



# Aliens' Employment Act 1955

1955 CHAPTER 18 4 and 5 Eliz 2

## 1 Provision for civil employment of aliens.

- (1) Notwithstanding anything in section three of the <sup>M1</sup>Act of Settlement, or in section six of the <sup>M2</sup>Aliens Restriction (Amendment) Act, 1919, an alien may be employed in any civil capacity under the Crown—
  - (a) if he is appointed in any country or territory outside the United Kingdom, the Channel Islands and the Isle of Man and employed in any such country or territory in service of a class or description which appears to the responsible Minister to be appropriate for the employment of aliens; or
  - (b) if a certificate in respect of his employment, issued by the responsible Minister with the consent of the Treasury, is for the time being in force under this section; [<sup>F1</sup>or
  - [<sup>F2</sup>(c) if he is a relevant European and he is not employed in a reserved post;]]and so much of the said section three as imposes disability for employment in any such capacity shall cease to have effect in relation to British protected persons.
- (2) A certificate may be issued under this section either in respect of the employment of a specified alien in specified service, or in respect of the employment of aliens generally in specified service or in service of any specified class or description; but no such certificate shall be issued unless it appears to the responsible Minister, at the time of the issue of the certificate,—
  - (a) in the case of a certificate in respect of the employment of a specified alien in specified service, either that no suitably qualified person being a British subject is available for employment in that service or that the alien possesses exceptional qualifications or experience fitting him for such employment;
  - (b) in the case of any other certificate, that suitably qualified persons being British subjects are not readily available, or available in sufficient numbers, for employment in the service, or class or description of service, specified in the certificate.
- (3) A certificate under this section shall cease to have effect, unless previously revoked, at the expiration of a period of five years from the date on which it is issued, but without prejudice to the power of the responsible Minister to issue a fresh certificate.

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*Changes to legislation:* There are currently no known outstanding effects for the Aliens' Employment Act 1955, Section 1. (See end of Document for details)

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- (4) The Treasury shall lay before each House of Parliament in every financial year a list containing particulars of all certificates in force under this section during the previous financial year, including the numbers of aliens employed during that year in pursuance of such certificates.

[<sup>F3</sup>][<sup>F4</sup>](5) In subsection (1)(c) a “relevant European” means—

- (a) a person who has leave to enter or remain in the United Kingdom which was granted by virtue of residence scheme immigration rules;
- (b) a person who—
  - (i) has leave to enter or remain in the United Kingdom which was granted before IP completion day otherwise than by virtue of residence scheme immigration rules, but
  - (ii) immediately before IP completion day, could have met the eligibility requirements for leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if the person were to have made an application for such leave at that time;
- (c) a person who—
  - (i) falls within subsection (5A), and
  - (ii) immediately before IP completion day had a Decision 1/80 entitlement; or
- (d) a person who—
  - (i) falls within subsection (5A), and
  - (ii) would at the relevant time have had a Decision 1/80 entitlement but for the coming into force of paragraph 6(1) of Schedule 1 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (repeal of EU-derived rights etc).

(5A) A person falls within this subsection if—

- (a) the person has entry clearance, or leave to enter or remain in the United Kingdom, by virtue of the EC Association Agreement which was granted before IP completion day;
- (b) the person has entry clearance, or leave to enter or remain in the United Kingdom, by virtue of the EC Association Agreement that was granted by virtue of an application made before IP completion day; or
- (c) the person—
  - (i) had the entry clearance or leave described in paragraph (a) or (b), and
  - (ii) has leave to remain in the United Kingdom granted by virtue of either Appendix ECAA (Extension of Stay) or Appendix ECAA (Settlement), to the immigration rules.

(5B) For the purposes of subsections (5) and (5A)—

“a Decision 1/80 entitlement” means an entitlement to take up any activity as an employed person in the United Kingdom by virtue of rights derived from Article 6(1) or 7 (rights of certain Turkish nationals and their family members to take up any economic activity, whatever their nationality) of Decision 1/80 of 19 September 1980 of the Association Council set up by the EC Association Agreement;

“EC Association Agreement” means the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963

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“eligibility requirements for leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11, EU12 or EU14 of Appendix EU to the immigration rules;

“entry clearance” and “immigration rules” have the meaning given by section 33(1) of the Immigration Act 1971;

“leave to enter or remain in the United Kingdom” means limited leave or indefinite leave within the meaning given by section 33(1) of the Immigration Act 1971;

“the relevant time” means the time at which the question whether the person is a relevant European is under consideration;

“residence scheme immigration rules” has the meaning given by section 17 of the European Union (Withdrawal Agreement) Act 2020.]

- (6) In subsection (1)(c) “a reserved post” means—
- (a) a post in the security and intelligence services; or
  - (b) a post falling within subsection (7) or (8) which the responsible Minister considers needs to be held otherwise than by a relevant European.
- (7) The posts falling within this subsection are—
- (a) a post in Her Majesty’s Diplomatic Service and posts in [<sup>F5</sup>the Foreign, Commonwealth and Development Office]; and
  - (b) posts in the Defence Intelligence Staff.
- (8) The posts falling within this subsection are posts whose functions are concerned with—
- (a) access to intelligence information received directly or indirectly from the security and intelligence services;
  - (b) access to other information which, if disclosed without authority or otherwise misused, might damage the interests of national security;
  - (c) access to other information which, if disclosed without authority or otherwise misused, might be prejudicial to the interests of the United Kingdom or the safety of its citizens; or
  - (d) border control or decisions about immigration.
- (9) In this section “the security and intelligence services” means—
- (a) the Security Service;
  - (b) the Secret Intelligence Service; and
  - (c) the Government Communications Headquarters.]

#### Textual Amendments

- F1** S. 1(1)(c) and preceding word inserted by [European Communities \(Employment in the Civil Service\) Order 1991 \(S.I. 1991/1221\)](#), **art. 2**
- F2** S. 1(1)(c) substituted (7.3.2007) by [European Communities \(Employment in the Civil Service\) Order 2007 \(S.I. 2007/617\)](#), arts. 1, **2(2)**
- F3** S. 1(5)-(9) inserted (7.3.2007) by [European Communities \(Employment in the Civil Service\) Order 2007 \(S.I. 2007/617\)](#), arts. 1, **2(3)**
- F4** S. 1(5)-(5B) substituted for s. 1(5) (31.12.2020) by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **4(2)**

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**F5** Words in s. 1(7)(a) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 3**

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

- C1** S. 1(1)(b)(4): functions of the Treasury now again exercisable by the Treasury by virtue of S.I. 1981/1670, **arts. 2(1)(a), 3(5)**
- C2** S. 1(5) applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1209\)](#), regs. 1(1), **3(4)**, 4(5), 12(1)(a)

**Marginal Citations**

- M1** 1700 c. 2
- M2** 1919 c. 92.

**Changes to legislation:**

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