



Immigration Act 2014

2014 CHAPTER 22

PART 3

ACCESS TO SERVICES ETC

CHAPTER 2

OTHER SERVICES ETC

National Health Service

38 Immigration health charge

- (1) The Secretary of State may by order provide for a charge to be imposed on—
 - (a) persons who apply for immigration permission, or
 - (b) any description of such persons.
- (2) “Immigration permission” means—
 - (a) leave to enter or remain in the United Kingdom for a limited period,
 - (b) entry clearance which, by virtue of provision made under section 3A(3) of the Immigration Act 1971, has effect as leave to enter the United Kingdom for a limited period, or
 - (c) any other entry clearance which may be taken as evidence of a person's eligibility for entry into the United Kingdom for a limited period.
- (3) An order under this section may in particular—
 - (a) impose a separate charge on a person in respect of each application made by that person;
 - (b) specify the amount of any charge (and different amounts may be specified for different purposes);
 - (c) make provision about when or how a charge may or must be paid to the Secretary of State;

Status: Point in time view as at 06/04/2015.

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- (d) make provision about the consequences of a person failing to pay a charge (including provision for the person's application to be refused);
 - (e) provide for exemptions from a charge;
 - (f) provide for the reduction, waiver or refund of part or all of a charge (whether by conferring a discretion or otherwise).
- (4) In specifying the amount of a charge under subsection (3)(b) the Secretary of State must (among other matters) have regard to the range of health services that are likely to be available free of charge to persons who have been given immigration permission.
- (5) Sums paid by virtue of an order under this section must—
- (a) be paid into the Consolidated Fund, or
 - (b) be applied in such other way as the order may specify.
- (6) In this section—
- “entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971;
 - “health services” means services provided as part of the health service in England, Wales, Scotland and Northern Ireland;
- and the references to applying for leave to enter or remain for a limited period include references to applying for a variation of leave to enter or remain which would result in leave to enter or remain for a limited period.

Commencement Information

II S. 38 in force at 20.10.2014 by S.I. 2014/2771, art. 4(b)

39 Related provision: charges for health services

- (1) A reference in the NHS charging provisions to persons not ordinarily resident in Great Britain or persons not ordinarily resident in Northern Ireland includes (without prejudice to the generality of that reference) a reference to—
- (a) persons who require leave to enter or remain in the United Kingdom but do not have it, and
 - (b) persons who have leave to enter or remain in the United Kingdom for a limited period.
- (2) The “NHS charging provisions” are—
- (a) section 175 of the National Health Service Act 2006 (charges in respect of persons not ordinarily resident in Great Britain);
 - (b) section 124 of the National Health Service (Wales) Act 2006 (charges in respect of persons not ordinarily resident in Great Britain);
 - (c) section 98 of the National Health Service (Scotland) Act 1978 (charges in respect of persons not ordinarily resident in Great Britain);
 - (d) Article 42 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) (provision of services to persons not ordinarily resident in Northern Ireland).

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Commencement Information

I2 S. 39 in force at 6.4.2015 by S.I. 2015/874, art. 2(a)

Bank accounts

40 Prohibition on opening current accounts for disqualified persons

- (1) A bank or building society (B) must not open a current account for a person (P) who is within subsection (2) unless—
 - (a) B has carried out a status check which indicates that P is not a disqualified person, or
 - (b) at the time when the account is opened B is unable, because of circumstances that cannot reasonably be regarded as within its control, to carry out a status check in relation to P.
- (2) A person is within this subsection if he or she—
 - (a) is in the United Kingdom, and
 - (b) requires leave to enter or remain in the United Kingdom but does not have it.
- (3) For the purposes of this section—
 - (a) carrying out a “status check” in relation to P means checking with a specified anti-fraud organisation or a specified data-matching authority whether, according to information supplied to that organisation or authority by the Secretary of State, P is a disqualified person;
 - (b) a “disqualified person” is a person within subsection (2) for whom the Secretary of State considers that a current account should not be opened by a bank or building society;
 - (c) opening an account for P includes—
 - (i) opening a joint account for P and others;
 - (ii) opening an account in relation to which P is a signatory or is identified as a beneficiary;
 - (iii) adding P as an account holder or as a signatory or identified beneficiary in relation to an account.
- (4) In subsection (3)(a)—

“anti-fraud organisation” has the same meaning as in section 68 of the Serious Crime Act 2007;

“data-matching authority” means a person or body conducting data matching exercises, within the meaning of Schedule 9 to the Local Audit and Accountability Act 2014, under or by virtue of that or any other Act;

“specified” means specified by an order made by the Secretary of State for the purposes of this section.
- (5) Subsection (1)(b) does not apply where—
 - (a) a bank or building society is required to pay a reasonable fee for carrying out status checks, and
 - (b) its inability to carry out a status check is due to its failure to pay the fee.

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(6) A bank or building society that refuses to open a current account for someone on the ground that he or she is a disqualified person must tell the person, if it may lawfully do so, that that is the reason for its refusal.

[^{F1}(7) The prohibition in subsection (1) does not apply in the case of an account to be operated (or an account that is operated) by or for a person or body of a description specified in an order made by the Treasury.]

Textual Amendments

F1 S. 40(7) inserted (12.12.2014) by [The Immigration Act 2014 \(Bank Accounts\) \(Amendment\) Order 2014 \(S.I. 2014/3074\)](#), arts. 1, 2

Commencement Information

I3 S. 40 in force at 12.12.2014 by [S.I. 2014/1943](#), art. 2

41 Regulation by Financial Conduct Authority

(1) The Treasury may make regulations to enable the Financial Conduct Authority to make arrangements for monitoring and enforcing compliance with the prohibition imposed on banks and building societies by section 40.

(2) The regulations may (in particular)—

- (a) provide for the Financial Conduct Authority to be given free access to the information to which banks and building societies are given access when carrying out status checks under section 40;
- (b) apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000, including in particular those mentioned in subsection (3), with or without modification.

(3) The provisions are—

- (a) provisions about investigations, including powers of entry and search and criminal offences;
- (b) provisions for the grant of an injunction (or, in Scotland, an interdict) in relation to a contravention or anticipated contravention;
- (c) provisions giving the Financial Conduct Authority powers to impose disciplinary measures (including financial penalties) or to give directions;
- (d) provisions giving a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) or the Financial Conduct Authority powers to make subordinate legislation;
- (e) provisions for the Financial Conduct Authority to charge fees.

Commencement Information

I4 S. 41 in force at 14.7.2014 by [S.I. 2014/1820](#), art. 2(a)

42 “Bank” and “building society”

(1) In sections 40 and 41 “bank” means an authorised deposit-taker that has its head office or a branch in the United Kingdom.

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This is subject to subsection (4).

- (2) In subsection (1) “authorised deposit-taker” means—
 - (a) a person who under Part 4A of the Financial Services and Markets Act 2000 has permission to accept deposits;
 - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.
- (3) A reference in subsection (2) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.
- (4) “Bank” does not include—
 - (a) a building society;
 - (b) a person who is specified, or is within a class of persons specified, by an order under section 38 of the Financial Services and Markets Act 2000 (exemption orders);
 - (c) a credit union within the meaning given by section 31(1) of the Credit Unions Act 1979 or by Article 2(2) of the Credit Unions (Northern Ireland) Order 1985;
 - (d) a friendly society within the meaning given by section 116 of the Friendly Societies Act 1992.
- (5) In sections 40 and 41, and in subsection (4), “building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986.

Commencement Information

I5 S. 42 in force at 14.7.2014 by S.I. 2014/1820, art. 2(b)

43 Power to amend

- (1) The Treasury may by order amend any of sections 40 to 42 so as—
 - (a) to alter the categories of financial institution to which those sections apply;
 - (b) to alter the categories of account to which the prohibition in section 40(1) applies;
 - (c) to include provision defining a category of account specified in that section;
 - (d) to provide for the prohibition in section 40(1) not to apply in the case of an account to be operated (or an account that is operated) by or for a person or body of a specified description.
- (2) An order under subsection (1) may amend a section so that it provides for a matter to be specified in a further order to be made by the Treasury.
- (3) In subsection (1) “account” includes a financial product by means of which a payment may be made.

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Commencement Information

I6 S. 43 in force at 14.7.2014 by S.I. 2014/1820, art. 2(c)

Work

44 Appeals against penalty notices

In section 17 of the Immigration, Asylum and Nationality Act 2006 (appeal), for subsections (4) and (5) substitute—

“(4A) An appeal may be brought only if the employer has given a notice of objection under section 16 and the Secretary of State—

- (a) has determined the objection by issuing to the employer the penalty notice (as a result of increasing the penalty under section 16(4)(c)),
- (b) has determined the objection by—
 - (i) reducing the penalty under section 16(4)(b), or
 - (ii) taking no action under section 16(4)(d), or
- (c) has not informed the employer of a decision before the end of the period that applies for the purposes of section 16(5)(b).

(4B) An appeal must be brought within the period of 28 days beginning with the relevant date.

(4C) Where the appeal is brought under subsection (4A)(a), the relevant date is the date specified in the penalty notice issued in accordance with section 16(5)(c) as the date on which it is given.

(4D) Where the appeal is brought under subsection (4A)(b), the relevant date is the date specified in the notice informing the employer of the decision for the purposes of section 16(5)(b) as the date on which it is given.

(4E) Where the appeal is brought under subsection (4A)(c), the relevant date is the date on which the period that applies for the purposes of section 16(5)(b) ends.”

Commencement Information

I7 S. 44 in force at 28.7.2014 by S.I. 2014/1820, art. 3(p) (with art. 5)

45 Recovery of sums payable under penalty notices

In section 18 of the Immigration, Asylum and Nationality Act 2006 (enforcement), for subsections (1) and (2) substitute—

“(1) This section applies where a sum is payable to the Secretary of State as a penalty under section 15.

(1A) In England and Wales the penalty is recoverable as if it were payable under an order of the county court.

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- (1B) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (1C) In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.
- (1D) Where action is taken under this section for the recovery of a sum payable as a penalty under section 15, the penalty is—
- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;
 - (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.”

Commencement Information

18 S. 45 in force at 28.7.2014 by S.I. 2014/1820, art. 3(q) (with art. 6)

Driving licences

46 Grant of driving licences: residence requirement

- (1) In section 97 of the Road Traffic Act 1988 (grant of licences), in the opening words of subsection (1), after “who” insert “ meets the relevant residence requirement (see section 97A) and ”.
- (2) After that section insert—

“97A Residence requirement

- (1) For the purposes of an application under section 97, a person meets the relevant residence requirement if, on the date the application is made—
- (a) in the case of an application that is made by virtue of section 89(1)(ea) (application by holder of Community licence), the applicant is lawfully resident in the United Kingdom and—
 - (i) is also normally resident in the United Kingdom, or
 - (ii) has been attending a course of study in the United Kingdom during the period of six months ending on that date;
 - (b) in the case of an application that is made by virtue of section 89(1)(f) (application by holder of exchangeable licence), the applicant is normally and lawfully resident in Great Britain but has not been so resident for more than the prescribed period;
 - (c) in the case of an application that is made by virtue of section 97(2) (application for provisional licence), the applicant is lawfully resident in Great Britain and the Secretary of State is satisfied that the applicant will remain so for not less than 185 days; and

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- (d) in any other case, the applicant is normally and lawfully resident in Great Britain.
- (2) For the purposes of subsection (1) a person is not lawfully resident in Great Britain or the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”
- (3) In Article 13 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (grant of licences), in the opening words of paragraph (1), after “who” insert “meets the relevant residence requirement (see Article 13A) and ”.
- (4) After that Article insert—

“13A **Residence requirement**

- (1) For the purposes of an application under Article 13, a person meets the relevant residence requirement if, on the date the application is made—
 - (a) in the case of an application that is made by virtue of Article 5(1) (ea) (application by holder of Community licence), the applicant is lawfully resident in the United Kingdom and—
 - (i) is also normally resident in the United Kingdom, or
 - (ii) has been attending a course of study in the United Kingdom during the period of six months ending on that date;
 - (b) in the case of an application that is made by virtue of Article 5(1) (f) (application by holder of exchangeable licence), the applicant is normally and lawfully resident in Northern Ireland but has not been so resident for more than the prescribed period;
 - (c) in the case of an application that is made by virtue of Article 13(2) (application for provisional licence), the applicant is lawfully resident in Northern Ireland and the Department is satisfied that the applicant will remain so for not less than 185 days; and
 - (d) in any other case, the applicant is normally and lawfully resident in Northern Ireland.
- (2) For the purposes of paragraph (1) a person is not lawfully resident in Northern Ireland or the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”

Commencement Information

19 S. 46 in force at 14.7.2014 by S.I. 2014/1820, art. 2(d)

47 Revocation of driving licences on grounds of immigration status

- (1) In section 99 of the Road Traffic Act 1988 (duration of licences)—
 - (a) after subsection (3) insert—
 - “(3ZA) Where it appears to the Secretary of State that a licence holder is not lawfully resident in the United Kingdom, the Secretary of State may serve notice in writing on that person revoking the licence and requiring the person to surrender the licence and its counterpart

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forthwith to the Secretary of State, and it is the duty of that person to comply with the requirement.

(3ZB) For the purposes of subsection (3ZA) a person is not lawfully resident in the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”;

- (b) in subsection (5), after “(3)” insert “, (3ZA) ”;
- (c) in subsection (7ZZA)—
 - (i) after “(3)” insert “, (3ZA) ”;
 - (ii) after “subsections and” insert “, except in the case of a licence and counterpart surrendered in pursuance of subsection (3ZA), ”.

(2) In section 100 of that Act (appeals)—

- (a) in subsection (1)(c), after “99(3)” insert “, (3ZA) ”;
- (b) at the end insert—

“(4) In any proceedings under this section about the revocation of a licence in pursuance of section 99(3ZA) (revocation on grounds of immigration status), the court or sheriff is not entitled to entertain any question as to whether—

- (a) the appellant should be, or should have been, granted leave to enter or remain in the United Kingdom, or
- (b) the appellant has, after the date that the Secretary of State served notice under section 99(3ZA), been granted leave to enter or remain in the United Kingdom.”

(3) In Article 15 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (duration of licences)—

- (a) after paragraph (5) insert—

“(5ZA) Where it appears to the Department that a licence holder is not lawfully resident in the United Kingdom, the Department may serve notice in writing on that person revoking the licence and requiring the person to surrender the licence and its counterpart forthwith to the Department, and it is the duty of that person to comply with the requirement.

(5ZB) For the purposes of paragraph (5ZA) a person is not lawfully resident in the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”;

- (b) in paragraph (7), after “(5)” insert “, (5ZA) ”.

(4) In Article 16 of that Order (appeals)—

- (a) in paragraph (1)(c), after “15(5)” insert “, (5ZA) ”;
- (b) at the end insert—

“(4) In any proceedings under this Article about the revocation of a licence in pursuance of Article 15(5ZA) (revocation on grounds of immigration status), the court is not entitled to entertain any question as to whether—

- (a) the appellant should be, or should have been, granted leave to enter or remain in the United Kingdom, or

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- (b) the appellant has, after the date that the Department served notice under Article 15(5ZA), been granted leave to enter or remain in the United Kingdom.”

Commencement Information

I10 S. 47 in force at 14.7.2014 by S.I. 2014/1820, art. 2(e)

Status:

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