
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the following provisions of the Immigration and Asylum Act 1999 (the 1999 Act), so far as not already in force. Apart from sections 32 and 34 to 37 which come into force for certain additional purposes on 18th September 2000, the provisions come into force on 2nd October 2000:

- (a) section 3, which makes provision for the continuation of limited leave to enter or remain after a person has applied for such leave to be varied, pending the decision of the Secretary of State on the application;
- (b) section 10, which makes provision for certain persons who were previously subject to deportation to be removed;
- (c) sections 11 and 12, which make provision for the removal of asylum claimants to Member States and other countries;
- (d) section 23, which replaces subsections (3AA) and (3AB) of section 13 of the Immigration Act 1971 (the 1971 Act) and makes provision for the monitoring of entry clearance refusals;
- (e) section 29, which amends the provisions of the 1971 Act concerning facilitation;
- (f) sections 32 and 34 to 37, for the additional purposes of enabling regulations to be made under section 39 applying the civil penalty to rail freight;
- (g) Part IV (except for section 79), which makes provision for immigration appeal rights and for the procedures regulating immigration appeals;
- (h) certain consequential amendments and transitional provisions in Schedules 14 and 15, together with entries in the repeals Schedule, Schedule 16.

This Order also makes transitional provisions.

Where a person who has limited leave to enter or remain in the United Kingdom applies for it to be varied before his leave expires and before 2nd October 2000, section 3 of the 1999 Act will only apply to him if no decision in respect of his application has been made before 2nd October 2000. If a decision has been taken before this date, the Immigration (Variation of Leave) Order 1976⁽¹⁾ will continue to apply to him.

Section 10 of the 1999 Act does not apply where the Secretary of State has served notice of intention to deport before 2nd October 2000 or where the person in question has applied for leave to remain in accordance with the Immigration (Regularisation Period for Overstayers) Regulations 2000. In such circumstances, the person will continue to be subject to deportation under section 5 of the 1971 Act, and section 15 of the 1971 Act and section 5 of the Immigration Act 1988 will continue to apply (see paragraphs 11 and 12 of Schedule 15 to the 1999 Act).

The appeal rights in Part IV to the 1999 Act apply only to decisions taken on or after 2nd October 2000. The appeal rights contained in the 1971 Act, the Asylum and Immigration Appeals Act 1993 and the Asylum and Immigration Act 1996 continue to apply to decisions taken before 2nd October 2000. However, the provisions in Part IV which govern appeals procedure apply to all appeal rights.

(1) S.I.1976/1572, as amended by S.I. 1989/1005 and S.I. 1993/1657.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

This Order also makes a consequential amendment to section 46(3)(a) of the Criminal Justice Act 1991 to take into account the fact that some people who were previously liable to deportation under section 3(5) of the 1971 Act are now liable to removal under section 10 of the 1999 Act.