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SCHEDULES

SCHEDULE 14

CONSEQUENTIAL AMENDMENTS

The Immigration Act 1971 (c. 77)

- 43 The 1971 Act is amended as follows.
- 44 (1) In section 3 (general provisions for regulation and control), in subsection (1)(a), after “in accordance with” insert “the provisions of, or made under,”.
- (2) In section 3, for subsection (5) substitute—
- “(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.”
- 45 In section 4(1) (giving or refusal of leave to enter or remain to be in writing except where allowed by the Act) for “allowed by” substitute “allowed by or under”.
- 46 In section 7(1) (exemption of certain residents from deportation)—
- (a) in paragraph (a), for “3(5)(b)” substitute “3(5)(a)”; and
- (b) in paragraph (b), for “(b) or (c)” substitute “or (b) or 10 of the Immigration and Asylum Act 1999”.
- 47 (1) Section 10 (entry otherwise than by sea or air) is amended as follows.
- (2) In subsection (1), omit from “and any such Order” to the end.
- (3) After subsection (1), insert—
- “(1A) Her Majesty may by Order in Council direct that paragraph 27B or 27C of Schedule 2 shall have effect in relation to trains or vehicles as it has effect in relation to ships or aircraft.
- (1B) Any Order in Council under this section may make—
- (a) such adaptations or modifications of the provisions concerned, and
- (b) such supplementary provisions,
- as appear to Her Majesty to be necessary or expedient for the purposes of the Order.”
- (4) In subsection (2), for “this section” substitute “subsection (1)”.
- 48 In section 11(1) (entry to the United Kingdom), at the end insert “or by Part III of the Immigration and Asylum Act 1999”.
- 49 Omit Part II.

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- 50 In section 24 (illegal entry and similar offences), omit subsections (1)(aa) and (2).
- 51 In section 25 (assisting illegal entry and harbouring), omit subsection (3).
- 52 (1) Section 27 (offences by persons connected with ships or aircraft) is amended as follows.
- (2) In paragraph (a)(ii), after “Schedule 2 or 3” insert “or under the Immigration and Asylum Act 1999”.
- (3) In paragraph (b)(iii)—
- (a) after “arrangements for” insert “or in connection with”; and
- (b) at the end insert “or under the Immigration and Asylum Act 1999; or
- (iv) he fails, without reasonable excuse, to comply with the requirements of paragraph 27B or 27C of Schedule 2;”.
- 53 In section 28(1) (time limits for proceedings) after “24,” insert “24A,”.
- 54 (1) Section 32 (proof of documents) is amended as follows.
- (2) In subsection (2)—
- (a) for “this Act” substitute “the Immigration Acts”; and
- (b) after second “by him” insert “or on his behalf”.
- (3) In subsection (3), for “proceedings under Part II of this Act” substitute “other proceedings under the Immigration Acts”.
- (4) In subsection (4)—
- (a) for first “this Act” substitute “the Immigration Acts”; and
- (b) for “proceedings under Part II of this Act” substitute “other proceedings under the Immigration Acts”.
- (5) After subsection (4) insert—
- “(5) “Immigration Acts” has the same meaning as in the Immigration and Asylum Act 1999.”
- (6) The amendments made by sub-paragraphs (2)(a) and (5) apply whenever the document in question was made or issued.
- 55 In section 33 (interpretation), for subsection (4) substitute—
- “(4) For the purposes of this Act, the question of whether an appeal is pending shall be determined—
- (a) in relation to an appeal to the Special Immigration Appeals Commission, in accordance with section 7A of the Special Immigration Appeals Commission Act 1997;
- (b) in any other case, in accordance with section 58(5) to (10) of the Immigration and Asylum Act 1999”.
- 56 In Schedule 2 (administrative provisions as to control on entry), in paragraph 2(1) (purposes for which persons arriving in the United Kingdom may be examined), for paragraph (c) substitute—
- “(c) whether, if he may not—
- (i) he has been given leave which is still in force,

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- (ii) he should be given leave and for what period or on what conditions (if any), or
- (iii) he should be refused leave.”

57 In Schedule 2, after paragraph 2, insert—

“Examination of persons who arrive with continuing leave

- 2A (1) This paragraph applies to a person who has arrived in the United Kingdom with leave to enter which is in force but which was given to him before his arrival.
- (2) He may be examined by an immigration officer for the purpose of establishing—
- (a) whether there has been such a change in the circumstances of his case, since that leave was given, that it should be cancelled;
 - (b) whether that leave was obtained as a result of false information given by him or his failure to disclose material facts; or
 - (c) whether there are medical grounds on which that leave should be cancelled.
- (3) He may also be examined by an immigration officer for the purpose of determining whether it would be conducive to the public good for that leave to be cancelled.
- (4) He may also be examined by a medical inspector or by any qualified person carrying out a test or examination required by a medical inspector.
- (5) A person examined under this paragraph may be required by the officer or inspector to submit to further examination.
- (6) A requirement under sub-paragraph (5) does not prevent a person who arrives—
- (a) as a transit passenger,
 - (b) as a member of the crew of a ship or aircraft, or
 - (c) for the purpose of joining a ship or aircraft as a member of the crew,
- from leaving by his intended ship or aircraft.
- (7) An immigration officer examining a person under this paragraph may by notice suspend his leave to enter until the examination is completed.
- (8) An immigration officer may, on the completion of any examination of a person under this paragraph, cancel his leave to enter.
- (9) Cancellation of a person’s leave under sub-paragraph (8) is to be treated for the purposes of this Act and Part IV of the Immigration and Asylum Act 1999 as if he had been refused leave to enter at a time when he had a current entry clearance.
- (10) A requirement imposed under sub-paragraph (5) and a notice given under sub-paragraph (7) must be in writing.”

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58 In Schedule 2, in paragraph 4(1) and (2) (production of information and documents in connection with examinations), after “paragraph 2” insert “, 2A”.

59 In Schedule 2, for paragraph 7 substitute—

“Power to require medical examination after entry

- 7 (1) This paragraph applies if an immigration officer examining a person under paragraph 2 decides—
- (a) that he may be given leave to enter the United Kingdom; but
 - (b) that a further medical test or examination may be required in the interests of public health.
- (2) This paragraph also applies if an immigration officer examining a person under paragraph 2A decides—
- (a) that his leave to enter the United Kingdom should not be cancelled; but
 - (b) that a further medical test or examination may be required in the interests of public health.
- (3) The immigration officer may give the person concerned notice in writing requiring him—
- (a) to report his arrival to such medical officer of health as may be specified in the notice; and
 - (b) to attend at such place and time and submit to such test or examination (if any), as that medical officer of health may require.
- (4) In reaching a decision under paragraph (b) of sub-paragraph (1) or (2), the immigration officer must act on the advice of—
- (a) a medical inspector; or
 - (b) if no medical inspector is available, a fully qualified medical practitioner.”

60 In Schedule 2, in paragraph 16 (detention of persons liable to examination), after sub-paragraph (1), insert—

- “(1A) A person whose leave to enter has been suspended under paragraph 2A may be detained under the authority of an immigration officer pending—
- (a) completion of his examination under that paragraph; and
 - (b) a decision on whether to cancel his leave to enter.”

61 In Schedule 2, in paragraph 18 (treatment of persons detained), after sub-paragraph (2) insert—

- “(2A) The power conferred by sub-paragraph (2) includes power to take fingerprints.”

62 In Schedule 2, paragraph 21 (temporary admission of persons liable to detention) is amended as follows.

(2) After sub-paragraph (2) insert—

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- “(2A) The provisions that may be included in restrictions as to residence imposed under sub-paragraph (2) include provisions of such a description as may be prescribed by regulations made by the Secretary of State.
- (2B) The regulations may, among other things, provide for the inclusion of provisions—
- (a) prohibiting residence in one or more particular areas;
 - (b) requiring the person concerned to reside in accommodation provided under section 4 of the Immigration and Asylum Act 1999 and prohibiting him from being absent from that accommodation except in accordance with the restrictions imposed on him.
- (2C) The regulations may provide that a particular description of provision may be imposed only for prescribed purposes.
- (2D) The power to make regulations conferred by this paragraph is exercisable by statutory instrument and includes a power to make different provision for different cases.
- (2E) But no regulations under this paragraph are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”
- (3) In sub-paragraph (3), after “2” insert “or 2A”.
- (4) In sub-paragraph (4)(a), omit “under paragraph 2 above”.
- 63 In Schedule 2, in paragraph 22 (temporary release of persons liable to detention), in sub-paragraph (1)(a), after “examination;” insert—
- “(aa) a person detained under paragraph 16(1A) above pending completion of his examination or a decision on whether to cancel his leave to enter;”.
- 64 (1) In Schedule 2, paragraph 26 (supplementary duties of those connected with ships or aircraft or with ports) is amended as follows.
- (2) In sub-paragraph (1), omit “and have not been given leave”.
 - (3) After sub-paragraph (1) insert—
- “(1A) Sub-paragraph (1) does not apply in such circumstances, if any, as the Secretary of State may by order prescribe.”
- (4) After sub-paragraph (3) insert—
- “(3A) The power conferred by sub-paragraph (1A) is exercisable by statutory instrument; and any such instrument shall be subject to annulment by a resolution of either House of Parliament.”
- 65 In Schedule 2, omit paragraph 28.
- 66 In Schedule 2, in paragraph 29, for “13(1), 16 or 17 of this Act” substitute “ 59, 65, 66, 67, 69(1) or (5) or 71 of the Immigration and Asylum Act 1999”.
- 67 In Schedule 2, in paragraph 34 (grant of bail pending removal), in sub-paragraph (1), after “examination” insert “, detained under paragraph 16(1A) above

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pending completion of his examination or a decision on whether to cancel his leave to enter”.

68 In Schedule 3, in paragraph 2(4) (application of certain provisions if person detained under Schedule 3), for “and 18” substitute “,18 and 25A to 25E”.

69 In Schedule 3 (supplementary provision as to deportation), in paragraph 3—

- (a) for “16 or 17” substitute “ 66 or 67 of the Immigration and Asylum Act 1999”;
- (b) omit “in paragraph 28(2), (3) and (6) and”; and
- (c) for “15(1)(a)” substitute “ 63(1)(a) or 69(4)(a) of the Immigration and Asylum Act 1999”.

70 In Schedule 4 (integration of United Kingdom and Islands immigration law), for paragraph 3 (deportation) substitute—

- “3 (1) This Act has effect in relation to a person who is subject to an Islands deportation order as if the order were a deportation order made against him under this Act.
- (2) Sub-paragraph (1) does not apply if the person concerned is—
- (a) a British citizen;
 - (b) an EEA national;
 - (c) a member of the family of an EEA national; or
 - (d) a member of the family of a British citizen who is neither such a citizen nor an EEA national.
- (3) The Secretary of State does not, as a result of sub-paragraph (1), have power to revoke an Islands deportation order.
- (4) In any particular case, the Secretary of State may direct that paragraph (b), (c) or (d) of sub-paragraph (2) is not to apply in relation to the Islands deportation order.
- (5) Nothing in this paragraph makes it unlawful for a person in respect of whom an Islands deportation order is in force in any of the Islands to enter the United Kingdom on his way from that island to a place outside the United Kingdom.
- (6) “Islands deportation order” means an order made under the immigration laws of any of the Islands under which a person is, or has been, ordered to leave the island and forbidden to return.
- (7) Subsections (10) and (12) to (14) of section 80 of the Immigration and Asylum Act 1999 apply for the purposes of this section as they apply for the purposes of that section.”