Changes to legislation: Aliens’ Employment Act 1955 is up to date with all changes known to be in force on or before 07 November 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Aliens’ Employment Act 1955

1955 CHAPTER 18 4 and 5 Eliz 2

An Act to provide for the employment of aliens and British protected persons in civil service under the Crown. [21st December 1955]

1 Provision for civil employment of aliens.

(1) Notwithstanding anything in section three of the Act of Settlement, or in section six of the Aliens Restriction (Amendment) Act, 1919, an alien may be employed in any civil capacity under the Crown—

(a) if he is appointed in any country or territory outside the United Kingdom, the Channel Islands and the Isle of Man and employed in any such country or territory in service of a class or description which appears to the responsible Minister to be appropriate for the employment of aliens; or

(b) if a certificate in respect of his employment, issued by the responsible Minister with the consent of the Treasury, is for the time being in force under this section;

and so much of the said section three as imposes disability for employment in any such capacity shall cease to have effect in relation to British protected persons.

(2) A certificate may be issued under this section either in respect of the employment of a specified alien in specified service, or in respect of the employment of aliens generally in specified service or in service of any specified class or description; but no such certificate shall be issued unless it appears to the responsible Minister, at the time of the issue of the certificate,—

(a) in the case of a certificate in respect of the employment of a specified alien in specified service, either that no suitably qualified person being a British
subject is available for employment in that service or that the alien possesses exceptional qualifications or experience fitting him for such employment;

(b) in the case of any other certificate, that suitably qualified persons being British subjects are not readily available, or available in sufficient numbers, for employment in the service, or class or description of service, specified in the certificate.

(3) A certificate under this section shall cease to have effect, unless previously revoked, at the expiration of a period of five years from the date on which it is issued, but without prejudice to the power of the responsible Minister to issue a fresh certificate.

(4) The Treasury shall lay before each House of Parliament in every financial year a list containing particulars of all certificates in force under this section during the previous financial year, including the numbers of aliens employed during that year in pursuance of such certificates.

(5) In subsection (1)(c) “a relevant European” means—

(a) a national of a EEA State or a person who is entitled to take up any activity as an employed person in the United Kingdom by virtue of Article 23 of Council Directive 2004/38/EEC (right of family members of nationals of EEA States to take up employment where that national is employed);

(b) a Swiss national or a person who is entitled to take up any activity as an employed person in the United Kingdom by virtue of Article 7(e) and Article 3(5) of Annex 1 of the Agreement between the European Community and its member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons signed at Luxembourg on 21st June 1999 (right of spouses and certain family members of Swiss nationals to take up economic activity, whatever their nationality); or

(c) a person who is entitled to take up any activity as an employed person in the United Kingdom by virtue of Article 6(1) or 7 (rights of certain Turkish nationals and their family members to take up any economic activity, whatever their nationality) of Decision 1/80 of 19 September 1980 of the Association Council set up by the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963.

(6) In subsection (1)(c) “a reserved post” means—

(a) a post in the security and intelligence services; or

(b) a post falling within subsection (7) or (8) which the responsible Minister considers needs to be held otherwise than by a relevant European.

(7) The posts falling within this subsection are—

(a) a post in Her Majesty’s Diplomatic Service and posts in the Foreign and Commonwealth Office; and

(b) posts in the Defence Intelligence Staff.

(8) The posts falling within this subsection are posts whose functions are concerned with—

(a) access to intelligence information received directly or indirectly from the security and intelligence services;

(b) access to other information which, if disclosed without authority or otherwise misused, might damage the interests of national security;
(c) access to other information which, if disclosed without authority or otherwise
misused, might be prejudicial to the interests of the United Kingdom or the
safety of its citizens; or
(d) border control or decisions about immigration.

(9) In this section “the security and intelligence services” means—
(a) the Security Service;
(b) the Secret Intelligence Service; and
(c) the Government Communications Headquarters.]

Textual Amendments
F1 S. 1(1)(c) and preceding word inserted by European Communities (Employment in the Civil Service)
Order 1991 (S.I. 1991/1221), art. 2
F2 S. 1(1)(c) substituted (7.3.2007) by European Communities (Employment in the Civil Service) Order
2007 (S.I. 2007/617), arts. 1, 2(2)
F3 S. 1(5)-(9) inserted (7.3.2007) by European Communities (Employment in the Civil Service) Order
2007 (S.I. 2007/617), arts. 1, 2(3)

Modifications etc. (not altering text)
C2 Functions of Treasury now again exercisable by the Treasury: S.I. 1981/1670, arts. 2 (1) (a), 3 (5)

Marginal Citations
M1 1700 c. 2
M2 1919 c. 92.

2 Supplementary provisions.

(1) In this Act “alien” and “British protected person” have the same meaning as in the
British Nationality Act, 1948; “Minister” includes the Treasury, the Admiralty and
the Board of Trade; and “responsible Minister”, in relation to any service, means the
Minister concerned with the administration of that service.

(2) Any question arising under this section what Minister is the responsible Minister in
relation to any service shall be referred to and determined by the Treasury.

(3) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

F4

(4) Regulations sixty D of the Defence (General) Regulations, 1939 is hereby revoked: but
any alien who, immediately before the commencement of this Act, is employed under
the Crown by virtue of that Regulation (not being a person appointed and employed
in any country or territory outside the United Kingdom, the Channel Islands and the
Isle of Man) shall be treated for the purposes of this Act as if a certificate in respect
of his employment had been issued under section one of this Act by the responsible
Minister immediately after the commencement of this Act.

Textual Amendments
F4 S. 2 (3) repealed by Northern Ireland Constitution Act 1973 (c. 36), Sch. 6 Pt. I
Functions of Admiralty now exercisable by a Secretary of State: Defence (Transfer of Functions) Act 1964 (c. 15), s. 1(2)

Functions of Board of Trade now exercisable by Secretary of State concurrently with Board of Trade: S.I. 1970/1537 except the civil aviation and shipping functions of the Board of Trade which, by virtue of S.I. 1983/1127, art. 2 (4), have ceased to be exercisable by the Board of Trade

Marginal Citations
M3 1948 c. 56.

3 Short title.

This Act may be cited as the Aliens’ Employment Act, 1955.
Changes to legislation:
Aliens’ Employment Act 1955 is up to date with all changes known to be in force on or before 07 November 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to:
- s. 1(5)(a) substituted by S.I. 2019/745 reg. 3(2)(a) (This effect relates to the Aliens’ Employment Act 1955 (4&5 Eliz 2) c. 18)
- s. 1(5)(b) substituted by S.I. 2019/745 reg. 3(2)(b) (This effect relates to the Aliens’ Employment Act 1955 (4&5 Eliz 2) c. 18)
- s. 1(5)(c) substituted by S.I. 2019/745 reg. 3(2)(c) (This effect relates to the Aliens’ Employment Act 1955 (4&5 Eliz 2) c. 18)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- s. 1(5A) inserted by S.I. 2019/745 reg. 3(3) (This effect relates to the Aliens’ Employment Act 1955 (4&5 Eliz 2) c. 18)