

*Draft Order laid before Parliament under section 3A(13) of the Immigration Act 1971, for approval  
by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2001 No.**

**IMMIGRATION**

**Immigration (Leave to Enter) Order 2001**

*Made* - - - - 2001  
*Coming into force* - - 2001

Whereas a draft of this Order has been laid before Parliament and approved by a resolution of each House in accordance with section 3A(13) of the Immigration Act 1971<sup>(1)</sup>;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by section 3A(1), (7), (8) and (10) of the Immigration Act 1971, hereby makes the following Order:

**1.**—(1) This Order may be cited as the Immigration (Leave to Enter) Order 2001 and shall come into force on the day after the day on which it is made.

(2) In this Order—

- (a) “the 1971 Act” means the Immigration Act 1971; and
- (b) “claim for asylum” and “the Human Rights Convention” have the meanings assigned by section 167 of the Immigration and Asylum Act 1999.

**2.**—(1) Where this article applies to a person, the Secretary of State may give or refuse him leave to enter the United Kingdom.

(2) This article applies to a person who seeks leave to enter the United Kingdom and who—

- (a) has made a claim for asylum; or
- (b) has made a claim that it would be contrary to the United Kingdom’s obligations under the Human Rights Convention for him to be removed from, or required to leave, the United Kingdom.

(3) This article also applies to a person who seeks leave to enter the United Kingdom for a purpose not covered by the immigration rules or otherwise on the grounds that those rules should be departed from in his case.

(4) In deciding whether to give or refuse leave under this article the Secretary of State may take into account any additional grounds which a person has for seeking leave to enter the United Kingdom.

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<sup>(1)</sup> 1971 c. 77; section 3A was inserted by section 1 of the Immigration and Asylum Act 1999 (1999 c. 33).

(5) The power to give or refuse leave to enter the United Kingdom under this article shall be exercised by notice in writing to the person affected or in such manner as is permitted by the Immigration (Leave to Enter and Remain) Order 2000(2).

3. In relation to the giving or refusing of leave to enter by the Secretary of State under article 2, paragraphs 2 (examination by immigration officers, and medical examination)(3), 4 (information and documents)(4), 7(1), (3) and (4) (power to require medical examination after entry)(5), 8 (removal of persons refused leave to enter)(6), 9 (removal of illegal entrants) and 21 (temporary admission of persons liable to detention)(7) of Schedule 2 to the 1971 Act shall be read as if references to an immigration officer included references to the Secretary of State.

4.—(1) This article applies where—

- (a) an immigration officer has commenced examination of a person (“the applicant”) under paragraph 2(1)(c) of Schedule 2 to the 1971 Act(8) (examination to determine whether or not leave to enter should be given);
- (b) that examination has been adjourned, or the applicant has been required (under paragraph 2(3) of Schedule 2 to the Immigration Act 1971) to submit to a further examination;
- (c) the Secretary of State subsequently examines the applicant or conducts a further examination in relation to him; and
- (d) the Secretary of State thereafter gives or refuses the applicant leave to enter.

(2) Where this article applies, the notice giving or refusing leave to enter shall be regarded for the purposes of the 1971 Act as having been given within the period of 24 hours specified in paragraph 6(1) of Schedule 2 to that Act (9) (period within which notice giving or refusing leave to enter must be given after completion of examination by an immigration officer).

One of Her Majesty’s Principal Secretaries of State

2001

Home Office

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- (2) S.I.2000/1161.
  - (3) Relevant amendments are: section 39(6) of, and paragraph 2 of Schedule 4 to, the British Nationality Act 1981 (c. 61); article 8 of, and paragraph 1(b) of Schedule 5 to, the Channel Tunnel (International Arrangements) Order 1993 (S.I. 1993/1813); and section 169(1) of, and paragraphs 43 and 56 of Schedule 14 to, the Immigration and Asylum Act 1999 (c. 33).
  - (4) Relevant amendments are: section 10 of, and paragraphs 6 and 10 of the Schedule to, the Immigration Act 1988 (c. 14); section 12(1) of, and paragraph 5(1) and (2)(a), (b) and (c) of Schedule 2 to, the Asylum and Immigration Act 1996 (c. 49); and section 169(1) of, and paragraphs 43 and 58 of Schedule 14 to, the Immigration and Asylum Act 1999.
  - (5) Paragraph 7 was substituted by section 169(1) of, and paragraphs 43 and 59 of Schedule 14 to, the Immigration and Asylum Act 1999.
  - (6) A relevant amendment was made by section 10 of, and paragraph 9 of the Schedule to, the Immigration Act 1988.
  - (7) Relevant amendments are: section 10 of, and paragraphs 6 and 10 of the Schedule to, the Immigration Act 1988; section 12(1) of, and paragraph 10 of Schedule 2 to, the Asylum and Immigration Act 1996; and section 169(1) of, and paragraphs 43 and 62(1), (3) and (4) of Schedule 14 to, the Immigration and Asylum Act 1999.
  - (8) Paragraph 2(1)(c) was substituted by section 169(1) of, and paragraphs 43 and 56 of Schedule 14 to, the Immigration and Asylum Act 1999.
  - (9) Relevant amendments are: section 39 of, and paragraph 2 of Schedule 4 to, the British Nationality Act 1981; and section 10 of, and paragraphs 7 and 8 of the Schedule to, the Immigration Act 1988.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Article 2 of this Order permits the Secretary of State to give or refuse leave to enter the United Kingdom in the circumstances specified. It also requires notice of any such grant or refusal to be given in writing to the person affected or in such manner as is permitted by the Immigration (Leave to Enter or Remain) Order 2000.

Article 3 provides that, in relation to the giving or refusing of leave to enter, the Secretary of State may exercise certain powers exercised by immigration officers under Schedule 2 to the Immigration Act 1971 when determining whether a person should be given leave to enter.

Article 4 deals with the situation where an immigration officer has commenced the examination of an arriving passenger but the Secretary of State subsequently gives or refuses leave to enter. In such a case, the notice giving or refusing leave to enter is deemed to have been given within the period of 24 hours specified in paragraph 6(1) of Schedule 2 to the 1971 Act (period within which notice giving or refusing leave to enter must be given after completion of examination by an immigration officer).