
S T A T U T O R Y I N S T R U M E N T S

1970 No. 151

ALIENS

The Aliens (Appeals) Order 1970

Made - - - - 4th February 1970

Laid before Parliament 10th February 1970

Coming into Operation—

Articles 1, 6(2) and 12(1) 11th February 1970

*Remaining provisions: in accordance with
Article 1 of this Order.*

ARRANGEMENT OF ARTICLES

PART I

PRELIMINARY

1. Citation, meaning of “ the principal Order ” and commencement.

PART II

APPEALS

2. Appeal against exclusion from United Kingdom.
3. Appeal against landing conditions, etc.
4. Appeal against deportation orders.
5. Appeal against directions for removal from United Kingdom.
6. Further appeal from adjudicator to Tribunal.
7. Determination of appeals.
8. Special procedure in cases involving national security, etc., or forgery of documents.
9. Reference of cases for further consideration.
10. Release of appellants pending hearing.
11. Members of ships' crews.
12. Supplementary provisions.
13. Interpretation of Part II.

PART III

AMENDMENTS OF PRINCIPAL ORDER

14. Continued application of previous landing conditions to aliens returning after visits abroad.
15. Detention of aliens for examination.
16. Removal of aliens refused leave to land.
17. Deportation for breach of landing conditions, etc.
18. Detention on notification of decision to make deportation order.
19. Enforcement of deportation orders.
20. Power of entry to effect arrest.

SCHEDULE

Suspension of directions for removal pending appeal.

At the Court at Buckingham Palace, the 4th day of February 1970

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Aliens Restriction Act 1914(a), as amended by the Aliens Restriction (Amendment) Act 1919(b), of section 14 of the Immigration Appeals Act 1969(c), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows—

PART I

PRELIMINARY

Citation, meaning of "the principal Order" and commencement

1.—(1) This Order may be cited as the Aliens (Appeals) Order 1970.

(2) In this Order "the principal Order" means the Aliens Order 1953(d) as amended by the Aliens Order 1957(e), the Aliens Order 1960(f), the Aliens Order 1964(g), the Aliens Order 1967(h), the Aliens Order 1968(i) and, except where the context otherwise requires, Part III of this Order.

(3) This Article and Articles 6(2) and 12(1) of this Order shall come into operation on 11th February 1970; and the remaining provisions of this Order shall come into operation on such date as the Secretary of State may by order appoint, and different dates may be appointed for different purposes of those provisions.

PART II

APPEALS

Appeal against exclusion from United Kingdom

2.—(1) Subject to the provisions of this Part of this Order, a person may appeal to an adjudicator against—

- (a) a refusal at an approved port to grant him leave to land;
- (b) a prohibition imposed under Article 2(2)(a) of the principal Order at an approved port on his landing from a ship;
- (c) a refusal of an application for the grant to him of a visa, being an application duly made to a person having authority to grant a visa on behalf of the Government of the United Kingdom;
- (d) a refusal by the Secretary of State to revoke an instruction issued by him to immigration officers which names the appellant as a person who is to be refused leave to land.

(2) The adjudicator shall dismiss any appeal under this Article if it appears to him that, at the time of the refusal or prohibition, a deportation order was in force in the case of the appellant.

(3) The Schedule to this Order shall have effect for suspending the enforcement of any such refusal as is mentioned in paragraph (1)(a) of this Article while an appeal against it is pending under this Part of this Order.

- | | | |
|--|---|-----------------|
| (a) 1914 c. 12. | (b) 1919 c. 92. | (c) 1969 c. 21. |
| (d) S.I. 1953/1671 (1953 I, p. 94). | (e) S.I. 1957/597 (1957 I, p. 142). | |
| (f) S.I. 1960/2214 (1960 I, p. 291). | (g) S.I. 1964/2034 (1964 III, p. 5116). | |
| (h) S.I. 1967/1282 (1967 II, p. 3712). | (i) S.I. 1968/1649 (1968 III, p. 4471). | |

Appeal against landing conditions, etc.

3.—(1) Subject to the provisions of this Part of this Order, a person may appeal to an adjudicator against—

- (a) the imposition in his case at an approved port of any landing condition limiting the period during which he may remain in the United Kingdom to less than seven days ;
- (b) the variation by a notice under Article 5(3) of the principal Order of any landing condition which has been imposed in his case ;
- (c) a refusal to revoke or vary, by such a notice as aforesaid, any landing condition which has been imposed in his case ;
- (d) the imposition on him by an order under Article 22 of the principal Order of any special restriction (not being a restriction imposed on him as a member of a class) or a refusal to revoke or vary any such restriction ;
- (e) a refusal in the case of the appellant of permission under paragraph 2 or 3 of Schedule 1 to the principal Order, or a refusal of such permission in the terms applied for, or the imposition of any condition as a term of such permission.

(2) Where an appeal is duly brought under paragraph (1)(a), (c) or (e) of this Article the appellant shall not, so long as the appeal is pending, be required to leave the United Kingdom by reason of any condition limiting the period during which he may remain there or by reason of paragraph 2 of Schedule 1 to the principal Order ; and where an appeal is duly brought under paragraph (1)(b) of this Article the variation which is the subject of the appeal shall not take effect so long as the appeal is pending.

(3) In paragraph (1)(b) and (c) of this Article “ landing condition ” includes any condition so far as it has effect in the United Kingdom by virtue of Article 6 of the principal Order (conditions imposed in the Channel Islands or Isle of Man).

Appeal against deportation orders

4.—(1) Subject to paragraph (2) of this Article and to the other provisions of this Part of this Order, a person may appeal—

- (a) to an adjudicator against—
 - (i) a decision of the Secretary of State to make a deportation order in his case by virtue of paragraph (c) of Article 20(2) of the principal Order ;
 - (ii) a refusal by the Secretary of State to revoke a deportation order made in his case by virtue of paragraph (a), (b) or (c) of the said Article 20(2) ;
- (b) to the Tribunal, against a decision of the Secretary of State to make a deportation order in his case by virtue of paragraph (b) of the said Article 20(2).

(2) A person shall not be entitled to appeal under paragraph (1)(a)(ii) of this Article until he has complied with the requirement in the order in question that he should leave the United Kingdom or while he is in breach of the requirement in it that he should remain out of the United Kingdom.

(3) A deportation order shall not be made so long as an appeal may be brought against the decision to make that order and, if such an appeal is duly brought, so long as the appeal is pending.

Appeal against directions for removal from United Kingdom

5.—(1) Subject to paragraph (4) of this Article and to the other provisions of this Part of this Order, a person may appeal to an adjudicator against the giving of directions for his removal from the United Kingdom in any case where the directions are given—

- (a) by virtue of Article 9 of the principal Order on the ground that he is to be treated by virtue of that Article as having been refused leave to land in the United Kingdom (alien landing without leave or member of ship's crew failing to leave as required etc.) ; or
- (b) by virtue of Article 21 of the principal Order on the ground that he has returned to the United Kingdom in breach of a deportation order.

(2) In any appeal under paragraph (1) of this Article against the giving of any directions, the only question for the determination of the adjudicator shall be whether the facts of the case are such that there was in law power to give the directions on the ground on which they were given or, in the case of an appeal under sub-paragraph (a) of that paragraph, either on that ground or on the ground that a deportation order was in force in the case of the appellant ; and if the adjudicator determines that question in the affirmative he shall dismiss the appeal.

(3) Subject to paragraphs (4) and (5) of this Article and to the other provisions of this Part of this Order, where directions are given for the removal of a person from the United Kingdom he may appeal to an adjudicator on the ground that he ought not to be removed to the country to which he would be removed if the directions were carried out.

(4) A person shall not be entitled to appeal under paragraph (1) or (3) of this Article against directions which are given by virtue of Article 9(1)(b) or (c) of the principal Order in a case where he has landed from the ship in question elsewhere than at an approved port ; and a person shall not be entitled to appeal under paragraph (3) of this Article against directions which are given by virtue of a refusal elsewhere than at an approved port to grant him leave to land.

(5) Where a person appeals against the giving of any directions both under paragraph (1) and under paragraph (3) of this Article the appeals shall be heard together ; and where a person appeals under Article 2(1)(a) or Article 4 of this Order, then, if the Secretary of State or an immigration officer has served on him (whether before or after the appeal is brought) a notice stating that any directions for his removal from the United Kingdom which may be given by virtue of the refusal or deportation order which is the subject of the appeal will be such as to effect his removal to a country, or one of several countries, specified in the notice—

- (a) the appellant shall be entitled in that appeal to object that he ought not to be removed to the country, or to any of the countries, specified in the notice ; and
- (b) no appeal shall lie under paragraph (3) of this Article against any directions which are subsequently given by virtue of the refusal or deportation order in question if their effect would be his removal to a country to which he has not objected as aforesaid or as respects which his objection has not been sustained.

(6) Where before a person appeals under Article 2(1)(a) of this Order directions have been given for his removal and those directions cease to have effect in consequence of the bringing of the appeal, the appellant

shall be treated as having been served with a notice under paragraph (5) of this Article specifying the country to which he would have been removed if those directions had been carried out.

(7) The Schedule to this Order shall have effect as respects the suspension of any directions while an appeal in respect of them is pending under this Part of this Order.

Further appeal from adjudicator to Tribunal

6.—(1) Subject to paragraph (2) of this Article, any party to an appeal to an adjudicator may, if dissatisfied with his determination thereon, appeal to the Tribunal.

(2) Rules of procedure may provide that, in such cases as may be specified in the rules, an appeal shall lie under this Article only with the leave of the adjudicator or the Tribunal, or only with the leave of the Tribunal; but—

- (a) an appeal shall lie under this Article without leave where the adjudicator has allowed an appeal under Article 2(1)(a) of this Order and the Secretary of State certifies that he considers it desirable in the public interest that the case should be decided by the Tribunal; and
- (b) if leave to appeal under this Article is by virtue of the rules required in a case where the adjudicator has dismissed an appeal under the said Article 2(1)(a), the authority having power under the rules to grant leave shall grant it if satisfied that the person who was the appellant before the adjudicator held, at the time of the refusal which is the subject of the appeal, a valid visa for his journey issued to him on behalf of the Government of the United Kingdom.

Determination of appeals

7.—(1) Subject to Articles 2(2) and 5(2) of this Order, an adjudicator who hears an appeal under this Part of this Order—

- (a) shall allow the appeal if he considers—
 - (i) that the decision or action against which the appeal is brought was not in accordance with the law or with any immigration rules applicable to the case; or
 - (ii) where the decision or action involved the exercise of a discretion by the Secretary of State or an officer, that the discretion should have been exercised differently; and
- (b) in any other case, shall dismiss the appeal.

(2) For the purposes of paragraph (1)(a) of this Article the adjudicator may review any determination of a question of fact on which the decision or action was based; and for the purposes of paragraph (1)(a)(ii) of this Article no decision or action which is in accordance with the immigration rules shall be treated as having involved the exercise of a discretion by the Secretary of State by reason only of the fact that he has been requested by or on behalf of the appellant to depart, or to authorise an officer to depart, from the rules and has refused to do so.

(3) In relation to an appeal which under this Part of this Order is heard at first instance by the Tribunal, the foregoing provisions of this Article shall apply to the Tribunal as they apply to an adjudicator.

(4) On an appeal under this Part of this Order to the Tribunal from the determination of an adjudicator, the Tribunal may affirm the determination

or make any other determination which could have been made by the adjudicator.

(5) Where an adjudicator or the Tribunal allows an appeal, the adjudicator or Tribunal shall give such directions for giving effect to the determination as the adjudicator or Tribunal thinks requisite, and may also make recommendations with respect to any other action which the adjudicator or Tribunal considers should be taken in the case under the principal Order.

(6) Subject to Article 8(2) of this Order, it shall be the duty of the Secretary of State and of any officer to whom directions are given under paragraph (5) of this Article to comply therewith, except that directions given by an adjudicator need not be complied with so long as an appeal can be brought against his determination and, if such an appeal is duly brought, so long as the appeal is pending.

Special procedure in cases involving national security, etc., or forgery of documents

8.—(1) Where a person appeals against any decision or action to an adjudicator, or by virtue of Article 4(1)(b) of this Order to the Tribunal and it appears to the Secretary of State that the decision or action was taken wholly or mainly in the interests of national security or of the relations between the United Kingdom and any other country or otherwise on grounds of a political nature, the Secretary of State may direct that the appeal—

- (a) if it would otherwise be heard by an adjudicator, shall be referred to and heard by the Tribunal as constituted for the purpose of hearing appeals referred to it under section 9(1) of the Immigration Appeal Act 1969(a) ;
- (b) if it comes before the Tribunal by virtue of the said Article 4(1)(b), shall be heard by the Tribunal as so constituted.

(2) Article 7(6) of this Order shall not apply to a case which is dealt with in accordance with directions given under paragraph (1) of this Article.

(3) If—

- (a) in the case of an appeal which is dealt with in accordance with directions given under paragraph (1) of this Article, the Secretary of State certifies that the disclosure to the appellant of any matters relevant to the case would be contrary to the interests of national security or
- (b) in the case of any appeal under this Part of this Order in which it is alleged that a passport, visa or employment permit (or any part thereof or entry therein) on which a party relies is a forgery, the adjudicator or Tribunal hearing the appeal determines that the disclosure to that party of any matters relating to the method of detection would be contrary to the public interest,

those matters shall be presented to the adjudicator or Tribunal without being disclosed as aforesaid ; and for the purposes of this paragraph any part of the proceedings may take place in the absence of the appellant or that part of the case may be, and of his representatives.

Reference of cases for further consideration

9.—(1) Where in any case—

- (a) an appeal to an adjudicator (or an appeal which is heard at first instance by the Tribunal) has been dismissed ; or

(a) 1969 c. 21.

(b) the Tribunal has affirmed the determination of an adjudicator dismissing an appeal,

the Secretary of State may at any time refer for consideration under this Article any matter relating to the case which was not before the adjudicator or Tribunal.

(2) Any reference under this Article shall be to an adjudicator or to the Tribunal, and the adjudicator or Tribunal shall consider the matter which is the subject of the reference and report to the Secretary of State the opinion of the adjudicator or Tribunal thereon.

Release of appellants pending hearing

10. Schedule 3 to the Immigration Appeals Act 1969(a) (release of appellants pending appeal) shall apply to any person who has an appeal pending under this Part of this Order and is for the time being detained under Article 8(4), 11 or 21(5) of the principal Order as it applies to any such person as is specified in paragraph 1 of that Schedule; and in paragraph 5(1)(b) of that Schedule the reference to section 7(2)(a) of that Act shall include a reference to Article 6(2)(a) of this Order.

Members of ships' crews

11.—(1) A person who has appealed under Article 2(1)(b) of this Order may be brought ashore under the authority of an immigration officer for the purpose of prosecuting his appeal and may, while on shore for that purpose, be detained under the authority of an immigration officer or constable; and Article 28 of the principal Order (arrest and detention) shall have effect as if this paragraph were contained in that Order.

(2) If while an appeal under the said Article 2(1)(b) is pending the appellant's ship leaves the port in question but the appellant remains on shore with the authority of an immigration officer, the appellant shall thereafter be treated for the purposes of the principal Order as if he had been refused leave to land and the appeal shall thereafter be treated for the purposes of this Order as if it were an appeal under Article 2(1)(a) of this Order.

Supplementary provisions

12.—(1) In section 6 of the Immigration Appeals Act 1969(a) (regulations about notices) and section 11 of that Act (rules of procedure) references to Part I of that Act shall include references to this Part of this Order, and in subsection (2) of the said section 11 references to sections 5(3), 5(4), 7 and 9 of that Act shall respectively include references to Articles 5(3), 5(5), 6 and 8 of this Order.

(2) In Schedule 1 to the said Act of 1969, in paragraph 11 the reference to Part I of that Act shall include a reference to this Part of this Order, and in paragraph 12 the reference to section 9 of that Act shall include a reference to Article 8 of this Order.

(3) In paragraph (1) of Article 27 of the principal Order (proof of instruments) the reference to the principal Order shall include a reference to this Part of this Order, and in paragraph (2) of that Article the reference to legal proceedings shall include a reference to proceedings under this Part of this Order.

(a) 1969 c. 21.

Interpretation of Part II

13.—(1) In this Part of this Order—

“adjudicator” and “the Tribunal” mean respectively an adjudicator and the Tribunal appointed for the purposes of Part I of the Immigration Appeals Act 1969(a);

“employment permit” means a permit of the kind mentioned in Article 4(1)(b) of the principal Order;

“immigration rules” means rules made by the Secretary of State for the administration of—

(a) the control of entry into the United Kingdom of aliens; and

(b) the control of aliens after entry,

being rules which have been published and laid before Parliament;

“rules of procedure” means rules made under section 11 of the said Act of 1969 as applied by this Order;

and any expression not defined above which is also used in the principal Order has the same meaning as in that Order.

(2) For the purpose of this Order an appeal under this Part of this Order shall be treated as pending during the period beginning when notice of appeal is duly given and ending when the appeal is finally determined or withdrawn; and, in the case of an appeal to an adjudicator, the appeal shall not be treated as finally determined so long as a further appeal can be brought by virtue of Article 6 of this Order and, if such an appeal is duly brought, until it is determined or withdrawn.

(3) The Interpretation Act 1889(b) shall apply for the interpretation of this Part of this Order as it applies for the interpretation of an Act of Parliament.

(4) No provision of this Part of this Order shall be construed as conferring a right of appeal against any decision or action which was taken before the coming into operation of that provision.

PART III

AMENDMENTS OF PRINCIPAL ORDER

Continued application of previous landing conditions to aliens returning after visits abroad

14.—(1) At the beginning of paragraph (4) of Article 5 of the principal Order (which provides that landing conditions imposed in the case of an alien who lands in the United Kingdom shall cease to apply to him if he subsequently enters any country outside the common travel area) there shall be inserted the words “Subject to paragraph (4A) of this Article”.

(2) After the said paragraph (4) there shall be inserted the following paragraph—

“(4A) Paragraph (4) of this Article shall not apply—

(a) to any landing conditions imposed under paragraph (1) of this Article if a notice in writing disapplying the said paragraph (4) is given to the alien by the immigration officer at the time when the conditions are imposed; or

(a) 1969 c. 21.

(b) 1889 c. 63.

(b) to any landing conditions varied under paragraph (3) of this Article if such a notice as aforesaid is given to the alien by the Secretary of State at the time when the conditions are varied ;

but the giving of such a notice as aforesaid shall not be construed as entitling the alien to leave to land on his seeking to re-enter the United Kingdom, and any landing conditions subject to which leave to land is then granted shall (so far as inconsistent) prevail over the conditions to which the notice relates.”

(3) In paragraph (5) of the said Article 5 for the words “ by paragraph (4) of this Article ” there shall be substituted the words “ by paragraphs (4) and (4A) of this Article ”, for the words “ any such landing conditions as aforesaid ” there shall be substituted the words “ any landing conditions imposed by virtue of this Article ” and for the words “ the said paragraph (4) ” there shall be substituted the words “ the said paragraph (4) or (4A) ”.

Detention of aliens for examination

15. In paragraph (3) of Article 7 of the principal Order (which provides, among other things, for the detention of an alien pending and during his examination under that Article) for the words “ pending and during the examination ” there shall be substituted the words “ until the examination is completed ”.

Removal of aliens refused leave to land

16.—(1) In paragraph (1) of Article 8 of the principal Order (which enables directions to be given for the removal from the United Kingdom of an alien who is refused leave to land) for paragraphs (i) and (ii) of sub-paragraph (c) (which specify the countries to which an alien may be removed under that sub-paragraph) there shall be substituted the following paragraphs—

- “ (i) a country of which the alien is a national ; or
- (ii) a country in which he has obtained a passport or other document of identity ; or
- (iii) a country in which he embarked for the United Kingdom ; or
- (iv) a country to which there is reason to believe that the alien will be admitted ”.

(2) In paragraph (2) of the said Article 8 (which precludes the giving of directions under that Article after the expiration of two months from the date on which the alien arrived) for the words “ under this Article ” there shall be substituted the words “ under paragraph (1) of this Article ”.

(3) After the said paragraph (2) there shall be inserted the following paragraph—

- “ (2A) If it appears to the Secretary of State—
- (a) that in the circumstances it is not practicable for directions to be given under paragraph (1) of this Article in respect of an alien ; or
- (b) that directions so given would be ineffective ; or
- (c) that directions can no longer be so given because of paragraph (2) of this Article,

the Secretary of State, or any person acting under his authority, may give to the owners or agents of any ship or aircraft the like directions as

could be, or could have been, given under paragraph (1)(c) of this Article to the owners or agents of the ship or aircraft in which the alien arrived in the United Kingdom ; but in any such case the costs of complying with the directions shall be defrayed by the Secretary of State."

(4) In paragraphs (3) and (4) of the said Article 8 (supplementary provisions as to directions under paragraph (1) of that Article) for the words "under paragraph (1) of this Article" there shall be substituted the words "under this Article".

Deportation for breach of landing conditions, etc.

17.—(1) In paragraph (2) of Article 20 of the principal Order (which specifies the circumstances in which a deportation order may be made in the case of an alien) after sub-paragraph (b) there shall be inserted the words "or

(c) if the Secretary of State is satisfied that the alien has failed to comply with a landing condition or with any requirement which applies to him by virtue of the First Schedule to this Order."

(2) In paragraph (3) of the said Article 20 for the words "paragraph (2)(b)" there shall be substituted the words "paragraph (2)(b) or (c)".

Detention on notification of decision to make deportation order

18. After paragraph (4) of Article 21 of the principal Order (under which an alien is liable to be detained if a deportation order has been made in his case or if a recommendation for his deportation is in force) there shall be added the following paragraph—

"(5) An alien who—

(a) in accordance with regulations under section 6 of the Immigration Appeals Act 1969 as applied by Part II of the Aliens (Appeals) Order 1970, has been given notice of a decision to make a deportation order in his case under Article 20(2)(b) or (c) of this Order ; and

(b) is neither detained in pursuance of the sentence or order of an court nor for the time being released on bail by any court having power so to release him,

may be detained under the authority of the Secretary of State until the deportation order is made or, by reason of the final determination of an appeal under Part II of the Aliens (Appeals) Order 1970 in favour of the alien, cannot be made."

Enforcement of deportation orders

19. At the end of Article 21 of the principal Order, as amended by Article 18 of this Order, there shall be added the following paragraph—

"(6) It is hereby declared that the powers conferred by this Article in respect of an alien in whose case a deportation order has been made shall continue to be exercisable so long as the order remains in force and, in particular, can be exercised in respect of an alien who has returned to the United Kingdom in breach of a deportation order whether or not he was granted leave to land on the occasion when he returned."

Power of entry to effect arrest

20.—(1) After paragraph (1) of Article 28 of the principal Order (under which a person liable to be detained under the Order may be arrested

without warrant by an immigration officer or a constable) there shall be inserted the following paragraph—

“(1A) If a justice of the peace is satisfied by written information substantiated on oath that there is reasonable ground for suspecting that a person who is liable to be arrested under this Article is to be found on any premises, he may grant a warrant authorising any constable acting for the police area in which the premises are situated, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting that person.”

(2) In Article 32 of the principal Order (application to Scotland) after paragraph (a) there shall be inserted the following paragraph—

“(aa) in paragraph (1A) of Article 28—

- (i) for the reference to a justice of the peace there shall be substituted a reference to a sheriff, or a magistrate or justice of the peace, having jurisdiction in the place where the premises are situated ;
- (ii) for the reference to written information substantiated on oath there shall be substituted a reference to evidence on oath.”

(3) In Article 33 of the principal Order (application to Northern Ireland) after paragraph (d) there shall be inserted the following paragraph—

“(dd) in paragraph (1A) of Article 28 the words ‘acting for the police area in which the premises are situated’ shall be omitted.”

W. G. Agnew.

SCHEDULE

Articles 2 and 5.

SUSPENSION OF DIRECTIONS FOR REMOVAL PENDING APPEAL

Directions following a refusal of leave to land which is under appeal

1. Subject to the provisions of this Schedule, where an appeal is duly brought under Article 2(1)(a) of this Order—

- (a) no directions for the removal of the appellant from the United Kingdom shall, so long as the appeal is pending, be given by virtue of the refusal which is the subject of the appeal ; and
- (b) except so far as already carried out, any directions which have been so given before the appeal was brought shall cease to have effect.

Directions which are under appeal

2. Subject to the provisions of this Schedule, where an appeal is duly brought under Article 5 of this Order against the giving of any directions, those directions, except so far as already carried out, shall be of no effect so long as the appeal is pending.

Members of ship's crews and stowaways

3. The foregoing provisions of this Schedule shall not prevent—

- (a) the giving of directions for the removal of an appellant who has arrived in the United Kingdom as a member of the crew of a ship or as a stowaway ; or
- (b) the continuance in force of directions for the removal of any such person which have already been given.

Removal where adjudicator dismisses appeal

4.—(1) Where an appeal under Article 2(1)(a) or 5 of this Order has been dismissed by an adjudicator, then, unless forthwith after the appeal has been dismissed—

- (a) the appellant duly gives notice of appeal against the determination of the adjudicator ; or
- (b) in a case in which leave to appeal against that determination is required and the adjudicator has power to grant leave, the appellant duly applies for and obtains the leave of the adjudicator,

paragraph 1 of this Schedule shall not prevent the giving of directions for the removal of the appellant, and for the purposes of paragraph 2 of this Schedule the appeal shall be treated as if it were no longer pending.

(2) Where a person who has been removed from the United Kingdom under directions given or in force by virtue of sub-paragraph (1) of this paragraph subsequently appeals successfully to the Tribunal against the determination of the adjudicator, the Tribunal may order the Secretary of State to pay to that person such sum as the Tribunal may direct in respect of any expenses incurred by that person in consequence of his having been removed as aforesaid.

Detention

5. The foregoing provisions of this Schedule shall not affect the powers of detention conferred by Article 8(4) or 11 of the principal Order except that a person shall not be detained on board a ship or aircraft so as to compel him to leave the United Kingdom in it at a time when by virtue of those provisions no directions for his removal can be given or any such directions have ceased to have effect or are for the time being of no effect.

Time limit for giving of directions

6. In calculating the period of two months referred to in paragraph (2) of Article 8 of the principal Order (being the time limit for giving directions for the removal of a person from the United Kingdom under paragraph (1) of that Article) there shall be disregarded, in the case of a person who duly brings an appeal under Part II of this Order, the period during which the appeal is pending.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Part II of this Order provides for appeals against decisions taken in respect of the immigration and deportation of aliens on the general lines of Part I of the Immigration Appeals Act 1969 in respect of Commonwealth citizens.

Part III makes the following miscellaneous amendments to the Aliens Order 1953:—

- (a) Under Article 5(4) of the 1953 Order landing conditions imposed on an alien cease to apply where he goes abroad. Article 14 of the present Order provides that they will continue to apply if notice is given to him at the time of imposition.
- (b) Article 7 of the 1953 Order provides that an alien seeking to land may be detained pending and during his examination. Article 15 of the present Order makes it clear that detention may continue during any interruptions of the examination.

- (c) Article 16 of the present Order provides that the countries to which an alien refused leave to land may be removed under Article 8 of the 1953 Order shall include any country in which he has obtained a passport or other document of identity, and that in certain circumstances the owners of a ship or aircraft other than that in which he arrived may be directed to remove him.
- (d) Article 17 of the present Order makes failure to comply with a landing condition an additional ground for deportation.
- (e) Article 18 of the present Order provides that an alien given notice of an intention to make a deportation order may be detained pending the making of the order or any appeal against it.
- (f) Article 19 of the present Order makes it clear that the powers of detention and removal for the purpose of deportation apply to an alien who has returned to the United Kingdom in breach of a deportation order.
- (g) Article 20 of the present Order enables a search warrant to be issued in respect of a person liable to arrest under the 1953 Order.

The substantive provisions of this Order will come into operation on dates to be appointed by the Secretary of State.

SI 1970/ 151
ISBN 0-11-000151-6

