

2000 No. 1985 (C. 51)

IMMIGRATION

The Immigration and Asylum Act 1999 (Commencement No. 5 and Transitional Provisions) Order 2000

Made - - - - 22nd July 2000

In exercise of the powers conferred upon him by sections 166(3) and 170(4) and (5) of the Immigration and Asylum Act 1999(a), the Secretary of State hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Immigration and Asylum Act 1999 (Commencement No. 5 and Transitional Provisions) Order 2000.

(2) In this Order “the Act” means the Immigration and Asylum Act 1999.

Commencement of provisions

2. The provisions of the Act specified in column 1 of the Schedule to this Order shall come into force on the date specified in column 2 of that Schedule, but where a particular purpose is specified in relation to any such provision in column 3 of that Schedule, the provision concerned shall come into force on that date only for that purpose.

Transitional provisions relating to Part IV of the Act

3.—(1) The new appeals provisions shall have effect from the relevant date as if:

- (a) any reference in them to Part IV of the Act (however expressed) included a reference to the existing appeals provisions;
- (b) the reference in paragraph 1(2) of Schedule 4 to the Act to “the regulations” included a reference to regulations made under section 18 of the 1971 Act.

(2) Paragraph 6 of Schedule 2 to the 1997 Act (as substituted by paragraph 129 of Schedule 14 to the Act) shall have effect from the relevant date as if the reference in it to section 2 of the 1997 Act included a reference to that section as it had effect immediately before the amendment made to it by paragraphs 119 and 120 of Schedule 14 to the Act came into force.

(3) In this article:

“the 1971 Act” means the Immigration Act 1971(b);

“the 1997 Act” means the Special Immigration Appeals Commission Act 1997(c);

“the existing appeals provisions” means Part II of the 1971 Act, section 8 of, and Schedule 2 to, the Asylum and Immigration Act 1993(d) and section 3 of the Asylum and Immigration Act 1996(e);

(a) 1999 c. 33.
(b) 1971 c. 77.
(c) 1997 c. 68.
(d) 1993 c. 23.
(e) 1996 c. 49.

“the new appeals provisions” means paragraphs 1, 3 and 4 of Schedule 4 to the Act, together with section 58(2) of the Act so far as it relates to those paragraphs^(a); and
“the relevant date” means 1st August 2000.

Home Office
22nd July 2000

Jack Straw
One of Her Majesty’s Principal Secretaries of State

(a) Paragraphs 3 and 4 were commenced by S.I. 2000/168 and paragraph 1 was commenced by S.I. 2000/1282; section 58(2) was commenced by those instruments to the extent it relates to those paragraphs.

THE SCHEDULE

Article 2

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Section 83(4) and (5) (The Commissioner) (so far as not already in force).	30th October 2000	
Section 84(2)(a) and (b), (4)(a) and (d), (5) and (7) (Provision of immigration services).	30th October 2000	Paragraphs (a) and (b) of section 84(2) are commenced in so far as they relate to the provisions of section 85 of the Act commenced by this Order; section 84(4)(a) is commenced in so far as to enable the Commissioner to certify a person as exempt under it; section 84(4)(d) is commenced for the purposes of making subordinate legislation under it.
Section 85(3) (Schedule 6).	1st August 2000	Commenced for the purposes of the provisions of Schedule 6 commenced by this Order on this date.
Section 85 (Registration and exemption by the Commissioner) (so far as not already in force).	30th October 2000	
Section 86(10) to (12) (Designated professional bodies).	30th October 2000	For the purpose of making subordinate legislation under them.
Section 87(5) (The Tribunal).	1st August 2000	In so far as it relates to the provisions of Schedule 7 commenced by this Order on this date.
Section 87 (The Tribunal) (so far as not already in force).	30th October 2000	
Section 88 (Appeal upheld by the Tribunal).	30th October 2000	
Section 89 (Disciplinary charge upheld by the Tribunal).	30th October 2000	
Section 90 (Orders by disciplinary bodies).	1st August 2000	For the purposes of enabling subordinate legislation to be made under it.
Section 147 (Interpretation of Part VIII).	1st August 2000	
Section 148(3) (Management of detention centres).	1st August 2000	For the purposes of enabling subordinate legislation to be made under it.
Section 149(1), (3), (6)(a) and (9) (Detention centres: Contracting out).	1st August 2000	
Section 152(2) and (3) (Visiting Committees: Functions).	1st August 2000	For the purposes of enabling subordinate legislation to be made under them.
Section 153 (Detention centre rules).	1st August 2000	For the purposes of enabling subordinate legislation to be made under it.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Section 154(7) (Schedule 11).	1st August 2000	Commenced for the purposes of the provisions of Schedule 11 commenced by this Order.
Section 155(2) (Schedule 12).	1st August 2000	Commenced for the purposes of the provisions of Schedule 12 commenced by this Order.
Section 156(5) (Schedule 13).	1st August 2000	Commenced for the purposes of the provisions of Schedule 13 commenced by this Order.
Section 157 (Short-term holding facilities).	1st August 2000	For the purposes of enabling subordinate legislation to be made under it.
Section 169(1) (Schedule 14).	1st August 2000	Commenced for the purposes of the provisions of Schedule 14 commenced by this Order.
Schedule 5 (Regulatory Functions) (so far as not already in force).	30th October 2000	
In Schedule 6, paragraph 5(1) (Immigration Services Commissioner: Registration: Fees).	1st August 2000	For the purposes of enabling subordinate legislation to be made under it.
Schedule 6 (so far as not already in force).	30th October 2000	
In Schedule 7, paragraphs 7 and 8(3).	1st August 2000	
Schedule 7 (so far as not already in force).	30th October 2000	
In Schedule 11, paragraphs 2(1)(a) and 7(2) and (3) (Detainee custody officers).	1st August 2000	For the purposes of enabling subordinate legislation to be made under them.
In Schedule 12, paragraphs 1, 2 and 3(7) (Discipline etc at detention centres).	1st August 2000	For the purposes of enabling subordinate legislation to be made under them.
In Schedule 13, paragraph 2(1)(a) and (4) (Escort arrangements).	1st August 2000	For the purposes of enabling subordinate legislation to be made under them.
In Schedule 14, paragraphs 118 and 129 (Notices of decisions which are appealable under the Special Immigration Appeals Commission Act 1997).	1st August 2000	Paragraph 118 is commenced to the extent that it refers to paragraph 129 of Schedule 14.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the Immigration and Asylum Act 1999.

Part IV

In Part IV of the Act (Appeals), the following provisions are commenced on 1st August 2000. Paragraph 129 of Schedule 14 to the Act enables regulations made under paragraph 1 of Schedule 4 to the Act to make provision for the giving of notices in relation to decisions appealable under the Special Immigration Appeals Commission Act 1997. Article 3 of the Order in addition makes transitional provision with effect from 1st August 2000 in relation to paragraphs 1, 3 and 4 of Schedule 4 to the Act. Part IV of the Act makes new provision for immigration and asylum appeals, replacing earlier legislation. Appeal rights under the earlier legislation are to be preserved for decisions taken prior to the commencement of Part IV. However, in the interests of simplicity, certain new procedural regulations and rules are to apply to all appeals, whether brought under Part IV or the earlier (preserved) legislation. The transitional provision enables this to be done. Paragraphs 1, 3 and 4 of Schedule 4 were commenced by earlier commencement orders; but no instrument has yet been made under them.

Part V

In Part V of the Act (Immigration Advisers and Immigration Service Providers), the provisions commenced are as follows:

On 1st August 2000:

- (a) section 87(5) and paragraphs 7 and 8(3) of Schedule 7, which make provision for the Lord Chancellor to make rules as to the procedure and practice to be followed in relation to the exercise of the Tribunal's functions;
- (b) section 90 is commenced for the purpose of enabling the Secretary of State to make subordinate legislation under it. It enables the disciplinary bodies of certain professional organisations to be specified as disciplinary bodies for the purpose of Part V of the Act. The organisations concerned are those governing persons who provide immigration advice and services to the public. Specification will, when Part V of the Act is in force, confer power on the bodies to restrict, suspend or prohibit the providing of such services by members of their organisations;
- (c) paragraph 5(1) of Schedule 6, which enables the Secretary of State to specify by Order fees for the registration or continued registration of persons on the register maintained by the Immigration Services Commissioner.

On 30th October 2000:

- (d) section 83(4) and 83(5) are brought fully into force, having been commenced in part by the Immigration and Asylum Act 1999 (Commencement No. 4) Order 2000 (S.I. 2000/1282);
- (e) section 84(2)(a) and (b), (4)(a) and (d), (5) and (7), save that sections 84(2)(a) and (b) are commenced only in so far as they relate to the provisions of section 85 which are commenced by this Order, section 84(4)(a) is commenced only in so far as it will enable the Commissioner to certify a person as exempt from the prohibition in section 84(1), and section 84(4)(d) is commenced only for the purposes of enabling the Secretary of State to make subordinate legislation under it to exempt persons from the prohibition in section 84(1);
- (f) section 85 and Schedule 6, which provides that the Commissioner must prepare and maintain a register for the purposes of those persons described in section 84(2)(a) and (b), and that he must keep a record of the persons whom he certifies as exempt under section 84(4)(a). Schedule 6 provides for the process of registration with the Commissioner, although paragraph 5(1), which relates to the fee payable on registration and continued registration is commenced from 1st August 2000 for the purposes of enabling the Secretary of State to make an order specifying such fees;

- (g) sections 86(10) to (12) is commenced for the purposes of enabling the Secretary of State to specify the dates on which and the level of the annual fee that must be paid by designated professional bodies to the Commissioner to meet the costs incurred by the Commissioner under Part V of the Act;
- (h) sections 87(1) to (6), 88 and 89, which provide for the creation of an Immigration Services Tribunal to which a person aggrieved by a relevant decision of the Commissioner may appeal, and provisions relating to appeals which are allowed and disciplinary charges laid by the Commission under paragraph 9(1)(e) of Schedule 5 to the Act;
- (i) paragraphs 1(3) and 2(5), 3(4), 5(4) and (5), 6(2) and (3), 7, 8 and 9, 10 of Schedule 5, which relate to the regulatory functions of the Commissioner;
- (j) paragraphs 1 to 6, 8(1) and (2), and 9 to 13 of Schedule 7, which contain provisions relating to the members of the Tribunal and the President of the Tribunal, the proceedings of the Tribunal, the suspension of the effect of a relevant decision of the Commissioner, and the staff and expenditure of the Tribunal.

Part VIII

In Part VIII (Detention Centres and Detained Persons), the following provisions are commenced on 1st August:

- (a) section 147 (interpretation);
- (b) section 149(1), (3) and (9); these subsections make provision for entry by the Secretary of State into contracts for the provision or running of detention centres;
- (c) sections 148(3), 149(6)(a), 152(2) and (3), 153, 157; paragraphs 2(1)(a) and 7(2) and (3) of Schedule 11; paragraphs 1, 2 and 3(7) of Schedule 12; and paragraphs 2(1)(a) and (4) of Schedule 13, which are all commenced for the purpose of making subordinate legislation under them; they confer power to make rules, orders and regulations governing the operation of detention centres, short term holding facilities and escort arrangements.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Immigration and Asylum Act 1999 have been brought into force on the dates shown by commencement orders before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 and 2 (Leave to enter; leave to remain).	14th February 2000	2000/168
Sections 6 and 7 (Members of Missions other than diplomatic agents; Persons ceasing to be exempt).	1st March 2000	2000/168
Section 8 (Persons excluded from the United Kingdom under International Obligations).	1st March 2000	2000/168
Section 10(6) (Removal directions: prescribed class of persons to whom they may be given; imposition of prescribed requirements).	22nd May 2000	2000/1282
Section 12(1) (in part) (Designation of countries other than EU Member States to which asylum claimants may be removed).	22nd May 2000	2000/1282
Section 14 (Escorts for persons removed from the United Kingdom under directions).	1st March 2000	2000/168
Section 18 (in part) (Passenger information).	1st March 2000	2000/464
Sections 18 (save as not already in force) and 19 (Notification of non-EEA arrivals).	3rd April 2000	2000/464
Sections 20 and 21 (Supply of information to and by Secretary of State).	1st January 2000	1999/3190
Sections 28, 29(1) (in part) (2) and (4) and 30 (Offences).	14th February 2000	2000/168
Section 32(2)(a), (3) and (10) (in part) (Prescribed penalty for carrying clandestines; prescribed period for payment; and prescribed control zone).	6th December 1999	1999/3190
Section 33 (Clandestine entrants: code of practice).	6th December 1999	1999/3190
Section 35(7) to (9) (in part) (Clandestine entrants: period for giving notice of objection and service of notices on detached trailers).	6th December 1999	1999/3190
Section 36(2)(a) (in part) (Clandestine entrants: prescribed period for payment of penalty).	6th December 1999	1999/3190
Section 37(6) (in part) (Sale of transporters).	6th December 1999	1999/3190
Sections 32 and 34 to 37 (in part) (save as not already in force) (Clandestine entrants).	3rd April 2000	2000/464

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 38 (Assisting illegal entry and harbouring).	3rd April 2000	2000/464
Section 39 (in part) (Clandestine entrants: rail freight).	6th December 1999	1999/3190
Section 40(9) and (10) (Carriers' Liability: trains: international agreement for controls).	6th December 1999	1999/3190
Section 42(8) (in part) (Sale of transporters).	6th December 1999	1999/3190
Section 43 (Interpretation of Part II).	6th December 1999	1999/3190
Sections 56 (The Immigration Appeal Tribunal) and 57 (Adjudicators).	14th February 2000	2000/168
Section 58(2) (in part) (Part I of Schedule 4 to the Act).	14th February 2000	2000/168
Section 58(2) (in part) (Part I of Schedule 4 to the Act).	22nd May 2000	2000/1282
Section 60(6) and (10) (Family visitor appeals: fees; definition of family visitor).	22nd May 2000	2000/1282
Section 72(3) (in part) (Miscellaneous limitations on rights of appeal).	22nd May 2000	2000/1282
Section 74 (in part) (One-stop procedure: duty to disclose grounds for appeal etc).	22nd May 2000	2000/1282
Section 75 (in part) (One-stop procedure: duty to disclose grounds for entering etc the United Kingdom).	22nd May 2000	2000/1282
Section 76(6) (Result of failure to comply with section 74: definition of family member etc).	22nd May 2000	2000/1282
Section 80 (EEA Nationals).	22nd May 2000	2000/1282
Section 82 (Interpretation of Part V).	22nd May 2000	2000/1282
Section 83 (in part) (The Commissioner).	22nd May 2000	2000/1282
Section 86(1) to (9) (Designated professional bodies).	22nd May 2000	2000/1282
Section 93 (Information).	22nd May 2000	2000/1282
Section 95(3) to (8) (in part) (Persons for whom support may be provided).	6th December 1999	1999/3190
Section 95 (in part).	1st January 2000	1999/3190
Section 97 (in part) (Supplemental provisions on provision of support).	1st January 2000	1999/3190
Section 98(3) (in part) (Temporary support).	1st March 2000	2000/464
Section 104 (Asylum support: Secretary of State's Rules).	1st January 2000	1999/3190
Section 110(9) (Definition of "Northern Ireland authority" for the purposes of Section 110).	6th December 1999	1999/3190
Section 114 (in part) (Overpayments).	1st January 2000	1999/3190

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 115 (in part) (Exclusion from benefits).	1st January 2000	1999/3190
Section 116 (Amendment of section 21 of the National Assistance Act 1948).	6th December 1999	1999/3190
Section 117(1) and (2) (Amendment of section 45 of the Health Services and Public Health Act 1968 and paragraph 2 of Schedule 8 to the National Health Service Act 1977).	6th December 1999	1999/3190
Section 118 (in part) (Housing authority accommodation).	1st January 2000	1999/3190
Section 118 (save as not already in force) (Housing authority accommodation).	1st March 2000	2000/464
Section 119 (in part) (Homelessness: Scotland and Northern Ireland).	1st January 2000	1999/3190
Section 119 (save as not already in force) (Homelessness: Scotland and Northern Ireland).	1st March 2000	2000/464
Sections 120 and 121 (in part) (Other restrictions on assistance: Scotland and Northern Ireland).	1st March 2000	2000/464
Section 122 (in part) (Support for children).	1st March 2000	2000/464
Part VI (save as not already in force and except section 117(5)) (Support for asylum seekers).	3rd April 2000	2000/464
Section 123 (in part) (Backdating of benefits where person recorded as refugee).	1st January 2000	1999/3190
Sections 128 to 139 (Powers to arrest and search).	14th February 2000	2000/168
Section 154 (in part) (Detainee Custody Officers).	3rd April 2000	2000/464
Section 165 (in part) (Procedural requirements as to applications).	22nd May 2000	2000/1282
Section 169(1) and (2) (in part) (Minor and consequential amendments and transitional provisions).	6th December 1999	1999/3190
Section 169 (in part).	14th February 2000	2000/168
Section 169(1) and (3) (in part) (Minor and consequential amendments and repeals).	1st March 2000	2000/464
Section 169(1) and (3) (in part) (save as not already in force) (Minor and consequential amendments and repeals).	3rd April 2000	2000/464
Paragraphs 2 and 5 of Schedule 1 (Sale of transporters).	6th December 1999	1999/3190
Schedule 1 (so far as not already in force) (Sale of transporters).	3rd April 2000	2000/464

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedules 2 (The Immigration Appeal Tribunal) and 3 (Adjudicators).	14th February 2000	2000/168
In Schedule 4 (Appeals), paragraph 1 (Notice of appealable matters).	22nd May 2000	2000/1282
In Schedule 4 (Appeals), paragraphs 3 to 5.	14th February 2000	2000/168
In Schedule 5 (The Immigration Services Commissioner), paragraphs 1(1), (2) and (4), 2(1) to (4) and (6) to (8), 3(1) to (3) and (5) to (7), 4, 5(1) to (3), 6(1) and 11 to 25.	22nd May 2000	2000/1282
Schedule 8 (Provision of support: regulations).	1st January 2000	1999/3190
In Schedule 11 (Detainee custody officers) paragraphs 1 and 7(1).	3rd April 2000	2000/464
Paragraph 54 of Schedule 14 (Proof of documents).	6th December 1999	1999/3190
Paragraph 117 of Schedule 14 (Amendment of section 512(3) of the Education Act 1996).	6th December 1999	1999/3190
In Schedule 14, paragraphs 43 (in part), 44(1), 45, 49 (in part), 50, 51, 53, 56 to 60, 62(1), (3) and (4), 63, 64, 67, 68, 71, 72, 80(1) (in part), (2) and (3), 90(1) (in part), (2) and (3), 91, 94 (in part), 95, 96, 98, 108 (in part), 109, 118 (in part) and 125 (Minor and consequential provisions).	14th February 2000	2000/168
In Schedule 14, paragraphs 43 (in part), 52(1) (in part) and 3(a), 108 (in part) and 110 (Minor and consequential provisions).	1st March 2000	2000/464
In Schedule 14, paragraphs 43 (in part), 52(1) (in part) and 3(b), 74, 76, 92, 93, 99 (in part), 101, 108 (in part) and 111 to 113 (Minor and consequential provisions).	3rd April 2000	2000/464
Paragraphs 5, 6 and 9 of Schedule 15 (Transitional provisions in relation to section 116 and subsections (1) and (2) of section 117).	6th December 1999	1999/3190
In Schedule 15, paragraphs 1, 3, 4(b) and 14 (Transitional provisions).	14th February 2000	2000/168
In Schedule 16, the entries relating to the Immigration Act 1971 (in part), the House of Commons Disqualification Act 1975, the Northern Ireland Assembly Disqualification Act 1975, the Courts and Legal Services Act 1990, the Judicial Pensions and Retirement Act 1993 and the Asylum and Immigration Act 1996 (in part).	14th February 2000	2000/168
In Schedule 16 (Repeals) the provisions relating to section 9 of the Asylum and Immigration Act 1996 and Paragraph 3 of Schedule 6 to the Housing Act 1996.	1st March 2000	2000/464

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
In Schedule 16 (Repeals) the entries relating to the Social Security Contributions and Benefits Act 1992, the Social Security and Benefits (Northern Ireland) Act 1992, sections 3 and 4 of, and Schedule 1 to, the Asylum and Immigration Act 1993 and sections 10 and 11 of, and Schedule 1 to, the Asylum and Immigration Act 1996.	3rd April 2000	2000/464

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