

SCHEDULE 4A

Provisions of the Immigration and Asylum Act 1999 as extended to Jersey

PART I

IMMIGRATION: GENERAL

Commencement Information

II Sch. 4A Pt. I comes into force in accordance with [art. 1\(1\)](#)

Leave to enter, or remain in, Jersey

Removal of persons unlawfully in Jersey

10.—(1) A person may be removed from Jersey under the authority of the Minister or an immigration officer if the person requires leave to enter or remain in Jersey but does not have it.

(2) Where a person (“P”) is liable to be or has been removed from the Jersey under subsection (1), a member of P’s family who meets the following three conditions may also be removed from Jersey under the authority of the Minister or an immigration officer, provided that the Minister or immigration officer has given the family member written notice of the intention to remove him or her.

(3) The first condition is that the family member is—

(a) P’s partner,

(b) P’s child, or a child living in the same household as P in circumstances where P has care of the child,

(c) in a case where P is a child, P’s parent, or

(d) an adult dependent relative of P.

(4) The second condition is that—

(a) in a case where the family member has leave to enter or remain in Jersey, that leave was granted on the basis of his or her family life with P;

(b) in a case where the family member does not have leave to enter or remain in Jersey, in the opinion of the Minister or immigration officer the family member—

(i) would not, on making an application for such leave, be granted leave in his or her own right, but

(ii) would be granted leave on the basis of his or her family life with P, if P had leave to enter or remain.

(5) The third condition is that the family member is none of the following—

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- (a) a British citizen,
 - (b) an Irish citizen,
 - (c) a person who has leave to enter or remain in Jersey which was granted by virtue of residence scheme immigration rules.
- (6) A notice given to a family member under subsection (2) invalidates any leave to enter or remain in Jersey previously given to the family member.
- (7) For the purposes of removing a person from Jersey under subsection (1) or (2), the Minister or an immigration officer may give any such direction for the removal of the person as may be given under paragraphs 8 to 10 of Schedule 2 to the 1971 Act.
- (8) But subsection (7) does not apply where a deportation order is in force against a person (and any directions for such a person’s removal must be given under Schedule 3 to the 1971 Act).
- (9) The following paragraphs of Schedule 2 to the 1971 Act apply in relation to directions under subsection (7) (and the persons subject to those directions) as they apply in relation to directions under paragraphs 8 to 10 of Schedule 2 (and the persons subject to those directions)—
- (a) paragraph 11 (placing of person on board ship or aircraft);
 - (b) paragraph 16(2) to (4) (detention of person where reasonable grounds for suspecting removal directions may be given or pending removal in pursuance of directions);
 - (c) paragraph 17 (arrest of person liable to be detained and search of premises for person liable to arrest);
 - (d) paragraph 18 (supplementary provisions on detention);
 - (e) paragraph 18A (search of detained person);
 - (f) paragraph 18B (detention of unaccompanied children);
 - (g) paragraphs 19 and 20 (payment of expenses of custody etc);
 - (h) paragraph 21 (temporary admission to Jersey of person liable to detention);
 - (i) paragraphs 25A to 25E (searches etc).
- (10) The Minister may by Order make further provision about—
- (a) the time period during which a family member may be removed under subsection (2);
 - (b) the service of a notice under subsection (2).
- (11) In this section—
- “child” means a person who is under the age of 18;
- “residence scheme immigration rules” means immigration rules which are identified as having effect in connection with the withdrawal of the United Kingdom from the European Union.

Proof of identity of persons to be removed or deported

13.—(1) This section applies if a person—

(a) is to be removed from Jersey to a country of which he is a national or citizen; but

(b) does not have a valid passport or other document establishing his identity and nationality or citizenship and permitting him to travel.

(2) If the country to which the person is to be removed indicates that he will not be admitted to it unless identification data relating to him are provided by the Minister, he may provide them with such data.

(3) In providing identification data, the Minister must not disclose whether the person concerned has made a claim for asylum.

(4) For the purposes of Article 49(1)(d) of the GDPR, the provision under this section of identification data is a transfer of personal data which is necessary for important reasons of public interest.

(4A) “The GDPR” has the same meaning as in the Data Protection (Jersey) Law 2018 (see Article 1(1) of that Law).

(5) “Identification data” means —

(a) fingerprints taken under section 141; or

(b) data collected in accordance with Regulations made under section 144.

(6) “Removed” means removed as a result of directions given under section 10 or under Schedule 2 or 3 to the 1971 Act.

Escorts for persons removed from Jersey under directions.

14.—(1) Directions for, or requiring arrangements to be made for, the removal of a person from Jersey may include or be amended to include provision for the person who is to be removed to be accompanied by an escort consisting of one or more persons specified in the directions.

(2) The Minister may by Order make further provision supplementing subsection (1).

(3) Such Order may, in particular, include provision—

(a) requiring the person to whom the directions are given to provide for the return of the escort to Jersey;

(b) requiring him to bear such costs in connection with the escort (including, in particular, remuneration) as may be prescribed;

(c) as to the cases in which the Minister is to bear those costs;

(d) prescribing the kinds of expenditure which are to count in calculating the costs incurred in connection with escorts.

Reporting suspicious marriages

Duty to report suspicious marriages.

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24.—(1) Subsection (3) applies if—

(a) the Superintendent Registrar is given a notice of intended marriage under Article 8 of the Marriage and Civil Status (Jersey) Law 2001, or

(b) a registrar, or deputy registrar, within the meaning of Article 42 of the Marriage and Civil Status (Jersey) Law 2001 receives information in advance of a person giving such a notice,

and has reasonable grounds for suspecting that the intended marriage will be a sham marriage.

(3) The person concerned must report his suspicion to the Minister without delay and in writing.

(5) A marriage (whether or not it is void) is a “sham marriage” if—

(a) either, or both, of the parties to the marriage is not a relevant national,

(b) there is no genuine relationship between the parties to the marriage, and

(c) either, or both, of the parties to the marriage enter into the marriage for one or more of these purposes—

(i) avoiding the effect of one or more provisions of immigration law or the immigration rules in Jersey or elsewhere in the British Islands;

(ii) enabling a party to the marriage to obtain a right conferred by that law or those rules to reside in Jersey or elsewhere in the British Islands.

(6) In subsection (5)—

“relevant national” means—

(a) a British citizen,

(b) an Irish citizen, or

(c) a person who is not an Irish citizen and who—

(i) has leave to enter or remain in Jersey which was granted by virtue of residence scheme immigration rules, or

(ii) is a person to whom paragraph 2 of the Immigration (Leave to Enter and Remain) (Grace Period) (Jersey) Directions 2020 applied and the grace period under those Directions or under an Order replacing those Directions still applies in relation to that person.

(7) In subsection (6) “residence scheme immigration rules” means immigration rules which are identified as having effect in connection with the withdrawal of the United Kingdom from the European Union.

Duty to report suspicious civil partnerships.

24A.—(1) Subsection (3) applies if—

(a) the Superintendent Registrar is given a notice of civil partnership under Article 7 of the Civil Partnership (Jersey) Law 2012, or

(b) a registrar, or a civil partnership registrar, within the meaning of Article 1 of the 2012 Law receives information in advance of a person giving such a notice,

and has reasonable grounds for suspecting that the civil partnership will be a sham civil partnership.

(2) Subsection (3) also applies if—

(a) two people register as civil partners of each other under Article 3 of the 2012 Law in the presence of a civil partnership registrar, and

(b) before, during or immediately after they do so, the registrar has reasonable grounds for suspecting that the civil partnership will be, or is, a sham civil partnership.

(3) The person concerned must report his suspicion to the Minister without delay and in writing.

(4) A civil partnership (whether or not it is void) is a “sham civil partnership” if—

(a) either, or both, of the parties to the civil partnership is not a relevant national,

(b) there is no genuine relationship between the parties to the civil partnership, and

(c) either, or both, of the parties to the civil partnership enter into the civil partnership for one or more of these purposes—

(i) avoiding the effect of one or more provisions of immigration law or the immigration rules in Jersey or elsewhere in the British Islands;

(ii) enabling a party to the marriage to obtain a right conferred by that law or those rules to reside in Jersey or elsewhere in the British Islands.

(5) In subsection (4)—

“relevant national” means—

(a) a British citizen,

(b) an Irish citizen, or

(c) a person who is not an Irish citizen and who—

(i) has leave to enter or remain in Jersey which was granted by virtue of residence scheme immigration rules, or

(ii) is a person to whom paragraph 2 of the Immigration (Leave to Enter and Remain) (Grace Period) (Jersey) Directions 2020 applied and the grace period under those Directions or under an Order replacing those Directions still applies in relation to that person.

(6) In subsection (5) “residence scheme immigration rules” means immigration rules which are identified as having effect in connection with the withdrawal of the United Kingdom from the European Union.

Immigration control: facilities and charges

Provision of facilities for immigration control at ports.

25.—(1) The person responsible for the management of a control port (“the manager”) must provide the Minister free of charge with such facilities at the port as the Minister may direct as being reasonably necessary for, or in connection with, the operation of immigration control there.

(2) Before giving such a direction, the Minister must consult such persons likely to be affected by it as he considers appropriate.

(5) A direction under this section is enforceable, on the application of the Minister by injunction granted by the Royal Court.

(6) “Control port” means a port in which a control area is designated under paragraph 26(3) of Schedule 2 to the 1971 Act.

(7) “Facilities” means accommodation, facilities, equipment and services of a class or description specified in an Order made by the Minister.

Charges: immigration control.

26.—(1) The Minister may, at the request of any person and in consideration of such charges as he may determine, make arrangements—

(a) for the provision at any control port of immigration officers or facilities in addition to those (if any) needed to provide a basic service at the port;

(b) for the provision of immigration officers or facilities for dealing with passengers of a particular description or in particular circumstances.

(2) “Control port” has the same meaning as in section 25.

(3) “Facilities” includes equipment.

(4) “Basic service” has such meaning as may be prescribed.

Defences based on Article 31(1) of the Refugee Convention.

31.—(1) It is a defence for a refugee charged with an offence to which this section applies to show that, having come to Jersey directly from a country where his life or freedom was threatened (within the meaning of the Refugee Convention), he—

(a) presented himself to the authorities in Jersey without delay;

(b) showed good cause for his illegal entry or presence; and

(c) made a claim for asylum as soon as was reasonably practicable after his arrival in Jersey.

(2) If, in coming from the country where his life or freedom was threatened, the refugee stopped in another country outside Jersey, subsection (1) applies only if he shows that he could not reasonably have expected to be given protection under the Refugee Convention in that other country.

(3) The offences to which this section applies are those—

(a) of fraud,

(b) of uttering a forged document,

(c) under section 24A of the 1971 Act (deception), or

(d) under section 26(1)(d) of the 1971 Act (falsification of documents),

and any attempt to commit any of those offences.

(5) A refugee who has made a claim for asylum is not entitled to the defence provided by subsection (1) in relation to any offence committed by him after making that claim.

(6) “Refugee” has the same meaning as it has for the purposes of the Refugee Convention.

(7) If the Minister has refused to grant a claim for asylum made by a person who claims that he has a defence under subsection (1), that person is to be taken not to be a refugee unless he shows that he is.

(10) The States may by Regulations amend subsection (3) by adding offences to those for the time being listed there.

Changes to legislation:

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