

SCHEDULES

SCHEDULE 1

Section 11(4).

MODIFICATIONS OF SOCIAL SECURITY REGULATIONS

PART I

SOCIAL SECURITY (PERSONS FROM ABROAD) MISCELLANEOUS AMENDMENTS REGULATIONS 1996

Preliminary

- 1 In this Part of this Schedule—
- (a) “the 1996 Regulations” means the Social Security (Persons from Abroad) Miscellaneous Amendments Regulations 1996; and
 - (b) expressions which are used in the 1996 Regulations have the same meanings as in those Regulations.

Income support

- 2 In regulation 8 of the 1996 Regulations (amendment of the Income Support Regulations)—
- (a) paragraph (2) so far as relating to the sub-paragraph added to regulation 21(3) of the Income Support Regulations as sub-paragraph (j); and
 - (b) paragraph (3)(c) and (d),
- shall have effect as if the 1996 Regulations had been made, and had come into force, on the day on which this Act is passed.

Housing benefit

- 3 In regulation 7 of the 1996 Regulations (amendment of regulation 7A of the Housing Benefit Regulations)—
- (a) paragraph (a) so far as relating to the sub-paragraph added to regulation 7A(4) of the Housing Benefit Regulations as sub-paragraph (g);
 - (b) paragraph (b) so far as relating to sub-paragraphs (a) and (b) of the paragraph substituted for regulation 7A(5) of those Regulations; and
 - (c) paragraph (c),
- shall have effect as if the 1996 Regulations had been made, and had come into force, on the day on which this Act is passed.

Status: This is the original version (as it was originally enacted).

Council tax benefit

- 4 In regulation 3 of the 1996 Regulations (amendment of regulation 4A of the Council Tax Benefit Regulations)—
- (a) paragraph (a) so far as relating to the sub-paragraph added to regulation 4A(4) of the Council Tax Benefit Regulations as sub-paragraph (g);
 - (b) paragraph (b) so far as relating to sub-paragraphs (a) and (b) of the paragraph substituted for regulation 4A(5) of those Regulations; and
 - (c) paragraph (c),
- shall have effect as if the 1996 Regulations had been made, and had come into force, on the day on which this Act is passed.

General

- 5 Regulation 12(1) of the 1996 Regulations (saving) shall have effect as if after the words “shall continue to have effect” there were inserted the words “(both as regards him and as regards persons who are members of his family at the coming into force of these Regulations)”.
- 6 (1) Subject to sub-paragraph (2) below, any person who is excluded from entitlement to income support, housing benefit or council tax benefit by any of the provisions which are modified by the preceding provisions of this Part of this Schedule—
- (a) shall not be entitled to the benefit for any period beginning on or after the day on which this Act is passed; and
 - (b) shall not be entitled to the benefit for any period beginning on or after 5th February 1996 except on a claim made before the day on which this Act is passed, or an application made before that day for the review of a decision.
- (2) Nothing in this paragraph shall apply in any case where a person is entitled to the benefit in question either—
- (a) by virtue of regulation 12(1) of the 1996 Regulations (saving); or
 - (b) by virtue of regulations making such provision as is mentioned in section 11(2) of this Act.

PART II

SOCIAL SECURITY (PERSONS FROM ABROAD) (MISCELLANEOUS
 AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 1996

Preliminary

- 7 In this Part of this Schedule “the 1996 Regulations” means the Social Security (Persons from Abroad) (Miscellaneous Amendments) Regulations (Northern Ireland) 1996.

Income support

- 8 In regulation 4 of the 1996 Regulations (amendment of the Income Support (General) Regulations)—

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

- (a) paragraph (2) so far as relating to the paragraph added to regulation 21(3) of the Income Support (General) Regulations (Northern Ireland) 1987 as paragraph (j); and
 - (b) paragraph (3)(b),
- shall have effect as if the 1996 Regulations had been made, and had come into operation, on the day on which this Act is passed.

Housing benefit

- 9 In regulation 5 of the 1996 Regulations (amendment of the Housing Benefit (General) Regulations)—
- (a) paragraph (a) so far as relating to the sub-paragraph added to regulation 7A(4) of the Housing Benefit (General) Regulations (Northern Ireland) 1987 as sub-paragraph (g);
 - (b) paragraph (b) so far as relating to sub-paragraphs (a) and (b) of the paragraph substituted for regulation 7A(5) of those Regulations; and
 - (c) paragraph (c),
- shall have effect as if the 1996 Regulations had been made, and had come into operation, on the day on which this Act is passed.

General

- 10 Regulation 11(1) of the 1996 Regulations (saving) shall have effect as if after the words “shall have effect” there were inserted the words “(both as regards him and as regards persons who are members of his family at the coming into operation of these Regulations)”.
- 11 (1) Subject to sub-paragraph (2) below, any person who is excluded from entitlement to income support or housing benefit by any of the provisions which are modified by the preceding provisions of this Part of this Schedule—
- (a) shall not be entitled to the benefit for any period beginning on or after the day on which this Act is passed; and
 - (b) shall not be entitled to the benefit for any period beginning on or after 5th February 1996 except on a claim made before the day on which this Act is passed, or an application made before that day for the review of a decision.
- (2) Nothing in this paragraph shall apply in any case where a person is entitled to the benefit in question either—
- (a) by virtue of regulation 11(1) of the 1996 Regulations (saving); or
 - (b) by virtue of regulations making such provision as is mentioned in section 11(2) of this Act.

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—

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- “(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.”

- (2) In subsection (5) (persons liable to deportation) of that section, after paragraph (a) there shall be inserted the following paragraph—

“(aa) if he has obtained leave to remain by deception; or”.

- (3) In subsection (1) of section 5 of the Immigration Act 1988 (restricted right of appeal against deportation), after paragraph (a) there shall be inserted the following paragraph—

“(aa) by virtue of section 3(5)(aa) of that Act (leave obtained by deception); or”.

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;”.

Appeals against conditions

- 3 (1) After subsection (2) of section 14 of the 1971 Act (appeals against conditions), there shall be inserted the following subsection—

“(2ZA) A person shall not be entitled to appeal under subsection (1) above against—

- (a) a variation of his leave which adds such a condition as is mentioned in section 3(1)(c)(ii) above; or
- (b) a refusal to vary his leave by revoking such a condition.”

- (2) In subsection (2B) of that section, for paragraph (c) there shall be substituted the following paragraph—

“(c) work permits, or equivalent documents issued after entry.”

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,

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

and includes also a person who has entered as mentioned in paragraph (a) or (b) above;”.

- (2) In subsection (4) of that section, after the words “determined or withdrawn”, in the first place where they occur, there shall be inserted the words “or is abandoned by reason of the appellant leaving the United Kingdom”.

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”.

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.”

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.

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)”.

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—

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

“(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.”.

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.”

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.

(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—

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- (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”.

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.”

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”.

SCHEDULE 3

Section 12(2).

AMENDMENTS OF THE 1993 ACT

Curtailment of leave to enter or remain

- 1 (1) After subsection (1) of section 7 of the 1993 Act (curtailment of leave to enter or remain) there shall be inserted the following subsection—
- “(1A) Where the Secretary of State by notice under subsection (1) above curtails the duration of any person’s leave to enter or remain in the United Kingdom, he may also by notice in writing given to any dependant of that person curtail to the same extent the duration of that dependant’s leave so to enter or remain.”
- (2) In subsections (2), (3) and (4) of that section, for the words “subsection (1) above” there shall be substituted the words “subsection (1) or (1A) above”.

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

Appeals to special adjudicator

- 2 (1) In subsection (3) of section 8 of the 1993 Act (appeals to special adjudicator), the words from “but a person” to the end shall cease to have effect.
- (2) After that subsection there shall be inserted the following subsection—
- “(3A) A person may not appeal under paragraph (b) of subsection (3) above if he has had the right to appeal under paragraph (a) of that subsection, whether or not he has exercised it.”

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.

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

(6) In this section “the appropriate appeal court” has the same meaning as in section 9 above.”

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 Housing Act 1988” there shall be inserted the words “or the Housing (Scotland) Act 1988”.

Appeals to special adjudicator: supplementary

- 5 In paragraph 4(2) of Schedule 2 to the 1993 Act (appeals to special adjudicator: supplementary), for the word “and” immediately following paragraph (f) there shall be substituted the following paragraph—
- “(ff) section 33(4) (duration of appeals); and”.

SCHEDULE 4

Section 12(3).

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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.