



Immigration Act 1971

1971 CHAPTER 77

PART I

REGULATION OF ENTRY INTO AND STAY IN UNITED KINGDOM

1 General principles.

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

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

(5) ^{F1}

Textual Amendments

F1 S. 1(5) repealed by [Immigration Act 1988 \(c. 14, SIF 62\), s. 1](#)

Modifications etc. (not altering text)

C1 S. 1 excluded by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4\) \(SIF 39:2\), s. 20\(3\)](#)

C2 S. 1 excluded by [S.I. 1972/1610, art. 3\(2\)](#)

S. 1 restricted (19.2.2001) by [2000 c. 11, s. 53\(3\); S.I. 2001/421](#)

[^{F2} **Statement of right of abode in United Kingdom.**

(1) A person is under this Act to have the right of abode in the United Kingdom if—

(a) he is a British citizen; or

(b) he is a Commonwealth citizen who—

(i) immediately before the commencement of the ^{M1}British Nationality Act 1981 was a Commonwealth citizen having the right of abode in the United Kingdom by virtue of section 2(1)(d) or section 2(2) of this Act as then in force; and

(ii) has not ceased to be a Commonwealth citizen in the meanwhile.

(2) In relation to Commonwealth citizens who have the right of abode in the United Kingdom by virtue of subsection (1)(b) above, this Act, except this section and [^{F3}section 5(2)], shall apply as if they were British citizens; and in this Act (except as aforesaid) “British citizen” shall be construed accordingly.]

Textual Amendments

F2 S. 2 substituted (1.1.1983) by [British Nationality Act 1981 \(c. 61\), ss. 39\(2\), 52\(7\)](#) (with [Sch. 8 para. 8](#)); [S.I. 1982/933, art. 2](#) [Editorial note: According to the Chronological Table of the Statutes (1951-1987) (HMSO, 1989) there were no amendments made to s. 2 between the date of Royal Assent and its substitution on 1.1.1983 and therefore the text of s. 2(1)(d) and (2) as in force immediately before the commencement of the British Nationality Act 1981 is the same as the Original (As enacted) Version of this section.]”

F3 Words substituted by [Immigration Act 1988 \(c. 14, SIF 62\), s. 3\(3\)](#)

Modifications etc. (not altering text)

C3 Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\), arts. 1, 3\(1\), Sch. 1 Pt. 1](#)

Marginal Citations

M1 [1981 c. 61.](#)

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VALID FROM 16/06/2006

[^{F4}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—
 - (a) section 2(2) shall not apply to him, and
 - (b) any certificate of entitlement granted to him shall have no effect.]

Textual Amendments

- F4** S. 2A inserted (16.6.2006) by *Immigration, Asylum and Nationality Act 2006* (c. 13), ss. 57(1), 62; S.I. 2006/1497, art. 3, Sch.

3 General provisions for regulation and control.

- (1) Except as otherwise provided by or under this Act, where a person is not [^{F5}a British citizen]—
 - (a) he shall not enter the United Kingdom unless given leave to do so in accordance with this Act;
 - (b) he may be given leave to enter the United Kingdom (or, when already there, leave to remain in the United Kingdom) either for a limited or for an indefinite period;
 - (c) if he is given a limited leave to enter or remain in the United Kingdom, it may be given subject to conditions restricting his employment or occupation in the United Kingdom, or requiring him to register with the police, or both.
- (2) The Secretary of State shall from time to time (and as soon as may be) lay before Parliament statements of the rules, or of any changes in the rules, laid down by him as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the United Kingdom of persons required by this Act to have leave to enter, including any rules as to the period for which leave is to be given and the conditions to be attached in different circumstances; and section 1(4) above shall not be taken to require uniform provision to be made by the rules as regards admission of persons for a purpose or in a capacity specified in section 1(4) (and in particular, for this as well as other purposes of this Act, account may be taken of citizenship or nationality).

If a statement laid before either House of Parliament under this subsection is disapproved by a resolution of that House passed within the period of forty days beginning with the date of laying (and exclusive of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days), then the Secretary of State shall as soon as may be make such changes

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

- (3) In the case of a limited leave to enter or remain in the United Kingdom,—
- (a) a person's leave may be varied, whether by restricting, enlarging or removing the limit on its duration, or by adding, varying or revoking conditions, but if the limit on its duration is removed, any conditions attached to the leave shall cease to apply; and
 - (b) the limitation on and any conditions attached to a person's leave ^[F6]may be imposed (whether originally or on a variation) so that they will ^[F6](whether imposed originally or on a variation) shall, if not superseded, apply also to any subsequent leave he may obtain after an absence from the United Kingdom within the period limited for the duration of the earlier leave.
- (4) A person's leave to enter or remain in the United Kingdom shall lapse on his going to a country or territory outside the common travel area (whether or not he lands there), unless within the period for which he had leave he returns to the United Kingdom in circumstances in which he is not required to obtain leave to enter; but, if he does so return, his previous leave (and any limitation on it or conditions attached to it) shall continue to apply.
- (5) A person who is not ^[F5]a British citizen shall be liable to deportation from the United Kingdom—
- (a) if, having only a limited leave to enter or remain, he does not observe a condition attached to the leave or remains beyond the time limited by the leave; or
 - (b) if the Secretary of State deems his deportation to be conducive to the public good; or
 - (c) if another person to whose family he belongs is or has been ordered to be deported.
- (6) Without prejudice to the operation of subsection (5) above, a person who is not ^[F5]a British citizen shall also be liable to deportation from the United Kingdom if, after he has attained the age of seventeen, he is convicted of an offence for which he is punishable with imprisonment and on his conviction is recommended for deportation by a court empowered by this Act to do so.
- (7) Where it appears to Her Majesty proper so to do by reason of restrictions or conditions imposed on ^[F7]British citizens, British Dependent Territories citizens or British Overseas citizens when leaving or seeking to leave any country or the territory subject to the government of any country, Her Majesty may by Order in Council make provision for prohibiting persons who are nationals or citizens of that country and are not ^[F5]British citizens from embarking in the United Kingdom, or from doing so elsewhere than at a port of exit, or for imposing restrictions or conditions on them when embarking or about to embark in the United Kingdom; and Her Majesty may also make provision by Order in Council to enable those who are not ^[F5]British citizens to be, in such cases as may be prescribed by the Order, prohibited in the interests of safety from so embarking on a ship or aircraft specified or indicated in the prohibition.

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

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(8) When any question arises under this Act whether or not a person is ^[F5]a British citizen], or is entitled to any exemption under this Act, it shall lie on the person asserting it to prove that he is.

^[F8](9) A person seeking to enter the United Kingdom and claiming to have the right of abode there shall prove that he has that right by means of either—

- (a) a United Kingdom passport describing him as a British citizen or as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom; or
- (b) a certificate of entitlement issued by or on behalf of the Government of the United Kingdom certifying that he has such a right of abode.]

Textual Amendments

- F5** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 2](#)
- F6** Words commencing “(whether imposed originally” substituted (16.5.1991) for words commencing “may be imposed” by [Immigration Act 1988 \(c. 14, SIF 62\), s. 10, Sch. para. 1](#)
- F7** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 4](#)
- F8** [S. 3\(9\)](#) substituted for s. 3(9) and (9A) by [Immigration Act 1988 \(c. 14, SIF 62\), s. 3\(1\)](#)

VALID FROM 14/02/2000

^[F9]3A Further provision as to leave to enter.

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

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

Textual Amendments

F9 S. 3A inserted (14.2.2000) by 1999 c. 33, ss. 1, 169(2), Sch. 15 para. 1(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

Modifications etc. (not altering text)

C4 Ss. 3-3B extended (14.12.2001) by 2001 c. 24, ss. 22(2)(a)(3), 127(2)

VALID FROM 14/02/2000

[^{F10}3B Further provision as to leave to remain.

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

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

Textual Amendments

F10 S. 3B inserted (14.2.2000) by 1999 c. 33, ss. 2, 169(2), Sch. 15 para. 1(2); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

Modifications etc. (not altering text)

C5 Ss. 3-3B extended (14.12.2001) by 2001 c. 24, ss. 22(2)(a)(3), 127(2)

VALID FROM 02/10/2000

[^{F11}3C Continuation of leave pending decision.

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

Textual Amendments

F11 S. 3C inserted (2.10.2000) by 1999 c. 33, s. 3; S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3, Sch. 2 para. 2)

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Modifications etc. (not altering text)

- C6** S. 3C applied (with modifications) (*prosp.*) by 1997 c. 68, s. 2(2)(a) (as substituted by 2002 c. 41, ss. 114, 162(1), **Sch. 7 para. 20**) (with 2002 c. 41, s. 159)
- C7** S. 3C extended (14.3.2003) by **The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754)**, art. 3, **Sch. 2 para. 2(2)** (as substituted (8.4.2003) by S.I. 2003/1040, arts. 1, 2)

VALID FROM 31/08/2006

[^{F12}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 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.]

Textual Amendments

- F12** S. 3D inserted (31.8.2006) by **Immigration, Asylum and Nationality Act 2006 (c. 13)**, s. 11(5); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)

4 Administration of control.

- (1) The power under this Act to give or refuse leave to enter the United Kingdom shall be exercised by immigration officers, and the power to give leave to remain in the United Kingdom, or to vary any leave under section 3(3)(a) (whether as regards duration or conditions), shall be exercised by the Secretary of State; and, unless otherwise allowed by this Act, those powers shall be exercised by notice in writing given to the person affected, except that the powers under section 3(3)(a) may be exercised generally in respect of any class of persons by order made by statutory instrument.
- (2) The provisions of Schedule 2 to this Act shall have effect with respect to—
 - (a) the appointment and powers of immigration officers and medical inspectors for purposes of this Act;

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- (b) the examination of persons arriving in or leaving the United Kingdom by ship or aircraft [^{F13}or through the tunnel system], and the special powers exercisable in the case of those who arrive as, or with a view to becoming, members of the crews of ships and aircraft; and
- (c) the exercise by immigration officers of their powers in relation to entry into the United Kingdom, and the removal from the United Kingdom of persons refused leave to enter or entering or remaining unlawfully; and
- (d) the detention of persons pending examination or pending removal from the United Kingdom;

and for other purposes supplementary to the foregoing provisions of this Act.

- (3) The Secretary of State may by regulations made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make provision as to the effect of a condition under this Act requiring a person to register with the police; and the regulations may include provision—
 - (a) as to the officers of police by whom registers are to be maintained, and as to the form and content of the registers;
 - (b) as to the place and manner in which anyone is to register and as to the documents and information to be furnished by him, whether on registration or on any change of circumstances;
 - (c) as to the issue of certificates of registration and as to the payment of fees for certificates of registration;

and the regulations may require anyone who is for the time being subject to such a condition to produce a certificate of registration to such persons and in such circumstances as may be prescribed by the regulations.

- (4) The Secretary of State may by order made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make such provision as appears to him to be expedient in connection with this Act for records to be made and kept of persons staying at hotels and other premises where lodging or sleeping accommodation is provided, and for persons (whether [^{F14}British citizens] or not) who stay at any such premises to supply the necessary information.

Textual Amendments

F13 Words inserted by [S.I. 1990/2227](#), art. 3, [Sch. 1 para. 1](#)

F14 Words substituted by [British Nationality Act 1981 \(c. 61\)](#), s. 52(7), [Sch. 4 para. 2](#)

5 Procedure for, and further provisions as to, deportation.

- (1) Where a person is under section 3(5) or (6) above liable to deportation, then subject to the following provisions of this Act the Secretary of State may make a deportation order against him, that is to say an order requiring him to leave and prohibiting him from entering the United Kingdom; and a deportation order against a person shall invalidate any leave to enter or remain in the United Kingdom given him before the order is made or while it is in force.
- (2) A deportation order against a person may at any time be revoked by a further order of the Secretary of State, and shall cease to have effect if he becomes [^{F15}a British citizen].
- (3) A deportation order shall not be made against a person as belonging to the family of another person if more than eight weeks have elapsed since the other person left

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the United Kingdom after the making of the deportation order against him; and a deportation order made against a person on that ground shall cease to have effect if he ceases to belong to the family of the other person, or if the deportation order made against the other person ceases to have effect.

- (4) For purposes of deportation the following shall be those who are regarded as belonging to another person's family—
- (a) where that other person is a man, his wife and his or her children under the age of eighteen; and
 - (b) where that other person is a woman, her children under the age of eighteen; and for purposes of this subsection an adopted child, whether legally adopted or not, may be treated as the child of the adopter and, if legally adopted, shall be regarded as the child only of the adopter; an illegitimate child (subject to the foregoing rule as to adoptions) shall be regarded as the child of the mother; and “wife” includes each of two or more wives.
- (5) The provisions of Schedule 3 to this Act shall have effect with respect to the removal from the United Kingdom of persons against whom deportation orders are in force and with respect to the detention or control of persons in connection with deportation.
- (6) Where a person is liable to deportation under section [F163(5)] or (6) above but, without a deportation order being made against him, leaves the United Kingdom to live permanently abroad, the Secretary of State may make payments of such amounts as he may determine to meet that person's expenses in so leaving the United Kingdom, including travelling expenses for members of his family or household.

Textual Amendments

- F15** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 2](#)
F16 “3(5)” substituted for “3(5)(c)” by [Immigration Act 1988 \(c. 14, SIF 62\), s. 10, Sch. para. 2](#)

Modifications etc. (not altering text)

- C8** [S. 5](#) applied (20.7.1994) by [S.I. 1994/1895, art. 20\(2\)](#)

6 Recommendations by court for deportation.

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

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

- (2) A court shall not recommend a person for deportation unless he has been given not less than seven days notice in writing stating that a person is not liable to deportation if he is [F17 a British citizen], describing the persons who are [F17 British citizens] and stating (so far as material) the effect of section 3(8) above and section 7 below; but the powers of adjournment conferred by [F18 section 10(3) of the M2 Magistrates' Courts Act 1980], [F19 section 179 or 380 of the M3 Criminal Procedure (Scotland) Act 1975] or any corresponding enactment for the time being in force in Northern Ireland shall include

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power to adjourn, after convicting an offender, for the purpose of enabling a notice to be given to him under this subsection or, if a notice was so given to him less than seven days previously, for the purpose of enabling the necessary seven days to elapse.

- (3) For purposes of section 3(6) above—
- (a) a person shall be deemed to have attained the age of seventeen at the time of his conviction if, on consideration of any available evidence, he appears to have done so to the court making or considering a recommendation for deportation; and
 - (b) the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any enactment restricting the imprisonment of young offenders or [^{F20}first offenders][^{F20}persons who have not previously been sentenced to imprisonment];
- and for purposes of deportation a person who on being charged with an offence is found to have committed it shall, notwithstanding any enactment to the contrary and notwithstanding that the court does not proceed to conviction, be regarded as a person convicted of the offence, and references to conviction shall be construed accordingly.
- (4) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.
- (5) Where a court recommends or purports to recommend a person for deportation, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or against the conviction on which it is made; but—
- ^{F21} . . . the recommendation shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence ^{F21}. . .
 - ^{F22}(b)
- (6) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the conviction on which it was made; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal or, in Scotland, until the expiration of twenty-eight days from the date of the recommendation.
- (7) For the purpose of giving effect to any of the provisions of this section in its application to Scotland, the High Court of Justiciary shall have power to make rules by act of adjournal.

Textual Amendments

- F17** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), [Sch. 4 para. 2](#) (with [Sch. 8 para. 8](#))
- F18** Words substituted by [Magistrates' Courts Act 1980 \(c. 43\), s. 154\(2\)](#), [Sch. 7 para. 104](#)
- F19** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), Sch. 9 para. 47](#)
- F20** Words “persons” to “imprisonment” substituted for words “first offenders” (E.W.) by [Criminal Justice Act 1972 \(c. 71\), Sch. 5](#) and (U.K.) by [Criminal Justice Act 1982 \(c. 48\), s. 80\(2\), Sch. 15 para. 15\(a\)](#)
- F21** Words repealed (S.) by [Criminal Justice \(Scotland\) Act 1980 \(c. 62\), Sch. 8](#) and repealed (31.1.1983) by [Criminal Justice Act 1982 \(c. 48\), s. 80\(2\), Sch. 16](#)
- F22** S. 6(5)(b) repealed (S.) by [Criminal Justice \(Scotland\) Act 1980 \(c. 62\), Sch. 8](#) and repealed (31.1.1983) by [Criminal Justice Act 1982 \(c. 48\), s. 80\(2\), Sch. 16](#)

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Marginal Citations

M2 1980 c. 43.

M3 1975 c. 21.

7 Exemption from deportation for certain existing residents.

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

In paragraph (c)(ii) above “relevant enactment” means section 67 of the ^{M4}Criminal Justice Act 1967 (or, before that section operated, section 17(2) of the ^{M5}Criminal Justice Administration Act 1962) and any similar enactment which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands.

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

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Marginal Citations

M4 1967 c. 80.

M5 1962 c. 15.

8 Exceptions for seamen, aircrews and other special cases.

(1) Where a person arrives at a place in the United Kingdom as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either—

- (a) there is in force a deportation order made against him; or
- (b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom; or
- (c) an immigration officer requires him to submit to examination in accordance with Schedule 2 to this Act;

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

(2) The Secretary of State may by order exempt any person or class of persons, either unconditionally or subject to such conditions as may be imposed by or under the order, from all or any of the provisions of this Act relating to those who are not [^{F23}British citizens].

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

(3) [^{F24}Subject to subsection (3A) below,] the provisions of this Act relating to those who are not [^{F23}British citizens] shall not apply to any person so long as he is a member of a mission (within the meaning of the ^{M6}Diplomatic Privileges Act 1964), a person who is a member of the family and forms part of the household of such a member, or a person otherwise entitled to the like immunity from jurisdiction as is conferred by that Act on a diplomatic agent.

[^{F25}(3A) In the case of a member of a mission other than a diplomatic agent (within the meaning of the said Act of 1964) subsection (3) above shall apply only if he enters or has entered the United Kingdom—

- (a) as a member of that mission; or
- (b) in order to take up a post as such a member which was offered to him before his arrival;

and references in that subsection to a member of a mission shall be construed accordingly.]

(4) The provisions of this Act relating to those who are not [^{F23}British citizens], other than the provisions relating to deportation, shall also not apply to any person so long as either—

- (a) he is subject, as a member of the home forces, to service law; or
- (b) being a member of a Commonwealth force or of a force raised under the law of any associated state, colony, protectorate or protected state, is undergoing

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or about to undergo training in the United Kingdom with any body, contingent or detachment of the home forces; or

- (c) he is serving or posted for service in the United Kingdom as a member of a visiting force or of any force raised as aforesaid or as a member of an international headquarters or defence organisation designated for the time being by an Order in Council under section 1 of the ^{M7}International Headquarters and Defence Organisations Act 1964.

- (5) Where a person having a limited leave to enter or remain in the United Kingdom becomes entitled to an exemption under this section, that leave shall continue to apply after he ceases to be entitled to the exemption, unless it has by then expired; and a person is not to be regarded for purposes of this Act as having been ^{F26}settled in the United Kingdom at any time when he was entitled under the former immigration laws to any exemption corresponding to any of those afforded by subsection (3) or (4)(b) or (c) above or by any order under subsection (2) above.]

^{F27}(5A) An order under subsection (2) above may, as regards any person or class of persons to whom it applies, provide for that person or class to be in specified circumstances regarded (notwithstanding the order) as settled in the United Kingdom for the purposes of section 1(1) of the ^{M8}British Nationality Act 1981.]

- (6) In this section “the home forces” means any of Her Majesty’s forces other than a Commonwealth force or a force raised under the law of any associated state, colony, protectorate or protected state; “Commonwealth force” means a force of any country to which provisions of the ^{M9}Visiting Forces Act 1952 apply without an Order in Council under section 1 of the Act; and “visiting force” means a body, contingent or detachment of the forces of a country to which any of those provisions apply, being a body, contingent or detachment for the time being present in the United Kingdom on the invitation of Her Majesty’s Government in the United Kingdom.

Textual Amendments

- F23** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 2](#)
F24 Words inserted by [Immigration Act 1988 \(c. 14, SIF 62\), s. 4](#)
F25 [S. 8\(3A\)](#) inserted by [Immigration Act 1988 \(c. 14, SIF 62\), s. 4](#)
F26 Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 5](#)
F27 [S. 8\(5A\)](#) inserted by [British Nationality Act 1981 \(c. 61\), ss. 39\(4\), 52\(7\)](#)

Modifications etc. (not altering text)

- C9** [S. 8\(3\)](#) extended by [State Immunity Act 1978 \(c. 33\), s. 20\(3\)](#)

Marginal Citations

- M6** 1964 c. 81.
M7 1964 c. 5.
M8 1981 c. 61.
M9 1952 c. 67.

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VALID FROM 01/03/2000

[^{F28}8A Persons ceasing to be exempt.

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

Textual Amendments

F28 S. 8A inserted (1.3.2000) by 1999 c. 33, s. 7; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

VALID FROM 01/03/2000

[^{F29}8B Persons excluded from the United Kingdom under international obligations.

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

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- (b) recommends that a person should not be admitted to the United Kingdom (however that recommendation is expressed).
- (6) Subsections (1) to (3) are subject to such exceptions (if any) as may specified in the order designating the instrument in question.
- (7) An order under this section must be made by statutory instrument.
- (8) Such a statutory instrument shall be laid before Parliament without delay.]

Textual Amendments

F29 S. 8B inserted (1.3.2000) by 1999 c. 33, s. 8; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

9 Further provisions as to common travel area.

- (1) Subject to subsection (5) below, the provisions of Schedule 4 to this Act shall have effect for the purpose of taking account in the United Kingdom of the operation in any of the Islands of the immigration laws there.
- (2) Persons who lawfully enter the United Kingdom on a local journey from a place in the common travel area after having either—
 - (a) entered any of the Islands or the Republic of Ireland on coming from a place outside the common travel area; or
 - (b) left the United Kingdom while having a limited leave to enter or remain which has since expired;
 if they are not [^{F30}British citizens] (and are not to be regarded under Schedule 4 to this Act as having leave to enter the United Kingdom), shall be subject in the United Kingdom to such restrictions on the period for which they may remain, and such conditions restricting their employment or occupation or requiring them to register with the police or both, as may be imposed by an order of the Secretary of State and may be applicable to them.
- (3) Any provision of this Act applying to a limited leave or to conditions attached to a limited leave shall, unless otherwise provided, have effect in relation to a person subject to any restriction or condition by virtue of an order under subsection (2) above as if the provisions of the order applicable to him were terms on which he had been given leave under this Act to enter the United Kingdom.
- (4) Section 1(3) above shall not be taken to affect the operation of a deportation order; and, subject to Schedule 4 to this Act, a person who is not [^{F30}a British citizen] may not by virtue of section 1(3) enter the United Kingdom without leave on a local journey from a place in the common travel area if either—
 - (a) he is on arrival in the United Kingdom given written notice by an immigration officer stating that, the Secretary of State having issued directions for him not to be given entry to the United Kingdom on the ground that his exclusion is conducive to the public good as being in the interests of national security, he is accordingly refused leave to enter the United Kingdom; or
 - (b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom.

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- (5) If it appears to the Secretary of State necessary so to do by reason of differences between the immigration laws of the United Kingdom and any of the Islands, he may by order exclude that island from section 1(3) above for such purposes as may be specified in the order, and references in this Act to the Islands . . . ^{F31} shall apply to an island so excluded so far only as may be provided by order of the Secretary of State.
- (6) The Secretary of State shall also have power by order to exclude the Republic of Ireland from section 1(3) for such purposes as may be specified in the order.
- (7) An order of the Secretary of State under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F30 Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 2](#) (with [Sch. 8 para. 8](#))

F31 Words repealed by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 9](#) (with [Sch. 8 para. 8](#))

Modifications etc. (not altering text)

C10 S. 9(2) amended (28.4.2000) by [S.I. 2000/1161, art. 14](#)

10 Entry otherwise than by sea or air.

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act shall have effect in relation to persons entering or seeking to enter the United Kingdom on arrival otherwise than by ship or aircraft [^{F32}or through the tunnel system] as they have effect in the case of a person arriving by ship or aircraft [^{F32}or through the tunnel system]; and any such Order may make such adaptations or modifications of those provisions, and such provisions supplementary thereto, as appear to Her Majesty to be necessary or expedient for the purposes of the Order.
- (2) The provision made by an Order in Council under this section may include provision for excluding the Republic of Ireland from section 1(3) of this Act either generally or for any specified purposes.
- (3) No recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Textual Amendments

F32 Words inserted by [S.I. 1990/2227, art. 3, Sch. 1 para. 2](#)

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

- (1) A person arriving in the United Kingdom by ship or aircraft shall for purposes of this Act be deemed not to enter the United Kingdom unless and until he disembarks, and on disembarkation at a port shall further be deemed not to enter the United Kingdom so long as he remains in such area (if any) at the port as may be approved for this purpose by an immigration officer; and a person who has not otherwise entered the United Kingdom shall be deemed not to do so as long as he is detained, or

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temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act.

[^{F33}(1A) A person arriving in the United Kingdom through the tunnel system shall for the purposes of this Act be deemed not to enter the United Kingdom unless and until he has left the tunnel system, and subject to subsection (1) above, a person who has not otherwise entered the United Kingdom shall be deemed not to do so as long as he is detained, or temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act.]

(2) In this Act “disembark” means disembark from a ship or aircraft, and “embark” means embark in a ship or aircraft; and, except in subsection (1) above,—

(a) references to disembarking in the United Kingdom do not apply to disembarking after a local journey from a place in the United Kingdom or elsewhere in the common travel area; and

(b) references to embarking in the United Kingdom do not apply to embarking for a local journey to a place in the United Kingdom or elsewhere in the common travel area.

(3) Except in so far as the context otherwise requires, references in this Act to arriving in the United Kingdom by ship shall extend to arrival by any floating structure, and “disembark” shall be construed accordingly; but the provisions of this Act specially relating to members of the crew of a ship shall not by virtue of this provision apply in relation to any floating structure not being a ship.

(4) For purposes of this Act “common travel area” has the meaning given by section 1(3), and a journey is, in relation to the common travel area, a local journey if but only if it begins and ends in the common travel area and is not made by a ship or aircraft which—

(a) in the case of a journey to a place in the United Kingdom, began its voyage from, or has during its voyage called at, a place not in the common travel area; or

(b) in the case of a journey from a place in the United Kingdom, is due to end its voyage in, or call in the course of its voyage at, a place not in the common travel area.

(5) A person who enters the United Kingdom lawfully by virtue of section 8(1) above, and seeks to remain beyond the time limited by section 8(1), shall be treated for purposes of this Act as seeking to enter the United Kingdom.

Textual Amendments

F33 S. 11(1A) inserted by S.I. 1990/2227, art. 3, Sch. 1 para. 3

Status:

Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

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