



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART I

IMMIGRATION: GENERAL

Leave to enter, or remain in, the United Kingdom

1 Leave to enter

In the 1971 Act, after section 3, insert—

“3A Further provision as to leave to enter

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

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

2 Leave to remain

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

“3B Further provision as to leave to remain

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

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

3 Continuation of leave pending decision

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

“3C Continuation of leave pending decision

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

4 Accommodation for those temporarily admitted or released from detention

The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of persons—

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

5 Charges

- (1) The Secretary of State may, with the approval of the Treasury, make regulations prescribing fees to be paid in connection with applications for—
- (a) leave to remain in the United Kingdom;
 - (b) the variation of leave to enter, or remain in, the United Kingdom;

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- (c) an indefinite leave stamp to be fixed on the applicant's passport (or travel document) as the result of the renewal or replacement of his previous passport (or travel document).
- (2) If a fee prescribed in connection with an application of a particular kind is payable, no such application is to be entertained by the Secretary of State unless the fee has been paid in accordance with the regulations.
- (3) But—
 - (a) a fee prescribed in connection with such an application is not payable if the basis on which the application is made is that the applicant is—
 - (i) a person making a claim for asylum which claim either has not been determined or has been granted; or
 - (ii) a dependant of such a person; and
 - (b) the regulations may provide for no fee to be payable in prescribed circumstances.
- (4) If no fee is payable in respect of some part of the application, the Secretary of State must entertain that part of the application.
- (5) “Indefinite leave stamp” means a stamp which indicates that the applicant has been granted indefinite leave to enter, or remain in, the United Kingdom.
- (6) “Claim for asylum” has the meaning given in subsection (1) of section 94; and subsection (3) of that section applies for the purposes of this section as it applies for the purposes of Part VI.
- (7) “Dependant” has such meaning as may be prescribed.