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STATUTORY INSTRUMENTS

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**2000 No. 1161**

**The Immigration (Leave to Enter and Remain) Order 2000**

**PART III**

**FORM AND MANNER OF GIVING AND REFUSING LEAVE TO ENTER**

**Grant and refusal of leave to enter before arrival in the United Kingdom**

7.—(1) An immigration officer, whether or not in the United Kingdom, may give or refuse a person leave to enter the United Kingdom at any time before his departure for, or in the course of his journey to, the United Kingdom.

(2) In order to determine whether or not to give leave to enter under this article (and, if so, for what period and subject to what conditions), an immigration officer may seek such information, and the production of such documents or copy documents, as an immigration officer would be entitled to obtain in an examination under paragraph 2 or 2A of Schedule 2 to the Act.

(3) An immigration officer may also require the person seeking leave to supply an up to date medical report.

(4) Failure by a person seeking leave to supply any information, documents, copy documents or medical report requested by an immigration officer under this article shall be a ground, in itself, for refusal of leave.

**Grant or refusal of leave otherwise than by notice in writing**

8.—(1) A notice giving or refusing leave to enter may, instead of being given in writing as required by section 4(1) of the Act, be given as follows.

(2) The notice may be given by facsimile or electronic mail.

(3) In the case of a notice giving or refusing leave to enter the United Kingdom as a visitor, it may be given orally, including by means of a telecommunications system.

(4) In paragraph (3), “leave to enter the United Kingdom as a visitor” means leave to enter as a visitor under the immigration rules for a period not exceeding six months, subject to conditions prohibiting employment and recourse to public funds (within the meaning of the immigration rules).

**Grant or refusal of leave by notice to a responsible third party**

9.—(1) Leave to enter may be given or refused to a person by means of a notice given (in such form and manner as permitted by the Act or this Order for a notice giving or refusing leave to enter) to a responsible third party acting on his behalf.

(2) A notice under paragraph (1) may refer to a person to whom leave is being granted or refused either by name or by reference to a description or category of persons which includes him.

### Notice of refusal of leave

**10.**—(1) Where a notice refusing leave to enter to a person is given under article 8(3) or 9, an immigration officer shall as soon as practicable give to him a notice in writing stating that he has been refused leave to enter the United Kingdom and stating the reasons for the refusal.

(2) Where an immigration officer serves a notice under the Immigration (Appeals) Notices Regulations 1984<sup>(1)</sup> or under regulations made under paragraph 1 of Schedule 4 to the Immigration and Asylum Act 1999 in respect of the refusal, he shall not be required to serve a notice under paragraph (1).

(3) Any notice required by paragraph (1) to be given to any person may be delivered, or sent by post to—

- (a) that person's last known or usual place of abode; or
- (b) any address provided by him for receipt of the notice.

### Burden of proof

**11.** Where any question arises under the Immigration Acts as to whether a person has leave to enter the United Kingdom and he alleges that he has such leave by virtue of a notice given under article 8(3) or 9, the onus shall lie upon him to show the manner and date of his entry into the United Kingdom.

**12.**—(1) This article applies where—

- (a) an immigration officer has commenced examination of a person ('the applicant') under paragraph 2(1)(c) of Schedule 2 to the Act (examination to determine whether or not leave to enter should be given);
- (b) that examination has been adjourned, or the applicant has been required (under paragraph 2(3) of Schedule 2 to the Act) to submit to a further examination, whilst further inquiries are made (including, where the applicant has made an asylum claim, as to the Secretary of State's decision on that claim); and
- (c) upon the completion of those inquiries, an immigration officer considers he is in a position to decide whether or not to give or refuse leave to enter without interviewing the applicant further.

(2) Where this article applies, any notice giving or refusing leave to enter which is on any date thereafter sent by post to the applicant (or is communicated to him in such form or manner as is permitted by this Order) shall be regarded, for the purposes of the Act, as having been given within the period of 24 hours specified in paragraph 6(1) of Schedule 2 to the Act<sup>(2)</sup> (period within which notice giving or refusing leave to enter must be given after completion of examination).

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<sup>(1)</sup> S.I.1984/2040.

<sup>(2)</sup> Paragraph 6 is amended in relevant respects by section 39(6) of and paragraph 2 of Schedule 4 to, the British Nationality Act 1981 (1981 c. 61) and section 10 of the Immigration Act 1988.