



Immigration Act 1971

1971 CHAPTER 77

PART IV

SUPPLEMENTARY

29 Contributions for expenses of persons returning abroad

- (1) The Secretary of State may, in such cases as he may with the approval of the Treasury determine, make payments of such amount as may be so determined to meet or provide for expenses of persons who are not patial in leaving the United Kingdom for a country or territory where they intend to reside permanently, including travelling expenses for members of their families or households.
- (2) The Secretary of State shall, so far as practicable, administer this section so as to secure that a person's expenses in leaving the United Kingdom are not met by or out of a payment made by the Secretary of State unless it is shown that it is in that person's interest to leave the United Kingdom and that he wishes to do so.

30 Return of mental patients

- (1) In the following enactments (which provide in relation to England, Wales and Northern Ireland and in relation to Scotland, respectively, for aliens receiving treatment for mental illness as in-patients to be removed, where proper arrangements have been made, to a country or territory outside the United Kingdom and Islands), that is to say,—
 - (a) section 90 of the Mental Health Act 1959 ; and
 - (b) section 82 of the Mental Health (Scotland) Act 1960;there shall in each case be substituted for the words " any patient being an alien " the words "any patient who is not patial within the meaning of the Immigration Act 1971 and ".
- (2) Under section 90 of the Mental Health Act 1959 (as under section 82 of the Mental Health (Scotland) Act 1960) the Secretary of State shall only authorise the removal of a patient if it appears to him to be in the interests of the patient; and accordingly in

section 90 after the words " and for his care or treatment there " there shall be inserted the words " and that it is in the interests of the patient to remove him ".

31 Expenses

There shall be defrayed out of moneys provided by Parliament any expenses incurred by a Secretary of State under or by virtue of this Act—

- (a) by way of administrative expenses (including any additional expenses under the British Nationality Acts 1948 to 1965 which are attributable to Schedule 1 to this Act); or
- (b) in connection with the removal of any person from the United Kingdom under Schedule 2 or 3 to this Act or the departure with him of his dependants, or his or their maintenance pending departure ; or
- (c) on account of the remuneration, allowances and other sums payable to or in respect of the adjudicators and members of the Immigration Appeal Tribunal, or of the remuneration of the officers and servants appointed for the adjudicators or Tribunal, or of the expenses of the adjudicators or Tribunal; or
- (d) on the making of any grants or payments under section 23 or 29 above.

32 General provisions as to Orders in Council, etc.

- (1) Any power conferred by Part I of this Act to make, an Order in Council or order (other than a deportation order) or to give any directions includes power to revoke or vary the Order in Council, order or directions.
- (2) Any document purporting to be an order, notice or direction made or given by the Secretary of State for the purposes of this Act and to be signed by him or on his behalf, and any document purporting to be a certificate of the Secretary of State so given and to be signed by him, shall be received in evidence, and shall, until the contrary is proved, be deemed to be made or issued by him.
- (3) Prima facie evidence of any such order, notice, direction or certificate as aforesaid may, in any legal proceedings or proceedings under Part II of this Act, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the order, notice, direction or certificate.
- (4) Where an order under section 8(2) above applies to persons specified in a schedule to the order, or any directions of the Secretary of State given for the purposes of this Act apply to persons specified in a schedule to the directions, prima facie evidence of the provisions of the order or directions other than the schedule and of any entry contained in the schedule may, in any legal proceedings or proceedings under Part II of this Act, be given by the production of a document purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the said provisions and of the relevant entry.

33 Interpretation

- (1) For purposes of this Act, except in so far as the context otherwise requires—
 - " aircraft " includes hovercraft, " airport " includes hover-port and " port " includes airport;
 - " captain " means master (of a ship) or commander (of an aircraft);

Status: This is the original version (as it was originally enacted).

" certificate of patriality " means such a certificate as is referred to in section 3(9) above;

" crew ", in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the captain, and " member of the crew " shall be construed accordingly ;

" entrant " means a person entering or seeking to enter the United Kingdom, and " illegal entrant " means a person unlawfully entering or seeking to enter in breach of a deportation order or of the immigration laws, and includes also a person who has so entered;

" entry clearance " means a visa, entry certificate or other document which, in accordance with the immigration rules, is to be taken as evidence of a person's eligibility, though not patrial, for entry into the United Kingdom (but does not include a work permit);

" immigration laws " means this Act and any law for purposes similar to this Act which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands;

" immigration rules " means the rules for the time being laid down as mentioned in section 3(2) above ;

" the Islands " means the Channel Islands and the Isle of Man, and " the United Kingdom and Islands " means the United Kingdom and the Islands taken together;

" legally adopted " means adopted in pursuance of an order made by any court in the United Kingdom and Islands or by any adoption specified as an overseas adoption by order of the Secretary of State under section 4 of the Adoption Act 1968 ;

" limited leave " and " indefinite leave " mean respectively leave under this Act to enter or remain in the United Kingdom which is, and one which is not, limited as to duration;

" settled " shall be construed in accordance with section 2(3)(d) above but, where used in relation to the United Kingdom only, as if any reference in section 2(3)(d) or in section 8(5) to the Islands were omitted ;

" ship " includes every description of vessel used in navigation ;

" work permit " means a permit indicating, in accordance with the immigration rules, that a person named in it is eligible, though not patrial, for entry into the United Kingdom for the purpose of taking employment.

- (2) It is hereby declared that, except as otherwise provided in this Act, a person is not to be treated for the purposes of any provision of this Act as ordinarily resident in the United Kingdom or in any of the Islands at a time when he is there in breach of the immigration laws.
- (3) The ports of entry for purposes of this Act, and the ports of exit for purposes of any Order in Council under section 3(7) above, shall be such ports as may from time to time be designated for the purpose by order of the Secretary of State made by statutory instrument.
- (4) For purposes of this Act an appeal under Part II shall, subject to any express provision to the contrary, be treated as pending during the period beginning when notice of appeal is duly given and ending when the appeal is finally determined or withdrawn; and in the case of an appeal to an adjudicator, the appeal shall not be treated as finally determined so long as a further appeal can be brought by virtue of section 20 nor, if such an appeal is duly brought, until it is determined or withdrawn.

- (5) This Act shall not be taken to supersede or impair any power exercisable by Her Majesty in relation to aliens by virtue of Her prerogative.

34 Repeal, transitional and temporary

- (1) Subject to the following provisions of this section, the enactments mentioned in Schedule 6 to this Act are hereby repealed, as from the coming into force of this Act, to the extent mentioned in column 3 of the Schedule ; and—
- (a) this Act, as from its coming into force, shall apply in relation to entrants or others arriving in the United Kingdom at whatever date before or after it comes into force; and
 - (b) after this Act comes into force anything done under or for the purposes of the former immigration laws shall have effect, in so far as any corresponding action could be taken under or for the purposes of this Act, as if done by way of action so taken, and in relation to anything so done this Act shall apply accordingly.
- (2) Without prejudice to the generality of subsection (1)(a) and (b) above, a person refused leave to land by virtue of the Aliens Restriction Act 1914 shall be treated as having been refused leave to enter under this Act, and a person given leave to land by virtue of that Act shall be treated as having been given leave to enter under this Act; and similarly with the Commonwealth Immigrants Acts 1962 and 1968.
- (3) A person treated in accordance with subsection (2) above as having leave to enter the United Kingdom—
- (a) shall be treated as having an indefinite leave, if he is not at the coming into force of this Act subject to a condition limiting his stay in the United Kingdom; and
 - (b) shall be treated, if he is then subject to such a condition, as having a limited leave of such duration, and subject to such conditions (capable of being attached to leave under this Act), as correspond to the conditions to which he is then subject, but not to conditions not capable of being so attached.

This subsection shall have effect in relation to any restriction or requirement imposed by Order in Council under the Aliens Restriction Act 1914 as if it had been imposed by way of a landing condition.

- (4) Notwithstanding anything in the foregoing provisions of this Act, the former immigration laws shall continue to apply, and this Act shall not apply,—
- (a) in relation to the making of deportation orders and matters connected therewith in any case where a decision to make the order has been notified to the person concerned before the coming into force of this Act;
 - (b) in relation to removal from the United Kingdom and matters connected therewith (including detention pending removal or pending the giving of directions for removal) in any case where a person is to be removed in pursuance of a decision taken before the coming into force of this Act or in pursuance of a deportation order to the making of which paragraph (a) above applies;
 - (c) in relation to appeals against any decision taken or other thing done under the former immigration laws, whether taken or done before the coming into force of this Act or by virtue of this subsection.

- (5) Subsection (1) above shall not be taken as empowering a court on appeal to recommend for deportation a person whom the court below could not recommend for deportation, or as affecting any right of appeal in respect of a recommendation for deportation made before this Act comes into force, or as enabling a notice given before this Act comes into force and not complying with section 6(2) to take the place of the notice required by section 6(2) to be given before a person is recommended for deportation.
- (6) So long as section 2 of the Southern Rhodesia Act 1965 remains in force, this Act shall have effect subject to such provision as may (before or after this Act comes into force) be made by Order in Council under and for the purposes of that section.

35 Commencement, and interim provisions

- (1) Except as otherwise provided by this Act, Parts I to III of this Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and references to the coming into force of this Act shall be construed as references to the beginning of the day so appointed.
- (2) Section 25 above, except section 25(2), and section 28 in its application to offences under section 25(1) shall come into force at the end of one month beginning with the date this Act is passed.
- (3) The provisions of section 28(1) and (2) above shall have effect, as from the passing of this Act, in relation to offences under section 4A (unauthorised landing) of the Commonwealth Immigrants Act 1962 as amended by the Commonwealth Immigrants Act 1968, other than offences committed six months or more before the passing of this Act, as those provisions are expressed to have effect in relation to offences to which the extended time limit for prosecutions is to apply under sections 24, 25 and 26 above ; but where proceedings for an offence under section 4A of the Commonwealth Immigrants Act 1962 would have been out of time but for this subsection, section 4A(4) (under which, in certain cases, a person not producing a passport duly stamped by an immigration officer is presumed for purposes of that section to have landed in contravention of it, unless the contrary is proved) shall not apply.
- (4) Section 1(2A)(d) of the Commonwealth Immigrants Act 1962 (which was inserted by section 1 of the Commonwealth Immigrants Act 1968, and excludes from the control on immigration under those Acts, among other persons, certain persons registered in the United Kingdom or in an independent country of the Commonwealth as citizens of the United Kingdom and Colonies) shall not apply—
 - (a) to a woman registered after the passing of this Act under or by virtue of section 6(2) (wives) of the British Nationality Act 1948, unless so registered either—
 - (i) by virtue of her marriage to a citizen of the United Kingdom and Colonies before the passing of this Act; or
 - (ii) by virtue of her marriage to such a citizen who at the time of her registration or at his death before that time was excluded from the control on immigration under the Commonwealth Immigrants Acts 1962 and 1968 by section 1(2) of the 1962 Act; nor
 - (b) to anyone registered after the passing of this Act under or by virtue of section 7 (children) of the British Nationality Act 1948, unless so registered in the United Kingdom.

- (5) So much of section 1 of the Aliens Restriction (Amendment) Act 1919 as limits the duration of that section, and section 5 of the Commonwealth Immigrants Act 1962 in so far as it limits the duration of Part I of that Act, shall cease to have effect on the passing of this Act.

36 Power to extend to Islands

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the Islands ; and any Order in Council under this subsection may be varied or revoked by a further Order in Council.

37 Short title and extent

- (1) This Act may be cited as the Immigration Act 1971.
- (2) It is hereby declared that this Act extends to Northern Ireland, and (without prejudice to any provision of Schedule 1 to this Act as to the extent of that Schedule) where an enactment repealed by this Act extends outside the United Kingdom, the repeal shall be of like extent.