



# Asylum and Immigration Act 1996

## 1996 CHAPTER 49

An Act to amend and supplement the Immigration Act 1971 and the Asylum and Immigration Appeals Act 1993; to make further provision with respect to persons subject to immigration control and the employment of such persons; and for connected purposes. [24th July 1996]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**Annotations:**

**Modifications etc. (not altering text)**

- C1** Act amended (2.10.2000) by [1999 c. 33, s. 65\(1\)](#); [S.I. 2000/2444, art. 2, Sch. 1](#) (with transitional provisions in [arts. 3, 4](#))
- Act modified (1.9.2001) by [2001 c. 17, s. 32\(7\)](#) (with [ss. 27\(3\), 39, 78](#)); [S.I. 2001/2161, art. 2](#)

*Asylum claims*

**F1** .....

**Annotations:**

**Amendments (Textual)**

- F1** [S. 1](#) repealed (2.10.2000) by [1999 c. 33, s. 169\(3\)](#), [Sch 16](#); [S.I. 2000/2444, art. 2, Sch. 1](#) (with transitional provisions in [arts. 3, 4](#))

**F2** .....

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**Annotations:****Amendments (Textual)**

- F2** S. 2 repealed (2.10.2000) by 1999 c. 33, s. 169(3), **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4 and subject to transitional provision in Sch. 2 para. 4(1))

F3

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**Annotations:****Amendments (Textual)**

- F3** S. 3 repealed (2.10.2000) by 1999 c. 33, s. 169(3), **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4 and subject to transitional provision in Sch. 2 para. 4(2))

*Immigration offences***4 Obtaining leave by deception.**

In subsection (1) of section 24 of the 1971 Act (illegal entry and similar offences), after paragraph (a) there shall be inserted the following paragraph—

“(aa) if, by means which include deception by him, he obtains or seeks to obtain leave to enter or remain in the United Kingdom;”.

**Annotations:****Modifications etc. (not altering text)**

- C2** S. 4 extended (Guernsey) (with modifications) (20.7.1998) by S.I. 1998/1264, art. 3, **Sch.**  
S. 4 extended (Jersey) (with modifications) (22.6.1998) by S.I. 1998/1070, art. 3, **Sch.**

**Commencement Information**

- II** S. 4 wholly in force at 1.10.1996; S. 4 not in force at Royal Assent see s. 13(3); S. 4 in force at 1.10.1996 by S.I. 1996/2053, art. 2, **Sch. Pt. III**

**5 Assisting asylum claimants, and persons seeking to obtain leave by deception.**

(1) In subsection (1) of section 25 of the 1971 Act (assisting illegal entry, and harbouring), for the words from “the entry” to “illegal entrant” there shall be substituted the following paragraphs—

- “(a) the entry into the United Kingdom of anyone whom he knows or has reasonable cause for believing to be an illegal entrant;  
(b) the entry into the United Kingdom of anyone whom he knows or has reasonable cause for believing to be an asylum claimant; or  
(c) the obtaining by anyone of leave to remain in the United Kingdom by means which he knows or has reasonable cause for believing to include deception.”.

(2) After that subsection there shall be inserted the following subsection—

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- “(1A) Nothing in subsection (1)(b) above shall apply to anything which is done—
- (a) by a person otherwise than for gain, or in the course of his employment by a bona fide organisation whose purpose it is to assist refugees; or
  - (b) in relation to a person who has been detained under paragraph 16 of Schedule 2 to this Act, or has been granted temporary admission under paragraph 21 of that Schedule;
- and in that provision “asylum claimant” means a person who intends to make a claim for asylum (within the meaning of the <sup>M1</sup>Asylum and Immigration Appeals Act 1993).”
- (3) In subsection (5) of that section, for the words “Subsection (1)” there shall be substituted the words “ Subsection (1)(a) ”.
- (4) In subsection (6) of that section, for the words “subsection (1)” there shall be substituted the words “ subsection (1)(a) or (b) ”.

**Annotations:**

**Modifications etc. (not altering text)**

- C3** S. 5(1)(2) extended (Guernsey) (with modifications) (20.7.1998) by [S.I. 1998/1264, art. 3, Sch.](#)  
S. 5(1)(2) extended (Jersey) (with modifications) (22.6.1998) by [S.I. 1998/1070, art. 3, Sch.](#)

**Commencement Information**

- I2** S. 5 wholly in force at 1.10.1996; s. 5 not in force at Royal Assent see [s. 13\(3\)](#); s. 5 in force at 1.10.1996 by [S.I. 1996/2053, art.2, Sch. Pt. III](#)

**Marginal Citations**

- M1** 1993 c.23.

**6 Increased penalties.**

In the following provisions, namely—

- (a) subsection (1) of section 24 of the 1971 Act (illegal entry and similar offences);
  - (b) subsection (1) of section 26 (general offences in connection with administration of Act); and
  - (c) section 27 (offences by persons connected with ships or aircraft or with ports),
- for the words “level 4” there shall be substituted the words “ level 5 ”.

**Annotations:**

**Commencement Information**

- I3** S. 6 wholly in force at 1.10.1996; s. 6 not in force at Royal Assent see [s. 13\(3\)](#); s. 6 in force at 1.10.1996 by [S.I. 1996/2053, art. 2, Sch. Pt. III](#)

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#### Annotations:

#### Amendments (Textual)

- F4** S. 7 repealed (14.2.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 109, **Sch. 16**; S.I. 2000/168, art. 2, **Sch.** (with transitional provisions in art. 3)

### *Persons subject to immigration control*

## 8 Restrictions on employment.

- (1) Subject to subsection (2) below, if any person (“the employer”) employs a person subject to immigration control (“the employee”) who has attained the age of 16, the employer shall be guilty of an offence if—
  - (a) the employee has not been granted leave to enter or remain in the United Kingdom; or
  - (b) the employee’s leave is not valid and subsisting, or is subject to a condition precluding him from taking up the employment,
 and (in either case) the employee does not satisfy such conditions as may be specified in an order made by the Secretary of State.
- (2) Subject to subsection (3) below, in proceedings under this section, it shall be a defence to prove that—
  - (a) before the employment began, there was produced to the employer a document which appeared to him to relate to the employee and to be of a description specified in an order made by the Secretary of State; and
  - (b) either the document was retained by the employer, or a copy or other record of it was made by the employer in a manner specified in the order in relation to documents of that description.
- (3) The defence afforded by subsection (2) above shall not be available in any case where the employer knew that his employment of the employee would constitute an offence under this section.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) any director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person who was purporting to act in any such capacity,
 he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (6) Where the affairs of a body corporate are managed by its members, subsection (5) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (7) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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(8) In this section—

“contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether it is oral or in writing;

“employ” means employ under a contract of employment and “employment” shall be construed accordingly.

**Annotations:**

**Commencement Information**

**I4** S. 8 wholly in force at 27.1.1997; s. 8 not in force at Royal Assent see s. 13(3); s. 8 in force for certain purposes at 1.12.1996 and wholly in force at 27.1.1997 by S.I. 1996/2127, art. 2

**[<sup>F5</sup>8A Code of practice.**

(1) The Secretary of State must issue a code of practice as to the measures which an employer is to be expected to take, or not to take, with a view to securing that, while avoiding the commission of an offence under section 8, he also avoids unlawful discrimination.

(2) “Unlawful discrimination” means—

(a) discrimination in contravention of section 4(1) of the <sup>M2</sup>Race Relations Act 1976 (“the 1976 Act”); or

(b) in relation to Northern Ireland, discrimination in contravention of Article 6(1) of the <sup>M3</sup>Race Relations (Northern Ireland) Order 1997 (“the 1997 Order”).

(3) Before issuing the code, the Secretary of State must—

(a) prepare and publish a draft of the proposed code; and

(b) consider any representations about it which are made to him.

(4) In preparing the draft, the Secretary of State must consult—

(a) the Commission for Racial Equality;

(b) the Equality Commission for Northern Ireland; and

(c) such organisations and bodies (including organisations or associations of organisations representative of employers or of workers) as he considers appropriate.

(5) If the Secretary of State decides to proceed with the code, he must lay a draft of the code before both Houses of Parliament.

(6) The draft code may contain modifications to the original proposals made in the light of representations to the Secretary of State.

(7) After laying the draft code before Parliament, the Secretary of State may bring the code into operation by an order made by statutory instrument.

(8) An order under subsection (7)—

(a) shall be subject to annulment in pursuance of a resolution of either House of Parliament;

(b) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code.

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- (9) A failure on the part of any person to observe a provision of the code does not of itself make him liable to any proceedings.
- (10) But the code is admissible in evidence—
  - (a) in proceedings under the 1976 Act before an employment tribunal;
  - (b) in proceedings under the 1997 Order before an industrial tribunal.
- (11) If any provision of the code appears to the tribunal to be relevant to any question arising in such proceedings, that provision is to be taken into account in determining the question.
- (12) The Secretary of State may from time to time revise the whole or any part of the code and issue the code as revised.
- (13) The provisions of this section also apply (with appropriate modifications) to any revision, or proposed revision, of the code.]

**Annotations:**

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**Amendments (Textual)**

**F5** S. 8A inserted (19.2.2001 for specified purposes and otherwise 2.5.2001) by 1999 c. 33, s. 22; S.I. 2001/239, art. 2, Sch.; S.I. 2001/1394, art. 2, Sch.

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**Marginal Citations**

**M2** 1976 c. 74.

**M3** S.I. 1997/869 (N.I. 6).

**F6**9 .....

**Annotations:**

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**Amendments (Textual)**

**F6** S. 9 repealed (1.3.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 110, Sch. 16; S.I. 2000/464, art. 2, Sch.

**F7**10 .....

**Annotations:**

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**Amendments (Textual)**

**F7** S. 10 repealed (3.4.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 111, Sch. 16; S.I. 2000/464, art. 2, Sch.

**F8**11 .....

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**Annotations:**

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**Amendments (Textual)**

- F8** S. 11 repealed (3.4.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 112, **Sch. 16**; S.I. 2000/464, art. 2, **Sch.**

*Miscellaneous and supplemental*

**12 Other amendments and repeals.**

- (1) Schedule 2 to this Act (which contains amendments of the 1971 Act and a related amendment of the <sup>M4</sup>Immigration Act 1988) shall have effect.
- (2) Schedule 3 to this Act (which contains amendments of the 1993 Act) shall have effect.
- (3) The enactments specified in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**Annotations:**

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**Modifications etc. (not altering text)**

- C4** S. 12(1) extended (Guernsey) (with modifications) (20.7.1998) by S.I. 1998/1264, art. 3, **Sch.**  
S. 12(1) extended (Jersey) (with modifications) (22.6.1998) by S.I. 1998/1070, art. 3, **Sch.**
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**Commencement Information**

- I5** S. 12 partly in force; s. 12 not in force at Royal Assent see s. 13(3); s. 12 in force for certain purposes at 1.9.1996 by S.I. 1996/2053, art. 2, **Sch. Pt. II**; s. 12(1)(3) in force for certain purposes at 1.10.1996 by S.I. 1996/2053, art. 2, **Sch. Pt. III**
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**Marginal Citations**

- M4** 1988 c. 14.

**13 Short title, interpretation, commencement and extent.**

- (1) This Act may be cited as the Asylum and Immigration Act 1996.
- (2) In this Act—
  - “the 1971 Act” means the <sup>M5</sup>Immigration Act 1971;
  - “the 1993 Act” means the <sup>M6</sup>Asylum and Immigration Appeals Act 1993;
  - “person subject to immigration control” means a person who under the 1971 Act requires leave to enter or remain in the United Kingdom (whether or not such leave has been given).
- (3) This Act, except section 11 and Schedule 1, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed for different purposes.
- (4) An order under subsection (3) above may make such transitional and supplemental provision as the Secretary of State thinks necessary or expedient.

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- (5) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.
- (6) This Act extends to Northern Ireland.

#### Annotations:

##### Subordinate Legislation Made

- P1** S. 13(3) power partly exercised (25.7.1996): different dates appointed for specified provisions by [S.I. 1996/2053](#)  
S. 13(3) power partly exercised (11.8.1996): different dates appointed for specified provisions by [S.I. 1996/2127](#)  
S. 13(3) power partly exercised (25.11.1996): 27.1.1997 appointed for s. 8 by [S.I. 1996/2970](#)

##### Modifications etc. (not altering text)

- C5** S. 13(1) extended (Guernsey) (20.7.1998) by [S.I. 1998/1264](#), art. 3, **Sch.**  
S. 13(1) extended (Jersey) (22.6.1998) by [S.I. 1998/1070](#), art. 3, **Sch.**
- C6** S. 13(2) extended (Guernsey) (with modifications) (20.7.1998) by [S.I. 1998/2164](#), art. 3, **Sch.**  
S. 13(2) extended (Jersey) (with modifications) (22.6.1998) by [S.I. 1998/1070](#), art. 3, **Sch.**

##### Commencement Information

- I6** S. 13 wholly in force at 26.7.1996; s. 13 not in force at Royal Assent see [s. 13\(3\)](#); s. 13 in force at 26.7.1996 by [S.I. 1996/2053](#), art. 2, **Sch. Pt. I**

##### Marginal Citations

- M5** 1971 c.77.  
**M6** 1993 c.23.

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## SCHEDULES

F9

### SCHEDULE 1

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**Annotations:**

**Amendments (Textual)**

**F9** Sch. 1 omitted (3.4.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 108, **113**; S.I. 2000/464, art. 2, **Sch.**

### SCHEDULE 2

Section 12(1).

#### AMENDMENTS OF THE 1971 ACT AND THE IMMIGRATION ACT 1988

*General provisions for regulation and control, &c.*

- 1 (1) In subsection (1) of section 3 of the 1971 Act (general provisions for regulation and control), for paragraph (c) there shall be substituted the following paragraph—
- “(c) if he is given limited leave to enter or remain in the United Kingdom, it may be given subject to all or any of the following conditions, namely—
- (i) a condition restricting his employment or occupation in the United Kingdom;
  - (ii) a condition requiring him to maintain and accommodate himself, and any dependants of his, without recourse to public funds; and
  - (iii) a condition requiring him to register with the police.”

<sup>F10</sup>(2) .....

(3) .....

**Annotations:**

**Amendments (Textual)**

**F10** Sch. 2 para. 1(2)(3) repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 114, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4)

**Modifications etc. (not altering text)**

**C7** Sch. 2 para. 1(1)(3) extended (Guernsey) (with modifications) (20.7.1998) by S.I. 1998/2164, art. 3, **Sch.**  
Sch. 2 para. 1(1)(3) extended (Jersey) (with modifications) (22.7.1998) by S.I. 1998/1070, art. 3, **Sch.**

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**Commencement Information**

**I7** Sch. 2 para. 1 wholly in force at 1.11.1996; Sch. 2 para. 1 not in force at Royal Assent see s. 13(3); Sch. 2 para. 1(2)(3) in force at 1.10.1996 by S.I. 1996/2053, art. 2, Sch. Pt. III; Sch. 2 para. 1(1) in force at 1.11.1996 by S.I. 1996/2127, art. 2, Sch. Pt. IV

*Persons belonging to another’s family*

2 In subsection (4) of section 5 of the 1971 Act (persons belonging to another’s family), for paragraph (b) there shall be substituted the following paragraph—  
 “(b) where that other person is a woman, her husband and her or his children under the age of eighteen;”.

**Annotations:**

**Modifications etc. (not altering text)**

**C8** Sch. 2 para. 2 extended (Guernsey) (20.7.1998) by S.I. 1998/1264, art. 3, Sch. Sch. 2 para. 2 extended (Jersey) (22.7.1998) by S.I. 1998/1070, art. 3, Sch.

**Commencement Information**

**I8** Sch. 2 para. 2 wholly in force at 1.10.1996; Sch. 2 para. 2 not in force at Royal Assent see s. 13(3); Sch. 2 para. 2 in force at 1.10.1996 by S.I. 1996/2053, art. 2, Sch. Pt. III

*Appeals against conditions*

<sup>F11</sup>3 .....

**Annotations:**

**Amendments (Textual)**

**F11** Sch. 2 para. 3 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 114, Sch. 16; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

*Interpretation*

4 (1) In subsection (1) of section 33 of the 1971 Act (interpretation), for the definitions of “entrant” and “illegal entrant” there shall be substituted the following definitions—  
 ““entrant” means a person entering or seeking to enter the United Kingdom and “illegal entrant” means a person—  
 (a) unlawfully entering or seeking to enter in breach of a deportation order or of the immigration laws, or  
 (b) entering or seeking to enter by means which include deception by another person,  
 and includes also a person who has entered as mentioned in paragraph (a) or (b) above;”.

<sup>F12</sup>(2) .....

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**Annotations:**

**Amendments (Textual)**

**F12** Sch. 2 para. 4(2) repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 114, Sch. 16; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

**Modifications etc. (not altering text)**

**C9** Sch. 2 para. 4(1)(2) extended (Guernsey) (with modifications) (20.7.1998) by S.I. 1998/1264, art. 3, Sch. 2 para. 4(1)(2) extended (Jersey) (with modifications) (22.7.1998) by S.I. 1998/1070, art. 3, Sch.

**Commencement Information**

**I9** Sch. 2 para. 4 wholly in force at 1.10.1996; Sch. 2 para. 4 not in force at Royal Assent see s. 13(3); Sch. 2 para. 4 in force at 1.10.1996 by S.I. 1996/2053, art. 2, Sch. Pt. III

*Information and documents*

- 5 (1) In sub-paragraph (2)(b) of paragraph 4 of Schedule 2 to the 1971 Act (information and documents), after the words “is carrying or conveying”, in the first place where they occur, there shall be inserted the words “, or has carried or conveyed, ”.
- (2) In sub-paragraph (3) of that paragraph—
- (a) after the words “is carrying or conveying” there shall be inserted the words “, or has carried or conveyed, ”;
- (b) for the words from “he and any” to “control” there shall be substituted the following paragraphs—
- “(a) he and any baggage or vehicle belonging to him or under his control; and
- (b) any ship, aircraft or vehicle in which he arrived in the United Kingdom, ”; and
- (c) after the words “is doing” there shall be inserted the words “ or, as the case may be, has done ”.

**Annotations:**

**Modifications etc. (not altering text)**

**C10** Sch. 2 para. 5(2)(b) extended (Guernsey) (with modifications) (20.7.1998) by S.I. 1998/1264, art. 3, Sch. 2 para. 5(2)(b) extended (Jersey) (with modifications) (22.7.1998) by S.I. 1998/1070, art. 3, Sch.

**Commencement Information**

**I10** Sch. 2 para. 5 wholly in force at 1.10.1996; Sch. 2 para. 5 not in force at Royal Assent see s. 13(3); Sch. 2 para. 5 in force at 1.10.1996 by S.I. 1996/2053, art. 2, Sch. Pt. III

*Removal of illegal entrants*

- 6 Paragraph 9 of Schedule 2 to the 1971 Act (removal of illegal entrants) shall be renumbered as sub-paragraph (1) of that paragraph; and after that provision as so renumbered there shall be inserted the following sub-paragraph—
- “(2) Any leave to enter the United Kingdom which is obtained by deception shall be disregarded for the purposes of this paragraph.”

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**Annotations:**

**Modifications etc. (not altering text)**

- C11** Sch. 2 para. 6 extended (Guernsey) (with modifications) (20.7.1998) by S.I. 1998/1264, art. 3, **Sch.**  
 Sch. 2 para. 6 extended (Jersey) (with modifications) (22.7.1998) by S.I. 1998/1070, art. 3, **Sch.**

**Commencement Information**

- I11** Sch. 2 para. 6 wholly in force at 1.10.1996; Sch. 2 para. 6 not in force at Royal Assent see s. 13(3); Sch. 2 para. 6 in force at 1.10.1996 by S.I. 1996/2053, art. 2, **Sch. Pt. III**

*Arrest of persons liable to detention*

- 7 In sub-paragraph (2)(b) of paragraph 17 of Schedule 2 to the 1971 Act (arrest of persons liable to detention), the words “magistrate or” shall cease to have effect.

**Annotations:**

**Commencement Information**

- I12** Sch. 2 para. 7 wholly in force at 1.10.1996; Sch. 2 para. 7 not in force at Royal Assent see s. 13(3); Sch. 2 para. 7 in force at 1.10.1996 by S.I. 1996/2053, art. 2, **Sch. Pt. III**

*Recovery of expenses incurred in detaining persons refused leave to enter*

- 8 In sub-paragraph (1) of paragraph 19 of Schedule 2 to the 1971 Act (recovery of expenses incurred in detaining persons refused leave to enter), for the words “at any time” there shall be substituted the words “ for any period (not exceeding 14 days) ”.

**Annotations:**

**Modifications etc. (not altering text)**

- C12** Sch. 2 para. 8 extended (Guernsey) (20.7.1998) by S.I. 1998/1264, art. 3, **Sch.**  
 Sch. 2 para. 8 extended (Jersey) (22.7.1998) by S.I. 1998/1070, art. 3, **Sch.**

**Commencement Information**

- I13** Sch. 2 para. 8 wholly in force at 1.9.1996; Sch. 2 para. 8 not in force at Royal Assent see s. 13(3); Sch. 2 para. 8 in force at 1.9.1996 by S.I. 1996/2053, art. 2, **Sch. Pt. II**

*Recovery of expenses incurred in detaining illegal entrants*

- 9 (1) In sub-paragraph (1) of paragraph 20 of Schedule 2 to the 1971 Act (recovery of expenses incurred in detaining illegal entrants), for the words “at any time” there shall be substituted the words “ for any period (not exceeding 14 days) ”.
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(1A) Sub-paragraph (1) above shall not apply to expenses in respect of an illegal entrant if he obtained leave to enter by deception and the leave has not been cancelled under paragraph 6(2) above.”.

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**Annotations:**

**Modifications etc. (not altering text)**

- C13** Sch. 2 para. 9 extended (Guernsey) (20.7.1998) by S.I. 1998/1264, art. 3, Sch.  
Sch. 2 para. 9 extended (Jersey) (22.7.1998) by S.I. 1998/1070, art. 3, Sch.

**Commencement Information**

- I14** Sch. 2 para. 9 wholly in force at 1.9.1996; Sch. 2 para. 9 not in force at Royal Assent see s. 13(3); Sch. 2 para. 9 in force at 1.9.1996 by S.I. 1996/2053, art. 2, Sch. Pt. II

*Temporary admission of persons liable to detention*

- 10 After sub-paragraph (2) of paragraph 21 of Schedule 2 to the 1971 Act (temporary admission of persons liable to detention) there shall be inserted the following sub-paragraphs—

“(3) Sub-paragraph (4) below applies where a person who is at large in the United Kingdom by virtue of this paragraph is subject to a restriction as to reporting to an immigration officer with a view to the conclusion of his examination under paragraph 2 above.

(4) If the person fails at any time to comply with that restriction—

- (a) an immigration officer may direct that the person’s examination under paragraph 2 above shall be treated as concluded at that time; but
- (b) nothing in paragraph 6 above shall require the notice giving or refusing him leave to enter the United Kingdom to be given within twenty-four hours after that time.”

**Annotations:**

**Modifications etc. (not altering text)**

- C14** Sch. 2 para. 10 extended (Guernsey) (with modifications) (20.7.1998) by S.I. 1998/1264, art. 3, Sch.  
Sch. 2 para. 10 extended (Jersey) (with modifications) (22.7.1998) by S.I. 1998/1070, art. 3, Sch.

**Commencement Information**

- I15** Sch. 2 para. 10 wholly in force at 1.9.1996; Sch. 2 para. 10 not in force at Royal Assent see s. 13 (3); Sch. 2 para. 10 in force at 1.9.1996 by S.I. 1996/2053, art. 2, Sch. Pt. II

*Temporary release of persons liable to detention*

- 11 (1) For sub-paragraph (1) of paragraph 22 of Schedule 2 to the 1971 Act (temporary release of persons liable to detention) there shall be substituted the following sub-paragraphs—

“(1) The following, namely—

- (a) a person detained under paragraph 16(1) above pending examination; and
- (b) a person detained under paragraph 16(2) above pending the giving of directions,

may be released on bail in accordance with this paragraph.

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(1A) An immigration officer not below the rank of chief immigration officer or an adjudicator may release a person so detained on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before an immigration officer at a time and place named in the recognizance or bail bond or at such other time and place as may in the meantime be notified to him in writing by an immigration officer.

(1B) Sub-paragraph (1)(a) above shall not apply unless seven days have elapsed since the date of the person's arrival in the United Kingdom."

(2) In sub-paragraph (2) of that paragraph—

- (a) for the word "adjudicator", in the first place where it occurs, there shall be substituted the words " immigration officer or adjudicator "; and
- (b) for the word "adjudicator", in the second place where it occurs, there shall be substituted the words " officer or adjudicator ".

(3) In sub-paragraph (3) of that paragraph—

- (a) for the word "adjudicator", in the first place where it occurs, there shall be substituted the words " immigration officer or adjudicator "; and
- (b) for the word "adjudicator", in the second and third places where it occurs, there shall be substituted the words " officer or adjudicator ".

**Annotations:**

**Commencement Information**

**I16** Sch. 2 para. 11 wholly in force at 1.9.1996; Sch. 2 para. 11 not in force at Royal Assent see s. 13(3); Sch. 2 para. 11 in force at 1.9.1996 by S.I. 1996/2053, art. 2, Sch. Pt. II

*Grant of bail pending removal*

12 After paragraph 33 of Schedule 2 to the 1971 Act there shall be inserted the following paragraph—

*“ Grant of bail pending removal*

- 34 (1) Paragraph 22 above shall apply in relation to a person—
- (a) directions for whose removal from the United Kingdom are for the time being in force; and
  - (b) who is for the time being detained under Part I of this Schedule, as it applies in relation to a person detained under paragraph 16(1) above pending examination or detained under paragraph 16(2) above pending the giving of directions.
- (2) Paragraphs 23 to 25 above shall apply as if any reference to paragraph 22 above included a reference to that paragraph as it applies by virtue of this paragraph.”

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**Annotations:**

**Commencement Information**

- I17** Sch. 2 para. 12 wholly in force at 1.9.1996; Sch. 2 para. 12 not in force at Royal Assent see s. 13(3); Sch. 2 para. 12 in force at 1.9.1996 by S.I. 1996/2053, art. 2, Sch. Pt. II

*Supplementary provisions as to deportation*

- 13 In paragraph 2(5) of Schedule 3 to the 1971 Act (supplementary provisions as to deportation), after the words “the police” there shall be inserted the words “ or an immigration officer ”.

**Annotations:**

**Modifications etc. (not altering text)**

- C15** Sch. 2 para. 13 extended (Guernsey) (20.7.1998) by S.I. 1998/1264, art. 3, Sch.  
Sch. 2 para. 13 extended (Jersey) (22.7.1998) by S.I. 1998/1070, art. 3, Sch.

**Commencement Information**

- I18** Sch. 2 para. 13 wholly in force at 1.10.1996; Sch. 2 para. 13 not in force at Royal Assent see s. 13(3); Sch. 2 para. 13 in force at 1.10.1996 by S.I. 1996/2053, art. 2, Sch. Pt. III

SCHEDULE 3

Section 12(2).

AMENDMENTS OF THE 1993 ACT

*Curtailment of leave to enter or remain*

F13<sub>1</sub> .....

**Annotations:**

**Amendments (Textual)**

- F13** Sch. 3 para. 1 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 115, Sch. 16; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

*Appeals to special adjudicator*

F14<sub>2</sub> .....

**Annotations:**

**Amendments (Textual)**

- F14** Sch. 3 para. 2 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 115, Sch. 16; S.I. 2000/2444, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4)

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*Bail pending appeal from Immigration Appeal Tribunal*

3 After section 9 of the 1993 Act there shall be inserted the following section—

**“9A Bail pending appeal from Immigration Appeal Tribunal**

- (1) Where a person (“an appellant”)—
- (a) has an appeal under Part II of the 1971 Act which is pending by reason of an appeal, or an application for leave to appeal, under section 9 above; and
  - (b) is for the time being detained under Part I of Schedule 2 to that Act (general provisions as to control on entry etc.),
- he may be released on bail in accordance with this section.
- (2) An immigration officer not below the rank of chief immigration officer, a police officer not below the rank of inspector or an adjudicator may release an appellant on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before the appropriate appeal court at a time and place named in the recognizance or bail bond.
- (3) The Immigration Appeal Tribunal may release an appellant on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before the appropriate appeal court at a time and place named in the recognizance or bail bond; and where—
- (a) the appeal, or the application for leave to appeal, under section 9 above is by the Secretary of State; or
  - (b) the appellant has been granted leave to appeal under that section, and has duly given notice of appeal,
- the Tribunal shall, if the appellant so requests, exercise its powers under this subsection.
- (4) Sub-paragraphs (5) and (6) of paragraph 29 (grant of bail pending appeal) of Schedule 2 to the 1971 Act shall apply for the purposes of this section as they apply for the purposes of that paragraph.
- (5) Paragraphs 30 to 33 of that Schedule shall apply as if—
- (a) any reference to paragraph 29 included a reference to this section;
  - (b) the reference in paragraph 30(2) to paragraph 29(3) or (4) included a reference to subsection (3) above; and
  - (c) any reference in paragraphs 31 to 33 to the Immigration Appeal Tribunal included a reference to the appropriate appeal court.
- (6) In this section “the appropriate appeal court” has the same meaning as in section 9 above.”

**Annotations:**

**Commencement Information**

**I19** Sch. 3 para. 3 wholly in force at 1.9.1996; Sch. 3 para. 3 not in force at Royal Assent see s. 13(3); Sch. 3 para. 3 in force at 1.9.1996 by S.I. 1996/2053, art. 2, Sch. Pt. II

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PROSPECTIVE

*Security of tenure*

- 4 In paragraph 6(1) of Schedule 1 to the 1993 Act (security of tenure)—
- (a) after the words “Part III of the Act of 1985” there shall be inserted the words “ or Part II of the Act of 1987 ”; and
  - (b) after the words “ the <sup>M11</sup>Housing Act 1988” there shall be inserted the words “ or the <sup>M12</sup>Housing (Scotland) Act 1988 ”.

**Annotations:**

**Marginal Citations**

- M11** 1988 c.50.
- M12** 1988 c.43.

*Appeals to special adjudicator: supplementary*

F155 .....

**Annotations:**

**Amendments (Textual)**

- F15** Sch. 3 para. 5 repealed (2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 108, 115, **Sch. 16**; S.I. 2000/2444, art. 2, **Sch. 1** (with transitional provisions in arts. 3, 4)

SCHEDULE 4

Section 12(3).

REPEALS

**Annotations:**

**Commencement Information**

- I20** Sch. 4 partly in force; Sch. 4 not in force at Royal Assent see s. 13(3); Sch. 4 in force for certain purposes at 1.9.1996 by S.I. 1996/2053, art. 2, **Sch. Pt. II**; Sch. 4 in force for certain purposes at 1.10.1996 by S.I. 1996/2053, art. 2, **Sch. Pt. III**

Chapter	Short title	Extent of repeal
1971 c.77.	Immigration Act 1971.	In Schedule 2, in paragraph 17(2)(b), the words “magistrate or”.
1993 c.23.	Asylum and Immigration Appeals Act 1993.	In section 8(3), the words from “but a person” to the end.

**Status:**

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**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 4 extended (with modifications) by S.I. 2003/1252 art. 2 Sch.
- s. 5 by 2002 c. 41 s. 162 Sch. 9
- s. 6 extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- s. 7 extended (with modifications) by S.I. 2003/1252 art. 2 Sch.
- s. 8 amendment to earlier affecting provision SI 2008/680 art. 12(2)(b) Sch. 5 para. 1 by S.I. 2011/1408 Sch. para. 3(2)
- s. 8 extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- s. 8 repealed by 2006 c. 13 s. 26 Sch. 3
- s. 8(2)(2A) by 2002 c. 41 s. 147(2)
- s. 8(4) substituted by 2004 c. 19 s. 6(1)
- s. 8(6A)(6B) by 2002 c. 41 s. 147(3)
- s. 8(9)(10) by 2002 c. 41 s. 147(4)
- s. 8(9) repealed by 2004 c. 19 s. 6(2) Sch. 4
- s. 8A extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- s. 8A repeal of earlier affecting provision SI 2008/680 art. 12(2)(c) Sch. 5 para. 2 by S.I. 2011/1408 Sch. para. 3
- s. 8A repealed by 2006 c. 13 s. 26 Sch. 3
- s. 8A(4)(a) text amended by 2006 c. 3 Sch. 3 para. 58
- s. 12(1) extended in part (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- s. 13 extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- Sch. 2 para. 1(1) extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- Sch. 2 para. 2 extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- Sch. 2 para. 4(1) extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- Sch. 2 para. 5 extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- Sch. 2 para. 6 extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- Sch. 2 para. 8-13 extended (Isle of Man) (with modifications) by S.I. 2008/680 art. 12 Sch. 5
- Sch. 2 para. 1(2)(3) extended (with modifications) by S.I. 2003/1252 art. 2 Sch.
- Sch. 2 para. 3 extended (with modifications) by S.I. 2003/1252 art. 2 Sch.
- Sch. 2 para. 4(2) extended (with modifications) by S.I. 2003/1252 art. 2 Sch.

**Commencement Orders yet to be applied to the Asylum and Immigration Act 1996:**

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/754 art. 2 commences (2002 c. 41)
- S.I. 2004/1201 art. 2 commences (2002 c. 41)
- S.I. 2004/2523 art. 2 commences (2004 c. 19)
- S.I. 2007/2603 art. 2 commences (2006 c. 3)

– [S.I. 2008/310 art. 2 3 commences \(2006 c. 13\)](#)