



# Immigration Act 2016

## 2016 CHAPTER 19

### PART 9

#### MISCELLANEOUS AND GENERAL

##### *Welfare of children*

#### **90 Duty regarding the welfare of children**

For the avoidance of doubt, this Act does not limit any duty imposed on the Secretary of State or any person by section 55 of the Borders, Citizenship and Immigration Act 2009 (duty regarding welfare of children).

##### *Final provisions*

#### **91 Financial provisions**

The following are to be paid out of money provided by Parliament—

- (a) any expenditure incurred under or by virtue of this Act by a Minister of the Crown, a person holding office under Her Majesty or a government department, and
- (b) any increase attributable to the Act in the sums payable under any other Act out of money so provided.

#### **92 Transitional and consequential provision**

- (1) The Secretary of State may by regulations make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.
- (2) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate in consequence of this Act.

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- (3) The provision that may be made by regulations under subsection (2) includes provision amending, repealing or revoking any enactment.
- (4) “Enactment” includes—
  - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
  - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
  - (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
  - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.
- (5) In section 61(2) of the UK Borders Act 2007 (meaning of “the Immigration Acts”)—
  - (a) omit the “and” at the end of paragraph (i), and
  - (b) at the end of paragraph (j) insert “, and
  - (k) the Immigration Act 2016.”

## 93 Regulations

- (1) Regulations made by the Secretary of State or the [<sup>F1</sup>Minister for the Cabinet Office] under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing (whether alone or with other provision) any of the following regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament—
  - (a) regulations under section 3 which amend or repeal primary legislation,
  - (b) regulations under section 6,
  - (c) regulations under section 11 which amend or repeal primary legislation,
  - (d) regulations under section 14, 15 or 21,
  - (e) regulations under section 36(2),
  - (f) regulations under section 42(1) or (2),
  - [<sup>F2</sup>(fa) regulations under section 69(6) or (10),
  - (fb) regulations under section 70(2)(b),]
  - (g) regulations under section 73(1) or (2),
  - (h) regulations under section 78(9),
  - (i) regulations under section 79(1),
  - (j) passport fees regulations within the meaning of section 86 which include provision specifying functions as mentioned in subsection (1) of that section,
  - (k) regulations under section 92(2) which amend or repeal primary legislation,
  - (l) regulations under paragraph 1(13) of Schedule 6, and
  - (m) regulations under paragraph 2(7) of that Schedule.
- (3) Primary legislation means any of the following—
  - (a) an Act of Parliament;
  - (b) an Act of the Scottish Parliament;
  - (c) a Measure or Act of the National Assembly for Wales;
  - (d) Northern Ireland legislation.

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- (4) A statutory instrument—
- (a) containing any other regulations made by the Secretary of State or the [<sup>F3</sup>Minister for the Cabinet Office] under this Act, and
  - (b) to which subsection (2) does not apply,
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to regulations under section 92(1) or 94(1).
- (6) Regulations made by the Secretary of State or the [<sup>F4</sup>Minister for the Cabinet Office] under this Act—
- (a) may make different provision for different purposes or areas,
  - (b) may make provision which applies generally or for particular purposes or areas,
  - (c) may make transitional, transitory or saving provision, or
  - (d) may make incidental, supplementary or consequential provision.

#### Textual Amendments

- F1** Words in s. 93(1) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), [Sch. 2 para. 32\(b\)](#) (with art. 12)
- F2** S. 93(2)(fa)(fb) inserted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, [7\(1\)](#)
- F3** Words in s. 93(4)(a) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), [Sch. 2 para. 32\(b\)](#) (with art. 12)
- F4** Words in s. 93(6) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), [Sch. 2 para. 32\(b\)](#) (with art. 12)

## 94 Commencement

- (1) Subject to subsections (3) to (5) this Act comes into force on such day as the Secretary of State appoints by regulations.
- (2) Regulations under subsection (1) may appoint different days for different purposes or areas.
- (3) Subsections (3) to (5) of section 61 come into force on the day on which this Act is passed.
- (4) Section 85 comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (5) This Part comes into force on the day on which this Act is passed.

## 95 Extent

- (1) This Act extends to England and Wales, Scotland and Northern Ireland, subject as follows.

<sup>F5</sup>(2) .....

- (3) Any amendment, repeal or revocation made by this Act has the same extent within the United Kingdom as the provision to which it relates.

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- (4) But subsection (3) does not apply to the amendments made to the Modern Slavery Act 2015 by paragraphs 30 and 35 of Schedule 3 (for the extent of which, see the amendments to section 60 of that Act made by paragraph 33 of that Schedule).
- (5) Her Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to any of the Channel Islands or the Isle of Man.
- (6) A power under any provision listed in subsection (7) may be exercised so as to extend (with or without modifications) to any of the Channel Islands or the Isle of Man any amendment or repeal made by or under this Act of any part of an Act to which the provision listed in subsection (7) relates.
- (7) Those provisions are—
  - (a) section 36 of the Immigration Act 1971,
  - (b) section 52(2) of the Civil Jurisdiction and Judgments Act 1982,
  - (c) section 9(3) of the Special Immigration Appeals Commission Act 1997,
  - (d) section 170(7) of the Immigration and Asylum Act 1999,
  - (e) section 163(4) of the Nationality, Immigration and Asylum Act 2002,
  - (f) section 49(3) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004,
  - (g) section 63(3) of the Immigration, Asylum and Nationality Act 2006,
  - (h) section 60(4) of the UK Borders Act 2007,
  - (i) section 76(6) of the Immigration Act 2014, and
  - (j) section 60(6) of the Modern Slavery Act 2015.

#### Textual Amendments

- F5** [S. 95\(2\)](#) omitted (7.2.2018) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, [7\(2\)](#)

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

- C1** [S. 95\(5\)](#) power extended (28.4.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), **ss. 86(5)(6)(n)**, [87\(3\)\(c\)](#)

## 96 Short title

This Act may be cited as the Immigration Act 2016.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)

**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. 69(9)(d) and word inserted by [2023 c. 37 s. 21\(2\)\(b\)](#)
- Sch. 10 para. 3(2)(eza) inserted by [2023 c. 37 s. 13\(3\)\(a\)](#)
- Sch. 10 para. 3(3A)-(3C) inserted by [2023 c. 37 s. 13\(3\)\(b\)](#)
- Sch. 10 para. 3A and cross-heading inserted by [2023 c. 37 s. 13\(4\)](#)