Duty to report suspicious marriages.

- (1) Subsection (3) applies if—
- (a) a superintendent registrar to whom a notice of marriage has been given under section 27 of the ^{M6}Marriage Act 1949,
 - ^{F30}(aa) a superintendent registrar, or registrar of births, deaths and marriages, who receives information in advance of a person giving such a notice,]
 - (b) any other person who, under section 28(2) of that Act, has attested a declaration accompanying such a notice,
 - (c) a district registrar to whom a marriage notice or an approved certificate has been submitted under section 3 of the ^{M7}Marriage (Scotland) Act 1977, ^{F31}...
 - ^{F32}(ca) a district registrar who receives information in advance of a person submitting such a notice or certificate,]
 - (d) a registrar or deputy registrar to whom notice has been given under section 13 of the ^{M8}Marriages (Ireland) Act 1844 or section 4 of the ^{M9}Marriage Law (Ireland) Amendment Act 1863, [^{F33}or

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- (da) a registrar or deputy registrar who receives information in advance of a person giving such a notice,]
has reasonable grounds for suspecting that the marriage will be a sham marriage.
- (2) Subsection (3) also applies if—
- (a) a marriage is solemnized in the presence of a registrar of marriages or, in relation to Scotland, an authorised registrar (within the meaning of the Act of 1977); and
 - (b) before, during or immediately after solemnization of the marriage, the registrar has reasonable grounds for suspecting that the marriage will be, or is, a sham marriage.
- (3) The person concerned must report his suspicion to the Secretary of State without delay and in such form and manner as may be prescribed by regulations.
- (4) The regulations are to be made—
- (a) in relation to England and Wales, by the Registrar General for England and Wales with the approval of [^{F34}the Secretary of State];
 - (b) in relation to Scotland, by the Secretary of State after consulting the Registrar General of Births, Deaths and Marriages for Scotland;
 - (c) in relation to Northern Ireland, by the Secretary of State after consulting the Registrar General in Northern Ireland.
- [^{F35}(5) A marriage (whether or not it is void) is a “sham marriage” if—
- (a) either, or both, of the parties to the marriage is not a relevant national,
 - (b) there is no genuine relationship between the parties to the marriage, and
 - (c) either, or both, of the parties to the marriage enter into the marriage for one or more of these purposes—
 - (i) avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules;
 - (ii) enabling a party to the marriage to obtain a right conferred by that law or those rules to reside in the United Kingdom.
- (6) In subsection (5)—
- “relevant national” means—
- (a) a British citizen,
 - (b) a national of an EEA State other than the United Kingdom, or
 - (c) a national of Switzerland;
- “United Kingdom immigration law” includes any subordinate legislation concerning the right of relevant nationals to move between and reside in member States.]

Textual Amendments

- F30** S. 24(1)(aa) inserted (14.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 56(2)(a)**, 75(2)
- F31** Word in s. 24(1)(c) omitted (14.7.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), **ss. 56(2)(b)**, 75(2)
- F32** S. 24(1)(ca) inserted (14.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 56(2)(c)**, 75(2)
- F33** S. 24(1)(da) and word inserted (14.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 56(2)(d)**, 75(2)
- F34** Words in s. 24(4)(a) substituted (3.4.2008) by [Transfer of Functions \(Registration\) Order 2008 \(S.I. 2008/678\)](#), **art. 1(2)**, **Sch. 2 para. 11(a)** (with art. 4)

Status: Point in time view as at 01/02/2017. This version of this part contains provisions that are prospective.
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F35 S. 24(5)(6) substituted for s. 24(5) (1.3.2015) by Immigration Act 2014 (c. 22), ss. 55(2), 75(3); S.I. 2015/371, art. 2(1)(i)

Modifications etc. (not altering text)

C7 S. 24(4)(a): transfer of functions (3.4.2008) by Transfer of Functions (Registration) Order 2008 (S.I. 2008/678), art. 1(2), Sch. 1 para. 11(a) (with art. 4)

Commencement Information

I3 S. 24 wholly in force at 1.1.2001, see s. 170(4) and S.I. 2000/2698, art. 2, Sch. (as amended by S.I. 2000/3099, art. 4) subject to the transitional provision in art. 3 (as also inserted by art. 4 of the said S.I. 2000/3099)

Marginal Citations

M6 1949 c. 76.
M7 1977 c. 15.
M8 1844 c. 81.
M9 1863 c. 27.

[^{F36} **24A Duty to report suspicious civil partnerships**

(1) Subsection (3) applies if—

(a) a registration authority to whom a notice of proposed civil partnership has been given under section 8 of the Civil Partnership Act 2004,

[^{F37}(aa) a registration authority that receives information in advance of a person giving such a notice,]

(b) any person who, under section 8 of the 2004 Act, has attested a declaration accompanying such a notice,

(c) a district registrar to whom a notice of proposed civil partnership has been given under section 88 of the 2004 Act, ^{F38}...

[^{F39}(ca) a district registrar who receives information in advance of a person giving such a notice,]

(d) a registrar to whom a civil partnership notice has been given under section 139 of the 2004 Act, [^{F40}or

(da) a registrar who receives information in advance of a person giving such a notice,]

has reasonable grounds for suspecting that the civil partnership will be a sham civil partnership.

(2) Subsection (3) also applies if—

(a) two people register as civil partners of each other under Part 2, 3 or 4 of the 2004 Act in the presence of the registrar, and

(b) before, during or immediately after they do so, the registrar has reasonable grounds for suspecting that the civil partnership will be, or is, a sham civil partnership.

(3) The person concerned must report his suspicion to the Secretary of State without delay and in such form and manner as may be prescribed by regulations.

(4) The regulations are to be made—

(a) in relation to England and Wales, by the Registrar General for England and Wales with the approval of [^{F41}the Secretary of State];

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- (b) in relation to Scotland, by the Secretary of State after consulting the Registrar General of Births, Deaths and Marriages for Scotland;
- (c) in relation to Northern Ireland, by the Secretary of State after consulting the Registrar General in Northern Ireland.

[^{F42}(5) A civil partnership (whether or not it is void) is a “sham civil partnership” if—

- (a) either, or both, of the parties to the civil partnership is not a relevant national,
- (b) there is no genuine relationship between the parties to the civil partnership, and
- (c) either, or both, of the parties to the civil partnership enter into the civil partnership for one or more of these purposes—
 - (i) avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules;
 - (ii) enabling a party to the civil partnership to obtain a right conferred by that law or those rules to reside in the United Kingdom.

(5A) In subsection (5)—

“relevant national” means—

- (a) a British citizen,
- (b) a national of an EEA State other than the United Kingdom, or
- (c) a national of Switzerland;

“United Kingdom immigration law” includes any subordinate legislation concerning the right of relevant nationals to move between and reside in member States.]

(6) “The registrar” means—

- (a) in relation to England and Wales, the civil partnership registrar acting under Part 2 of the 2004 Act;
- (b) in relation to Scotland, the authorised registrar acting under Part 3 of the 2004 Act;
- (c) in relation to Northern Ireland, the registrar acting under Part 4 of the 2004 Act.]

Textual Amendments

- F36** S. 24A inserted (15.4.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 162](#); S.I. 2005/1112, art. 2, Sch. 1; S.I. 2005/3175, art. 2(2)
- F37** S. 24A(1)(aa) inserted (14.7.2014) by [Immigration Act 2014 \(c. 22\)](#), [ss. 56\(3\)\(a\)](#), 75(2)
- F38** Word in s. 24A(1)(c) omitted (14.7.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), [ss. 56\(3\)\(b\)](#), 75(2)
- F39** S. 24A(1)(ca) inserted (14.7.2014) by [Immigration Act 2014 \(c. 22\)](#), [ss. 56\(3\)\(c\)](#), 75(2)
- F40** S. 24A(1)(da) and word inserted (14.7.2014) by [Immigration Act 2014 \(c. 22\)](#), [ss. 56\(3\)\(d\)](#), 75(2)
- F41** Words in s. 24A(4)(a) substituted (3.4.2008) by [Transfer of Functions \(Registration\) Order 2008 \(S.I. 2008/678\)](#), art. 1(2), [Sch. 2 para. 11\(b\)](#) (with art. 4)
- F42** S. 24A(5)(5A) substituted for s. 24A(5) (1.3.2015) by [Immigration Act 2014 \(c. 22\)](#), [ss. 55\(3\)](#), 75(3); S.I. 2015/371, art. 2(1)(i)

Status: Point in time view as at 01/02/2017. This version of this part contains provisions that are prospective.
Changes to legislation: Immigration and Asylum Act 1999, Part 1 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C8** S. 24A(4)(a): transfer of functions (3.4.2008) by [Transfer of Functions \(Registration\) Order 2008 \(S.I. 2008/678\)](#), [art. 1\(2\)](#), [Sch. 1 para. 11\(b\)](#) (with [art. 4](#))

Immigration control: facilities and charges

25 Provision of facilities for immigration control at ports.

- (1) The person responsible for the management of a control port (“the manager”) must provide the Secretary of State free of charge with such facilities at the port as the Secretary of State may direct as being reasonably necessary for, or in connection with, the operation of immigration control there.
- (2) Before giving such a direction, the Secretary of State must consult such persons likely to be affected by it as he considers appropriate.
- (3) If the Secretary of State gives such a direction, he must send a copy of it to the person appearing to him to be the manager.
- (4) If the manager persistently fails to comply with the direction (or part of it), the Secretary of State may—
 - (a) in the case of a control port which is not a port of entry, revoke any approval in relation to the port given under paragraph 26(1) of Schedule 2 to the 1971 Act;
 - (b) in the case of a control port which is a port of entry, by order revoke its designation as a port of entry.
- (5) A direction under this section is enforceable, on the application of the Secretary of State—
 - (a) by injunction granted [^{F43}in England and Wales by the county court or in Northern Ireland] by a county court; or
 - (b) in Scotland, by an order under section 45 of the ^{M10}Court of Session Act 1988.
- (6) “Control port” means a port in which a control area is designated under paragraph 26(3) of Schedule 2 to the 1971 Act.
- (7) “Facilities” means accommodation, facilities, equipment and services of a class or description specified in an order made by the Secretary of State.

Textual Amendments

- F43** Words in [s. 25\(5\)\(a\)](#) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(3\)](#), [Sch. 9 para. 90\(a\)](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), [arts. 3-11](#))

Commencement Information

- I4** S. 25 in force (17.2.2003 for specified purposes, 1.4.2003 in so far as not already in force) by [S.I. 2003/2](#), [art. 2](#), [Sch.](#)

Marginal Citations

- M10** [1988 c. 36](#).

Status: Point in time view as at 01/02/2017. This version of this part contains provisions that are prospective.

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26 Charges: immigration control.

- (1) The Secretary of State may, at the request of any person and in consideration of such charges as he may determine, make arrangements—
 - (a) for the provision at any control port of immigration officers or facilities in addition to those (if any) needed to provide a basic service at the port;
 - (b) for the provision of immigration officers or facilities for dealing with passengers of a particular description or in particular circumstances.
- (2) “Control port” has the same meaning as in section 25.
- (3) “Facilities” includes equipment.
- (4) “Basic service” has such meaning as may be prescribed.

Commencement Information

- I5** S. 26 in force at 5.6.2003 for specified purposes by S.I. 2003/1469, art. 2, Sch.; and 30.6.2003 in so far as not already in force by S.I. 2003/1469, art. 2, Sch.

Charges: travel documents

^{F44}27 Charges: travel documents.

Textual Amendments

- F44** S. 27 repealed (2.4.2007) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 62(1)(2), Sch. 2 para. 3, Sch. 3; S.I. 2007/1109, arts. 4, 5, Sch.

Offences

28 Deception.

In the 1971 Act, after section 24, insert—

“24A Deception.

- (1) A person who is not a British citizen is guilty of an offence if, by means which include deception by him—
 - (a) he obtains or seeks to obtain leave to enter or remain in the United Kingdom; or
 - (b) he secures or seeks to secure the avoidance, postponement or revocation of enforcement action against him.
- (2) “Enforcement action”, in relation to a person, means—
 - (a) the giving of directions for his removal from the United Kingdom (“directions”) under Schedule 2 to this Act or section 10 of the Immigration and Asylum Act 1999;

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- (b) the making of a deportation order against him under section 5 of this Act; or
 - (c) his removal from the United Kingdom in consequence of directions or a deportation order.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) The extended time limit for prosecutions which is provided for by section 28 applies to an offence under this section.”

29 Facilitation of entry.

- (1) Section 25 of the 1971 Act (assisting illegal entry) is amended as follows.
- (2) In subsection (1), for “seven” substitute “ ten ”.
- (3) For subsection (1A) substitute—
- “(1A) Nothing in subsection (1)(b) applies to anything done in relation to a person who—
- (a) has been detained under paragraph 16 of Schedule 2 to this Act; or
 - (b) has been granted temporary admission under paragraph 21 of that Schedule.
- (1B) Nothing in subsection (1)(b) applies to anything done by a person otherwise than for gain.
- (1C) Nothing in subsection (1)(b) applies to anything done to assist an asylum claimant by a person in the course of his employment by a bona fide organisation, if the purposes of that organisation include assistance to persons in the position of the asylum claimant.
- (1D) “Asylum claimant” means a person who intends to make a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention or the Human Rights Convention for him to be removed from, or required to leave, the United Kingdom.
- (1E) “Refugee Convention” and “Human Rights Convention” have the meaning given in the Immigration and Asylum Act 1999.”
- (4) In subsection (5), for “Subsection (1)(a)” substitute “ Paragraphs (a) and (b) of subsection (1) ”.

Commencement Information

- I6** S. 29 wholly in force; s. 29 not in force at Royal Assent see s. 170(4); s. 29(2)(4) wholly in force and s. 29(1) in force for certain purposes at 14.2.2000 by S.I. 2000/168, art. 2, Sch. (with transitional provisions in art. 3); s. 29 in force so far as not already in force 2.10.2000 by S.I. 2000/2444, art. 2, Sch. 1 (subject to arts. 3, 4, Sch. 2)

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30 False statements etc.

- (1) Section 26 of the 1971 Act (general offences in connection with administration of the Act) is amended as follows.
- (2) In subsection (1)(c), for “this Act” substitute “a relevant enactment”.
- (3) After subsection (2), insert—
 - “(3) “Relevant enactment” means—
 - (a) this Act;
 - (b) the ^{M11}Immigration Act 1988;
 - (c) the ^{M12}Asylum and Immigration Appeals Act 1993 (apart from section 4 or 5); or
 - (d) the Immigration and Asylum Act 1999 (apart from Part VI).”

Marginal Citations

M11 1988 c. 14.

M12 1993 c. 23.

31 Defences based on Article 31(1) of the Refugee Convention.

- (1) It is a defence for a refugee charged with an offence to which this section applies to show that, having come to the United Kingdom directly from a country where his life or freedom was threatened (within the meaning of the Refugee Convention), he—
 - (a) presented himself to the authorities in the United Kingdom without delay;
 - (b) showed good cause for his illegal entry or presence; and
 - (c) made a claim for asylum as soon as was reasonably practicable after his arrival in the United Kingdom.
- (2) If, in coming from the country where his life or freedom was threatened, the refugee stopped in another country outside the United Kingdom, subsection (1) applies only if he shows that he could not reasonably have expected to be given protection under the Refugee Convention in that other country.
- (3) In England and Wales and Northern Ireland the offences to which this section applies are any offence, and any attempt to commit an offence, under—
 - (a) Part I of the ^{M13}Forgery and Counterfeiting Act 1981 (forgery and connected offences);
 - [^{F45}(aa) section 4 or 6 of the Identity Documents Act 2010;]
 - (b) section 24A of the 1971 Act (deception); or
 - (c) section 26(1)(d) of the 1971 Act (falsification of documents).
- (4) In Scotland, the offences to which this section applies are those—
 - (a) of fraud,
 - (b) of uttering a forged document,
 - [^{F46}(ba) under section 4 or 6 of the Identity Documents Act 2010,]
 - (c) under section 24A of the 1971 Act (deception), or
 - (d) under section 26(1)(d) of the 1971 Act (falsification of documents),
 and any attempt to commit any of those offences.

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- (5) A refugee who has made a claim for asylum is not entitled to the defence provided by subsection (1) in relation to any offence committed by him after making that claim.
- (6) “Refugee” has the same meaning as it has for the purposes of the Refugee Convention.
- (7) If the Secretary of State has refused to grant a claim for asylum made by a person who claims that he has a defence under subsection (1), that person is to be taken not to be a refugee unless he shows that he is.
- (8) A person who—
- (a) was convicted in England and Wales or Northern Ireland of an offence to which this section applies before the commencement of this section, but
 - (b) at no time during the proceedings for that offence argued that he had a defence based on Article 31(1),
- may apply to the Criminal Cases Review Commission with a view to his case being referred to the Court of Appeal by the Commission on the ground that he would have had a defence under this section had it been in force at the material time.
- (9) A person who—
- (a) was convicted in Scotland of an offence to which this section applies before the commencement of this section, but
 - (b) at no time during the proceedings for that offence argued that he had a defence based on Article 31(1),
- may apply to the Scottish Criminal Cases Review Commission with a view to his case being referred to the High Court of Justiciary by the Commission on the ground that he would have had a defence under this section had it been in force at the material time.
- (10) The Secretary of State may by order amend—
- (a) subsection (3), or
 - (b) subsection (4),
- by adding offences to those for the time being listed there.
- (11) Before making an order under subsection (10)(b), the Secretary of State must consult the Scottish Ministers.

Textual Amendments

F45 S. 31(3)(aa) substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), s. 14(2), [Sch. para. 10\(2\)](#)

F46 S. 31(4)(ba) substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), s. 14(2), [Sch. para. 10\(3\)](#)

Marginal Citations

M13 1981 c. 45.

Status:

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Changes to legislation:

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