
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the Immigration and Asylum Act 1999.

Part IV

In Part IV of the Act (Appeals), the following provisions are commenced on 1st August 2000. Paragraph 129 of Schedule 14 to the Act enables regulations made under paragraph 1 of Schedule 4 to the Act to make provision for the giving of notices in relation to decisions appealable under the Special Immigration Appeals Commission Act 1997. Article 3 of the Order in addition makes transitional provision with effect from 1st August 2000 in relation to paragraphs 1, 3 and 4 of Schedule 4 to the Act. Part IV of the Act makes new provision for immigration and asylum appeals, replacing earlier legislation. Appeal rights under the earlier legislation are to be preserved for decisions taken prior to the commencement of Part IV. However, in the interests of simplicity, certain new procedural regulations and rules are to apply to all appeals, whether brought under Part IV or the earlier (preserved) legislation. The transitional provision enables this to be done. Paragraphs 1, 3 and 4 of Schedule 4 were commenced by earlier commencement orders; but no instrument has yet been made under them.

Part V

In Part V of the Act (Immigration Advisers and Immigration Service Providers), the provisions commenced are as follows:

On 1st August 2000:

- (a) section 87(5) and paragraphs 7 and 8(3) of Schedule 7, which make provision for the Lord Chancellor to make rules as to the procedure and practice to be followed in relation to the exercise of the Tribunal's functions;
- (b) section 90 is commenced for the purpose of enabling the Secretary of State to make subordinate legislation under it. It enables the disciplinary bodies of certain professional organisations to be specified as disciplinary bodies for the purpose of Part V of the Act. The organisations concerned are those governing persons who provide immigration advice and services to the public. Specification will, when Part V of the Act is in force, confer power on the bodies to restrict, suspend or prohibit the providing of such services by members of their organisations;
- (c) paragraph 5(1) of Schedule 6, which enables the Secretary of State to specify by Order fees for the registration or continued registration of persons on the register maintained by the Immigration Services Commissioner.

On 30th October 2000:

- (d) section 83(4) and 83(5) are brought fully into force, having been commenced in part by the Immigration and Asylum Act 1999 (Commencement No. 4) Order 2000 (S.I.2000/1282);
- (e) section 84(2)(a) and (b), (4)(a) and (d), (5) and (7), save that sections 84(2)(a) and (b) are commenced only in so far as they relate to the provisions of section 85 which are commenced by this Order, section 84(4)(a) is commenced only in so far as it will enable the Commissioner to certify a person as exempt from the prohibition in section 84(1), and section 84(4)(d) is commenced only for the purposes of enabling the Secretary of

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State to make subordinate legislation under it to exempt persons from the prohibition in section 84(1);

- (f) section 85 and Schedule 6, which provides that the Commissioner must prepare and maintain a register for the purposes of those persons described in section 84(2)(a) and (b), and that he must keep a record of the persons whom he certifies as exempt under section 84(4)(a). Schedule 6 provides for the process of registration with the Commissioner, although paragraph 5(1), which relates to the fee payable on registration and continued registration is commenced from 1st August 2000 for the purposes of enabling the Secretary of State to make an order specifying such fees;
- (g) sections 86(10) to (12) is commenced for the purposes of enabling the Secretary of State to specify the dates on which and the level of the annual fee that must be paid by designated professional bodies to the Commissioner to meet the costs incurred by the Commissioner under Part V of the Act;
- (h) sections 87(1) to (6), 88 and 89, which provide for the creation of an Immigration Services Tribunal to which a person aggrieved by a relevant decision of the Commissioner may appeal, and provisions relating to appeals which are allowed and disciplinary charges laid by the Commission under paragraph 9(1)(e) of Schedule 5 to the Act;
- (i) paragraphs 1(3) and 2(5), 3(4), 5(4) and (5), 6(2) and (3), 7, 8 and 9, 10 of Schedule 5, which relate to the regulatory functions of the Commissioner;
- (j) paragraphs 1 to 6, 8(1) and (2), and 9 to 13 of Schedule 7, which contain provisions relating to the members of the Tribunal and the President of the Tribunal, the proceedings of the Tribunal, the suspension of the effect of a relevant decision of the Commissioner, and the staff and expenditure of the Tribunal.

Part VIII

In Part VIII (Detention Centres and Detained Persons), the following provisions are commenced on 1st August:

- (a) section 147 (interpretation);
- (b) section 149(1), (3) and (9); these subsections make provision for entry by the Secretary of State into contracts for the provision or running of detention centres;
- (c) sections 148(3), 149(6)(a), 152(2) and (3), 153, 157; paragraphs 2(1)(a) and 7(2) and (3) of Schedule 11; paragraphs 1, 2 and 3(7) of Schedule 12; and paragraphs 2(1)(a) and (4) of Schedule 13, which are all commenced for the purpose of making subordinate legislation under them; they confer power to make rules, orders and regulations governing the operation of detention centres, short term holding facilities and escort arrangements.