



Immigration, Asylum and Nationality Act 2006

2006 CHAPTER 13

Claimants and applicants

43 Accommodation

- (1) In section 99(1) of the Immigration and Asylum Act 1999 (c. 33) (provision of support by local authorities)—
 - (a) for “asylum-seekers and their dependants (if any)” substitute “ persons ”, and
 - (b) after “section” insert “ 4, ”.
- (2) In section 99(4) (expenditure) after “section” insert “ 4, ”.
- (3) In section 118(1)(b) (housing authority accommodation) for “95” substitute “ 4, 95 or 98 ”.
- (4) In the following provisions for “under Part VI of the Immigration and Asylum Act 1999” substitute “ under section 4 or Part VI of the Immigration and Asylum Act 1999 ”
 - (a) section 3A(7A) of the Protection from Eviction Act 1977 (c. 43) (excluded tenancies and licences),
 - (b) paragraph 3A(1) of Schedule 2 to the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15)) (non-secure tenancies),
 - (c) section 23A(5A) of the Rent (Scotland) Act 1984 (c. 58) (excluded tenancies and occupancy rights),
 - (d) paragraph 4A(1) of Schedule 1 to the Housing Act 1985 (c. 68) (non-secure tenancies),
 - (e) paragraph 11B of Schedule 4 to the Housing (Scotland) Act 1988 (c. 43) (non-assured tenancies), and
 - (f) paragraph 12A(1) of Schedule 1 to the Housing Act 1988 (c. 50) (non-assured tenancies).

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- (5) A tenancy is not a Scottish secure tenancy (within the meaning of the Housing (Scotland) Act 2001 (asp 10) if it is granted in order to provide accommodation under section 4 of the Immigration and Asylum Act 1999 (accommodation).
- (6) A tenancy which would be a Scottish secure tenancy but for subsection (4) becomes a Scottish secure tenancy if the landlord notifies the tenant that it is to be regarded as such.
- (7) At the end of section 4 of the Immigration and Asylum Act 1999 (c. 33) (accommodation) add—
- “(10) The Secretary of State may make regulations permitting a person who is provided with accommodation under this section to be supplied also with services or facilities of a specified kind.
- (11) Regulations under subsection (10)—
- (a) may, in particular, permit a person to be supplied with a voucher which may be exchanged for goods or services,
 - (b) may not permit a person to be supplied with money,
 - (c) may restrict the extent or value of services or facilities to be provided, and
 - (d) may confer a discretion.”

Commencement Information

II S. 43 in force at 16.6.2006 by S.I. 2006/1497, art. 3, Sch.

PROSPECTIVE

44 Failed asylum-seekers: withdrawal of support

- (1) The Secretary of State may by order provide for paragraph 7A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (c. 41) (failed asylum-seeker with family: withdrawal of support) to cease to have effect.
- (2) An order under subsection (1) shall also provide for the following to cease to have effect—
- (a) section 9(1), (2) and (4) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (which insert paragraph 7A of Schedule 3 and make consequential provision), and
 - (b) in section 9(3)(a) and (b) of that Act, the words “other than paragraph 7A.”
- (3) An order under subsection (1)—
- (a) may include transitional provision,
 - (b) shall be made by statutory instrument, and
 - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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45 Integration loans

- (1) Section 13 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (integration loan for refugees) shall be amended as follows.
- (2) In subsection (1) for “to refugees.” substitute “—
 - (a) to refugees, and
 - (b) to such other classes of person, or to persons other than refugees in such circumstances, as the regulations may prescribe.”
- (3) In subsection (2)(b) for “granted him indefinite leave to enter or remain” substitute “granted him leave to enter or remain”.
- (4) In subsection (3)(a)(iii) after “as a refugee” insert “ or since some other event) ”.
- (5) In subsection (3)(h) for “refugee” substitute “ person ”.
- (6) The heading to the section becomes “ Integration loans for refugees and others ”.

Commencement Information

I2 S. 45 in force at 30.6.2006 by S.I. 2006/1497, art. 4

46 Inspection of detention facilities

- (1) For section 5A(5A) of the Prison Act 1952 (c. 52) (removal centres: inspection) substitute—

“(5A) Subsections (2) to (5) shall apply—

 - (a) in relation to removal centres within the meaning of section 147 of the Immigration and Asylum Act 1999 (c. 33),
 - (b) in relation to short-term holding facilities within the meaning of that section, and
 - (c) in relation to escort arrangements within the meaning of that section.

(5B) In their application by virtue of subsection (5A) subsections (2) to (5)—

 - (a) shall apply to centres, facilities and arrangements anywhere in the United Kingdom, and
 - (b) shall have effect—
 - (i) as if a reference to prisons were a reference to removal centres, short-term holding facilities and escort arrangements,
 - (ii) as if a reference to prisoners were a reference to detained persons and persons to whom escort arrangements apply, and
 - (iii) with any other necessary modifications.”
- (2) In section 55 of that Act (extent)—
 - (a) omit subsection (4A), and
 - (b) after subsection (5) insert—

“(6) But (despite subsections (4) and (5)) the following shall extend to England and Wales, Scotland and Northern Ireland—

 - (a) section 5A(5A) and (5B), and

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- (b) section 5A(2) to (5) in so far as they apply by virtue of section 5A(5A).”

Commencement Information

I3 S. 46 in force at 31.8.2006 by S.I. 2006/2226, art. 3, Sch. 1

VALID FROM 01/04/2008

47 Removal: persons with statutorily extended leave

- (1) Where a person's leave to enter or remain in the United Kingdom is extended by section 3C(2)(b) or 3D(2)(a) of the Immigration Act 1971 (c. 77) (extension pending appeal), the Secretary of State may decide that the person is to be removed from the United Kingdom, in accordance with directions to be given by an immigration officer if and when the leave ends.
- (2) Directions under this section may impose any requirements of a kind prescribed for the purpose of section 10 of the Immigration and Asylum Act 1999 (c. 33) (removal of persons unlawfully in United Kingdom).
- (3) In relation to directions under this section, paragraphs 10, 11, 16 to 18, 21 and 22 to 24 of Schedule 2 to the Immigration Act 1971 (administrative provisions as to control of entry) apply as they apply in relation to directions under paragraph 8 of that Schedule.
- (4) The costs of complying with a direction given under this section (so far as reasonably incurred) must be met by the Secretary of State.
- (5) A person shall not be liable to removal from the United Kingdom under this section at a time when section 7(1)(b) of the Immigration Act 1971 (Commonwealth and Irish citizens ordinarily resident in United Kingdom) would prevent a decision to deport him.
- (6) In section 82(2) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of appeal: general) after paragraph (h) insert—
 - “(ha) a decision that a person is to be removed from the United Kingdom by way of directions under section 47 of the Immigration, Asylum and Nationality Act 2006 (removal: persons with statutorily extended leave).”.
- (7) In section 92(2) of that Act (appeal from within United Kingdom) after “(f)” insert “, (ha) ”.
- (8) In section 94(1A) of that Act (appeal from within United Kingdom: unfounded claim) for “or (e)” substitute “(e) or (ha) ”.

48 Removal: cancellation of leave

For section 10(8) of the Immigration and Asylum Act 1999 (c. 33) (removal directions: cancellation of leave to enter or remain in UK) substitute—

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“(8) When a person is notified that a decision has been made to remove him in accordance with this section, the notification invalidates any leave to enter or remain in the United Kingdom previously given to him.”

Commencement Information

I4 S. 48 in force at 16.6.2006 by S.I. 2006/1497, art. 3, Sch.

49 Capacity to make nationality application

After section 44 of the British Nationality Act 1981 (c. 61) (decisions involving discretion) insert—

“44A Waiver of requirement for full capacity

Where a provision of this Act requires an applicant to be of full capacity, the Secretary of State may waive the requirement in respect of a specified applicant if he thinks it in the applicant's best interests.”

Commencement Information

I5 S. 49 in force at 31.8.2006 by S.I. 2006/2226, art. 3, Sch. 1

VALID FROM 31/01/2007

50 Procedure

- (1) Rules under section 3 of the Immigration Act 1971 (c. 77)—
 - (a) may require a specified procedure to be followed in making or pursuing an application or claim (whether or not under those rules or any other enactment),
 - (b) may, in particular, require the use of a specified form and the submission of specified information or documents,
 - (c) may make provision about the manner in which a fee is to be paid, and
 - (d) may make provision for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c).
- (2) In respect of any application or claim in connection with immigration (whether or not under the rules referred to in subsection (1) or any other enactment) the Secretary of State—
 - (a) may require the use of a specified form,
 - (b) may require the submission of specified information or documents, and
 - (c) may direct the manner in which a fee is to be paid;and the rules referred to in subsection (1) may provide for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c).
- (3) The following shall cease to have effect—
 - (a) section 31A of the Immigration Act 1971 (procedure for applications), and

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- (b) section 25 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (c. 19) (marriage: application for permission).
- (4) At the end of section 41(1) of the British Nationality Act 1981 (procedure) add—
 - “(j) as to the consequences of failure to comply with provision made under any of paragraphs (a) to (i).”
- (5) In section 10(2)(c) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of abode: certificate of entitlement: procedure) for “made in a specified form;” substitute “ accompanied by specified information;”.
- (6) Paragraph 2(3) of Schedule 23 to the Civil Partnership Act 2004 (c. 33) (immigration: procedure) shall cease to have effect.

VALID FROM 31/01/2007

51 Fees

- (1) The Secretary of State may by order require an application or claim in connection with immigration or nationality (whether or not under an enactment) to be accompanied by a specified fee.
- (2) The Secretary of State may by order provide for a fee to be charged by him, by an immigration officer or by another specified person in respect of—
 - (a) the provision on request of a service (whether or not under an enactment) in connection with immigration or nationality,
 - (b) a process (whether or not under an enactment) in connection with immigration or nationality,
 - (c) the provision on request of advice in connection with immigration or nationality, or
 - (d) the provision on request of information in connection with immigration or nationality.
- (3) Where an order under this section provides for a fee to be charged, regulations made by the Secretary of State—
 - (a) shall specify the amount of the fee,
 - (b) may provide for exceptions,
 - (c) may confer a discretion to reduce, waive or refund all or part of a fee,
 - (d) may make provision about the consequences of failure to pay a fee,
 - (e) may make provision about enforcement, and
 - (f) may make provision about the time or period of time at or during which a fee may or must be paid.
- (4) Fees paid by virtue of this section shall—
 - (a) be paid into the Consolidated Fund, or
 - (b) be applied in such other way as the relevant order may specify.

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VALID FROM 31/01/2007

52 Fees: supplemental

- (1) A fee imposed under section 51 may relate to a thing whether or not it is done wholly or partly outside the United Kingdom; but that section is without prejudice to—
 - (a) section 1 of the Consular Fees Act 1980 (c. 23), and
 - (b) any other power to charge a fee.
- (2) Section 51 is without prejudice to the application of section 102 of the Finance (No. 2) Act 1987 (c. 51) (government fees and charges); and an order made under that section in respect of a power repealed by Schedule 2 to this Act shall have effect as if it related to the powers under section 51 above in so far as they relate to the same matters as the repealed power.
- (3) An order or regulations under section 51—
 - (a) may make provision generally or only in respect of specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) may include incidental, consequential or transitional provision, and
 - (d) shall be made by statutory instrument.
- (4) An order under section 51—
 - (a) may be made only with the consent of the Treasury, and
 - (b) may be made only if a draft has been laid before and approved by resolution of each House of Parliament.
- (5) Regulations under section 51—
 - (a) may be made only with the consent of the Treasury, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A reference in section 51 to anything in connection with immigration or nationality includes a reference to anything in connection with an enactment (including an enactment of a jurisdiction outside the United Kingdom) that relates wholly or partly to immigration or nationality.
- (7) Schedule 2 (consequential amendments) shall have effect.

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