



Immigration, Asylum and Nationality Act 2006

2006 CHAPTER 13

Appeals

F1 Variation of leave to enter or remain

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Textual Amendments

- F1** Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

Commencement Information

- I1** S. 1 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(1))

F2 Removal

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Textual Amendments

- F1** Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

Commencement Information

- I2** S. 2 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(1))

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F13 Grounds of appeal

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Textual Amendments

F1 Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

Commencement Information

I3 S. 3 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(1))

F14 Entry clearance

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Textual Amendments

F1 Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

Commencement Information

I4 S. 4 in force at 1.4.2008 by [S.I. 2008/310](#), art. 3(a) (with art. 4)

F15 Failure to provide documents

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Textual Amendments

F1 Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [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))

Commencement Information

I5 S. 5 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(1))

F16 Refusal of leave to enter

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Textual Amendments

F1 Ss. 1-6 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [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)

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(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))

Commencement Information

I6 S. 6 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(2))

7 Deportation

(1) After section 97 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals: national security) insert—

“97A National security: deportation

- (1) This section applies where the Secretary of State certifies that the decision to make a deportation order in respect of a person was taken on the grounds that his removal from the United Kingdom would be in the interests of national security.
- (2) Where this section applies—
- (a) section 79 shall not apply,
 - (b) the Secretary of State shall be taken to have certified the decision to make the deportation order under section 97, and
 - (c) for the purposes of section 2(5) of the Special Immigration Appeals Commission Act 1997 (c. 68) (appeals from within United Kingdom) it shall be assumed that section 92 of this Act—
 - (i) would not apply to an appeal against the decision to make the deportation order by virtue of section 92(2) to (3D),
 - (ii) would not apply to an appeal against that decision by virtue of section 92(4)(a) in respect of an asylum claim, and
 - (iii) would be capable of applying to an appeal against that decision by virtue of section 92(4)(a) in respect of a human rights claim unless the Secretary of State certifies that the removal of the person from the United Kingdom would not breach the United Kingdom's obligations under the Human Rights Convention.
- (3) A person in respect of whom a certificate is issued under subsection (2)(c) (iii) may appeal to the Special Immigration Appeals Commission against the issue of the certificate; and for that purpose the Special Immigration Appeals Commission Act 1997 shall apply as to an appeal against an immigration decision to which section 92 of this Act applies.
- (4) The Secretary of State may repeal this section by order.”

(2) In section 112 of that Act (regulations, &c.) after subsection (5A) insert—

“(5B) An order under section 97A(4)—

- (a) must be made by statutory instrument,
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
- (c) may include transitional provision.”

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Commencement Information

I7 S. 7 in force at 31.8.2006 by [S.I. 2006/2226](#), [art. 3](#), [Sch. 1](#)

8 Legal aid

- (1) Section 103D of the Nationality, Immigration and Asylum Act 2002 (c. 41) (reconsideration: legal aid) shall be amended as follows.
- (2) In subsection (2) for the words “where the Tribunal has decided an appeal following reconsideration pursuant to an order made” substitute “ where an order for reconsideration is made ”.
- (3) For subsection (3) substitute—
- “(3) The Tribunal may order payment out of that Fund of the appellant's costs—
- (a) in respect of the application for reconsideration;
- (b) in respect of preparation for reconsideration;
- (c) in respect of the reconsideration.”

Commencement Information

I8 S. 8 in force at 30.4.2007 by [S.I. 2007/1109](#), [art. 3](#)

9 Abandonment of appeal

For section 104(4) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (pending appeal: deemed abandonment) substitute—

- “(4) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant leaves the United Kingdom.
- (4A) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom (subject to subsections (4B) and (4C)).
- (4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground relating to the Refugee Convention specified in section 84(1)(g) where the appellant—
- (a) is granted leave to enter or remain in the United Kingdom for a period exceeding 12 months, and
- (b) gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.
- (4C) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground specified in section 84(1)(b) where the appellant gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.”

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Commencement Information

I9 S. 9 in force at 13.11.2006 by [S.I. 2006/2838](#), [art. 3](#)

10 Grants

Section 110(grants to advisory organisations) of the Nationality, Immigration and Asylum Act 2002 shall cease to have effect.

Commencement Information

I10 S. 10 in force at 16.6.2006 by [S.I. 2006/1497](#), [art. 3](#), [Sch.](#)

11 Continuation of leave

(1) Section 3C of the Immigration Act 1971 (c. 77) (continuation of leave to enter or remain pending variation decision) shall be amended as follows.

(2) In subsection (2)(b) (continuation pending possible appeal) after “could be brought” insert “, while the appellant is in the United Kingdom”.

(3) In subsection (2)(c) (continuation pending actual appeal) after “against that decision” insert “, brought while the appellant is in the United Kingdom,”.

(4) For subsection (6) (decision) substitute—

“(6) The Secretary of State may make regulations determining when an application is decided for the purposes of this section; and the regulations—

- (a) may make provision by reference to receipt of a notice,
- (b) may provide for a notice to be treated as having been received in specified circumstances,
- (c) may make different provision for different purposes or circumstances,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(5) After section 3C insert—

“3D Continuation of leave following revocation

(1) This section applies if a person's leave to enter or remain in the United Kingdom—

- (a) is varied with the result that he has no leave to enter or remain in the United Kingdom, or
- (b) is revoked.

(2) The person's leave is extended by virtue of this section during any period when—

- (a) an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 could be brought, while the person is in the United

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- Kingdom, against the variation or revocation (ignoring any possibility of an appeal out of time with permission), or
- (b) an appeal under that section against the variation or revocation, brought while the appellant is in the United Kingdom, is pending (within the meaning of section 104 of that Act).
- (3) A person's leave as extended by virtue of this section shall lapse if he leaves the United Kingdom.
- (4) A person may not make an application for variation of his leave to enter or remain in the United Kingdom while that leave is extended by virtue of this section.”

^{F2}(6)

Textual Amendments

F2 S. 11(6) repealed (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 60** table; 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))

Commencement Information

I11 S. 11 in force at 31.8.2006 by S.I. 2006/2226, art. 3, **Sch. 1** (with art. 4(3)-(5))

PROSPECTIVE

12 Asylum and human rights claims: definition

- (1) Section 113(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals: interpretation) shall be amended as follows.
- (2) For the definition of “asylum claim” substitute—
- “asylum claim—
- (a) means a claim made by a person that to remove him from or require him to leave the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention, but
- (b) does not include a claim which, having regard to a former claim, falls to be disregarded for the purposes of this Part in accordance with immigration rules,”.
- (3) For the definition of “human rights claim” substitute—
- “human rights claim—
- (a) means a claim made by a person that to remove him from or require him to leave the United Kingdom^{F3} or to refuse him entry into the United Kingdom] would be unlawful under section 6 of the Human Rights Act 1998 (c. 42) (public authority not to act contrary to Convention)^{F4} ..., but

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(b) does not include a claim which, having regard to a former claim, falls to be disregarded for the purposes of this Part in accordance with immigration rules.”.

Textual Amendments

- F3** Words in s. 12(3) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 57\(2\)\(a\)](#); [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))
- F4** Words in s. 12(3) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 57\(2\)\(b\)](#); [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))

PROSPECTIVE

^{F5}13 Appeal from within United Kingdom: certification of unfounded claim

Textual Amendments

- F5** [S. 13](#) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 57\(3\)](#); [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))

14 Consequential amendments

Schedule 1 (which makes amendments consequential on the preceding provisions of this Act) shall have effect.

Commencement Information

- I12** [S. 14](#) in force at 31.8.2006 for specified purposes by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

Employment

15 Penalty

- (1) It is contrary to this section to employ an adult subject to immigration control if—
- (a) he has not been granted leave to enter or remain in the United Kingdom, or
 - (b) his leave to enter or remain in the United Kingdom—
 - (i) is invalid,

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- (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing him from accepting the employment.
- (2) The Secretary of State may give an employer who acts contrary to this section a notice requiring him to pay a penalty of a specified amount not exceeding the prescribed maximum.
- (3) An employer is excused from paying a penalty if he shows that he complied with any prescribed requirements in relation to the employment.
- (4) But the excuse in subsection (3) shall not apply to an employer who knew, at any time during the period of the employment, that it was contrary to this section.
- (5) The Secretary of State may give a penalty notice without having established whether subsection (3) applies.
- (6) A penalty notice must—
- (a) state why the Secretary of State thinks the employer is liable to the penalty,
 - (b) state the amount of the penalty,
 - (c) specify a date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,
 - (d) specify how the penalty must be paid,
 - (e) explain how the employer may object to the penalty [^{F6}or make an appeal against it], and
 - (f) explain how the Secretary of State may enforce the penalty.
- (7) An order prescribing requirements for the purposes of subsection (3) may, in particular—
- (a) require the production to an employer of a document of a specified description;
 - (b) require the production to an employer of one document of each of a number of specified descriptions;
 - (c) require an employer to take specified steps to verify, retain, copy or record the content of a document produced to him in accordance with the order;
 - (d) require action to be taken before employment begins;
 - (e) require action to be taken at specified intervals or on specified occasions during the course of employment.

Textual Amendments

F6 Words in s. 15(6)(e) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 61](#); [S.I. 2014/1820](#), art. 3(cc)

Commencement Information

I13 S. 15 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), [art. 2\(a\)](#)

I14 S. 15 in force at 29.2.2008 in so far as not already in force by [S.I. 2008/310](#), [art. 2\(1\)\(a\)](#) (with [art. 5\(2\)](#))

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16 Objection

- (1) This section applies where an employer to whom a penalty notice is given objects on the ground that—
 - (a) he is not liable to the imposition of a penalty,
 - (b) he is excused payment by virtue of section 15(3), or
 - (c) the amount of the penalty is too high.
- (2) The employer may give a notice of objection to the Secretary of State.
- (3) A notice of objection must—
 - (a) be in writing,
 - (b) give the objector's reasons,
 - (c) be given in the prescribed manner, and
 - (d) be given before the end of the prescribed period.
- (4) Where the Secretary of State receives a notice of objection to a penalty he shall consider it and—
 - (a) cancel the penalty,
 - (b) reduce the penalty,
 - (c) increase the penalty, or
 - (d) determine to take no action.
- (5) Where the Secretary of State considers a notice of objection he shall—
 - (a) have regard to the code of practice under section 19 (in so far as the objection relates to the amount of the penalty),
 - (b) inform the objector of his decision before the end of the prescribed period or such longer period as he may agree with the objector,
 - (c) if he increases the penalty, issue a new penalty notice under section 15, and
 - (d) if he reduces the penalty, notify the objector of the reduced amount.

Commencement Information

I15 S. 16 in force at 5.11.2007 for specified purposes by S.I. 2007/3138, art. 2(b)

I16 S. 16 in force at 29.2.2008 in so far as not already in force by S.I. 2008/310, art. 2(1)(a) (with art. 5(2))

17 Appeal

- (1) An employer to whom a penalty notice is given may appeal to the court on the ground that—
 - (a) he is not liable to the imposition of a penalty,
 - (b) he is excused payment by virtue of section 15(3), or
 - (c) the amount of the penalty is too high.
- (2) The court may—
 - (a) allow the appeal and cancel the penalty,
 - (b) allow the appeal and reduce the penalty, or
 - (c) dismiss the appeal.

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- (3) An appeal shall be a re-hearing of the Secretary of State's decision to impose a penalty and shall be determined having regard to—
- (a) the code of practice under section 19 that has effect at the time of the appeal (in so far as the appeal relates to the amount of the penalty), and
 - (b) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware);
- and this subsection has effect despite any provision of rules of court.

[^{F7}(4A) An appeal may be brought only if the employer has given a notice of objection under section 16 and the Secretary of State—

- (a) has determined the objection by issuing to the employer the penalty notice (as a result of increasing the penalty under section 16(4)(c)),
- (b) has determined the objection by—
 - (i) reducing the penalty under section 16(4)(b), or
 - (ii) taking no action under section 16(4)(d), or
- (c) has not informed the employer of a decision before the end of the period that applies for the purposes of section 16(5)(b).

(4B) An appeal must be brought within the period of 28 days beginning with the relevant date.

(4C) Where the appeal is brought under subsection (4A)(a), the relevant date is the date specified in the penalty notice issued in accordance with section 16(5)(c) as the date on which it is given.

(4D) Where the appeal is brought under subsection (4A)(b), the relevant date is the date specified in the notice informing the employer of the decision for the purposes of section 16(5)(b) as the date on which it is given.

(4E) Where the appeal is brought under subsection (4A)(c), the relevant date is the date on which the period that applies for the purposes of section 16(5)(b) ends.]

- (6) In this section “the court” means—
- (a) where the employer has his principal place of business in England and Wales, [^{F8}the county court],
 - (b) where the employer has his principal place of business in Scotland, the sheriff, and
 - (c) where the employer has his principal place of business in Northern Ireland, a county court.

Textual Amendments

F7 S. 17(4A)-(4E) substituted for s. 17(4)(5) (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 44**, 75(3); [S.I. 2014/1820](#), **art. 3(p)** (with **art. 5**) (as amended by [SI 2014/2771](#), **art. 14**)

F8 Words in s. 17(6)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), **s. 61(3)**, **Sch. 9 para. 52**; [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

I17 S. 17 in force at 29.2.2008 by [S.I. 2008/310](#), **art. 2(1)(a)** (with **art. 5(2)**)

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18 Enforcement

- [^{F9}(1) This section applies where a sum is payable to the Secretary of State as a penalty under section 15.
- (1A) In England and Wales the penalty is recoverable as if it were payable under an order of the county court.
- (1B) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (1C) In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.
- (1D) Where action is taken under this section for the recovery of a sum payable as a penalty under section 15, the penalty is—
- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;
 - (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.]
- (3) Money paid to the Secretary of State by way of penalty shall be paid into the Consolidated Fund.

Textual Amendments

- F9** S. 18(1)-(1D) substituted for s. 18(1)(2) (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), [ss. 45, 75\(3\)](#); [S.I. 2014/1820](#), [art. 3\(q\)](#) (with [art. 6](#)) (as amended by [SI 2014/2771](#), [art. 14](#))

Commencement Information

- I18** S. 18 in force at 29.2.2008 by [S.I. 2008/310](#), [art. 2\(1\)\(a\)](#) (with [art. 5\(2\)](#))

19 Code of practice

- (1) The Secretary of State shall issue a code of practice specifying factors to be considered by him in determining the amount of a penalty imposed under section 15.
- (2) The code—
- (a) shall not be issued unless a draft has been laid before Parliament, and
 - (b) shall come into force in accordance with provision made by order of the Secretary of State.
- (3) The Secretary of State shall from time to time review the code and may revise and re-issue it following a review; and a reference in this section to the code includes a reference to the code as revised.

Commencement Information

- I19** S. 19 in force at 31.8.2006 by [S.I. 2006/2226](#), [art. 3](#), [Sch. 1](#)

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20 Orders

- (1) An order of the Secretary of State under section 15, 16 or 19—
 - (a) may make provision which applies generally or only in specified circumstances,
 - (b) may make different provision for different circumstances,
 - (c) may include transitional or incidental provision, and
 - (d) shall be made by statutory instrument.
- (2) An order under section 15(2) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (3) Any other order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I20 S. 20 in force at 5.11.2007 by S.I. 2007/3138, art. 2(c)

21 Offence

- (1) A person commits an offence if he employs another (“the employee”) knowing that the employee is [^{F10}disqualified from employment by reason of the employee's immigration status.]

[^{F11}(1A) A person commits an offence if the person—

- (a) employs another person (“the employee”) who is disqualified from employment by reason of the employee's immigration status, and
 - (b) has reasonable cause to believe that the employee is disqualified from employment by reason of the employee's immigration status.
- (1B) For the purposes of subsections (1) and (1A) a person is disqualified from employment by reason of the person's immigration status if the person is an adult subject to immigration control and—
- (a) the person has not been granted leave to enter or remain in the United Kingdom, or
 - (b) the person's leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing the person from accepting the employment.]

- (2) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding [^{F12}five] years,
 - (ii) to a fine, or
 - (iii) to both, or
- (b) on summary conviction—
 - (i) to imprisonment for a term not exceeding 12 months in England and Wales or 6 months in Scotland or Northern Ireland,

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- (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both.
- (3) An offence under this section shall be treated as—
- (a) a relevant offence for the purpose of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and
 - (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28E, 28G and 28H (search after arrest).
- (4) In relation to a conviction occurring before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' powers to imprison) the reference to 12 months in subsection (2)(b)(i) shall be taken as a reference to 6 months.

Textual Amendments

- F10** Words in s. 21(1) substituted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 35(2)**, 94(1); S.I. 2016/603, reg. 3(f)
- F11** S. 21(1A)(1B) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 35(3)**, 94(1); S.I. 2016/603, reg. 3(f)
- F12** Word in s. 21(2)(a)(i) substituted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 35(4)**, 94(1); S.I. 2016/603, reg. 3(f)

Commencement Information

- I21** S. 21 in force at 29.2.2008 by [S.I. 2008/310](#), **art. 2(1)(b)** (with [art. 5\(2\)](#))

22 Offence: bodies corporate, &c.

- (1) For the purposes of section 21(1) a body (whether corporate or not) shall be treated as knowing a fact about an employee if a person who has responsibility within the body for an aspect of the employment knows the fact.

[^{F13}(1A) For the purposes of section 21(1A) a body (whether corporate or not) shall be treated as having reasonable cause to believe a fact about an employee if a person who has responsibility within the body for an aspect of the employment has reasonable cause to believe that fact.]

- (2) If an offence under section 21(1) [^{F14}or (1A)] is committed by a body corporate with the consent or connivance of an officer of the body, the officer, as well as the body, shall be treated as having committed the offence.
- (3) In subsection (2) a reference to an officer of a body includes a reference to—
- (a) a director, manager or secretary,
 - (b) a person purporting to act as a director, manager or secretary, and
 - (c) if the affairs of the body are managed by its members, a member.
- (4) Where an offence under section 21(1) [^{F15}or (1A)] is committed by a partnership (whether or not a limited partnership) subsection (2) above shall have effect, but as if a reference to an officer of the body were a reference to—
- (a) a partner, and
 - (b) a person purporting to act as a partner.

Status: Point in time view as at 01/12/2016. This version of this Act contains provisions that are prospective.
Changes to legislation: Immigration, Asylum and Nationality Act 2006 is up to date with all changes known to be in force on or before 22 August 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)

Textual Amendments

- F13** S. 22(1A) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 35(6)**, 94(1); S.I. 2016/603, reg. 3(f)
- F14** Words in s. 22(2) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 35(7)**, 94(1); S.I. 2016/603, reg. 3(f)
- F15** Words in s. 22(4) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 35(7)**, 94(1); S.I. 2016/603, reg. 3(f)

Commencement Information

- I22** S. 22 in force at 29.2.2008 by [S.I. 2008/310](#), **art. 2(1)(b)** (with [art. 5\(2\)](#))

23 Discrimination: code of practice

- (1) The Secretary of State shall issue a code of practice specifying what an employer should or should not do in order to ensure that, while avoiding liability to a penalty under section 15 and while avoiding the commission of an offence under section 21, he also avoids contravening—
 - (a) [^{F16}the Equality Act 2010, so far as relating to race], or
 - (b) the Race Relations (Northern Ireland) Order 1997 (S.I. 869 (N.I. 6)).
- (2) Before issuing the code the Secretary of State shall—
 - (a) consult—
 - (i) the Commission for Equality and Human Rights,
 - (ii) the Equality Commission for Northern Ireland,
 - (iii) such bodies representing employers as he thinks appropriate, and
 - (iv) such bodies representing workers as he thinks appropriate,
 - (b) publish a draft code (after that consultation),
 - (c) consider any representations made about the published draft, and
 - (d) lay a draft code before Parliament (after considering representations under paragraph (c) and with or without modifications to reflect the representations).
- (3) The code shall come into force in accordance with provision made by order of the Secretary of State; and an order—
 - (a) may include transitional provision,
 - (b) shall be made by statutory instrument, and
 - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A breach of the code—
 - (a) shall not make a person liable to civil or criminal proceedings, but
 - (b) may be taken into account by a court or tribunal.
- (5) The Secretary of State shall from time to time review the code and may revise and re-issue it following a review; and a reference in this section to the code includes a reference to the code as revised.
- (6) Until the dissolution of the Commission for Racial Equality, the reference in subsection (2)(a)(i) to the Commission for Equality and Human Rights shall be treated as a reference to the Commission for Racial Equality.

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Textual Amendments

F16 Words in s. 23(1)(a) substituted by 2010 c. 15, Sch. 26 Pt. 1 para. 86 (as inserted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010](#) (S.I. 2010/2279), art. 1(2), [Sch. 1 para. 6](#)) (see S.I. 2010/2317, art. 2)

Commencement Information

I23 S. 23 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

24 Temporary admission, &c.

Where a person is at large in the United Kingdom by virtue of paragraph 21(1) of Schedule 2 to the Immigration Act 1971 (c. 77) (temporary admission or release from detention)—

- (a) he shall be treated for the purposes of sections 15(1) and ^{F17}21(1B)] as if he had been granted leave to enter the United Kingdom, and
- (b) any restriction as to employment imposed under paragraph 21(2) shall be treated for those purposes as a condition of leave.

Textual Amendments

F17 Word in s. 24(a) substituted (12.7.2016) by [Immigration Act 2016](#) (c. 19), [ss. 35\(8\)](#), 94(1); [S.I. 2016/603](#), reg. 3(f)

Commencement Information

I24 S. 24 in force at 29.2.2008 by [S.I. 2008/310](#), [art. 2\(1\)\(c\)](#) (with [art. 5\(2\)](#))

25 Interpretation

In sections 15 to 24—

- (a) “adult” means a person who has attained the age of 16,
- (b) a reference to employment is to employment under a contract of service or apprenticeship, whether express or implied and whether oral or written,
- (c) a person is subject to immigration control if under the Immigration Act 1971 he requires leave to enter or remain in the United Kingdom, and
- (d) “prescribed” means prescribed by order of the Secretary of State.

Modifications etc. (not altering text)

C1 [S. 25](#) excluded (8.2.2008) by [Immigration, Asylum and Nationality Act 2006 \(Commencement No.8 and Transitional and Saving Provisions\) Order 2008](#) (S.I. 2008/310), [art. 5\(2\)](#)

Commencement Information

I25 [S. 25](#) in force at 5.11.2007 by [S.I. 2007/3138](#), [art. 2\(c\)](#)

Status: Point in time view as at 01/12/2016. This version of this Act contains provisions that are prospective.
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26 Repeal

Sections 8 and 8A of the Asylum and Immigration Act 1996 (c. 49) (restrictions on employment) shall cease to have effect.

Commencement Information

I26 S. 26 in force at 29.2.2008 by S.I. 2008/310, art. 2(1)(d) (with art. 5(1)(2))

Information

27 Documents produced or found

(1) For paragraph 4(4) of Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry: documents) substitute—

“(4) Where a passport or other document is produced or found in accordance with this paragraph an immigration officer may examine it and detain it—

- (a) for the purpose of examining it, for a period not exceeding 7 days;
- (b) for any purpose, until the person to whom the document relates is given leave to enter the United Kingdom or is about to depart or be removed following refusal of leave or until it is decided that the person does not require leave to enter;
- (c) after a time described in paragraph (b), while the immigration officer thinks that the document may be required in connection with proceedings in respect of an appeal under the Immigration Acts or in respect of an offence.

(5) For the purpose of ascertaining that a passport or other document produced or found in accordance with this paragraph relates to a person examined under paragraph 2, 2A or 3 above, the person carrying out the examination may require the person being examined to provide information (whether or not by submitting to a process by means of which information is obtained or recorded) about his external physical characteristics (which may include, in particular, fingerprints or features of the iris or any other part of the eye).”

(2) Paragraph 4(2A) of that Schedule shall cease to have effect.

Modifications etc. (not altering text)

- C2** S. 27 extended (with modifications) (Jersey) (coming into force in accordance with art. 1(1)) by [The Immigration \(Jersey\) Order 2015 \(S.I. 2015/1532\)](#), art. 2(1), **Sch. 1**
- C3** S. 27 extended (with modifications) (Guernsey) (coming into force in accordance with art. 1) by [The Immigration \(Guernsey\) Order 2015 \(S.I. 2015/1533\)](#), art. 4, **Sch. 1**

Commencement Information

I27 S. 27 in force at 31.8.2006 by S.I. 2006/2226, art. 3, **Sch. 1** (with art. 4(6)(7))

Status: Point in time view as at 01/12/2016. This version of this Act contains provisions that are prospective.
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28 Fingerprinting

- (1) Section 141 of the Immigration and Asylum Act 1999 (c. 33) (fingerprinting) shall be amended as follows.
- (2) In subsection (7)(d) for “arrested under paragraph 17 of Schedule 2 to the 1971 Act;” substitute “detained under paragraph 16 of Schedule 2 to the 1971 Act or arrested under paragraph 17 of that Schedule;”.
- (3) In subsection (8)(d) for “arrest;” substitute “detention or arrest;”.
- (4) At the end add—
“(17) Section 157(1) applies to this section (in so far as it relates to removal centres by virtue of subsection (5)(e)) as it applies to Part VIII.”

Commencement Information

I28 S. 28 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

29 Attendance for fingerprinting

For section 142(2) of the Immigration and Asylum Act 1999 (c. 33) (attendance for fingerprinting: timing) substitute—

- “(2) In the case of a notice given to a person of a kind specified in section 141(7)(a) to (d) or (f) (in so far as it applies to a dependant of a person of a kind specified in section 141(7)(a) to (d)), the notice—
 - (a) must require him to attend during a specified period of at least seven days beginning with a day not less than seven days after the date given in the notice as its date of issue, and
 - (b) may require him to attend at a specified time of day or during specified hours.
- (2A) In the case of a notice given to a person of a kind specified in section 141(7)(e) or (f) (in so far as it applies to a dependant of a person of a kind specified in section 141(7)(e)), the notice—
 - (a) may require him to attend during a specified period beginning with a day not less than three days after the date given in the notice as its date of issue,
 - (b) may require him to attend on a specified day not less than three days after the date given in the notice as its date of issue, and
 - (c) may require him to attend at a specified time of day or during specified hours.”

Commencement Information

I29 S. 29 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

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30 Proof of right of abode

For section 3(9) of the Immigration Act 1971 (c. 77) (proof of right of abode) substitute—

- “(9) A person seeking to enter the United Kingdom and claiming to have the right of abode there shall prove it by means of—
- (a) a United Kingdom passport describing him as a British citizen,
 - (b) a United Kingdom passport describing him as a British subject with the right of abode in the United Kingdom,
 - (c) an ID card issued under the Identity Cards Act 2006 describing him as a British citizen,
 - (d) an ID card issued under that Act describing him as a British subject with the right of abode in the United Kingdom, or
 - (e) a certificate of entitlement.”

Commencement Information

I30 S. 30 in force at 16.6.2006 by [S.I. 2006/1497](#), art. 3, [Sch.](#)

31 Provision of information to immigration officers

- (1) Schedule 2 to the Immigration Act 1971 (controls on entry: administration) shall be amended as follows.
- (2) In paragraph 27 (provision of passenger lists, &c.) for sub-paragraph (2) substitute—
 - “(2) The Secretary of State may by order require, or enable an immigration officer to require, a responsible person in respect of a ship or aircraft to supply—
 - (a) a passenger list showing the names and nationality or citizenship of passengers arriving or leaving on board the ship or aircraft;
 - (b) particulars of members of the crew of the ship or aircraft.
 - (3) An order under sub-paragraph (2) may relate—
 - (a) to all ships or aircraft arriving or expected to arrive in the United Kingdom;
 - (b) to all ships or aircraft leaving or expected to leave the United Kingdom;
 - (c) to ships or aircraft arriving or expected to arrive in the United Kingdom from or by way of a specified country;
 - (d) to ships or aircraft leaving or expected to leave the United Kingdom to travel to or by way of a specified country;
 - (e) to specified ships or specified aircraft.
 - (4) For the purposes of sub-paragraph (2) the following are responsible persons in respect of a ship or aircraft—
 - (a) the owner or agent, and
 - (b) the captain.
 - (5) An order under sub-paragraph (2)—
 - (a) may specify the time at which or period during which information is to be provided,

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- (b) may specify the form and manner in which information is to be provided,
 - (c) shall be made by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In paragraph 27B (passenger information)—
 - (a) in each place after “passenger information” insert “ or service information ”, and
 - (b) after sub-paragraph (9) insert—
 - “(9A) “Service information” means such information relating to the voyage or flight undertaken by the ship or aircraft as may be specified.”
- (4) In section 27 of the Immigration Act 1971 (c. 77) (offences)—
 - (a) in paragraph (b)(iv) for “the requirements of paragraph 27B or 27C of Schedule 2” substitute “ a requirement imposed by or under Schedule 2 ”, and
 - (b) in paragraph (c) omit “as owner or agent of a ship or aircraft or”.

Modifications etc. (not altering text)

- C4** S. 31 extended (Guernsey) (with modifications) (12.10.2011) by [The Immigration \(Guernsey\) Order 2011 \(S.I. 2011/2444\)](#), arts. 1, 4, **Sch. 1**
- C5** S. 31 extended in part (Jersey) (with modifications) (coming into force in accordance with art. 1(1)) by [The Immigration \(Jersey\) Order 2012 \(S.I. 2012/1763\)](#), arts. 1(1), 2, **Sch. 1** (as amended (coming into force in accordance with art. 1 of the amending S.I.) by [The Immigration \(Jersey\) \(Amendment\) Order 2017 \(S.I. 2017/981\)](#), **Sch. Pt. 3** (with art. 6))

Commencement Information

- I31** S. 31 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), **art. 2(d)**
- I32** S. 31 in force at 1.3.2008 in so far as not already in force by [S.I. 2007/3138](#), **art. 3(b)**

32 Passenger and crew information: police powers

- (1) This section applies to ships and aircraft which are—
 - (a) arriving, or expected to arrive, in the United Kingdom, or
 - (b) leaving, or expected to leave, the United Kingdom.
- (2) The owner or agent of a ship or aircraft shall comply with any requirement imposed by a constable of the rank of superintendent or above to provide passenger or service information.
- (3) A passenger or member of crew shall provide to the owner or agent of a ship or aircraft any information that he requires for the purpose of complying with a requirement imposed by virtue of subsection (2).
- (4) A constable may impose a requirement under subsection (2) only if he thinks it necessary—
 - (a) in the case of a constable in England, Wales or Northern Ireland, for police purposes, or
 - (b) in the case of a constable in Scotland, for police purposes which are or relate to reserved matters.

Status: Point in time view as at 01/12/2016. This version of this Act contains provisions that are prospective.
Changes to legislation: *Immigration, Asylum and Nationality Act 2006 is up to date with all changes known to be in force on or before 22 August 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)*

- (5) In this section—
- (a) “passenger or service information” means information which is of a kind specified by order of the Secretary of State and which relates to—
 - (i) passengers,
 - (ii) members of crew, or
 - (iii) a voyage or flight,
 - (b) “police purposes” has the meaning given by section 21(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure by Secretary of State), and
 - (c) “reserved matters” has the same meaning as in the Scotland Act 1998 (c. 46).
- (6) A requirement imposed under subsection (2)—
- (a) must be in writing,
 - (b) may apply generally or only to one or more specified ships or aircraft,
 - (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect,
 - (d) must state—
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided.
 - ^{F18}(e) may include a requirement for the owner or agent of a ship or aircraft to be able to receive, in a specified form and manner, communications relating to the information.]
- (7) The Secretary of State may make an order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).
- (8) An order under subsection (5)(a)—
- (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) may specify the form and manner in which information is to be provided,
 - (d) shall be made by statutory instrument, and
 - (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F18 S. 32(6)(e) inserted (12.2.2015) by [Counter-Terrorism and Security Act 2015 \(c. 6\)](#), s. 52(5), **Sch. 5 para. 6**

Modifications etc. (not altering text)

- C6** S. 32 modified by SI 1993/1813, Sch. 4 para. 3A(a) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, **2(4)**)
- C7** S. 32 extended (Guernsey) (with modifications) (12.10.2011) by [The Immigration \(Guernsey\) Order 2011 \(S.I. 2011/2444\)](#), arts. 1, 4, **Sch. 1**
- C8** S. 32 extended in part (Jersey) (with modifications) (coming into force in accordance with art. 1(1)) by [The Immigration \(Jersey\) Order 2012 \(S.I. 2012/1763\)](#), arts. 1(1), 2, **Sch. 1**

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Commencement Information

- I33** S. 32 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), [art. 2\(e\)](#)
I34 S. 32 in force at 1.3.2008 in so far as not already in force by [S.I. 2007/3138](#), [art. 3\(b\)](#)

[^{F19}32A Regulations requiring information to be provided to police

- (1) The Secretary of State may make regulations requiring responsible persons in relation 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,to provide information to the police.
- (2) The following information may be required under subsection (1)—
 - (a) information about the persons on board;
 - (b) information about the voyage or flight.
- (3) Regulations may impose a requirement to provide the information only if the Secretary of State thinks it necessary—
 - (a) in the case of a requirement to provide information to the police in England and Wales, for police purposes;
 - (b) in the case of a requirement to provide information to the police in Scotland, for police purposes which are or relate to reserved matters (within the meaning of the Scotland Act 1998);
 - (c) in the case of a requirement to provide information to the police in Northern Ireland, for police purposes which are or relate to excepted or reserved matters (within the meaning of the Northern Ireland Act 1998).

In this subsection “ police purposes ” has the same meaning as in section 32.

- (4) The regulations must—
 - (a) specify or describe the classes of ships or aircraft to which they apply;
 - (b) specify the information required to be provided;
 - (c) specify the time by which the information must be provided;
 - (d) specify the form and manner in which the information must be provided.
- (5) The regulations may require responsible persons to be able to receive, in a specified form and manner, communications sent by the police, the Secretary of State or an immigration officer relating to the information.
- (6) Regulations under this section—
 - (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) shall be made by statutory instrument, and
 - (d) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (7) For the purposes of this section, the following are responsible persons in respect of a ship or aircraft—
 - (a) the owner or agent, and
 - (b) the captain.

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Textual Amendments

F19 Ss. 32A, 32B inserted (12.2.2015) by [Counter-Terrorism and Security Act 2015 \(c. 6\)](#), s. 52(5), [Sch. 5 para. 7](#)

32B Penalty for breach of section 32 or 32A

- (1) The Secretary of State may make regulations imposing penalties for failure to comply with a requirement imposed—
 - (a) under section 32(2) (provision of passenger, crew or service information), or
 - (b) by regulations made under section 32A (regulations requiring information to be provided to police).
- (2) Regulations under subsection (1) may in particular make provision—
 - (a) about how a penalty is to be calculated;
 - (b) about the procedure for imposing a penalty;
 - (c) about the enforcement of penalties;
 - (d) allowing for an appeal against a decision to impose a penalty;
 and the regulations may make different provision for different purposes.
- (3) Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.
- (4) The regulations must provide that no penalty may be imposed on a person for failure to comply with a requirement imposed under section 32(2) or by regulations made under section 32A where—
 - (a) proceedings have been instituted against the person under section 34 in respect of the same failure, or
 - (b) the failure consists of a failure to provide information that the person has also been required to provide under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971 and—
 - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under paragraph 27BB of that Schedule, or
 - (ii) proceedings have been instituted against the person under section 27 of that Act in respect of a failure to provide that information, or
 - (c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 24 of that Act.
- (5) Any penalty paid by virtue of this section must be paid into the Consolidated Fund.
- (6) Regulations under this section—
 - (a) must be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.]

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Textual Amendments

F19 Ss. 32A, 32B inserted (12.2.2015) by [Counter-Terrorism and Security Act 2015 \(c. 6\), s. 52\(5\), Sch. 5 para. 7](#)

33 Freight information: police powers

- (1) This section applies to ships, aircraft and vehicles which are—
 - (a) arriving, or expected to arrive, in the United Kingdom, or
 - (b) leaving, or expected to leave, the United Kingdom.
- (2) If a constable of the rank of superintendent or above requires a person specified in subsection (3) to provide freight information he shall comply with the requirement.
- (3) The persons referred to in subsection (2) are—
 - (a) in the case of a ship or aircraft, the owner or agent,
 - (b) in the case of a vehicle, the owner or hirer, and
 - (c) in any case, persons responsible for the import or export of the freight into or from the United Kingdom.
- (4) A constable may impose a requirement under subsection (2) only if he thinks it necessary—
 - (a) in the case of a constable in England, Wales or Northern Ireland, for police purposes, or
 - (b) in the case of a constable in Scotland, for police purposes which are or relate to reserved matters.
- (5) In this section—
 - (a) “freight information” means information which is of a kind specified by order of the Secretary of State and which relates to freight carried,
 - (b) “police purposes” has the meaning given by section 21(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure by Secretary of State), and
 - (c) “reserved matters” has the same meaning as in the Scotland Act 1998 (c. 46).
- (6) A requirement imposed under subsection (2)—
 - (a) must be in writing,
 - (b) may apply generally or only to one or more specified ships, aircraft or vehicles,
 - (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect, and
 - (d) must state—
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided.
- (7) The Secretary of State may make an order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).
- (8) An order under subsection (5)(a)—

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- (a) may apply generally or only to specified cases or circumstances,
- (b) may make different provision for different cases or circumstances,
- (c) may specify the form and manner in which the information is to be provided,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I35 S. 33 in force at 1.4.2008 for specified purposes by [S.I. 2008/310](#), [art. 3\(b\)](#)

34 Offence

- (1) A person commits an offence if without reasonable excuse he fails to comply with a requirement ^[F20]imposed—
- (a) under section 32(2) or (3) or 33(2), or
 - (b) by regulations made under section 32A].

^[F21](1A) Proceedings may not be instituted against a person under subsection (1) for a failure to comply with a requirement imposed under section 32(2) or by regulations made under section 32A where—

- (a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of regulations made under—
 - (i) section 32B,
 - (ii) paragraph 27BB of Schedule 2 to the Immigration Act 1971, or
 - (iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or
- (b) proceedings have been instituted against the person under section 27 of the Immigration Act 1971 in respect of a failure to provide the same information.]

(2) But—

- (a) a person who fails without reasonable excuse to comply with a requirement imposed under section 32(2) or 33(2) by a constable in England and Wales or Northern Ireland otherwise than in relation to a reserved matter (within the meaning of the Scotland Act 1998 (c. 46)) shall not be treated as having committed the offence in Scotland (but has committed the offence in England and Wales or Northern Ireland), and
- (b) a person who fails without reasonable excuse to comply with a requirement which is imposed under section 32(3) for the purpose of complying with a requirement to which paragraph (a) applies—
 - (i) shall not be treated as having committed the offence in Scotland, but
 - (ii) shall be treated as having committed the offence in England and Wales or Northern Ireland^[F22], and
- (c) where a person fails without reasonable excuse to comply with a requirement imposed by regulations made under section 32A to provide information to the police in England and Wales—
 - (i) if the required information does not relate to a reserved matter (within the meaning of the Scotland Act 1998), the person shall not be treated

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- as having committed the offence in Scotland (but has committed the offence in England and Wales);
- (ii) if the required information does not relate to an excepted or reserved matter (within the meaning of the Northern Ireland Act 1998), the person shall not be treated as having committed the offence in Northern Ireland (but has committed the offence in England and Wales).]
- (3) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding 51 weeks in England and Wales or 6 months in Scotland or Northern Ireland,
- (b) a fine not exceeding level 4 on the standard scale, or
- (c) both.
- (4) In relation to a conviction occurring before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference to 51 weeks in subsection (2)(a) shall be taken as a reference to three months.

Textual Amendments

- F20** Words in s. 34(1) substituted (12.2.2015) by [Counter-Terrorism and Security Act 2015 \(c. 6\), s. 52\(5\), Sch. 5 para. 8\(2\)](#)
- F21** S. 34(1A) inserted (12.2.2015) by [Counter-Terrorism and Security Act 2015 \(c. 6\), s. 52\(5\), Sch. 5 para. 8\(3\)](#)
- F22** S. 34(2)(c) inserted (12.2.2015) by [Counter-Terrorism and Security Act 2015 \(c. 6\), s. 52\(5\), Sch. 5 para. 8\(4\)](#)

Modifications etc. (not altering text)

- C9** S. 34 modified by SI 1993/1813, Sch. 4 para. 3A(b) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, [2\(4\)](#))
- C10** S. 34 extended (Guernsey) (with modifications) (12.10.2011) by [The Immigration \(Guernsey\) Order 2011 \(S.I. 2011/2444\)](#), arts. 1, 4, [Sch. 1](#)
- C11** S. 34 extended in part (Jersey) (with modifications) (coming into force in accordance with art. 1(1)) by [The Immigration \(Jersey\) Order 2012 \(S.I. 2012/1763\)](#), arts. 1(1), 2, [Sch. 1](#)

Commencement Information

- I36** S. 34 in force at 1.3.2008 by [S.I. 2007/3138, art. 3\(a\)](#)

35 Power of Revenue and Customs to obtain information

In section 35(2) and (3) of the Customs and Excise Management Act 1979 (c. 2) (arrivals in the United Kingdom) after “arriving” insert “, or expected to arrive,”.

Commencement Information

- I37** S. 35 in force at 1.3.2008 by [S.I. 2007/3138, art. 3\(a\)](#)

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36 Duty to share information

- (1) This section applies to—
 - [^{F23}(a) designated customs officials,
 - (aa) immigration officers,
 - (ab) the Secretary of State in so far as the Secretary of State has general customs functions,
 - (ac) the Secretary of State in so far as the Secretary of State has functions relating to immigration, asylum or nationality,
 - (ad) the Director of Border Revenue and any person exercising functions of the Director,]
 - (b) a chief officer of police, and
 - (c) Her Majesty's Revenue and Customs.
- (2) The persons specified in subsection (1) shall share information to which subsection (4) applies and which is obtained or held by them in the course of their functions to the extent that the information is likely to be of use for—
 - (a) immigration purposes,
 - (b) police purposes, or
 - (c) Revenue and Customs purposes.
- (3) But a chief officer of police in Scotland shall share information under subsection (2) only to the extent that it is likely to be of use for—
 - (a) immigration purposes,
 - (b) police purposes, in so far as they are or relate to reserved matters within the meaning of the Scotland Act 1998, or
 - (c) Revenue and Customs purposes other than the prosecution of crime.
- (4) This subsection applies to information which—
 - (a) is obtained or held in the exercise of a power specified by the Secretary of State and the Treasury jointly by order and relates to—
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,
 - (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, or
 - (b) relates to such other matters in respect of travel or freight as the Secretary of State and the Treasury may jointly specify by order.
- (5) The Secretary of State and the Treasury may make an order under subsection (4) which has the effect of requiring information to be shared only if satisfied that—
 - (a) the sharing is likely to be of use for—
 - (i) immigration purposes,
 - (ii) police purposes, or
 - (iii) Revenue and Customs purposes, and
 - (b) the nature of the information is such that there are likely to be circumstances in which it can be shared under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).
- (6) Information shared in accordance with subsection (2)—
 - (a) shall be made available to each of the persons [^{F24}or descriptions of persons] specified in subsection (1), and

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- (b) may be used for immigration purposes, police purposes or Revenue and Customs purposes (regardless of its source).
- (7) An order under subsection (4) may not specify—
- (a) a power of Her Majesty's Revenue and Customs if or in so far as it relates to a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (former Inland Revenue matters) applies, or
- (b) a matter to which that section applies.
- (8) An order under subsection (4)—
- (a) shall be made by statutory instrument, and
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (9) In this section—
- “chief officer of police” means—
- (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c. 16),
- (b) in Scotland, the chief constable of [^{F25}the Police Service of Scotland], and
- (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland,
- “immigration purposes” has the meaning given by section 20(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure to Secretary of State),
- “police purposes” has the meaning given by section 21(3) of that Act (disclosure by Secretary of State), and
- “Revenue and Customs purposes” means those functions of Her Majesty's Revenue and Customs specified in section 21(6) of that Act.
- [^{F26}“designated customs official” and “general customs function” have the meanings given by Part 1 of the Borders, Citizenship and Immigration Act 2009,]
- (10) This section has effect despite any restriction on the purposes for which information may be disclosed or used.

Textual Amendments

- F23** S. 36 (1)(a)-(ad) substituted for s.36 (1)(a) (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 21(1), 58(1)** (with s. 36(4))
- F24** Words in s. 36(6)(a) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 21(2), 58(1)** (with s. 36(4))
- F25** Words in s. 36(9) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 50(2)**
- F26** Words in s. 36(9) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 21(3), 58(1)** (with s. 36(4))

Modifications etc. (not altering text)

- C12** S. 36 modified by SI 1993/1813, Sch. 4 para. 3A(c) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, **2(4)**)

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Commencement Information

- I38** S. 36 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), [art. 2\(f\)](#)
I39 S. 36 in force at 1.3.2008 in so far as not already in force by [S.I. 2007/3138](#), [art. 3\(b\)](#)

37 Information sharing: code of practice

- (1) The Secretary of State and the Treasury shall jointly issue one or more codes of practice about—
- the use of information shared in accordance with section 36(2), and
 - the extent to which, or form or manner in which, shared information is to be made available in accordance with section 36(6).
- (2) A code—
- shall not be issued unless a draft has been laid before Parliament, and
 - shall come into force in accordance with provision made by order of the Secretary of State and the Treasury jointly.
- (3) The Secretary of State and the Treasury shall jointly from time to time review a code and may revise and re-issue it following a review; and subsection (2) shall apply to a revised code.
- (4) An order under subsection (2)—
- shall be made by statutory instrument, and
 - shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

- C13** S. 37 modified by SI 1993/1813, Sch. 4 para. 3A(d) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), [arts. 1, 2\(4\)](#))

Commencement Information

- I40** S. 37 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), [art. 2\(g\)](#)
I41 S. 37 in force at 1.3.2008 in so far as not already in force by [S.I. 2007/3138](#), [art. 3\(b\)](#)

^{F27}38 Disclosure of information for security purposes

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Textual Amendments

- F27** S. 38 repealed (24.12.2008) by [Counter-Terrorism Act 2008 \(c. 28\)](#), s. 100(5), Sch. 1 para. 4, [Sch. 9 Pt. 2](#) (with s. 101(2)); [S.I. 2008/3296](#), [art. 2](#)

Commencement Information

- I42** S. 38 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), [art. 2\(h\)](#)
I43 S. 38 in force at 1.3.2008 in so far as not already in force by [S.I. 2007/3138](#), [art. 3\(b\)](#)

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39 Disclosure to law enforcement agencies

- (1) A chief officer of police may disclose information obtained in accordance with section 32 or 33 to—
- (a) the States of Jersey police force;
 - (b) the salaried police force of the Island of Guernsey;
 - (c) the Isle of Man constabulary;
 - (d) any other foreign law enforcement agency.
- (2) In subsection (1) “foreign law enforcement agency” means a person outside the United Kingdom with functions similar to functions of—
- (a) a police force in the United Kingdom, or
 - (b) the [^{F28}National Crime Agency].
- (3) In subsection (1) “chief officer of police” means—
- (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996,
 - (b) in Scotland, the chief constable of [^{F29}the Police Service of Scotland], and
 - (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.

Textual Amendments

- F28** Words in s. 39(2)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 8 para. 186](#); [S.I. 2013/1682, art. 3\(v\)](#)
- F29** Words in s. 39(3)(b) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\), art. 1\(2\), Sch. 2 para. 50\(3\)](#)

Modifications etc. (not altering text)

- C14** S. 39 modified by [SI 1993/1813, Sch. 4 para. 3A\(f\)](#) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\), arts. 1, 2\(4\)](#))
- C15** S. 39 extended (Guernsey) (with modifications) (12.10.2011) by [The Immigration \(Guernsey\) Order 2011 \(S.I. 2011/2444\), arts. 1, 4, Sch. 1](#)
- C16** S. 39 extended in part (Jersey) (with modifications) (coming into force in accordance with art.1(1)) by [The Immigration \(Jersey\) Order 2012 \(S.I. 2012/1763\), arts. 1\(1\), 2, Sch. 1](#)

Commencement Information

- I44** S. 39 in force at 1.3.2008 by [S.I. 2007/3138, art. 3\(a\)](#)

40 Searches: contracting out

- (1) An authorised person may, in accordance with arrangements made under this section, search a searchable ship, aircraft, vehicle or other thing for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine under paragraph 2 of Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry: administrative provisions).
- (2) For the purposes of subsection (1)—
- (a) “authorised” means authorised for the purpose of this section by the Secretary of State, and

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- (b) a ship, aircraft, vehicle or other thing is “searchable” if an immigration officer could search it under paragraph 1(5) of that Schedule.
- (3) The Secretary of State may authorise a specified class of constable for the purpose of this section.
- (4) The Secretary of State may, with the consent of the Commissioners for Her Majesty's Revenue and Customs, authorise a specified class of officers of Revenue and Customs for the purpose of this section.
- (5) The Secretary of State may authorise a person other than a constable or officer of Revenue and Customs for the purpose of this section only if—
 - (a) the person applies to be authorised, and
 - (b) the Secretary of State thinks that the person is—
 - (i) fit and proper for the purpose, and
 - (ii) suitably trained.
- (6) The Secretary of State—
 - (a) may make arrangements for the exercise by authorised constables of the powers under subsection (1),
 - (b) may make arrangements with the Commissioners for Her Majesty's Revenue and Customs for the exercise by authorised officers of Revenue and Customs of the powers under subsection (1), and
 - (c) may make arrangements with one or more persons for the exercise by authorised persons other than constables and officers of Revenue and Customs of the power under subsection (1).
- (7) Where in the course of a search under this section an authorised person discovers an individual whom he thinks an immigration officer might wish to examine under paragraph 2 of that Schedule, the authorised person may—
 - (a) search the individual for the purpose of discovering whether he has with him anything of a kind that might be used—
 - (i) by him to cause physical harm to himself or another,
 - (ii) by him to assist his escape from detention, or
 - (iii) to establish information about his identity, nationality or citizenship or about his journey;
 - (b) retain, and as soon as is reasonably practicable deliver to an immigration officer, anything of a kind described in paragraph (a) found on a search under that paragraph;
 - (c) detain the individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of an immigration officer to whom the individual is to be delivered;
 - (d) take the individual, as speedily as is reasonably practicable, to a place for the purpose of delivering him to an immigration officer there;
 - (e) use reasonable force for the purpose of doing anything under paragraphs (a) to (d).
- (8) Despite the generality of subsection (7)—
 - (a) an individual searched under that subsection may not be required to remove clothing other than an outer coat, a jacket or a glove (but he may be required to open his mouth), and

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- (b) an item may not be retained under subsection (7)(b) if it is subject to legal privilege—
 - (i) in relation to a search carried out in England and Wales, within the meaning of the Police and Criminal Evidence Act 1984 (c. 60),
 - (ii) in relation to a search carried out in Scotland, within the meaning of section 412 of the Proceeds of Crime Act 2002 (c. 29), and
 - (iii) in relation to a search carried out in Northern Ireland, within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

Modifications etc. (not altering text)

C17 S. 40 extended by SI 2003/2818, art. 11(1)(g) (as inserted (E.W.S.) (18.11.2006) by [Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) \(Amendment\) Order 2006 \(S.I. 2006/2908\)](#), arts. 1, [2\(a\)](#))

Commencement Information

I45 S. 40 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

41 Section 40: supplemental

- (1) Arrangements under section 40(6)(c) must include provision for the appointment of a Crown servant to—
 - (a) monitor the exercise of powers under that section by authorised persons (other than constables or officers of Revenue and Customs),
 - (b) inspect from time to time the way in which the powers are being exercised by authorised persons (other than constables or officers of Revenue and Customs), and
 - (c) investigate and report to the Secretary of State about any allegation made against an authorised person (other than a constable or officer of Revenue and Customs) in respect of anything done or not done in the purported exercise of a power under that section.
- (2) The authorisation for the purpose of section 40 of a constable or officer of Revenue and Customs or of a class of constable or officer of Revenue and Customs—
 - (a) may be revoked, and
 - (b) shall have effect, unless revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.
- (3) The authorisation of a person other than a constable or officer of Revenue and Customs for the purpose of section 40—
 - (a) may be subject to conditions,
 - (b) may be suspended or revoked by the Secretary of State by notice in writing to the authorised person, and
 - (c) shall have effect, unless suspended or revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.
- (4) A class may be specified for the purposes of section 40(3) or (4) by reference to—
 - (a) named individuals,
 - (b) the functions being exercised by a person,

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- (c) the location or circumstances in which a person is exercising functions, or
 - (d) any other matter.
- (5) An individual or article delivered to an immigration officer under section 40 shall be treated as if discovered by the immigration officer on a search under Schedule 2 to the Immigration Act 1971 (c. 77).
- (6) A person commits an offence if he—
- (a) absconds from detention under section 40(7)(c),
 - (b) absconds while being taken to a place under section 40(7)(d) or having been taken to a place in accordance with that paragraph but before being delivered to an immigration officer,
 - (c) obstructs an authorised person in the exercise of a power under section 40, or
 - (d) assaults an authorised person who is exercising a power under section 40.
- (7) But a person does not commit an offence under subsection (6) by doing or failing to do anything in respect of an authorised person who is not readily identifiable—
- (a) as a constable or officer of Revenue and Customs, or
 - (b) as an authorised person (whether by means of a uniform or badge or otherwise).
- (8) A person guilty of an offence under subsection (6) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding 51 weeks, in the case of a conviction in England and Wales, or six months, in the case of a conviction in Scotland or Northern Ireland,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (9) In relation to a conviction occurring before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in subsection (8)(a) to 51 weeks shall be treated as a reference to six months.

Modifications etc. (not altering text)

C18 S. 41 extended by SI 2003/2818, art. 11(1)(g) (as inserted (E.W.S.) (18.11.2006) by [Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) \(Amendment\) Order 2006 \(S.I. 2006/2908\)](#), arts. 1, 2(a))

Commencement Information

I46 S. 41 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

42 Information: embarking passengers

- (1) Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry, &c.) shall be amended as follows.
- (2) In paragraph 3(1) for the words from “and if he is not” to the end substitute—
- “and, if he is not a British citizen, for the purpose of establishing—
- (a) his identity;
 - (b) whether he entered the United Kingdom lawfully;

Status: Point in time view as at 01/12/2016. This version of this Act contains provisions that are prospective.
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- (c) whether he has complied with any conditions of leave to enter or remain in the United Kingdom;
 - (d) whether his return to the United Kingdom is prohibited or restricted.
- (1A) An immigration officer who examines a person under sub-paragraph (1) may require him, by notice in writing, to submit to further examination for a purpose specified in that sub-paragraph.”
- (3) After paragraph 16(1A) insert—
- “(1B) A person who has been required to submit to further examination under paragraph 3(1A) may be detained under the authority of an immigration officer, for a period not exceeding 12 hours, pending the completion of the examination.”
- (4) In paragraph 21(1) after “16” insert “ (1), (1A) or (2) ”.

Modifications etc. (not altering text)

- C19** S. 42 extended (with modifications) (Jersey) (coming into force in accordance with art. 1(1)) by [The Immigration \(Jersey\) Order 2015 \(S.I. 2015/1532\)](#), art. 2(1), [Sch. 1](#)
- C20** S. 42 extended (with modifications) (Guernsey) (coming into force in accordance with art. 1) by [The Immigration \(Guernsey\) Order 2015 \(S.I. 2015/1533\)](#), art. 4, [Sch. 1](#)

Commencement Information

- I47** S. 42 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

Claimants and applicants

43 Accommodation

- (1) In section 99(1) of the Immigration and Asylum Act 1999 (c. 33) (provision of support by local authorities)—
- (a) for “asylum-seekers and their dependants (if any)” substitute “ persons ”, and
 - (b) after “section” insert “ 4, ”.
- (2) In section 99(4) (expenditure) after “section” insert “ 4, ”.
- (3) In section 118(1)(b) (housing authority accommodation) for “95” substitute “ 4, 95 or 98 ”.
- (4) In the following provisions for “under Part VI of the Immigration and Asylum Act 1999” substitute “ under section 4 or Part VI of the Immigration and Asylum Act 1999 ”
- (a) section 3A(7A) of the Protection from Eviction Act 1977 (c. 43) (excluded tenancies and licences),
 - (b) paragraph 3A(1) of Schedule 2 to the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15)) (non-secure tenancies),
 - (c) section 23A(5A) of the Rent (Scotland) Act 1984 (c. 58) (excluded tenancies and occupancy rights),
 - (d) paragraph 4A(1) of Schedule 1 to the Housing Act 1985 (c. 68) (non-secure tenancies),

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- (e) paragraph 11B of Schedule 4 to the Housing (Scotland) Act 1988 (c. 43) (non-assured tenancies), and
 - (f) paragraph 12A(1) of Schedule 1 to the Housing Act 1988 (c. 50) (non-assured tenancies).
- (5) A tenancy is not a Scottish secure tenancy (within the meaning of the Housing (Scotland) Act 2001 (asp 10) if it is granted in order to provide accommodation under section 4 of the Immigration and Asylum Act 1999 (accommodation).
- (6) A tenancy which would be a Scottish secure tenancy but for subsection (4) becomes a Scottish secure tenancy if the landlord notifies the tenant that it is to be regarded as such.
- (7) At the end of section 4 of the Immigration and Asylum Act 1999 (c. 33) (accommodation) add—
- “(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,
 - (c) may restrict the extent or value of services or facilities to be provided, and
 - (d) may confer a discretion.”

Commencement Information

I48 S. 43 in force at 16.6.2006 by S.I. 2006/1497, art. 3, Sch.

PROSPECTIVE

44 Failed asylum-seekers: withdrawal of support

- (1) The Secretary of State may by order provide for paragraph 7A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (c. 41) (failed asylum-seeker with family: withdrawal of support) to cease to have effect.
- (2) An order under subsection (1) shall also provide for the following to cease to have effect—
- (a) section 9(1), (2) and (4) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (which insert paragraph 7A of Schedule 3 and make consequential provision), and
 - (b) in section 9(3)(a) and (b) of that Act, the words “other than paragraph 7A.”
- (3) An order under subsection (1)—
- (a) may include transitional provision,
 - (b) shall be made by statutory instrument, and

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- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

45 Integration loans

- (1) Section 13 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (integration loan for refugees) shall be amended as follows.
- (2) In subsection (1) for “to refugees.” substitute “—
- (a) to refugees, and
 - (b) to such other classes of person, or to persons other than refugees in such circumstances, as the regulations may prescribe.”
- (3) In subsection (2)(b) for “granted him indefinite leave to enter or remain” substitute “granted him leave to enter or remain”.
- (4) In subsection (3)(a)(iii) after “as a refugee” insert “or since some other event”.
- (5) In subsection (3)(h) for “refugee” substitute “person”.
- (6) The heading to the section becomes “Integration loans for refugees and others”.

Commencement Information

I49 S. 45 in force at 30.6.2006 by S.I. 2006/1497, art. 4

46 Inspection of detention facilities

- (1) For section 5A(5A) of the Prison Act 1952 (c. 52) (removal centres: inspection) substitute—
- “(5A) Subsections (2) to (5) shall apply—
- (a) in relation to removal centres within the meaning of section 147 of the Immigration and Asylum Act 1999 (c. 33),
 - (b) in relation to short-term holding facilities within the meaning of that section, and
 - (c) in relation to escort arrangements within the meaning of that section.
- (5B) In their application by virtue of subsection (5A) subsections (2) to (5)—
- (a) shall apply to centres, facilities and arrangements anywhere in the United Kingdom, and
 - (b) shall have effect—
 - (i) as if a reference to prisons were a reference to removal centres, short-term holding facilities and escort arrangements,
 - (ii) as if a reference to prisoners were a reference to detained persons and persons to whom escort arrangements apply, and
 - (iii) with any other necessary modifications.”
- (2) In section 55 of that Act (extent)—
- (a) omit subsection (4A), and
 - (b) after subsection (5) insert—

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“(6) But (despite subsections (4) and (5)) the following shall extend to England and Wales, Scotland and Northern Ireland—

- (a) section 5A(5A) and (5B), and
- (b) section 5A(2) to (5) in so far as they apply by virtue of section 5A(5A).”

Commencement Information

I50 S. 46 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

^{F30} 47 Removal: persons with statutorily extended leave

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Textual Amendments

F30 S. 47 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 5](#); [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))

Commencement Information

I51 S. 47 in force at 1.4.2008 by [S.I. 2008/310](#), [art. 3\(c\)](#)

^{F31} 48 Removal: cancellation of leave

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Textual Amendments

F31 S. 48 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 7](#) table; [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))

Commencement Information

I52 S. 48 in force at 16.6.2006 by [S.I. 2006/1497](#), art. 3, [Sch.](#)

49 Capacity to make nationality application

After section 44 of the British Nationality Act 1981 (c. 61) (decisions involving discretion) insert—

“44A Waiver of requirement for full capacity

Where a provision of this Act requires an applicant to be of full capacity, the Secretary of State may waive the requirement in respect of a specified applicant if he thinks it in the applicant's best interests.”

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Commencement Information

I53 S. 49 in force at 31.8.2006 by S.I. 2006/2226, art. 3, Sch. 1

50 Procedure

- (1) Rules under section 3 of the Immigration Act 1971 (c. 77)—
- (a) may require a specified procedure to be followed in making or pursuing an application or claim (whether or not under those rules or any other enactment),
 - (b) may, in particular, require the use of a specified form and the submission of specified information or documents,
 - (c) may make provision about the manner in which a fee is to be paid, and
 - (d) may make provision for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c).
- (2) In respect of any application or claim in connection with immigration (whether or not under the rules referred to in subsection (1) or any other enactment) the Secretary of State—
- (a) may require the use of a specified form,
 - (b) may require the submission of specified information or documents, and
 - (c) may direct the manner in which a fee is to be paid;
- and the rules referred to in subsection (1) may provide for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c).
- (3) The following shall cease to have effect—
- (a) section 31A of the Immigration Act 1971 (procedure for applications), and
 - (b) section 25 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (c. 19) (marriage: application for permission).
- (4) At the end of section 41(1) of the British Nationality Act 1981 (procedure) add—
- “(j) as to the consequences of failure to comply with provision made under any of paragraphs (a) to (i).”
- (5) In section 10(2)(c) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of abode: certificate of entitlement: procedure) for “made in a specified form;” substitute “accompanied by specified information;”.
- (6) Paragraph 2(3) of Schedule 23 to the Civil Partnership Act 2004 (c. 33) (immigration: procedure) shall cease to have effect.

Modifications etc. (not altering text)

C21 S. 50(1)(2) applied (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 15(2)(a), 59(2); S.I. 2008/99, art. 2(f); S.I. 2008/99, art. 2(f)

Commencement Information

I54 S. 50(1)(2) in force at 31.1.2007 by S.I. 2007/182, art. 2

I55 S. 50(3)(a) in force at 29.2.2008 by S.I. 2008/310, art. 2(2)(a)

I56 S. 50(4)(5) in force at 5.11.2007 by S.I. 2007/3138, art. 2(i)

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F32 51 Fees

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Textual Amendments

F32 S. 51 repealed (15.12.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 74](#); [S.I. 2014/2771](#), art. 8(d) (with art. 13) (as amended (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 8(5))

Modifications etc. (not altering text)

C22 S. 51 applied (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 15\(2\)\(b\)](#), 59(2); [S.I. 2008/99](#), art. 2(f)

Commencement Information

I57 S. 51 in force at 31.1.2007 by [S.I. 2007/182](#), [art. 2](#)

F33 52 Fees: supplemental

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Textual Amendments

F33 S. 52 repealed (15.12.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 74](#); [S.I. 2014/2771](#), art. 8(d) (with art. 13) (as amended (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 8(5))

Miscellaneous

53 Arrest pending deportation

At the end of paragraph 2(4) of Schedule 3 to the Immigration Act 1971 (c. 77) (deportation: power to detain) insert “; and for that purpose the reference in paragraph 17(1) to a person liable to detention includes a reference to a person who would be liable to detention upon receipt of a notice which is ready to be given to him.”

Commencement Information

I58 S. 53 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

54 Refugee Convention: construction

- (1) In the construction and application of Article 1(F)(c) of the Refugee Convention the reference to acts contrary to the purposes and principles of the United Nations shall be taken as including, in particular—
 - (a) acts of committing, preparing or instigating terrorism (whether or not the acts amount to an actual or inchoate offence), and
 - (b) acts of encouraging or inducing others to commit, prepare or instigate terrorism (whether or not the acts amount to an actual or inchoate offence).
- (2) In this section—

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“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and
“terrorism” has the meaning given by section 1 of the Terrorism Act 2000 (c. 11).

Commencement Information

I59 S. 54 in force at 31.8.2006 by S.I. 2006/2226, art. 3, Sch. 1

55 Refugee Convention: certification

- (1) This section applies to an asylum appeal where the Secretary of State issues a certificate that the appellant is not entitled to the protection of Article 33(1) of the Refugee Convention because—
 - (a) Article 1(F) applies to him (whether or not he would otherwise be entitled to protection), or
 - (b) Article 33(2) applies to him on grounds of national security (whether or not he would otherwise be entitled to protection).
- (2) In this section—
 - (a) “asylum appeal” means an appeal—
 - (i) which is brought under section 82^{F34}... of the Nationality, Immigration and Asylum Act 2002 (c. 41) or section 2 of the Special Immigration Appeals Commission Act 1997 (c. 68), and
 - [^{F35}(ii) which is brought on the ground mentioned in section 84(1)(a) or (3) (a) of that Act (breach of United Kingdom's obligations under the Refugee Convention);]
 - (b) “the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951.
- (3) The [^{F36}First-tier Tribunal] or the Special Immigration Appeals Commission must begin substantive deliberations on the asylum appeal by considering the statements in the Secretary of State's certificate.
- (4) If the Tribunal or Commission agrees with those statements it must dismiss such part of the asylum appeal as amounts to an asylum claim (before considering any other aspect of the case).
- (5) Section 72(10)(a) of the Nationality, Immigration and Asylum Act 2002 (serious criminal: Tribunal or Commission to begin by considering certificate) shall have effect subject to subsection (3) above.
- [^{F37}(5A) Subsections (3) and (4) also apply in relation to the Upper Tribunal when it acts under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007.]
- (6) Section 33 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (certificate of non-application of Refugee Convention) shall cease to have effect.

Textual Amendments

F34 Words in s. 55(2)(a)(i) omitted (20.10.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 57(4)(a); S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by

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- 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))
- F35** S. 55(2)(a)(ii) substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 57(4)(b)**; 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))
- F36** Words in s. 55(3) substituted (15.2.2010) by The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), art. 1, **Sch. 1 para. 35(a)** (with Sch. 4)
- F37** S. 55(5A) inserted (15.2.2010) by The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), art. 1, **Sch. 1 para. 35(b)** (with Sch. 4)

Commencement Information

- I60** S. 55 in force at 31.8.2006 by S.I. 2006/2226, art. 3, **Sch. 1** (with art. 4(8))

56 Deprivation of citizenship

- (1) For section 40(2) of the British Nationality Act 1981 (c. 61) (deprivation of citizenship: prejudicing UK interests) substitute—

“(2) The Secretary of State may by order deprive a person of a citizenship status if the Secretary of State is satisfied that deprivation is conducive to the public good.”

- (2) At the end of section 40A(3) of that Act (deprivation: appeal) add—

“, and

(e) section 108 (forged document: proceedings in private).”;

(and omit the word “and” before section 40A(3)(d)).

Commencement Information

- I61** S. 56 in force at 16.6.2006 by S.I. 2006/1497, art. 3, **Sch.**

57 Deprivation of right of abode

- (1) After section 2 of the Immigration Act 1971 (c. 77) (right of abode) insert—

“2A Deprivation of right of abode

- (1) The Secretary of State may by order remove from a specified person a right of abode in the United Kingdom which he has under section 2(1)(b).
- (2) The Secretary of State may make an order under subsection (1) in respect of a person only if the Secretary of State thinks that it would be conducive to the public good for the person to be excluded or removed from the United Kingdom.
- (3) An order under subsection (1) may be revoked by order of the Secretary of State.
- (4) While an order under subsection (1) has effect in relation to a person—

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- (a) section 2(2) shall not apply to him, and
- (b) any certificate of entitlement granted to him shall have no effect.”

^{F38}(2)

Textual Amendments

F38 S. 57(2) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [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))

Commencement Information

I62 S. 57 in force at 16.6.2006 by [S.I. 2006/1497](#), art. 3, [Sch.](#)

^{F39}**58 Acquisition of British nationality, &c.**

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Textual Amendments

F39 S. 58 repealed (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), s. 58(6), [Sch. Pt. 2](#)

Commencement Information

I63 S. 58 in force at 4.12.2006 by [S.I. 2006/2838](#), [art. 4\(1\)](#) (with [art. 4\(2\)](#))

59 Detained persons: national minimum wage

- (1) After section 153 of the Immigration and Asylum Act 1999 (c. 33) (removal centres: rules) insert—

“153A Detained persons: national minimum wage

A detained person does not qualify for the national minimum wage in respect of work which he does in pursuance of removal centre rules.”

- (2) After section 45A of the National Minimum Wage Act 1998 (c. 39) (exemptions from national minimum wage: persons discharging fines) insert—

“45B Immigration: detained persons

Section 153A of the Immigration and Asylum Act 1999 (c. 33) (persons detained in removal centres) disqualifies certain persons for the national minimum wage.”

Commencement Information

I64 S. 59 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

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General

60 Money

There shall be paid out of money provided by Parliament—

- (a) any expenditure of the Secretary of State in connection with this Act, and
- (b) any increase attributable to this Act in sums payable under another enactment out of money provided by Parliament.

Commencement Information

I65 S. 60 in force at 16.6.2006 by S.I. 2006/1497, art. 3, Sch.

61 Repeals

Schedule 3 (repeals) shall have effect.

Commencement Information

I66 S. 61 in force at 16.6.2006 for specified purposes by S.I. 2006/1497, art. 3, Sch.

I67 S. 61 in force at 31.8.2006 for specified purposes by S.I. 2006/2226, art. 3, Sch. 1 (with art. 4(5))

I68 S. 61 in force at 2.4.2007 for specified purposes by S.I. 2007/1109, art. 5

62 Commencement

(1) The preceding provisions of this Act shall come into force in accordance with provision made by order of the Secretary of State.

(2) An order under subsection (1)—

- (a) may make provision generally or only for specified purposes,
- (b) may make different provision for different purposes,
- (c) may include transitional or incidental provision or savings, and
- (d) shall be made by statutory instrument.

Modifications etc. (not altering text)

C23 S. 62 modified (25.6.2013) by Crime and Courts Act 2013 (c. 22), ss. 52(7), 61(2); S.I. 2013/1042, art. 4(a) (with art. 5)

63 Extent

(1) This Act extends to—

- (a) England and Wales,
- (b) Scotland, and
- (c) Northern Ireland.

(2) But—

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- (a) an amendment by this Act of another Act has the same extent as that Act or as the relevant part of that Act (ignoring extent by virtue of an Order in Council), and
 - (b) a provision of this Act shall, so far as it relates to nationality, have the same extent as the British Nationality Act 1981 (c. 61) (disregarding excepted provisions under section 53(7) of that Act).
- (3) Her Majesty may by Order in Council direct that a provision of this Act is to extend, with or without modification or adaptation, to—
- (a) any of the Channel Islands;
 - (b) the Isle of Man.
- [^{F40}(3A) In subsection (3), the reference to this Act includes—
- (a) a reference to this Act as it has effect with the amendments and repeals made in it by the Police and Justice Act 2006, and
 - (b) a reference to this Act as it has effect without those amendments and repeals.]
- (4) Subsection (3) does not apply in relation to the extension to a place of a provision which extends there by virtue of subsection (2)(b).

Textual Amendments

F40 S. 63(3A) inserted (8.11.2006) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 53, **54(7)**

Modifications etc. (not altering text)

C24 S. 63(3) power to extend (with modifications) (Channel Islands or Isle of Man) any amendments or repeals made to this Act by 2016 c. 19, to which this section relates (12.5.2016) by [Immigration Act 2016 \(c. 19\)](#), ss.94(5), 95(6)(7)(g)

64 Citation

- (1) This Act may be cited as the Immigration, Asylum and Nationality Act 2006.
- ^{F41}(2)
- (3) The following shall cease to have effect—
- (a) section 32(5) of the Immigration Act 1971 (“the Immigration Acts”),
 - (b) in section 167(1) of the Immigration and Asylum Act 1999, the definition of “the Immigration Acts”,
 - (c) section 158 of the Nationality, Immigration and Asylum Act 2002 (“the Immigration Acts”), and
 - (d) section 44 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (“the Immigration Acts”).
- (4) In Schedule 1 to the Interpretation Act 1978 (c. 30) (defined expressions) at the appropriate place insert—
- ““The Immigration Acts” has the meaning given by section 64 of the Immigration, Asylum and Nationality Act 2006.”

Status: Point in time view as at 01/12/2016. This version of this Act contains provisions that are prospective.

Changes to legislation: Immigration, Asylum and Nationality Act 2006 is up to date with all changes known to be in force on or before 22 August 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)

Textual Amendments

F41 S. 64(2) repealed (30.10.2007) by UK Borders Act 2007 (c. 30), s. 61(3), **Sch.**

Status:

Point in time view as at 01/12/2016. This version of this Act contains provisions that are prospective.

Changes to legislation:

Immigration, Asylum and Nationality Act 2006 is up to date with all changes known to be in force on or before 22 August 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.