



Illegal Migration Act 2023

2023 CHAPTER 37

General

63 Financial provision

There is 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, and
- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

64 Consequential and minor provision

- (1) The Secretary of State may by regulations make provision that is consequential on this Act.
- (2) Regulations under subsection (1) may, in particular, amend, repeal or revoke any enactment passed or made before, or in the same Session as, this Act.
- (3) In subsection (2) “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 Senedd Cymru;
 - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.
- (4) In section 61(2) of the UK Borders Act 2007 (meaning of “the Immigration Acts”)—
 - (a) omit the “and” at the end of paragraph (l), and
 - (b) after paragraph (m) insert “, and
 - (n) the Illegal Migration Act 2023.”

- (5) In Schedule 5 to the Nationality and Borders Act 2022, in paragraph 8, omit subparagraph (2).

65 Regulations

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) Regulations under this Act may make—
- (a) consequential, supplementary, incidental, transitional or saving provision;
 - (b) different provision for different purposes.
- (3) Subsection (2) does not apply to regulations under section 68(1) (commencement).
- (4) A statutory instrument containing (whether alone or with other provision)—
- (a) regulations under section 4(3)(d) (circumstances in which power to make arrangements for removal of unaccompanied child applies),
 - (b) regulations under section 7(1) (powers to amend Schedule 1),
 - (c) regulations under section 20(1) (extension to Wales, Scotland and Northern Ireland),
 - (d) regulations under section 24(9) (amendments in consequence of regulations made by the Scottish Ministers),
 - (e) regulations under section 26(3)(b) (continuation of operation of modern slavery provisions),
 - (f) regulations under section 40 (meaning of “serious and irreversible harm”),
 - (g) regulations under section 60 (cap on number of entrants using safe and legal routes),
 - (h) regulations under section 64(1) (consequential provision) which amend, repeal or revoke primary legislation, or
 - (i) regulations under paragraph 10 of Schedule 2 (powers relating to relevant articles containing items subject to legal privilege),
- may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Any other statutory instrument containing regulations under this Act for which no Parliamentary procedure is otherwise specified by this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subsection (5) does not apply to a statutory instrument containing only regulations under—
- (a) section 26(8) (transitional etc provision in connection with suspension of operation of modern slavery provisions);
 - (b) section 68 (commencement).
- (7) In this section “primary legislation” means—
- (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of Senedd Cymru, or
 - (d) Northern Ireland legislation.

66 Defined expressions

In this Act an expression listed in the first column of the following table has the meaning given by, or is to be interpreted in accordance with, the corresponding provision listed in the second column of that table.

<i>Expression</i>	<i>Provision</i>
application for judicial review	section 5(6)
human rights claim	section 4(15)
the Human Rights Convention	section 6(13)
immigration officer	section 8(17)
immigration rules	section 2(9)
national	section 4(15)
protection claim	section 4(15)
unaccompanied child	section 4(5) (subject to section 16(5))

67 Extent

- (1) This Act extends to England and Wales, Scotland and Northern Ireland, subject as follows.
- (2) Section 23 extends to England and Wales only.
- (3) Section 24 extends to Scotland only.
- (4) Section 25 extends to Northern Ireland only.
- (5) Subsections (7) to (10) of section 4 (and section 65 so far as applying to those subsections) also extend to the Channel Islands and the Isle of Man and the British overseas territories, but only so as to enable regulations under subsection (7) of section 4 to make provision for any of sections 31 to 36 to have effect with modifications in relation to a person to whom regulations under that subsection apply.
- (6) Sections 31 to 37 also extend to the Channel Islands and the Isle of Man and the British overseas territories.
- (7) His 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.
- (8) Subsection (7) does not apply to—
 - (a) sections 4(7) to (10) and 65, so far as they extend to the Channel Islands and the Isle of Man by virtue of subsection (5), or
 - (b) sections 31 to 37.
- (9) Any amendment, repeal or revocation made by this Act has the same extent within the United Kingdom as the provision to which it relates.
- (10) A power under any provision listed in subsection (11) 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 (11) relates.

Status: This is the original version (as it was originally enacted).

- (11) Those provisions are—
- (a) section 36 of the Immigration Act 1971,
 - (b) section 9(3) of the Special Immigration Appeals Commission Act 1997,
 - (c) section 170(7) of the Immigration and Asylum Act 1999,
 - (d) section 163(4) of the Nationality, Immigration and Asylum Act 2002,
 - (e) section 49(3) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004,
 - (f) section 60(4) of the UK Borders Act 2007,
 - (g) section 57(5) of the Borders, Citizenship and Immigration Act 2009,
 - (h) section 60(6) of the Modern Slavery Act 2015,
 - (i) section 95(5) of the Immigration Act 2016, and
 - (j) section 86(4) of the Nationality and Borders Act 2022.

68 Commencement

- (1) Subject to subsections (3) and (4), this Act comes into force on such day as the Secretary of State may by regulations appoint.
- (2) Regulations under subsection (1) may appoint different days for different purposes.
- (3) The following provisions come into force on the day on which this Act is passed—
- (a) sections 30 to 37;
 - (b) section 52;
 - (c) sections 63 to 67;
 - (d) this section;
 - (e) section 69.
- (4) The following provisions come into force on the day on which this Act is passed for the purposes of making regulations—
- (a) section 3 (amendment of date in section 2(3) etc);
 - (b) section 4 (unaccompanied children and power to provide for exceptions);
 - (c) section 7 (powers to amend Schedule 1);
 - (d) section 11(2) (detention under authority of immigration officer);
 - (e) section 11(6) (detention under authority of Secretary of State);
 - (f) section 18 (duty of local authority to provide information to Secretary of State);
 - (g) section 20 (extension of provisions relating to unaccompanied children to Wales, Scotland and Northern Ireland);
 - (h) section 24 (modern slavery: support in Scotland);
 - (i) section 40 (meaning of “serious and irreversible harm”);
 - (j) section 42 (serious harm suspensive claims);
 - (k) section 43 (removal conditions suspensive claims);
 - (l) section 60(7) (definition of safe and legal routes).
- (5) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.

69 Short title

This Act may be cited as the Illegal Migration Act 2023.