
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes further provision with respect to the giving and refusing of leave to enter and remain in the United Kingdom. It also provides that a visa or other entry clearance may have effect as leave to enter the United Kingdom; and that, in certain circumstances, leave to enter or remain is not to lapse on travel outside the common travel area (Ireland, the Channel Islands and the Isle of Man).

In part II, article 2 provides that an entry clearance (including a visa) which satisfies the requirements specified in article 3 is to have effect as leave to enter the United Kingdom. The extent of that leave is set out in article 4. Article 5 deals with the conditions to which it is subject. Consequential provision is made in article 6 to enable Immigration Officers to cancel entry clearances in certain circumstances.

Part III makes further provision as to the form and manner of giving and refusing leave to enter the United Kingdom. Article 7 provides that leave to enter may be given or refused before a person arrives in the United Kingdom. It gives Immigration Officers powers to seek information necessary to come to a decision as to whether or not to give leave.

Article 8 provides that, instead of being given in writing, a notice giving or refusing leave to enter the United Kingdom may be given by facsimile, electronic mail or, in the case of those given leave as visitors under the immigration rules, orally. Article 9 provides that a notice giving or refusing leave to enter to a person may be given through a responsible third party acting on his behalf. Where notice of refusal of leave to enter is given orally or through a third party, article 10 requires an Immigration Officer to serve an additional written notice stating the reasons for refusal. Article 11 requires persons claiming that they have been given leave to enter orally or through a third party to prove the manner and date of their entry into the United Kingdom.

Article 12 is concerned with the situation where an immigration officer has begun to examine an arriving passenger to consider whether or not to give him leave to enter but does not, on that occasion, complete the examination. Instead of the interview having to be resumed, article 12 facilitates an immigration officer giving or refusing leave by post or similar means. This will, in particular, assist where an asylum claim has been considered by the Secretary of State in the interim, avoiding the need for the passenger to wait for an appointment at a port to have the leave decision communicated to him. Article 12 achieves this by ensuring that where the notice is so given, it cannot be argued that it was not given within the period required by paragraph 6(1) of Schedule 2 to the Immigration Act 1971.

Part IV provides that, in the circumstances specified, leave to enter or remain in the United Kingdom will not lapse on the holder leaving the common travel area. It confers consequential powers on Immigration Officers and the Secretary of State to cancel or vary leave which thus remains in force.

Part V makes transitional and consequential provision.