



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART X

#### MISCELLANEOUS AND SUPPLEMENTAL

#### 164 Institution of proceedings.

In section 3(2) of the <sup>M1</sup>Prosecution of Offences Act 1985 (proceedings which must be conducted by the Director of Public Prosecutions), after paragraph (a) insert—

“(aa) to take over the conduct of any criminal proceedings instituted by an immigration officer (as defined for the purposes of the <sup>M2</sup>Immigration Act 1971) acting in his capacity as such an officer;”.

#### Commencement Information

**II** [S. 164](#) in force at 1.12.2004 by [S.I. 2004/2997](#), [art. 2](#)

#### Marginal Citations

**M1** [1985 c. 23](#).

**M2** [1971 c. 77](#).

#### 165 Procedural requirements as to applications.

In the 1971 Act, after section 31, insert—

##### “31A Procedural requirements as to applications.

- (1) If a form is prescribed for a particular kind of application under this Act, any application of that kind must be made in the prescribed form.
- (2) If procedural or other steps are prescribed in relation to a particular kind of application under this Act, those steps must be taken in respect of any application of that kind.

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- (3) “Prescribed” means prescribed in regulations made by the Secretary of State.
- (4) The power to make regulations under this section is exercisable by statutory instrument.
- (5) Any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

- I2** S. 165 partly in force; s. 165 not in force at Royal Assent see s. 170(4); s. 165 in force for certain purposes at 22.5.2000 by S.I. 2000/1282, art. 2, Sch.
- I3** S. 165 in force at 1.8.2003 in so far as not already in force by S.I. 2003/1862, art. 2

### 166 Regulations and orders.

- (1) Any power to make rules, regulations or orders conferred by this Act is exercisable by statutory instrument.
- (2) But subsection (1) does not apply in relation to [<sup>F1</sup>orders made under section 90(1),] rules made under paragraph 1 of Schedule 5 or immigration rules.
- (3) Any statutory instrument made as a result of subsection (1) may—
  - (a) contain such incidental, supplemental, consequential and transitional provision as the person making it considers appropriate;
  - (b) make different provision for different cases or descriptions of case; and
  - (c) make different provision for different areas.
- (4) No order is to be made under—
  - (a) section 20,
  - (b) section 21,
  - (c) section 31(10),
  - (d) section 86(2),
  - [<sup>F2</sup>(da) section 86A(3),]
  - (e) [<sup>F3</sup>section 96(5),]
  - (f) section 97(3),
  - <sup>F4</sup>(g) .....
  - (h) paragraph 4 of Schedule 5,

unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (5) No regulations are to be made under—
  - [<sup>F5</sup>(za) section 4(5),]
  - (a) section 9,
  - (b) section 46(8);
  - (c) section 53, or
  - (d) section 144,

unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

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- [<sup>F6</sup>(5A) No regulations under section 20A(12) which amend Schedule A1 so as to—
- (a) add a reference to a person or description of person, or
  - (b) modify a reference to a person or description of person otherwise than in consequence of a change of name or transfer of functions,
- are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.]
- (6) Any statutory instrument made under this Act, apart from one made—
- (a) under any of the provisions mentioned in subsection (4) or (5),
  - [<sup>F7</sup>(ab) under section 20A(12) and which falls within subsection (5A),]
  - (b) under section 24(3) [<sup>F8</sup>, 24A(3)] or 170(4) or (7),
- shall be subject to annulment by a resolution of either House of Parliament.

#### Textual Amendments

- F1** Words in s. 166(2) inserted (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 41(5)**, 48(3); S.I. 2004/2523, art. 2, Sch.
- F2** S. 166(4)(da) inserted (1.4.2011) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 18 para. 16** (with ss. 29, 192, 193); S.I. 2011/720, art. 2(c)
- F3** S. 166(4)(e) ceased to have effect (7.11.2002) and repealed (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), **ss. 61(b)**, 161, 162(1)(2), **Sch. 9** (with s. 159)
- F4** S. 166(4)(g) omitted (1.7.2021) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 17(4)**; S.I. 2021/771, reg. 2(b)
- F5** S. 166(5)(za) inserted (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 10(2)**, 48(3) (with s. 10(6)); S.I. 2004/2999, art. 2, Sch.
- F6** S. 166(5A) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 55(12)(a)**, 94(1); S.I. 2016/603, reg. 3(h)
- F7** S. 166(6)(ab) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 55(12)(b)**, 94(1); S.I. 2016/603, reg. 3(h)
- F8** Word in s. 166(6)(b) inserted (15.4.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), **Sch. 27 para. 163**; S.I. 2005/1112, art. 2, Sch. 1

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

- C1** S. 166 extended (Guernsey) (with modifications) (12.10.2011) by [The Immigration \(Guernsey\) Order 2011 \(S.I. 2011/2444\)](#), art. 5, **Sch. 2**

## 167 Interpretation.

(1) In this Act—

“the 1971 Act” means the <sup>M3</sup>Immigration Act 1971;

“adjudicator” (except in Part VI) means an adjudicator appointed under section 57;

“Chief Adjudicator” means the person appointed as Chief Adjudicator under section 57(2);

“claim for asylum” (except in Parts V and VI and section 141) means a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention for the claimant to be removed from, or required to leave, the United Kingdom;

“the Commission” means the Special Immigration Appeals Commission;

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“country” includes any territory;

“EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as it has effect for the time being;

“the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom;

[<sup>F9</sup>“justice of the peace”, in relation to Northern Ireland, means lay magistrate;]

<sup>F10</sup>  
...

“prescribed” means prescribed by regulations made by the Secretary of State;

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention;

[<sup>F11</sup>residence scheme immigration rules” has the meaning given by section 17 of the European Union (Withdrawal Agreement) Act 2020;]

“voluntary organisations” means bodies (other than public or local authorities) whose activities are not carried on for profit.

(2) The following expressions have the same meaning as in the 1971 Act—

“certificate of entitlement”;

“entry clearance”;

“illegal entrant”;

“immigration officer”;

“immigration rules”;

“port”;

“United Kingdom passport”;

“work permit”.

#### Textual Amendments

**F9** Words in s. 167(1) inserted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\), ss. 79\(2\), 87\(1\); S.I. 2022/590, regs. 1\(2\), 2, Sch. 1 para. 28](#)

**F10** Definition in s. 167(1) repealed (30.3.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\), ss. 62\(1\)\(2\), 64\(3\)\(b\), Sch. 3](#)

**F11** Words in s. 167(1) inserted (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\(2\), 12\(8\)](#)

#### Marginal Citations

**M3** 1971 c. 77.

## 168 Expenditure and receipts.

(1) There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State or the Lord Chancellor in consequence of this Act; and

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- (b) any increase attributable to this Act in the sums so payable by virtue of any other Act.
- (2) Sums received by the Secretary of State under section 5, 32, 40, 112 or 113 or by the Lord Chancellor under section 48(4) or 49(4) must be paid into the Consolidated Fund.

## **169 Minor and consequential amendments, transitional provisions and repeals.**

- (1) Schedule 14 makes minor and consequential amendments.
- (2) Schedule 15 contains transitional provisions and savings.
- (3) The enactments set out in Schedule 16 are repealed.

### **Commencement Information**

- I4** S. 169 partly in force; s. 169 not in force at Royal Assent see s. 170(4); s. 169(1)(2) in force for certain purposes at 6.12.1999 by S.I. 1999/3190, art. 2, Sch.; s. 169 in force for certain purposes at 14.2.2000 by S.I. 2000/168, art. 2, Sch. (with transitional provisions in art. 3); s. 169(1)(3) in force for certain purposes at 1.3.2000 and for certain further purposes at 3.4.2000 by S.I. 2000/464, art. 2, Sch.; s. 169(1) in force for certain purposes at 1.8.2000 by S.I. 2000/1985, art. 2, Sch.; s. 169 in force for certain purposes at 2.10.2000 by S.I. 2000/2444, art. 2, Sch. 1 (subject to arts. 3, 4, Sch. 2); s. 169(1)(3) in force for certain purposes at 1.1.2001 by S.I. 2000/2698, art. 2, Sch. (as amended by S.I. 2000/3099, art. 4) subject to the transitional provision in art. 3 (as inserted by art. 4 of the said S.I. 2000/3099); s. 169(1)(3) in force for certain purposes at 11.12.2000 by S.I. 2000/3099, art. 2, Sch.
- I5** S. 169(1)(3) in force at 30.6.2003 for specified purposes by S.I. 2003/1469, art. 2, Sch.

## **170 Short title, commencement and extent.**

- (1) This Act may be cited as the Immigration and Asylum Act 1999.
- (2) Subsections (1) and (2) of section 115 come into force on the day on which the first regulations made under Schedule 8 come into force.
- (3) The following provisions come into force on the passing of this Act—
  - (a) section 4;
  - (b) section 9;
  - (c) section 15;
  - (d) section 27;
  - (e) section 31;
  - (f) section 94;
  - (g) section 95(13);
  - (h) section 99(4) and (5);
  - (i) sections 105 to 109;
  - (j) section 110(1), (2) and (8) (so far as relating to subsections (1) and (2));
  - (k) section 111;
  - (l) section 124;
  - (m) section 140;
  - (n) section 145;
  - (o) section 146(1);

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- (p) sections 166 to 168;
  - (q) this section;
  - (r) Schedule 9;
  - (s) paragraphs 62(2), 73, 78, 79, 81, 82, 87, 88 and 102 of Schedule 14;
  - (t) paragraphs 2 and 13 of Schedule 15.
- (4) The other provisions of this Act, except section 10 and paragraph 12 of Schedule 15 (which come into force in accordance with section 9), come into force on such day as the Secretary of State may by order appoint.
- (5) Different days may be appointed for different purposes.
- (6) This Act extends to Northern Ireland.
- (7) Her Majesty may by Order in Council direct that any of the provisions of this Act are to extend, with such modifications (if any) as appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.

#### **Subordinate Legislation Made**

- P1** S. 170(4) power partly exercised: different dates appointed for specified provisions by [S.I. 1999/3190](#), [art. 2](#), [Sch.](#)
- S. 170(4) power partly exercised: different dates appointed for specified provisions by [S.I. 2000/168](#), [art. 2](#), [Sch.](#) (with [art. 3](#))
- S. 170(4) power partly exercised: different dates appointed for specified provisions by [S.I. 2000/464](#), [art. 2](#), [Sch.](#)
- S. 170(4) power partly exercised: 22.5.2000 appointed for specified provisions by [S.I. 2000/1282](#), [art. 2](#), [Sch.](#)
- S. 170(4) power partly exercised: 1.8.2000 and 30.10.2000 appointed for specified provisions by [S.I. 2000/1985](#), [art. 2](#), [Sch.](#) (with [art. 3](#))
- S. 170(4) power partly exercised: different dates appointed for specified provisions by [S.I. 2000/2444](#), [art. 2](#), [Sch. 1](#) (subject to [arts. 3, 4](#), [Sch. 2](#)) (as amended by [S.I. 2000/3099](#), [art. 5](#))
- S. 170(4) power partly exercised: 1.1.2001 appointed for specified provisions by [S.I. 2000/2698](#), [art. 2](#), [Sch.](#) (subject to [art. 3](#)) (as amended by [S.I. 2000/3099](#), [art. 4](#))
- S. 170(4) power partly exercised: 11.12.2000 appointed for specified provisions by [S.I. 2000/3099](#), [art. 3](#), [Sch.](#)
- S. 170(4) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/239](#), [art. 2](#), [Sch.](#)
- S. 170(4) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/1394](#), [art. 2](#), [Sch.](#)
- S. 170(4) power partly exercised: 8.12.2002 appointed for specified provisions by [S.I. 2002/2815](#), [art. 2](#), [Sch.](#)

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

- C2** S. 170(7): power to extend (Channel Islands or Isle of Man) (with modifications) any amendments or repeals made to this Act by 2016 c. 19, to which this section relates (12.5.2016) by [Immigration Act 2016 \(c. 19\)](#), [ss. 94\(5\), 95\(7\)\(d\) 95\(6\)](#)
- C3** S. 170(7): power extended (28.4.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 86\(5\)\(6\)\(e\), 87\(3\)\(c\)](#)

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**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. 10(12) inserted by 2023 c. 37 s. 10(6)
- s. 40(1)-(1C) substituted for s. 40(1) by 2022 c. 36 s. 76(2)
- s. 40(4A)(4B) inserted by 2022 c. 36 s. 76(5)
- s. 72(10) repealed by 2004 c. 19 Sch. 4
- s. 94(2A)-(2C) inserted by 2016 c. 19 Sch. 11 para. 3(3)
- s. 94(2D) inserted by 2016 c. 19 Sch. 11 para. 7(4)
- s. 94(3)(3A) substituted for s. 94(3) by 2002 c. 41 s. 44(4) (This amendment is repealed (prosp.) by 2016 c. 19, Sch. 11 para. 41)
- s. 94(3A)-(3D) inserted by 2016 c. 19 Sch. 11 para. 3(5)
- s. 95A inserted by 2016 c. 19 Sch. 11 para. 9
- s. 96(1A) inserted by 2016 c. 19 Sch. 11 para. 10(3)
- s. 97(3A)(b)(iv) inserted by 2022 c. 36 s. 13(2)(c)(ii)
- s. 97(8)(9) inserted by 2016 c. 19 Sch. 11 para. 11(4)
- s. 98A inserted by 2016 c. 19 Sch. 11 para. 13
- s. 98A(5) inserted by 2022 c. 36 s. 13(4)
- s. 103(4)(a) words substituted by 2004 c. 19 s. 10(4)(b)
- s. 103(5)(b) word substituted by S.I. 2008/2833 Sch. 3 para. 183(ii)
- s. 103A(1) words substituted by 2004 c. 19 s. 10(5)
- s. 103A(1) heading words substituted by 2004 c. 19 s. 10(5)
- s. 103A(1) words substituted by S.I. 2008/2833 Sch. 3 para. 184
- s. 125(2)(ba) inserted by 2016 c. 19 Sch. 11 para. 22(3)(b)
- s. 146(2)(za) inserted by 2016 c. 19 s. 44(9)
- s. 166(5)(ca) substituted for word in s. 166(5)(c) by 2016 c. 19 Sch. 11 para. 24(2)
- s. 166(5A)(5B) inserted by 2016 c. 19 Sch. 11 para. 24(3)
- s. 166(6)(aa) substituted for word in s. 166(6)(a) by 2016 c. 19 Sch. 11 para. 24(4)
- Sch. 2 para. 21 modified by 2002 c. 41 s. 23(2)(a)
- Sch. 3 para. 2(5) modified by 2002 c. 41 s. 23(2)(b)