



# Immigration Act 1971

## 1971 CHAPTER 77

### PART I

#### REGULATION OF ENTRY INTO AND STAY IN UNITED KINGDOM

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

- C1** Pt. 1 extended (Isle of Man) (with modifications) (13.3.2008 for certain purposes and 1.5.2008 otherwise) by [The Immigration \(Isle of Man\) Order 2008 \(S.I. 2008/680\)](#), arts. 1(2), **5**, **6(2)(a)**, 7, **Sch. 3**, **Sch. 10 Pt. 1** (with **Sch. 2 para. 2**) (as amended (29.6.2011) by [S.I. 2011/1408](#), art. 1, **Sch. paras. 1**, **2(c)(f)**) and as further amended (11.2.2016) by [S.I. 2016/156](#), arts. 1(2), **6** and (14.3.2019) by [S.I. 2019/562](#), arts. 1, 5, 11)
- C2** Pt. I amendment to earlier affecting provision [S.I. 2008/680](#), **Sch. 3 para. 10, 44, 49, 56, 76, 77** (29.6.2011) by [Immigration \(Isle of Man\) \(Amendment\) Order 2011 \(S.I. 2011/1408\)](#), art. 1, **Sch. paras. 1**, **2(c)(f)**
- C3** Pt. I amendment to earlier affecting provision [S.I. 2008/680](#), art. 6(2)(a), **Sch. 3** (11.2.2016) by [The Immigration \(Isle of Man\) \(Amendment\) Order 2016 \(S.I. 2016/156\)](#), arts. 1(2), **6**

## 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).

*Status: Point in time view as at 12/07/2016.*

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- (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 of taking employment, or for purposes of study, or as visitors, or as dependants of persons lawfully in or entering the United Kingdom.
- (5) ..... <sup>F1</sup>

#### Textual Amendments

**F1** S. 1(5) repealed by [Immigration Act 1988 \(c. 14, SIF 62\), s. 1](#)

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

- C4** S. 1 excluded by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4\)](#) (SIF 39:2), s. 20(3) Ss. 1-9, 11 extended (with modifications) (1.8.1993) by [S.I. 1993/1796](#), art 3(1), Sch. 1 Pt. I (Guernsey), [S.I. 1993/1797](#), art. 3(1), Sch. 1 Pt. I (Jersey) (as amended (17.10.2012) by [S.I. 2012/2593](#), arts. 1, **2(2)**)
- C5** 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](#)
- C6** Ss. 1-9 amendment to earlier affecting [S.I. 1993/1797](#), Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, 2(2)

#### [<sup>F2</sup> **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 <sup>M1</sup>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 [<sup>F3</sup>section 5(2)], shall apply as if they were British citizens; and in this Act (except as aforesaid) “British citizen” shall be construed accordingly.]

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#### 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 that of 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)

- C6** Ss. 1-9 amendment to earlier affecting [S.I. 1993/1797, Sch. 1 Pt. 1](#) (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, 2(2)
- C7** Ss. 1-9, 11 extended (with modifications) (1.8.1993) by [S.I. 1993/1796, art. 3\(1\), Sch. 1 Pt. I](#) (Guernsey), [S.I. 1993/1797, art. 3\(1\), Sch. 1 Pt. I](#) (Jersey) (as amended (17.10.2012) by [S.I. 2012/2593, arts. 1, 2\(2\)](#)); and (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. 1 para. 1](#) (with art. 6))

#### Marginal Citations

- M1** [1981 c. 61.](#)

### [<sup>F4</sup>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 \(c. 13\), s. 57\(1\)](#); [S.I. 2006/1497, art. 3, Sch.](#)

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

- C6** Ss. 1-9 amendment to earlier affecting [S.I. 1993/1797, Sch. 1 Pt. 1](#) (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, 2(2)

### 3 General provisions for regulation and control.

- (1) Except as otherwise provided by or under this Act, where a person is not [<sup>F5</sup>a British citizen]—

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- (a) he shall not enter the United Kingdom unless given leave to do so in accordance with [<sup>F6</sup>the provisions of, or made under,] 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;
- <sup>F7</sup>[(c) if he is given limited leave to enter or remain in the United Kingdom, it may be given subject to all or any of the following conditions, namely—
- (i) a condition restricting his [<sup>F8</sup>work ] or occupation in the United Kingdom;
  - [ a condition restricting his studies in the United Kingdom;]
  - <sup>F9</sup>(ia) (ii) a condition requiring him to maintain and accommodate himself, and any dependants of his, without recourse to public funds; <sup>F10</sup> . . .
  - (iii) a condition requiring him to register with the police.
  - [ a condition requiring him to report to an immigration officer or the
  - <sup>F11</sup>(iv) Secretary of State; and
  - (v) a condition about residence.]]
- (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 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 [<sup>F12</sup>(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

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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.

[<sup>F13</sup>(5) A person who is not a British citizen is liable to deportation from the United Kingdom if—

- (a) the Secretary of State deems his deportation to be conducive to the public good; or
- (b) 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 [<sup>F5</sup>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 [<sup>F14</sup>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 [<sup>F5</sup>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 [<sup>F5</sup>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.

(8) When any question arises under this Act whether or not a person is [<sup>F5</sup>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.

[<sup>F15</sup>(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, [<sup>F16</sup>or ]
- <sup>F17</sup>(c) . . . . .
- <sup>F17</sup>(d) . . . . .
- (e) a certificate of entitlement.]

**Textual Amendments**

- F5** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 2](#) (with [Sch. 8 para. 8](#))
- F6** Words in s. 3(1)(a) inserted (14.2.2000) by [1999 c. 33, s. 169\(1\), Sch. 14 paras. 43, 44\(1\); 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.](#))
- F7** S. 3 (1)(c) substituted (1.11.1996) by [1996 c. 49, s. 12\(1\), Sch. 2 para. 1\(1\); S.I. 1996/2127, art. 2, Sch. Pt. IV](#)

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- F8** Word in s. 3(1)(c)(i) substituted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 34(2)**, 94(1); S.I. 2016/603, **reg. 3(e)** (with transitional provision in S.I. 2016/712, art. 2)
- F9** S. 3(1)(c)(ia) inserted (21.7.2009) by Borders, Citizenship and Immigration Act 2009 (c. 11), **ss. 50, 58(3)**
- F10** Word after s. 3(1)(c)(ii) repealed (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 58, 59, Sch.**; S.I. 2008/99, **art. 2**
- F11** S. 3(1)(c)(iv)(v) inserted (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 16, 59**; S.I. 2008/99, **art. 2** (subject to **art. 3**)
- F12** Words in s. 3(3)(b) substituted (16.5.1991) by Immigration Act 1988 (c. 14, SIF 62), s. 10, **Sch. para. 1**
- F13** S. 3(5) substituted (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 44(2); S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3, Sch. 2 para. 2) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- F14** Words substituted by British Nationality Act 1981 (c. 61), s. 52(7), **Sch. 4 para. 4** (with Sch. 8 para. 8)
- F15** S. 3(9) substituted (16.6.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), **s. 30**; S.I. 2006/1497, **art. 3, Sch.**
- F16** Word in s. 3(9)(b) inserted (21.1.2011) by Identity Documents Act 2010 (c. 40), s. 14(2), **Sch. para. 1(a)**
- F17** S. 3(9)(c)(d) omitted (21.1.2011) by virtue of Identity Documents Act 2010 (c. 40), s. 14(2), **Sch. para. 1(b)**

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

- C8** S. 3 modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, **Sch. 4 para 1(2)(a)(b)**  
 Ss. 3-3B extended (14.12.2001) by 2001 c. 24, **ss. 22(2)(a)(3)**, 127(2)
- C9** 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**
- C10** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by The Immigration (Jersey) Order 1993 (S.I. 1993/1797), arts. 1, 3(1), **Sch. 1 Pt. 1** (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, 2(2); and (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2017/981, **Sch. Pt. 1 para. 1** (with art. 6))
- C11** S. 3(5)(a) modified (2.10.2000) by S.I. 2000/2326, **reg. 26(3)** (with regs. 9, 28)
- C12** S. 3(5)(a) modified (1.8.2008 for certain purposes and otherwise prosp.) by UK Borders Act 2007 (c. 30), **ss. 32(4)**, 59; S.I. 2008/1818, **art. 2(a)**, Sch. (with art. 3)
- C13** S. 3(6) extended (14.12.2001) by 2001 c. 24, **ss. 22(2)(c)(3)**, 127(2)

**[<sup>F18</sup>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,

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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.
- (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**

**F18** 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)**

**C6** Ss. 1-9 amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, 2(2)

**C14** Ss. 3-3B extended (14.12.2001) by 2001 c. 24, ss. 22(2)(a)(3), 127(2)



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### [<sup>F19</sup>3B Further provision as to leave to remain.

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

**F19** 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)

**C6** Ss. 1-9 amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, 2(2)

**C15** Ss. 3-3B extended (14.12.2001) by 2001 c. 24, ss. 22(2)(a)(3), 127(2)

### [<sup>F20</sup>3C Continuation of leave pending variation 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 for variation of the leave,
  - (b) the application for variation is made before the leave expires, and
  - (c) the leave expires without the application for variation having been decided.
- (2) The leave is extended by virtue of this section during any period when—
  - (a) the application for variation is neither decided nor withdrawn,
  - (b) an appeal under section 82(1) of the Nationality, Asylum and Immigration Act 2002 could be brought [<sup>F21</sup>, while the appellant is in the United Kingdom] against the decision on the application for variation (ignoring any possibility of an appeal out of time with permission), <sup>F22</sup>...



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- (c) an appeal under that section against that decision [<sup>F23</sup>, brought while the appellant is in the United Kingdom,] is pending (within the meaning of section 104 of that Act) [<sup>F24</sup>, or
- (d) an administrative review of the decision on the application for variation—
  - (i) could be sought, or
  - (ii) is pending.]
- (3) Leave extended by virtue of this section shall lapse if the applicant 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.
- (5) But subsection (4) does not prevent the variation of the application mentioned in subsection (1)(a).
- [<sup>F25</sup>(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.]
- [ In this section—  
<sup>F26</sup>(7) “administrative review” means a review conducted under the immigration rules;  
the question of whether an administrative review is pending is to be determined in accordance with the immigration rules.]]

#### Textual Amendments

- F20** S. 3C inserted (1.4.2003) by 2002 c. 41, s. 118 (with s. 159); S.I. 2003/754, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040 and 2003/1339))
- F21** Words in s. 3C(2)(b) inserted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 11(2); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F22** Word in s. 3C(2)(b) omitted (20.10.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 21(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))
- F23** Words in s. 3C(2)(c) inserted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 11(3); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F24** S. 3C(2)(d) and word inserted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 21(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))
- F25** S. 3C(6) substituted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 11(4); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F26** S. 3C(7) inserted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 21(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)

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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))

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

- C16** S. 3C applied (with modifications) (1.4.2003) by [1997 c. 68, s. 2\(2\)\(a\)](#) (as substituted by [2002 c. 41, s. 114, Sch. 7 para. 20](#)) (with s. 159); [S.I. 2003/754, art. 2, Sch. 1](#) (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by [S.I. 2003/1040](#) and [2003/1339](#))))
- C17** 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)

### **[<sup>F27</sup>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), <sup>F28</sup> ...
  - (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).
- [<sup>F29</sup>or
- (c) an administrative review of the variation or revocation—
    - (i) could be sought, or
    - (ii) is pending.]

(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.]

[<sup>F30</sup>(5) In this section—

“administrative review” means a review conducted under the immigration rules;

the question of whether an administrative review is pending is to be determined in accordance with the immigration rules.]

#### **Textual Amendments**

- F27** 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)
- F28** Word in s. 3D(2)(a) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 9 para. 22\(2\)\(a\)](#); [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))

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- F29** S. 3D(2)(c) and word inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 22(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))
- F30** S. 3D(5) inserted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 22(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))

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

- C6** Ss. 1-9 amendment to earlier affecting [S.I. 1993/1797](#), Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, 2(2)

**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 [<sup>F31</sup>allowed by or under] 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;
  - (b) the examination of persons arriving in or leaving the United Kingdom by ship or aircraft <sup>F32</sup> . . . , 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;

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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 <sup>F33</sup>British citizens] or not) who stay at any such premises to supply the necessary information.

#### Textual Amendments

- F31** Words in s. 4(1) substituted (14.2.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 45; 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.)
- F32** Words in s. 4(2)(b) repealed (2.8.1993) by S.I. 1993/1813, arts. 9, 1, Sch. 6 Pt. I
- F33** Words substituted by British Nationality Act 1981 (c. 61), s. 52(7), Sch. 4 para. 2 (with Sch. 8 para. 8)

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

- C18** 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
- C19** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by The Immigration (Jersey) Order 1993 (S.I. 1993/1797), arts. 1, 3(1), Sch. 1 Pt. 1 (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, 2(2); and (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2017/981, Sch. Pt. 1 para. 1 (with art. 6))
- C20** S. 4(2)(b) modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, Sch. 4 para. 1(3)

## 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 <sup>F34</sup>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 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 <sup>F35</sup>or civil partner,] and his or her children under the age of eighteen; and

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<sup>F36</sup>[(b) where that other person is a woman, her husband [<sup>F37</sup>or civil partner,] and her or his 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 [<sup>F38</sup>3(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

- F34** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), **Sch. 4 para. 2** (with [Sch. 8 para. 8](#))
- F35** Words in s. 5(4)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 261\(1\)](#), **Sch. 27 para. 37(a)**; [S.I. 2005/3175, art. 2\(2\)-\(5\)](#)
- F36** S. 5(4)(b) substituted (1.10.1996) by [1996 c. 49, s. 12\(1\)](#), **Sch. 2 para.2**; [S.I. 1996/2053, art. 2](#), **Sch. Pt.III**
- F37** Words in s. 5(4)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 261\(1\)](#), **Sch. 27 para. 37(b)**; [S.I. 2005/3175, art. 2\(2\)-\(5\)](#)
- F38** “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)

- C21** S. 5 applied (20.7.1994) by [S.I. 1994/1895, art. 20\(2\)](#)  
S. 5 applied (2.10.2000 with application as mentioned in reg. 9) by [S.I. 2000/2326, reg. 26\(3\)](#)  
S. 5 restricted (2.10.2000) by [1999 c. 33, s. 58\(3\)](#), **Sch. 4 Pt. II para. 18**; [S.I. 2000/2444, art. 2](#), **Sch. 1** (subject to transitional provisions in [art. 3, Sch. 2 para. 2](#))  
S. 5 restricted (2.10.2000 with application as mentioned in regs. 9, 28) by [S.I. 2000/2326, reg. 32\(5\)\(7\)](#) (as substituted (1.4.2003) for reg. 34(5)(10) by [S.I. 2003/549, reg. 2\(8\)](#) (with [reg. 3](#)))
- C22** S. 5 continued (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\), arts. 3, 4](#), **Sch. 2 para. 2(3)**
- C23** 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**
- C24** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\), arts. 1, 3\(1\)](#), **Sch. 1 Pt. 1** (as amended (17.10.2012) by [S.I. 2012/2593, arts. 1, 2\(2\)](#); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981, Sch. Pt. 1 para. 1](#) (with [art. 6](#)))
- C25** S. 5(1) amended (2.10.2000) by [1999 c. 33, ss. 63, 64](#); [S.I. 2000/2444, art. 2](#), **Sch. 1** (subject to transitional provisions in [art. 3, Sch. 2 para. 2](#))  
S. 5(1) amended (2.10.2000) by [1999 c. 33, ss. 69\(4\), 70\(5\)-\(8\)](#); [S.I. 2000/2444, art. 2](#), **Sch. 1** (subject to transitional provisions in [art. 3, Sch. 2 para. 2](#))  
S. 5(1) amended (22.5.2000 for certain purposes, otherwise 2.10.2000) by [1999 c. 33, s. 74](#); [S.I. 2000/1282, art. 2, Sch.](#); [S.I. 2000/2444, art. 2, Sch. 1](#) (subject to transitional provisions in [art. 3, Sch. 2](#))  
S. 5(1) amended (2.10.2000) by [1999 c. 33, s. 77](#); [S.I. 2000/2444, art. 2, Sch. 1](#) (subject to transitional provisions in [art. 3, Sch. 2](#))



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- S. 5(1) extended (14.12.2001) by 2001 c. 24, ss. 22(2)(d)(e)(3), 127(2)
- C26** S. 5(3) amended (2.10.2000) by 1999 c. 33, s. 58(3), Sch. 4 Pt. II para. 19; S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3, Sch. 2 para. 2)
- C27** S. 5(3) modified (1.8.2008 for certain purposes and otherwise prosp.) by UK Borders Act 2007 (c. 30), ss. 37(1), 59; S.I. 2008/1818, art. 2(a), Sch.

## 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 [<sup>F39</sup>a British citizen], describing the persons who are [<sup>F39</sup>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 [<sup>F40</sup>section 10(3) of the <sup>M2</sup>Magistrates' Courts Act 1980], [<sup>F41</sup>section 179 or 380 of the <sup>M3</sup>Criminal Procedure (Scotland) Act 1975] or any corresponding enactment for the time being in force in Northern Ireland shall include 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 [<sup>F42</sup>first offenders][<sup>F42</sup>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—

<sup>F43</sup>the recommendation shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence . . . <sup>F43</sup>

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(b) ..... F44

- (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

- F39** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), **Sch. 4 para. 2** (with [Sch. 8 para. 8](#))
- F40** Words substituted by [Magistrates' Courts Act 1980 \(c. 43\), s. 154\(2\)](#), **Sch. 7 para. 104**
- F41** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **Sch. 9 para. 47**
- F42** 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)**
- F43** 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**
- F44** 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**

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

- C6** Ss. 1-9 amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, 2(2)
- C28** Ss. 1-9, 11 extended (with modifications) (1.8.1993) by [S.I. 1993/1796](#), art. 3(1), Sch. 1 Pt. I (Guernsey), S.I. 1993/1797, art. 3(1), Sch. 1 Pt. I (Jersey) (as amended (17.10.2012) by [S.I. 2012/2593](#), arts. 1, 2(2))

#### 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) <sup>F45</sup> .....
- [<sup>F46</sup>(b) shall not be liable to deportation under section 3(5) 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;]
- (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.



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- (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 [<sup>F47</sup>section 240 [<sup>F48</sup>, 240ZA or 240A] of the Criminal Justice Act 2003] (or, before that section operated, section 17(2) of the <sup>M4</sup>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.

#### Textual Amendments

- F45** S. 7(1)(a) repealed (10.2.2003) by 2002 c. 41, ss. 75(2), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F46** S. 7(1)(b) substituted (10.2.2003) by 2002 c. 41, s. 75(3) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F47** Words in s. 7(4) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 304, Sch. 32 Pt. 1 para. 16; S.I. 2005/950, art. 2, Sch. 1 (with Sch. 2 (as modified (29.7.2005) by S.I. 2005/2122, art. 2))
- F48** Words in s. 7(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 13 para. 7; S.I. 2012/2906, art. 2(k)

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

- C6** Ss. 1-9 amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by The Immigration and Asylum (Jersey) Order 2012 (S.I. 2012/2593), arts. 1, 2(2)
- C29** Ss. 1-9, 11 extended (with modifications) to Guernsey (1.8.1993) by S.I. 1993/1796, art. 3(1), Sch. 1 Pt. I
- Ss. 1-9, 11 extended (with modifications) to Jersey (1.8.1993) by S.I. 1993/1797, art. 3(1), Sch. 1 Pt. I (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, 2(2))

#### Marginal Citations

- M4** 1962 c. 15.

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## 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—
- there is in force a deportation order made against him; or
  - 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
  - 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 [<sup>F49</sup>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) [<sup>F50</sup>Subject to subsection (3A) below,] the provisions of this Act relating to those who are not [<sup>F49</sup>British citizens] shall not apply to any person so long as he is a member of a mission (within the meaning of the <sup>M5</sup>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.

- [<sup>F51</sup>(3A) For the purposes of subsection (3), a member of a mission other than a diplomatic agent (as defined by the 1964 Act) is not to count as a member of a mission unless—
- he was resident outside the United Kingdom, and was not in the United Kingdom, when he was offered a post as such a member; and
  - he has not ceased to be such a member after having taken up the post.]

- (4) The provisions of this Act relating to those who are not [<sup>F49</sup>British citizens], other than the provisions relating to deportation, shall also not apply to any person so long as either—
- he is subject, as a member of the home forces, to service law; or
  - being a member of a Commonwealth force or of a force raised under the law of any <sup>F52</sup>. . . colony, protectorate or protected state, is undergoing or about to undergo training in the United Kingdom with any body, contingent or detachment of the home forces; or
  - 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 <sup>M6</sup>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 [<sup>F53</sup>or otherwise ceased to be in force ]; and a person is not to be regarded for purposes of this

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Act as having been <sup>F54</sup>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.]

<sup>F55</sup>(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 <sup>M7</sup>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 <sup>M8</sup>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

- F49** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 2](#) (with [Sch. 8 para. 8](#))
- F50** Words inserted by [Immigration Act 1988 \(c. 14, SIF 62\), s. 4](#)
- F51** S. 8(3A) substituted (1.3.2000) by [1999 c. 33, s. 6; 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.](#))
- F52** Words in s. 8(4)(b) repealed (8.11.1995) by [1995 c. 44, s. 1, Sch. 1 Pt. II](#) Group 1
- F53** Words in s. 8(5) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\), ss. 76\(1\), 94\(1\); S.I. 2016/603, reg. 3\(n\)](#)
- F54** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 5](#) (with [Sch. 8 para. 8](#))
- F55** S. 8(5A) inserted by [British Nationality Act 1981 \(c. 61\), ss. 39\(4\), 52\(7\)](#) (with [Sch. 8 para. 8](#))

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

- C30** 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](#)
- C31** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\), arts. 1, 3\(1\), Sch. 1 Pt. 1](#) (as amended (17.10.2012) by [S.I. 2012/2593, arts. 1, 2\(2\)](#); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981, Sch. Pt. 1 para. 1](#) (with art. 6))
- C32** S. 8(1) modified (2.8.1993) by [S.I. 1993/1813, arts. 7\(1\), 1, Sch. 4 para. 1\(4\)](#)
- C33** S. 8(3) extended by [State Immunity Act 1978 \(c. 33\), s. 20\(3\)](#)

#### Marginal Citations

- M5** [1964 c. 81.](#)
- M6** [1964 c. 5.](#)
- M7** [1981 c. 61.](#)
- M8** [1952 c. 67.](#)

#### <sup>F56</sup>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—

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- (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.

[ References in this section to a person who ceases to be exempt do not include a person <sup>F57</sup>(4) who ceases to be exempt by virtue of section 8B(3).]

#### Textual Amendments

**F56** 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.)

**F57** S. 8A(4) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(2), 94(1); S.I. 2016/603, reg. 3(n)

#### [<sup>F58</sup>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 [<sup>F59</sup>(and any leave given to a person who is an excluded person is invalid)].
- (2) A person's leave to enter or remain in the United Kingdom is cancelled on his becoming an excluded person.
- [<sup>F60</sup>(3) Any exemption of a person from the provisions of this Act under section 8(1), (2) or (3) does not apply while the person is an excluded person.]
- (4) “Excluded person” means a person—
  - (a) named by or under, or
  - (b) of a description specified in, [<sup>F61</sup>an instrument falling within subsection (5)].
- (5) [<sup>F62</sup>An instrument falls within this subsection] if it is a resolution of the Security Council of the United Nations or an instrument made by the Council of the European Union and it—
  - (a) requires that a person is not to be admitted to the United Kingdom (however that requirement is expressed); or
  - (b) recommends that a person should not be admitted to the United Kingdom (however that recommendation is expressed).

[ Subsection (1), (2) or (3) does not apply to a person if—  
<sup>F63</sup>(5A) (a) the application of that subsection to that person would be contrary to the United Kingdom's obligations under—

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- (i) the Human Rights Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999), or
- (ii) the Refugee Convention (within the meaning given by that provision), or
- (b) the person has been exempted from the application of that subsection under a process applying by virtue of the instrument falling within subsection (5).]

F<sup>64</sup>(6) .....

F<sup>64</sup>(7) .....

F<sup>64</sup>(8) .....]

#### Textual Amendments

- F58** 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.)
- F59** Words in s. 8B(1)(b) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(4), 94(1); S.I. 2016/603, reg. 3(n)
- F60** S. 8B(3) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(5), 94(1); S.I. 2016/603, reg. 3(n)
- F61** Words in s. 8B(4) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(6), 94(1); S.I. 2016/603, reg. 3(n)
- F62** Words in s. 8B(5) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(7), 94(1); S.I. 2016/603, reg. 3(n)
- F63** S. 8B(5A) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(8), 94(1); S.I. 2016/603, reg. 3(n)
- F64** Ss. 8B(6)-(8) omitted (12.7.2016) by virtue of Immigration Act 2016 (c. 19), ss. 76(9), 94(1); S.I. 2016/603, reg. 3(n)

## 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 [<sup>F65</sup>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

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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 [<sup>F65</sup>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.
- (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 . . . <sup>F66</sup> 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

**F65** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), [Sch. 4 para. 2](#) (with [Sch. 8 para. 8](#))

**F66** Words repealed by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), [Sch. 9](#) (with [Sch. 8 para. 8](#))

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

**C34** 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](#)

**C35** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\)](#), arts. 1, 3(1), [Sch. 1 Pt. 1](#) (as amended (17.10.2012) by [S.I. 2012/2593](#), arts. 1, [2\(2\)](#); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981](#), [Sch. Pt. 1 para. 1](#) (with [art. 6](#)))

**C36** 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 <sup>F67</sup>. . . as they have effect in the case of a person arriving by ship or aircraft <sup>F67</sup>. . . ; 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.



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- (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**

**F67** In s. 10(1), Words "or through the tunnel system" repealed (2.8.1993) by [S.I. 1993/1813, arts. 9, 1, Sch. 6 Pt.I](#)

**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 temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act <sup>F68</sup>or section 62 of the Nationality, Immigration and Asylum Act 2002<sup>F69</sup>or by section 68 of the Nationality, Immigration and Asylum Act 2002].

<sup>F70</sup>(1A) . . . . .

- (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.



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- (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

- F68** Words in s. 11(1) inserted (10.2.2003) by 2002 c. 41, s. 62(8) (with s. 159); S.I. 2003/1, **art. 2**, Sch.  
**F69** Words in s. 11(1) inserted (4.4.2003) by The Nationality, Immigration and Asylum Act 2002 (Consequential and Incidental Provisions) Order 2003 (S.I. 2003/1016), arts. 2, 3, **Sch. para. 1**  
**F70** S. 11(1A) repealed (2.8.1993) by S.I. 1993/1813, arts. 9, 1, **Sch. 6 Pt. 1**

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

- C37** 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**  
Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by The Immigration (Jersey) Order 1993 (S.I. 1993/1797), arts. 1, 3(1), **Sch. 1 Pt. 1** (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, **2(2)**; and (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2017/981, **Sch. Pt. 1 para. 1** (with art. 6))  
S. 11 modified (2.8.1993) by S.I. 1993/1813, arts. 1, 7(1), **Sch. 4 para. 1(5)**  
**C38** S. 11 applied (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 2(14)**, 48  
**C39** S. 11 applied by The Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003), reg. 2(3) (as inserted (1.6.2009) by The Immigration (European Economic Area) (Amendment) Regulations 2009 (S.I. 2009/1117), reg. 2, **Sch. 1 para. 1(b)**)  
**C40** S. 11(1) applied (7.11.2002 with effect as noted in s. 11(4) of the amending act) by 2002 c. 41, s. **11(3)** (with s. 159)  
**C41** S. 11(1) applied by British Nationality Act 1981 (c. 61), s. 50A(6) (as inserted (13.1.2010) by Borders, Citizenship and Immigration Act 2009 (c. 11), **ss. 48(1)**, 58(2); S.I. 2009/2731, **art. 4(g)**)

**Status:**

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**Changes to legislation:**

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