



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART I

#### IMMIGRATION: GENERAL

##### *Leave to enter, or remain in, the United Kingdom*

#### **1 Leave to enter.**

In the 1971 Act, after section 3, insert—

##### **“3A Further provision as to leave to enter.**

- (1) The Secretary of State may by order make further provision with respect to the giving, refusing or varying of leave to enter the United Kingdom.
- (2) An order under subsection (1) may, in particular, provide for—
  - (a) leave to be given or refused before the person concerned arrives in the United Kingdom;
  - (b) the form or manner in which leave may be given, refused or varied;
  - (c) the imposition of conditions;
  - (d) a person’s leave to enter not to lapse on his leaving the common travel area.
- (3) The Secretary of State may by order provide that, in such circumstances as may be prescribed—
  - (a) an entry visa, or
  - (b) such other form of entry clearance as may be prescribed,is to have effect as leave to enter the United Kingdom.
- (4) An order under subsection (3) may, in particular—
  - (a) provide for a clearance to have effect as leave to enter—

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- (i) on a prescribed number of occasions during the period for which the clearance has effect;
    - (ii) on an unlimited number of occasions during that period;
    - (iii) subject to prescribed conditions; and
  - (b) provide for a clearance which has the effect referred to in paragraph (a) (i) or (ii) to be varied by the Secretary of State or an immigration officer so that it ceases to have that effect.
- (5) Only conditions of a kind that could be imposed on leave to enter given under section 3 may be prescribed.
- (6) In subsections (3), (4) and (5) “prescribed” means prescribed in an order made under subsection (3).
- (7) The Secretary of State may, in such circumstances as may be prescribed in an order made by him, give or refuse leave to enter the United Kingdom.
- (8) An order under subsection (7) may provide that, in such circumstances as may be prescribed by the order, paragraphs 2, 4, 6, 7, 8, 9 and 21 of Part I of Schedule 2 to this Act are to be read, in relation to the exercise by the Secretary of State of functions which he has as a result of the order, as if references to an immigration officer included references to the Secretary of State.
- (9) Subsection (8) is not to be read as affecting any power conferred by subsection (10).
- (10) An order under this section may—
- (a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
  - (b) make different provision for different cases.
- (11) This Act and any provision made under it has effect subject to any order made under this section.
- (12) An order under this section must be made by statutory instrument.
- (13) But no such order is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.”

## 2 **Leave to remain.**

In the 1971 Act, after section 3A, insert—

### **“3B Further provision as to leave to remain.**

- (1) The Secretary of State may by order make further provision with respect to the giving, refusing or varying of leave to remain in the United Kingdom.
- (2) An order under subsection (1) may, in particular, provide for—
  - (a) the form or manner in which leave may be given, refused or varied;
  - (b) the imposition of conditions;
  - (c) a person’s leave to remain in the United Kingdom not to lapse on his leaving the common travel area.
- (3) An order under this section may—

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- (a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
  - (b) make different provision for different cases.
- (4) This Act and any provision made under it has effect subject to any order made under this section.
- (5) An order under this section must be made by statutory instrument.
- (6) But no such order is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.”

### 3 Continuation of leave pending decision.

In the 1971 Act, after section 3B, insert—

#### “3C Continuation of leave pending decision.

- (1) This section applies if—
- (a) a person who has limited leave to enter or remain in the United Kingdom applies to the Secretary of State, before his leave expires, for it to be varied; and
  - (b) when it expires, no decision has been taken on the application.
- (2) His leave is to be treated as continuing until the end of the period allowed under rules made under paragraph 3 of Schedule 4 to the Immigration and Asylum Act 1999 for bringing an appeal against a decision on the application.
- (3) An application for variation of a person’s leave to enter or remain in the United Kingdom may not be made while that leave is treated as continuing as a result of this section.
- (4) But subsection (3) does not prevent the variation of an application mentioned in subsection (1).”

### 4 [F1 Accommodation]

[F2][F3(1)] The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of persons—

- (a) temporarily admitted to the United Kingdom under paragraph 21 of Schedule 2 to the 1971 Act;
- (b) released from detention under that paragraph; or
- (c) released on bail from detention under any provision of the Immigration Acts.

[F4(2)] The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of a person if—

- (a) he was (but is no longer) an asylum-seeker, and
  - (b) his claim for asylum was rejected [F5] or declared inadmissible (see sections 80A and 80B of the Nationality, Immigration and Asylum Act 2002)].
- (3) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of a dependant of a person for whom facilities may be provided under subsection (2).

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- (4) The following expressions have the same meaning in this section as in Part VI of this Act (as defined in section 94)—
- (a) asylum-seeker,
  - (b) claim for asylum, and
  - (c) dependant.]
- [<sup>F6</sup>(5) The Secretary of State may make regulations specifying criteria to be used in determining—
- (a) whether or not to provide accommodation, or arrange for the provision of accommodation, for a person under this section;
  - (b) whether or not to continue to provide accommodation, or arrange for the provision of accommodation, for a person under this section.
- (6) The regulations may, in particular—
- (a) provide for the continuation of the provision of accommodation for a person to be conditional upon his performance of or participation in community activities in accordance with arrangements made by the Secretary of State;
  - (b) provide for the continuation of the provision of accommodation to be subject to other conditions;
  - (c) provide for the provision of accommodation (or the continuation of the provision of accommodation) to be a matter for the Secretary of State's discretion to a specified extent or in a specified class of case.
- (7) For the purposes of subsection (6)(a)—
- (a) “community activities” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and
  - (b) the Secretary of State may, in particular—
    - (i) appoint one person to supervise or manage the performance of or participation in activities by another person;
    - (ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;
    - (iii) pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.
- (8) Regulations by virtue of subsection (6)(a) may, in particular, provide for a condition requiring the performance of or participation in community activities to apply to a person only if the Secretary of State has made arrangements for community activities in an area that includes the place where accommodation is provided for the person.
- (9) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.]
- [<sup>F7</sup>(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,

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- (c) may restrict the extent or value of services or facilities to be provided, and
- (d) may confer a discretion.]]

**Textual Amendments**

- F1** S. 4 heading substituted (7.11.2002) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [s. 49\(2\)](#) (with [s. 159](#))
- F2** S. 4 repealed (15.1.2018 for specified purposes) by [Immigration Act 2016 \(c. 19\)](#), [s. 94\(1\)](#), [Sch. 11 para. 1](#) (with [Sch. 11 para. 46](#)); [S.I. 2017/1241](#), [reg. 2\(d\)\(i\)](#) (with [Sch.](#)) (as amended by [S.I. 2018/31](#), [reg. 2](#))
- F3** S. 4 renumbered (7.11.2002) as [s. 4\(1\)](#) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [s. 49\(2\)](#) (with [s. 159](#))
- F4** S. 4(2)-(4) added (7.11.2002) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [s. 49\(1\)](#) (with [s. 159](#))
- F5** Words in [s. 4\(2\)\(b\)](#) inserted (cond.) (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 17\(2\), 87\(1\)](#); [S.I. 2022/590](#), [regs. 1\(2\), 2](#), [Sch. 1 para. 16](#)
- F6** S. 4(5)-(9) added (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 10\(1\), 48\(3\)](#) (with [s. 10\(6\)\(7\)](#)); [S.I. 2004/2999](#), [art. 2](#), [Sch.](#)
- F7** S. 4(10)(11) added (16.6.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [ss. 43\(7\), 62\(1\)\(2\)](#); [S.I. 2006/1497](#), [art. 3](#), [Sch.](#)

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

- C1** S. 4 restricted (8.1.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [s. 55](#) (with [s. 159](#)); [S.I. 2002/2811](#), [art. 2](#), [Sch.](#)  
S. 4 restricted (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 51](#), [162\(1\)](#) (with [s. 159](#))

**F8 5 Charges.**

**Textual Amendments**

- F8** S. 5 repealed (2.4.2007) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [s. 62\(1\)\(2\)](#), [Sch. 2 para. 3](#), [Sch. 3](#); [S.I. 2007/1109](#), [arts. 4, 5](#), [Sch.](#)

**Changes to legislation:**

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**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. 10(12) inserted by [2023 c. 37 s. 10\(6\)](#)
- s. 40(1)-(1C) substituted for s. 40(1) by [2022 c. 36 s. 76\(2\)](#)
- s. 40(4A)(4B) inserted by [2022 c. 36 s. 76\(5\)](#)
- s. 72(10) repealed by [2004 c. 19 Sch. 4](#)
- s. 94(2A)-(2C) inserted by [2016 c. 19 Sch. 11 para. 3\(3\)](#)
- s. 94(2D) inserted by [2016 c. 19 Sch. 11 para. 7\(4\)](#)
- s. 94(3)(3A) substituted for s. 94(3) by [2002 c. 41 s. 44\(4\)](#) (This amendment is repealed (prosp.) by [2016 c. 19, Sch. 11 para. 41](#))
- s. 94(3A)-(3D) inserted by [2016 c. 19 Sch. 11 para. 3\(5\)](#)
- s. 95A inserted by [2016 c. 19 Sch. 11 para. 9](#)
- s. 96(1A) inserted by [2016 c. 19 Sch. 11 para. 10\(3\)](#)
- s. 97(3A)(b)(iv) inserted by [2022 c. 36 s. 13\(2\)\(c\)\(ii\)](#)
- s. 97(8)(9) inserted by [2016 c. 19 Sch. 11 para. 11\(4\)](#)
- s. 98A inserted by [2016 c. 19 Sch. 11 para. 13](#)
- s. 98A(5) inserted by [2022 c. 36 s. 13\(4\)](#)
- s. 103(4)(a) words substituted by [2004 c. 19 s. 10\(4\)\(b\)](#)
- s. 103(5)(b) word substituted by [S.I. 2008/2833 Sch. 3 para. 183\(ii\)](#)
- s. 103A(1) words substituted by [2004 c. 19 s. 10\(5\)](#)
- s. 103A(1) heading words substituted by [2004 c. 19 s. 10\(5\)](#)
- s. 103A(1) words substituted by [S.I. 2008/2833 Sch. 3 para. 184](#)
- s. 125(2)(ba) inserted by [2016 c. 19 Sch. 11 para. 22\(3\)\(b\)](#)
- s. 146(2)(za) inserted by [2016 c. 19 s. 44\(9\)](#)
- s. 166(5)(ca) substituted for word in s. 166(5)(c) by [2016 c. 19 Sch. 11 para. 24\(2\)](#)
- s. 166(5A)(5B) inserted by [2016 c. 19 Sch. 11 para. 24\(3\)](#)
- s. 166(6)(aa) substituted for word in s. 166(6)(a) by [2016 c. 19 Sch. 11 para. 24\(4\)](#)
- Sch. 2 para. 21 modified by [2002 c. 41 s. 23\(2\)\(a\)](#)
- Sch. 3 para. 2(5) modified by [2002 c. 41 s. 23\(2\)\(b\)](#)