

Immigration, Asylum and Nationality Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as Bill 13 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Mr Secretary Clarke has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Immigration, Asylum and Nationality Bill are compatible with the Convention rights.

Immigration, Asylum and Nationality Bill

CONTENTS

Appeals

- 1 Variation of leave to enter or remain
- 2 Removal
- 3 Grounds of appeal
- 4 Entry clearance
- 5 Refusal of leave to enter
- 6 Legal aid
- 7 Abandonment of appeal
- 8 Grants
- 9 Continuation of leave
- 10 Consequential amendments

Employment

- 11 Penalty
- 12 Objection
- 13 Appeal
- 14 Enforcement
- 15 Code of practice
- 16 Orders
- 17 Offence
- 18 Offence: bodies corporate, &c.
- 19 Discrimination: code of practice
- 20 Temporary admission, &c.
- 21 Interpretation
- 22 Repeal

Information

- 23 Documents produced or found
- 24 Attendance for fingerprinting
- 25 Proof of right of abode
- 26 Provision of information to immigration officers
- 27 Passenger and crew information: police powers
- 28 Freight information: police powers
- 29 Offence
- 30 Power of Revenue and Customs to obtain information
- 31 Duty to share information

- 32 Information sharing: security purposes
- 33 Information sharing: code of practice
- 34 Disclosure to law enforcement agencies
- 35 Searches: contracting out
- 36 Section 35: supplemental

Claimants and applicants

- 37 Accommodation
- 38 Integration loans
- 39 Inspection of detention facilities
- 40 Removal: cancellation of leave
- 41 Capacity to make nationality application
- 42 Procedure
- 43 Fees
- 44 Fees: supplemental

General

- 45 Money
- 46 Repeals
- 47 Commencement
- 48 Extent
- 49 Citation

-
- Schedule 1 – Immigration and Asylum Appeals: Consequential Amendments
 - Schedule 2 – Fees: Consequential Amendments
 - Schedule 3 – Repeals

A
B I L L

TO

Make provision about immigration, asylum and nationality; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Appeals

1 Variation of leave to enter or remain

- | | |
|--|----|
| (1) Section 82(2) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of appeal: definition of immigration decision) shall be amended as follows. | 5 |
| (2) Omit paragraph (d) (refusal to vary leave to enter or remain). | |
| (3) Omit paragraph (e) (variation of leave to enter or remain). | |
| (4) After paragraph (f) (revocation of indefinite leave to enter or remain) insert— | |
| “(fa) variation of, or refusal to vary, a person’s limited leave to enter or remain in the United Kingdom if— | 10 |
| (i) the leave was granted to the person as a refugee within the meaning of the Refugee Convention, and | |
| (ii) the result of the variation, or refusal, taking effect is that the person has no leave to enter or remain, | |
| (fb) variation of, or refusal to vary, a person’s limited leave to enter or remain in the United Kingdom if— | 15 |
| (i) the leave was granted, or the decision was taken, in circumstances of a kind specified for the purpose of this paragraph by order of the Secretary of State, and | |
| (ii) the result of the variation, or refusal, taking effect is that the person has no leave to enter or remain.” | 20 |

- (5) After section 83 of that Act (right of appeal: asylum claim) insert –

“83A Appeal: variation of limited leave

- (1) This section applies where –
- (a) a person has made an asylum claim, 5
 - (b) he was granted limited leave to enter or remain in the United Kingdom as a refugee within the meaning of the Refugee Convention, 5
 - (c) a decision is made that he is not a refugee, and
 - (d) following the decision specified in paragraph (c) he has limited leave to enter or remain in the United Kingdom otherwise than as a refugee, as a result of which section 82(2)(fa) does not apply. 10
- (2) The person may appeal to the Tribunal against the decision to curtail or to refuse to extend his limited leave.”

2 Removal 15

In section 82(2)(g) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of appeal: removal) for “section 10(1)(a), (b) or (c)” substitute “section 10(1)(a), (b), (ba) or (c)”.

3 Grounds of appeal

- (1) Section 84 of the Nationality, Immigration and Asylum Act 2002 (grounds of appeal) shall be amended as follows. 20
- (2) After subsection (1) insert –
- “(1A) In the application of subsection (1)(a) to (g) to an appeal under section 82(2)(g) a reference to the decision against which an appeal is brought (“the appealable decision”) includes a reference to any other decision under or in accordance with the Immigration Acts, other than an immigration decision within the meaning given by section 82(2), which – 25
- (a) was made in respect of the appellant, and
 - (b) gave rise to or facilitated the making of the appealable decision.” 30
- (3) After subsection (3) add –
- “(4) An appeal under section 83A must be brought on the grounds that removal of the appellant from the United Kingdom would breach the United Kingdom’s obligations under the Refugee Convention.” 35

4 Entry clearance

For sections 88A, 90 and 91 of the Nationality, Immigration and Asylum Act 2002 (restricted right of appeal in relation to refusal of entry clearance for

visitor or student) substitute –

“88A Entry clearance

- (1) A person may not appeal under section 82(1) against refusal of an application for entry clearance unless the application was made for the purpose of – 5
- (a) visiting a person of a class or description prescribed by regulations for the purpose of this subsection, or
 - (b) entering as the dependant of a person in circumstances prescribed by regulations for the purpose of this subsection.
- (2) Regulations under subsection (1) may, in particular – 10
- (a) make provision by reference to whether the applicant is a member of the family (within such meaning as the regulations may assign) of the person he seeks to visit;
 - (b) provide for the determination of whether one person is dependent on another; 15
 - (c) make provision by reference to the circumstances of the applicant, of the person whom the applicant seeks to visit or on whom he depends, or of both (and the regulations may, in particular, include provision by reference to – 20
 - (i) whether or not a person is lawfully settled in the United Kingdom within such meaning as the regulations may assign;
 - (ii) the duration of two individuals’ residence together);
 - (d) make provision by reference to an applicant’s purpose in entering as a dependant; 25
 - (e) make provision by reference to immigration rules;
 - (f) confer a discretion.
- (3) A person may not appeal under section 82(1) against refusal of entry clearance if the decision to refuse is taken on grounds which – 30
- (a) relate to a provision of immigration rules, and
 - (b) are specified for the purpose of this subsection by order of the Secretary of State.
- (4) Subsections (1) and (3) – 35
- (a) do not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c), and
 - (b) are without prejudice to the effect of section 88 in relation to an appeal under section 82(1) against refusal of entry clearance.”

5 Refusal of leave to enter

For section 89 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeal against refusal of leave to enter: visitor or student without entry clearance) substitute – 40

“89 Refusal of leave to enter

- (1) A person may not appeal under section 82(1) against refusal of leave to enter the United Kingdom unless – 45
- (a) on his arrival in the United Kingdom he had entry clearance, and

- (b) the purpose of entry specified in the entry clearance is the same as that specified in his application for leave to enter.
- (2) Subsection (1) does not prevent the bringing of an appeal on any or all of the grounds referred to in section 84(1)(b), (c) and (g).”
- 6 Legal aid** 5
- (1) Section 103D of the Nationality, Immigration and Asylum Act 2002 (c. 41) (reconsideration: legal aid) shall be amended as follows.
- (2) In subsection (2) for the words “where the Tribunal has decided an appeal following reconsideration pursuant to an order made” substitute “where an order for reconsideration is made”. 10
- (3) For subsection (3) substitute—
- “(3) The Tribunal may order payment out of that Fund of the appellant’s costs—
- (a) in respect of the application for reconsideration;
- (b) in respect of preparation for reconsideration; 15
- (c) in respect of the reconsideration.”
- 7 Abandonment of appeal**
- For section 104(4) of the Nationality, Immigration and Asylum Act 2002 (pending appeal: deemed abandonment) substitute—
- “(4) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant— 20
- (a) leaves the United Kingdom, or
- (b) is granted leave to enter or remain in the United Kingdom.
- (4A) But subsection (4)(b) shall not apply to an appeal if or in so far as it is brought on the ground specified in section 84(1)(b).” 25
- 8 Grants**
- Section 110 (grants to advisory organisations) of the Nationality, Immigration and Asylum Act 2002 shall cease to have effect.
- 9 Continuation of leave**
- (1) Section 3C of the Immigration Act 1971 (c. 77) (continuation of leave to enter or remain pending variation decision) shall be amended as follows. 30
- (2) Omit subsection (2)(b) and (c) (continuation pending appeal).
- (3) For subsection (6) (decision) substitute—
- “(6) The Secretary of State may make regulations determining when an application is decided for the purposes of this section; and the regulations— 35
- (a) may make provision by reference to receipt of a notice,
- (b) may provide for a notice to be treated as having been received in specified circumstances,

- (c) may make different provision for different purposes or circumstances,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

5

10 Consequential amendments

Schedule 1 (which makes amendments consequential on the preceding provisions of this Act) shall have effect.

Employment

11 Penalty

10

- (1) It is contrary to this section to employ an adult subject to immigration control if—
 - (a) he has not been granted leave to enter or remain in the United Kingdom, or
 - (b) his leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has expired, or
 - (iii) is subject to a condition preventing him from accepting the employment.
- (2) The Secretary of State may give an employer who acts contrary to this section a notice requiring him to pay a penalty of a specified amount not exceeding the prescribed maximum. 20
- (3) An employer is excused from paying a penalty if he shows that he complied with any prescribed requirements in relation to the employment.
- (4) But the excuse in subsection (3) shall not apply to an employer who knew, at any time during the period of the employment, that it was contrary to this section. 25
- (5) The Secretary of State may give a penalty notice without having established whether subsection (3) applies.
- (6) A penalty notice must—
 - (a) state why the Secretary of State thinks the employer is liable to the penalty,
 - (b) state the amount of the penalty,
 - (c) specify a date, at least 14 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,
 - (d) specify how the penalty must be paid,
 - (e) explain how the employer may object to the penalty, and
 - (f) explain how the Secretary of State may enforce the penalty.
- (7) An order prescribing requirements for the purposes of subsection (3) may, in particular—
 - (a) require the production to an employer of a document of a specified description;

40

- (b) require the production to an employer of one document of each of a number of specified descriptions;
- (c) require an employer to take specified steps to verify, retain, copy or record the content of a document produced to him in accordance with the order; 5
- (d) require action to be taken before employment begins;
- (e) require action to be taken at specified intervals or on specified occasions during the course of employment.

12 Objection

- (1) This section applies where an employer to whom a penalty notice is given objects on the ground that – 10
 - (a) he is not liable to the imposition of a penalty,
 - (b) he is excused payment by virtue of section 11(3), or
 - (c) the amount of the penalty is too high.
- (2) The employer may give a notice of objection to the Secretary of State. 15
- (3) A notice of objection must –
 - (a) be in writing,
 - (b) give the objector's reasons,
 - (c) be given in the prescribed manner, and
 - (d) be given before the end of the prescribed period. 20
- (4) Where the Secretary of State receives a notice of objection to a penalty he shall consider it and –
 - (a) cancel the penalty,
 - (b) reduce the penalty,
 - (c) increase the penalty, or 25
 - (d) determine to take no action.
- (5) Where the Secretary of State considers a notice of objection he shall –
 - (a) have regard to the code of practice under section 15 (in so far as the objection relates to the amount of the penalty),
 - (b) inform the objector of his decision before the end of the prescribed period or such longer period as he may agree with the objector, 30
 - (c) if he increases the penalty, issue a new penalty notice under section 11, and
 - (d) if he reduces the penalty, notify the objector of the reduced amount.

13 Appeal

- (1) An employer to whom a penalty notice is given may appeal to the court on the ground that – 35
 - (a) he is not liable to the imposition of a penalty,
 - (b) he is excused payment by virtue of section 11(3), or
 - (c) the amount of the penalty is too high. 40
- (2) The court may –
 - (a) allow the appeal and cancel the penalty,
 - (b) allow the appeal and reduce the penalty, or

- (c) dismiss the appeal.
- (3) An appeal shall be a re-hearing of the Secretary of State's decision to impose a penalty and shall be determined having regard to—
- (a) the code of practice under section 15 that has effect at the time of the appeal (in so far as the appeal relates to the amount of the penalty), and 5
 - (b) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware);
- and this subsection has effect despite any provision of rules of court.
- (4) An appeal must be brought within the period of 28 days beginning with—
- (a) the date specified in the penalty notice as the date upon which it is given, or 10
 - (b) if the employer gives a notice of objection and the Secretary of State reduces the penalty, the date specified in the notice of reduction as the date upon which it is given, or
 - (c) if the employer gives a notice of objection and the Secretary of State determines to take no action, the date specified in the notice of that determination as the date upon which it is given. 15
- (5) An appeal may be brought by an employer whether or not—
- (a) he has given a notice of objection under section 12;
 - (b) the penalty has been increased or reduced under that section. 20
- (6) In this section “the court” means—
- (a) where the employer has his principal place of business in England and Wales, a county court,
 - (b) where the employer has his principal place of business in Scotland, the sheriff, and 25
 - (c) where the employer has his principal place of business in Northern Ireland, a county court.

14 Enforcement

- (1) A sum payable to the Secretary of State as a penalty under section 11 may be recovered by the Secretary of State as a debt due to him. 30
- (2) In proceedings for the enforcement of a penalty no question may be raised as to—
- (a) liability to the imposition of the penalty,
 - (b) the application of the excuse in section 11(3), or
 - (c) the amount of the penalty. 35
- (3) *Money paid to the Secretary of State by way of penalty shall be paid into the Consolidated Fund.*

15 Code of practice

- (1) The Secretary of State shall issue a code of practice specifying factors to be considered by him in determining the amount of a penalty imposed under section 11. 40
- (2) The code—
- (a) shall not be issued unless a draft has been laid before Parliament, and

- (b) shall come into force in accordance with provision made by order of the Secretary of State.
- (3) The Secretary of State shall from time to time review the code and may revise and re-issue it following a review; and a reference in this section to the code includes a reference to the code as revised. 5

16 Orders

An order of the Secretary of State under section 11, 12 or 15—

- (a) may make provision which applies generally or only in specified circumstances,
- (b) may make different provision for different circumstances, 10
- (c) may include transitional or incidental provision,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

17 Offence

15

- (1) A person commits an offence if he employs another (“the employee”) knowing that the employee is an adult subject to immigration control and that—
- (a) he has not been granted leave to enter or remain in the United Kingdom, or
- (b) his leave to enter or remain in the United Kingdom— 20
- (i) is invalid,
- (ii) has expired, or
- (iii) is subject to a condition preventing him from accepting the employment.
- (2) A person guilty of an offence under this section shall be liable— 25
- (a) on conviction on indictment—
- (i) to imprisonment for a term not exceeding two years,
- (ii) to a fine, or
- (iii) to both, or
- (b) on summary conviction— 30
- (i) to imprisonment for a term not exceeding 12 months in England and Wales or 6 months in Scotland or Northern Ireland,
- (ii) to a fine not exceeding the statutory maximum, or
- (iii) to both.
- (3) An offence under this section shall be treated as— 35
- (a) a relevant offence for the purpose of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and
- (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28E, 28G and 28H (search after arrest).
- (4) In relation to a conviction occurring before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates’ powers to imprison) the reference to 12 months in subsection (2)(b)(i) shall be taken as a reference to 6 months. 40

18 Offence: bodies corporate, &c.

- (1) For the purposes of section 17(1) a body (whether corporate or not) shall be treated as knowing a fact about an employee if a person who has responsibility within the body for an aspect of the employment knows the fact.
- (2) If an offence under section 17(1) is committed by a body corporate with the consent or connivance of an officer of the body, the officer, as well as the body, shall be treated as having committed the offence. 5
- (3) In subsection (2) a reference to an officer of a body includes a reference to –
- (a) a director, manager or secretary,
 - (b) a person purporting to act as a director, manager or secretary, and 10
 - (c) if the affairs of the body are managed by its members, a member.
- (4) Where an offence under section 17(1) is committed by a partnership (whether or not a limited partnership) subsection (2) above shall have effect, but as if a reference to an officer of the body were a reference to –
- (a) a partner, and 15
 - (b) a person purporting to act as a partner.

19 Discrimination: code of practice

- (1) The Secretary of State shall issue a code of practice specifying what an employer should or should not do in order to ensure that, while avoiding liability to a penalty under section 11 and while avoiding the commission of an offence under section 17, he also avoids contravening – 20
- (a) the Race Relations Act 1976 (c. 74), or
 - (b) the Race Relations (Northern Ireland) Order 1997 (S.I. 869 (N.I. 6)).
- (2) Before issuing the code the Secretary of State shall –
- (a) consult – 25
 - (i) the Commission for Racial Equality,
 - (ii) the Equality Commission for Northern Ireland,
 - (iii) such bodies representing employers as he thinks appropriate, and
 - (iv) such bodies representing workers as he thinks appropriate, 30
 - (b) publish a draft code (after that consultation),
 - (c) consider any representations made about the published draft, and
 - (d) lay a draft code before Parliament (after considering representations under paragraph (c) and with or without modifications to reflect the representations). 35
- (3) The code shall come into force in accordance with provision made by order of the Secretary of State; and an order –
- (a) may include transitional provision,
 - (b) shall be made by statutory instrument, and
 - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament. 40
- (4) A breach of the code –
- (a) shall not make a person liable to civil or criminal proceedings, but
 - (b) may be taken into account by a court or tribunal.

- (5) The Secretary of State shall from time to time review the code and may revise and re-issue it following a review; and a reference in this section to the code includes a reference to the code as revised.

20 Temporary admission, &c.

Where a person is at large in the United Kingdom by virtue of paragraph 21(1) of Schedule 2 to the Immigration Act 1971 (c. 77) (temporary admission or release from detention) – 5

- (a) he shall be treated for the purposes of sections 11(1) and 17(1) as if he had been granted leave to enter the United Kingdom, and
 (b) any restriction as to employment imposed under paragraph 21(2) shall be treated for those purposes as a condition of leave. 10

21 Interpretation

In sections 11 to 20 –

- (a) “adult” means a person who has attained the age of 16,
 (b) a reference to employment is to employment under a contract of service or apprenticeship, whether express or implied and whether oral or written, 15
 (c) a person is subject to immigration control if under the Immigration Act 1971 he requires leave to enter or remain in the United Kingdom, and
 (d) “prescribed” means prescribed by order of the Secretary of State. 20

22 Repeal

Sections 8 and 8A of the Asylum and Immigration Act 1996 (c. 49) (restrictions on employment) shall cease to have effect.

Information

23 Documents produced or found 25

- (1) For paragraph 4(4) of Schedule 2 to the Immigration Act 1971 (control on entry: documents) substitute –

“(4) Where a passport or other document is produced or found in accordance with this paragraph an immigration officer may examine it and detain it – 30

- (a) for the purpose of examining it, for a period not exceeding 7 days;
 (b) for any purpose, until the person to whom the document relates is given leave to enter the United Kingdom or is about to depart or be removed following refusal of leave or until it is decided that the person does not require leave to enter; 35
 (c) after a time described in paragraph (b), while the immigration officer thinks that the document may be required in connection with proceedings in respect of an appeal under the Immigration Acts or in respect of an offence. 40

(5) For the purpose of ascertaining that a passport or other document produced or found in accordance with this paragraph relates to a person examined under paragraph 2, 2A or 3 above, the person carrying out the examination may require the person being examined to provide information (whether or not by submitting to a process by means of which information is obtained or recorded) about his external physical characteristics (which may include, in particular, fingerprints or features of the iris or any other part of the eye).” 5

(2) Paragraph 4(2A) of that Schedule shall cease to have effect. 10

24 Attendance for fingerprinting

For section 142(2) of the Immigration and Asylum Act 1999 (c. 33) (attendance for fingerprinting: timing) substitute –

“(2) In the case of a notice given to a person of a kind specified in section 141(7)(a) to (d) or (f) (in so far as it applies to a dependant of a person of a kind specified in section 141(7)(a) to (d)), the notice – 15

(a) must require him to attend during a specified period of at least seven days beginning with a day not less than seven days after the date given in the notice as its date of issue, and

(b) may require him to attend at a specified time of day or during specified hours. 20

(2A) In the case of a notice given to a person of a kind specified in section 141(7)(e) or (f) (in so far as it applies to a dependant of a person of a kind specified in section 141(7)(e)), the notice –

(a) may require him to attend during a specified period beginning with a day not less than three days after the date given in the notice as its date of issue, 25

(b) may require him to attend on a specified day not less than three days after the date given in the notice as its date of issue, and

(c) may require him to attend at a specified time of day or during specified hours.” 30

25 Proof of right of abode

For section 3(9) of the Immigration Act 1971 (c. 77) (proof of right of abode) substitute –

“(9) A person seeking to enter the United Kingdom and claiming to have the right of abode there shall prove it by means of – 35

(a) a United Kingdom passport describing him as a British citizen,

(b) a United Kingdom passport describing him as a British subject with the right of abode in the United Kingdom,

(c) an ID card issued under the Identity Cards Act 2006 describing him as a British citizen, 40

(d) an ID card issued under that Act describing him as a British subject with the right of abode in the United Kingdom, or

(e) a certificate of entitlement.”

26 Provision of information to immigration officers

- (1) Schedule 2 to the Immigration Act 1971 (c. 77) (controls on entry: administration) shall be amended as follows.
- (2) In paragraph 27 (provision of passenger lists, &c.) for sub-paragraph (2) substitute— 5
- “(2) The Secretary of State may by order require, or enable an immigration officer to require, a responsible person in respect of a ship or aircraft to supply—
- (a) a passenger list showing the names and nationality or citizenship of passengers arriving or leaving on board the ship or aircraft; 10
- (b) particulars of members of the crew of the ship or aircraft.
- (3) An order under sub-paragraph (2) may relate—
- (a) to all ships or aircraft arriving or expected to arrive in the United Kingdom; 15
- (b) to all ships or aircraft leaving or expected to leave the United Kingdom;
- (c) to ships or aircraft arriving or expected to arrive in the United Kingdom from or by way of a specified country;
- (d) to ships or aircraft leaving or expected to leave the United Kingdom to travel to or by way of a specified country; 20
- (e) to specified ships or specified aircraft.
- (4) For the purposes of sub-paragraph (2) the following are responsible persons in respect of a ship or aircraft—
- (a) the owner or agent, and 25
- (b) the captain.
- (5) An order under sub-paragraph (2)—
- (a) may specify the time at which or period during which information is to be provided,
- (b) may specify the form and manner in which information is to be provided, 30
- (c) shall be made by statutory instrument, and
- (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In paragraph 27B (passenger information)— 35
- (a) in each place after “passenger information” insert “or service information”, and
- (b) after sub-paragraph (9) insert—
- “(9A) “Service information” means such information relating to the voyage or flight undertaken by the ship or aircraft as may be specified.” 40
- (4) In section 27 of the Immigration Act 1971 (offences)—
- (a) in paragraph (b)(iv) for “the requirements of paragraph 27B or 27C of Schedule 2” substitute “a requirement imposed by or under Schedule 2”, and 45
- (b) in paragraph (c) omit “as owner or agent of a ship or aircraft or”.

27 Passenger and crew information: police powers

- (1) This section applies to ships and aircraft which are –
- (a) arriving, or expected to arrive, in the United Kingdom, or
 - (b) leaving, or expected to leave, the United Kingdom.
- (2) The owner or agent of a ship or aircraft shall comply with any requirement imposed by a constable of the rank of superintendent or above to provide passenger or service information. 5
- (3) A passenger or member of crew shall provide to the owner or agent of a ship or aircraft any information that he requires for the purpose of complying with a requirement imposed by virtue of subsection (2). 10
- (4) A constable may impose a requirement under subsection (2) only if he thinks it necessary –
- (a) in the case of a constable in England, Wales or Northern Ireland, for police purposes, or
 - (b) in the case of a constable in Scotland, for police purposes which are or relate to reserved matters. 15
- (5) In this section –
- (a) “passenger or service information” means information which is of a kind specified by order of the Secretary of State and which relates to –
 - (i) passengers, 20
 - (ii) members of crew, or
 - (iii) a voyage or flight,
 - (b) “police purposes” has the meaning given by section 21(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure by Secretary of State), and 25
 - (c) “reserved matters” has the same meaning as in the Scotland Act 1998 (c. 46).
- (6) A requirement imposed under subsection (2) –
- (a) must be in writing,
 - (b) may apply generally or only to one or more specified ships or aircraft, 30
 - (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect,
 - (d) must state –
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided. 35
- (7) The Secretary of State may make an order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)). 40
- (8) An order under subsection (5)(a) –
- (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) may specify the form and manner in which information is to be provided, 45
 - (d) shall be made by statutory instrument, and

- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

28 Freight information: police powers

- (1) This section applies to ships and aircraft which are –
- (a) arriving, or expected to arrive, in the United Kingdom, or 5
 - (b) leaving, or expected to leave, the United Kingdom.
- (2) If a constable of the rank of superintendent or above requires the owner or agent of a ship or aircraft to provide freight information he shall comply with the requirement.
- (3) A constable may impose a requirement under subsection (2) only if he thinks it necessary –
- (a) in the case of a constable in England, Wales or Northern Ireland, for police purposes, or 10
 - (b) in the case of a constable in Scotland, for police purposes which are or relate to reserved matters. 15
- (4) In this section –
- (a) “freight information” means information which is of a kind specified by order of the Secretary of State and which relates to freight carried,
 - (b) “police purposes” has the meaning given by section 21(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure by Secretary of State), and 20
 - (c) “reserved matters” has the same meaning as in the Scotland Act 1998 (c. 46).
- (5) A requirement imposed under subsection (2) –
- (a) must be in writing, 25
 - (b) may apply generally or only to one or more specified ships or aircraft,
 - (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect, and
 - (d) must state –
 - (i) the information required, and 30
 - (ii) the date or time by which it is to be provided.
- (6) The Secretary of State may make an order specifying a kind of information under subsection (4)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)). 35
- (7) An order under subsection (4)(a) –
- (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) may specify the form and manner in which the information is to be provided, 40
 - (d) shall be made by statutory instrument, and
 - (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

29 Offence

- (1) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed under section 27(2) or (3) or 28(2).
- (2) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to— 5
- (a) imprisonment for a term not exceeding 51 weeks,
 - (b) a fine not exceeding level 4 on the standard scale, or
 - (c) both.
- (3) In the application of this section to Scotland or Northern Ireland the reference in subsection (2) to 51 weeks shall be treated as a reference to six months. 10
- (4) In relation to a conviction occurring before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference to 51 weeks in subsection (2)(a) shall be taken as a reference to three months.

30 Power of Revenue and Customs to obtain information 15

In section 35(2) and (3) of the Customs and Excise Management Act 1979 (c. 2) (arrivals in the United Kingdom) after “arriving” insert “, or expected to arrive,”.

31 Duty to share information

- (1) This section applies to— 20
- (a) the Secretary of State in so far as he has functions under the Immigration Acts,
 - (b) a chief officer of police, and
 - (c) Her Majesty’s Revenue and Customs.
- (2) The persons specified in subsection (1) shall share information to which subsection (4) applies and which is obtained or held by them in the course of their functions to the extent that the information is likely to be of use for— 25
- (a) immigration purposes,
 - (b) police purposes, or
 - (c) Revenue and Customs purposes. 30
- (3) But a chief officer of police in Scotland shall share information under subsection (2) only to the extent that it is likely to be of use for— 35
- (a) immigration purposes,
 - (b) police purposes, in so far as they are or relate to reserved matters within the meaning of the Scotland Act 1998 (c. 46), or
 - (c) Revenue and Customs purposes other than the prosecution of crime.
- (4) This subsection applies to information which— 40
- (a) is obtained or held in the exercise of a power specified by the Secretary of State by order and relates to—
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,
 - (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, or

- (b) relates to such other matters in respect of travel or freight as the Secretary of State may specify by order.
- (5) The Secretary of State may make an order under subsection (4) which has the effect of requiring information to be shared only if satisfied that—
- (a) the sharing is likely to be of use for—
- (i) immigration purposes,
- (ii) police purposes, or
- (iii) Revenue and Customs purposes, and
- (b) the nature of the information is such that there are likely to be circumstances in which it can be shared under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).
- (6) Information shared in accordance with subsection (2)—
- (a) shall be made available to each of the persons specified in subsection (1), and
- (b) may be used for immigration purposes, police purposes or Revenue and Customs purposes (regardless of its source).
- (7) An order under subsection (4)—
- (a) shall be made by statutory instrument, and
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (8) In this section—
- “chief officer of police” means—
- (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c. 16),
- (b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77), and
- (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland,
- “immigration purposes” has the meaning given by section 20(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure to Secretary of State),
- “police purposes” has the meaning given by section 21(3) of that Act (disclosure by Secretary of State), and
- “Revenue and Customs purposes” means those functions of Her Majesty’s Revenue and Customs specified in section 21(6) of that Act.
- (9) This section has effect despite any restriction on the purposes for which information may be disclosed or used.

32 Information sharing: security purposes

- (1) The persons specified in subsection (2) may share information which is of a kind specified in subsection (3) and which is obtained or held by them in the course of their functions to the extent that the information is likely to be of use for the purposes of—
- (a) a function specified in section 1 of the Security Service Act 1989 (c. 5), or
- (b) a function specified in section 1 or 3 of the Intelligence Services Act 1994 (c. 13).

- (2) The persons referred to in subsection (1) are –
- (a) the Secretary of State in so far as he has functions under the Immigration Acts,
 - (b) a chief officer of police,
 - (c) Her Majesty’s Revenue and Customs, 5
 - (d) the Director-General of the Security Service,
 - (e) the Chief of the Secret Intelligence Service, and
 - (f) the Director of the Government Communications Headquarters.
- (3) The information referred to in subsection (1) is information –
- (a) which is obtained or held in the exercise of a power specified by the Secretary of State by order and relates to – 10
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,
 - (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, 15
 - (b) which is held by a person referred to in subsection (2)(d) to (f) and which –
 - (i) relates to travel or freight, and
 - (ii) in the opinion of that person is likely to be of use for a purpose specified in subsection (1), or 20
 - (c) which relates to such other matters in respect of travel or freight as the Secretary of State may specify by order.
- (4) Information shared in accordance with subsection (1) –
- (a) shall be made available to each of the persons specified in subsection (2), and 25
 - (b) may be used only for the purposes specified in subsection (1) (but without prejudice to section 31(2)).
- (5) In subsection (2) “chief officer of police” means –
- (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c. 16), 30
 - (b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77), and
 - (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.
- (6) An order under this section – 35
- (a) shall be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (7) This section has effect despite any restriction on the purposes for which information may be disclosed or used. 40

33 Information sharing: code of practice

- (1) The Secretary of State shall issue one or more codes of practice about –
- (a) the use of information shared in accordance with section 31(2) or 32(1), and
 - (b) the extent to which, or form or manner in which, shared information is to be made available in accordance with section 31(6) or 32(4). 45

- (2) A code—
- (a) shall not be issued unless a draft has been laid before Parliament, and
 - (b) shall come into force in accordance with provision made by order of the Secretary of State.
- (3) The Secretary of State shall from time to time review a code and may revise and re-issue it following a review; and subsection (2) shall apply to a revised code. 5
- (4) An order under subsection (2)—
- (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament. 10

34 Disclosure to law enforcement agencies

- (1) A chief officer of police may disclose information obtained in accordance with section 27 or 28 to—
- (a) the States of Jersey police force;
 - (b) the salaried police force of the Island of Guernsey; 15
 - (c) the Isle of Man constabulary;
 - (d) any other foreign law enforcement agency.
- (2) In subsection (1) “foreign law enforcement agency” means a person outside the United Kingdom with functions similar to functions of—
- (a) a police force in the United Kingdom, or 20
 - (b) the Serious Organised Crime Agency.
- (3) In subsection (1) “chief officer of police” means—
- (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c. 16),
 - (b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77), and 25
 - (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.

35 Searches: contracting out

- (1) An authorised person may, in accordance with arrangements made under this section, search a searchable ship, aircraft, vehicle or other thing for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine under paragraph 2 of Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry: administrative provisions). 30
- (2) For the purposes of subsection (1)— 35
- (a) “authorised” means authorised for the purpose of this section by the Secretary of State, and
 - (b) a ship, aircraft, vehicle or other thing is “searchable” if an immigration officer could search it under paragraph 1(5) of that Schedule.
- (3) The Secretary of State may authorise a specified class of constable for the purpose of this section. 40
- (4) The Secretary of State may, with the consent of the Commissioners for Her Majesty’s Revenue and Customs, authorise a specified class of officers of Revenue and Customs for the purpose of this section.

- (5) The Secretary of State may authorise a person other than a constable or officer of Revenue and Customs for the purpose of this section only if –
- (a) the person applies to be authorised, and
 - (b) the Secretary of State thinks that the person is –
 - (i) fit and proper for the purpose, and 5
 - (ii) suitably trained.
- (6) The Secretary of State –
- (a) may make arrangements for the exercise by authorised constables of the powers under subsection (1),
 - (b) may make arrangements with the Commissioners for Her Majesty’s Revenue and Customs for the exercise by authorised officers of Revenue and Customs of the powers under subsection (1), and 10
 - (c) may make arrangements with one or more persons for the exercise by authorised persons other than constables and officers of Revenue and Customs of the power under subsection (1). 15
- (7) Where in the course of a search under this section an authorised person discovers an individual whom he thinks an immigration officer might wish to examine under paragraph 2 of that Schedule, the authorised person may –
- (a) search the individual for the purpose of discovering whether he has with him anything of a kind that might be used – 20
 - (i) by him to cause physical harm to himself or another,
 - (ii) by him to assist his escape from detention, or
 - (iii) to establish information about his identity, nationality or citizenship or about his journey;
 - (b) retain, and as soon as is reasonably practicable deliver to an immigration officer, anything of a kind described in paragraph (a) found on a search under that paragraph; 25
 - (c) detain the individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of an immigration officer to whom the individual is to be delivered; 30
 - (d) take the individual, as speedily as is reasonably practicable, to a place for the purpose of delivering him to an immigration officer there;
 - (e) use reasonable force for the purpose of doing anything under paragraphs (a) to (d).
- (8) Despite the generality of subsection (7) – 35
- (a) an individual searched under that subsection may not be required to remove clothing other than an outer coat, a jacket or a glove (but he may be required to open his mouth), and
 - (b) an item may not be retained under subsection (7)(b) if it is subject to legal privilege – 40
 - (i) in relation to a search carried out in England and Wales, within the meaning of the Police and Criminal Evidence Act 1984 (c. 60),
 - (ii) in relation to a search carried out in Scotland, within the meaning of section 412 of the Proceeds of Crime Act 2002 (c. 29), and 45
 - (iii) in relation to a search carried out in Northern Ireland, within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

36 Section 35: supplemental

- (1) Arrangements under section 35(6)(c) must include provision for the appointment of a Crown servant to—
- (a) monitor the exercise of powers under that section by authorised persons (other than constables or officers of Revenue and Customs), 5
 - (b) inspect from time to time the way in which the powers are being exercised by authorised persons (other than constables or officers of Revenue and Customs), and
 - (c) investigate and report to the Secretary of State about any allegation made against an authorised person (other than a constable or officer of Revenue and Customs) in respect of anything done or not done in the purported exercise of a power under that section. 10
- (2) The authorisation for the purpose of section 35 of a constable or officer of Revenue and Customs or of a class of constable or officer of Revenue and Customs— 15
- (a) may be revoked, and
 - (b) shall have effect, unless revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.
- (3) The authorisation of a person other than a constable or officer of Revenue and Customs for the purpose of section 35— 20
- (a) may be subject to conditions,
 - (b) may be suspended or revoked by the Secretary of State by notice in writing to the authorised person, and
 - (c) shall have effect, unless suspended or revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation. 25
- (4) A class may be specified for the purposes of section 35(3) or (4) by reference to—
- (a) named individuals,
 - (b) the functions being exercised by a person, 30
 - (c) the location or circumstances in which a person is exercising functions, or
 - (d) any other matter.
- (5) An individual or article delivered to an immigration officer under section 35 shall be treated as if discovered by the immigration officer on a search under Schedule 2 to the Immigration Act 1971 (c. 77). 35
- (6) A person commits an offence if he—
- (a) absconds from detention under section 35(7)(c),
 - (b) absconds while being taken to a place under section 35(7)(d) or having been taken to a place in accordance with that paragraph but before being delivered to an immigration officer, 40
 - (c) obstructs an authorised person in the exercise of a power under section 35, or
 - (d) assaults an authorised person who is exercising a power under section 35. 45
- (7) But a person does not commit an offence under subsection (6) by doing or failing to do anything in respect of an authorised person who is not readily identifiable—

- (a) as a constable or officer of Revenue and Customs, or
 - (b) as an authorised person (whether by means of a uniform or badge or otherwise).
- (8) A person guilty of an offence under subsection (6) shall be liable on summary conviction to – 5
- (a) imprisonment for a term not exceeding 51 weeks, in the case of a conviction in England and Wales, or six months, in the case of a conviction in Scotland or Northern Ireland,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both. 10
- (9) In relation to a conviction occurring before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in subsection (8)(a) to 51 weeks shall be treated as a reference to six months.

Claimants and applicants 15

37 Accommodation

- (1) In section 99(1) of the Immigration and Asylum Act 1999 (c. 33) (provision of support by local authorities) – 20
- (a) for “asylum-seekers and their dependants (if any)” substitute “persons”, and
 - (b) after “section” insert “4, ”.
- (2) In section 118(1)(b) (housing authority accommodation) after “section” insert “4 or”.
- (3) In the following provisions for “under Part VI of the Immigration and Asylum Act 1999” substitute “under section 4 or Part VI of the Immigration and Asylum Act 1999” – 25
- (a) section 3A(7A) of the Protection from Eviction Act 1977 (c. 43) (excluded tenancies and licences),
 - (b) paragraph 3A(1) of Schedule 2 to the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15)) (non-secure tenancies), 30
 - (c) section 23A(5A) of the Rent (Scotland) Act 1984 (c. 58) (excluded tenancies and occupancy rights),
 - (d) paragraph 4A(1) of Schedule 1 to the Housing Act 1985 (c. 68) (non-secure tenancies),
 - (e) paragraph 11B of Schedule 4 to the Housing (Scotland) Act 1988 (c. 43) (non-assured tenancies), and 35
 - (f) paragraph 12A(1) of Schedule 1 to the Housing Act 1988 (c. 50) (non-assured tenancies).
- (4) A tenancy is not a Scottish secure tenancy (within the meaning of the Housing (Scotland) Act 2001 (asp 10) if it is granted in order to provide accommodation under section 4 of the Immigration and Asylum Act 1999 (accommodation). 40
- (5) A tenancy which would be a Scottish secure tenancy but for subsection (4) becomes a Scottish secure tenancy if the landlord notifies the tenant that it is to be regarded as such.

38 Integration loans

In section 13(2)(b) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (integration loans for refugees: definition of refugee) for “granted him indefinite leave to enter or remain” substitute “granted him leave to enter or remain”.

5

39 Inspection of detention facilities

- (1) For section 5A(5A) of the Prison Act 1952 (c. 52) (removal centres: inspection) substitute –

“(5A) Subsections (2) to (5) shall apply –

- (a) in relation to removal centres within the meaning of section 147 of the Immigration and Asylum Act 1999 (c. 33),
- (b) in relation to short term holding facilities within the meaning of that section, and
- (c) in relation to escort arrangements within the meaning of that section.

10

15

(5B) In their application by virtue of subsection (5A) subsections (2) to (5) –

- (a) shall apply to centres, facilities and arrangements anywhere in the United Kingdom, and
- (b) shall have effect –
 - (i) as if a reference to prisons were a reference to removal centres, short term holding facilities and escort arrangements,
 - (ii) as if a reference to prisoners were a reference to detained persons and persons to whom escort arrangements apply, and
 - (iii) with any other necessary modifications.”

20

25

- (2) In section 55 of that Act (extent) –

- (a) omit subsection (4A), and
- (b) after subsection (5) insert –

“(6) But (despite subsections (4) and (5)) the following shall extend to England and Wales, Scotland and Northern Ireland –

30

- (a) section 5A(5A) and (5B), and
- (b) section 5A(2) to (5) in so far as they apply by virtue of section 5A(5A).”

40 Removal: cancellation of leave

35

For section 10(8) of the Immigration and Asylum Act 1999 (removal directions: cancellation of leave to enter or remain in UK) substitute –

“(8) When a person is notified that a decision has been made to remove him in accordance with this section, the notification invalidates any leave to enter or remain in the United Kingdom previously given to him.”

40

41 Capacity to make nationality application

After section 44 of the British Nationality Act 1981 (c. 61) (decisions involving

discretion) insert—

“44A Waiver of requirement for full capacity

Where a provision of this Act requires an applicant to be of full capacity, the Secretary of State may waive the requirement in respect of a specified applicant if he thinks it in the applicant’s best interests.”

5

42 Procedure

- (1) Rules under section 3 of the Immigration Act 1971 (c. 77)—
 - (a) may require a specified procedure to be followed in making or pursuing an application or claim (whether or not under those rules or any other enactment), 10
 - (b) may, in particular, require the use of a specified form and the submission of specified information or documents,
 - (c) may make provision about the manner in which a fee is to be paid, and
 - (d) may make provision for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c). 15
- (2) In respect of any application or claim in connection with immigration (whether or not under the rules referred to in subsection (1) or any other enactment) the Secretary of State—
 - (a) may require a specified procedure to be followed (and may, in particular, require the use of a specified form and the submission of specified information or documents), 20
 - (b) may direct the manner in which a fee is to be paid, and
 - (c) may provide for the consequences of failure to comply with a requirement under paragraph (a) or (b).
- (3) The following shall cease to have effect— 25
 - (a) section 31A of the Immigration Act 1971 (procedure for applications), and
 - (b) section 25 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (c. 19) (marriage: application for permission).
- (4) At the end of section 41(1) of the British Nationality Act 1981 (c. 61) (procedure) add— 30

“(j) as to the consequences of failure to comply with provision made under any of paragraphs (a) to (i).”
- (5) In section 10(2)(c) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of abode: certificate of entitlement: procedure) for “made in a specified form;” substitute “accompanied by specified information;” 35
- (6) Paragraph 2(3) of Schedule 23 to the Civil Partnership Act 2004 (c. 33) (immigration: procedure) shall cease to have effect.

43 Fees

- (1) *The Secretary of State may by order require an application or claim in connection with immigration or nationality (whether or not under an enactment) to be accompanied by a specified fee.* 40
- (2) *The Secretary of State may by order provide for a fee to be charged by him, by an immigration officer or by another specified person in respect of—*

- (a) *the provision on request of a service (whether or not under an enactment) in connection with immigration or nationality,*
- (b) *a process (whether or not under an enactment) in connection with immigration or nationality,*
- (c) *the provision on request of advice in connection with immigration or nationality, or* 5
- (d) *the provision on request of information in connection with immigration or nationality.*
- (3) *Where an order under this section provides for a fee to be charged, regulations made by the Secretary of State –* 10
- (a) *shall specify the amount of the fee,*
- (b) *may provide for exceptions,*
- (c) *may confer a discretion to reduce, waive or refund all or part of a fee,*
- (d) *may make provision about the consequences of failure to pay a fee,*
- (e) *may make provision about enforcement, and* 15
- (f) *may make provision about the time or period of time at or during which a fee may or must be paid.*
- (4) *Fees paid by virtue of this section shall –*
- (a) *be paid into the Consolidated Fund, or*
- (b) *be applied in such other way as the relevant order under section 43 may specify.* 20

44 Fees: supplemental

- (1) *A fee imposed under section 43 may relate to a thing whether or not it is done wholly or partly outside the United Kingdom; but that section is without prejudice to –*
- (a) *section 1 of the Consular Fees Act 1980 (c. 23), and*
- (b) *any other power to charge a fee.* 25
- (2) *Section 43 is without prejudice to the application of section 102 of the Finance (No. 2) Act 1987 (c. 51) (government fees and charges); and an order made under that section in respect of a power repealed by Schedule 2 to this Act shall have effect as if it related to the powers under section 43 above in so far as they relate to the same matters as the repealed power.* 30
- (3) *An order or regulations under section 43 –*
- (a) *may make provision generally or only in respect of specified cases or circumstances,*
- (b) *may make different provision for different cases or circumstances,*
- (c) *may include incidental, consequential or transitional provision, and* 35
- (d) *shall be made by statutory instrument.*
- (4) *An order under section 43 –*
- (a) *may be made only with the consent of the Treasury, and*
- (b) *may be made only if a draft has been laid before and approved by resolution of each House of Parliament.* 40
- (5) *Regulations under section 43 –*
- (a) *may be made only with the consent of the Treasury, and*
- (b) *shall be subject to annulment in pursuance of a resolution of either House of Parliament.*

- (6) *A reference in section 43 to anything in connection with immigration or nationality includes a reference to anything in connection with an enactment (including an enactment of a jurisdiction outside the United Kingdom) that relates wholly or partly to immigration or nationality.*
- (7) *Schedule 2 (consequential amendments) shall have effect.* 5

General

45 Money

There shall be paid out of money provided by Parliament –

- (a) *any expenditure of the Secretary of State in connection with this Act, and*
- (b) *any increase attributable to this Act in sums payable under another enactment out of money provided by Parliament.* 10

46 Repeals

Schedule 3 (repeals) shall have effect.

47 Commencement

- (1) The preceding provisions of this Act shall come into force in accordance with provision made by order of the Secretary of State. 15
- (2) An order under subsection (1) –
- (a) may make provision generally or only for specified purposes,
- (b) may make different provision for different purposes,
- (c) may include transitional or incidental provision or savings, and 20
- (d) shall be made by statutory instrument.

48 Extent

- (1) This Act extends to –
- (a) England and Wales,
- (b) Scotland, and 25
- (c) Northern Ireland.
- (2) But –
- (a) an amendment by this Act of another Act has the same extent as that Act (or as the relevant part of that Act), and
- (b) a provision of this Act shall, so far as it relates to nationality, have the same extent as the British Nationality Act 1981 (c. 61) (disregarding excepted provisions under section 53(7) of that Act). 30

49 Citation

- (1) This Act may be cited as the Immigration, Asylum and Nationality Act 2006.
- (2) A reference (in any enactment, including one passed or made before this Act) to “the Immigration Acts” is to – 35
- (a) the Immigration Act 1971 (c. 77),
- (b) the Immigration Act 1988 (c. 14),

-
- (c) the Asylum and Immigration Appeals Act 1993 (c. 23),
 - (d) the Asylum and Immigration Act 1996 (c. 49),
 - (e) the Immigration and Asylum Act 1999 (c. 33),
 - (f) the Nationality, Immigration and Asylum Act 2002 (c. 41),
 - (g) the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), and
 - (h) this Act. 5
- (3) The following shall cease to have effect –
- (a) section 32(5) of the Immigration Act 1971 (c. 77) (“the Immigration Acts”), 10
 - (b) in section 167(1) of the Immigration and Asylum Act 1999, the definition of “the Immigration Acts”,
 - (c) section 158 of the Nationality, Immigration and Asylum Act 2002 (“the Immigration Acts”), and
 - (d) section 44 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (“the Immigration Acts”). 15
- (4) In Schedule 1 to the Interpretation Act 1978 (c. 30) (defined expressions) at the appropriate place insert –
- ““The Immigration Acts” has the meaning given by section 49 of the Immigration, Asylum and Nationality Act 2006.” 20

SCHEDULES

SCHEDULE 1

Section 10

IMMIGRATION AND ASYLUM APPEALS: CONSEQUENTIAL AMENDMENTS

Nationality, Immigration and Asylum Act 2002 (c. 41)

- | | | |
|----|--|----|
| 1 | The Nationality, Immigration and Asylum Act 2002 (appeals) shall be amended as follows. | 5 |
| 2 | In section 72(9) (serious criminal) after “, 83” insert “, 83A”. | |
| 3 | In section 82(3) (suspension of variation or revocation pending appeal) for “subsection (2)(e) or (f)” substitute “subsection (2)(f), (fa) or (fb)”. | |
| 4 | In section 85(4) (matters to be considered) for “or 83(2)” substitute “, 83(2) or 83A(2)”. | 10 |
| 5 | In section 86(1) (determination of appeal) for “or 83.” substitute “, 83 or 83A.” | |
| 6 | In section 87(1) (successful appeal: direction) for “or 83” substitute “, 83 or 83A”. | |
| 7 | In section 88(1) (ineligibility) for “, (b), (d) or (e)” substitute “or (b)”. | 15 |
| 8 | In section 92(2) (appeal from within United Kingdom) for “(d), (e), (f)” substitute “(f), (fa), (fb)”. | |
| 9 | In section 94(1A) (appeal from within United Kingdom: unfounded claim) omit “, (d) or (e)”. | |
| 10 | In section 97(1) and (3) (national security, &c.) for “or 83(2)” substitute “, 83(2) or 83A(2)”. | 20 |
| 11 | In section 103A(1) (review of Tribunal’s decision) for “or 83” substitute “, 83 or 83A”. | |
| 12 | In section 103E(1) (appeal from Tribunal sitting as panel) for “or 83” substitute “, 83 or 83A”. | 25 |
| 13 | In section 106(1)(a) and (b) (rules) for “or 83” substitute “, 83 or 83A”. | |
| 14 | In section 108(1)(a) (forged document: proceedings in private) for “or 83” substitute “, 83 or 83A”. | |
| 15 | In section 112 (regulations and orders) renumber subsection (3A) as (3B) and before it insert – | 30 |
| | “(3A) An order under section 82(2)(fb) – | |
| | (a) must be made by statutory instrument, | |

- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, and
- (c) may include transitional provision.”

Race Relations Act 1976 (c. 74)

- | | | |
|----|--|---|
| 16 | In section 57A(5) of the Race Relations Act 1976 (discrimination claims in immigration cases) in the definition of “immigration appellate body” for “an adjudicator appointed for the purposes of Part 5 of the 2002 Act, the Immigration Appeal Tribunal,” substitute “the Asylum and Immigration Tribunal,”. | 5 |
|----|--|---|

British Nationality Act 1981 (c. 61) 10

- | | | |
|----|--|--|
| 17 | In section 40A(3) of the British Nationality Act 1981 (deprivation of citizenship: appeal) for “or 83” substitute “, 83 or 83A”. | |
|----|--|--|

Special Immigration Appeals Commission Act 1997 (c. 68)

- | | | |
|----|---|----|
| 18 | In section 2 of the Special Immigration Appeals Commission Act 1997 (jurisdiction: appeals) – | 15 |
| | (a) in subsection (1)(a) and (b) for “or 83(2)_” substitute “, 83(2) or 83A(2)”, and | |
| | (b) in subsection (3) – | |
| | (i) for “an appeal against the rejection of a claim for asylum” substitute “an appeal against a decision other than an immigration decision”, and | 20 |
| | (ii) after “83(2)” insert “or 83A(2)”. | |

SCHEDULE 2

Section 43

FEES: CONSEQUENTIAL AMENDMENTS

British Nationality Act 1981 (c. 61) 25

- | | | |
|---|--|----|
| 1 | In section 41 of the British Nationality Act 1981 (regulations and Orders in Council) – | |
| | (a) omit subsection (2), and | |
| | (b) in subsection (3) – | |
| | (i) omit “or (2)”, and | 30 |
| | (ii) omit paragraph (b). | |
| 2 | Section 42A of the British Nationality Act 1981 (registration and naturalisation: fee) shall cease to have effect. | |

Immigration and Asylum Act 1999 (c. 33)

- | | | |
|---|--|----|
| 3 | Sections 5 and 27 of the Immigration and Asylum Act 1999 (charges) shall cease to have effect. | 35 |
|---|--|----|

Nationality, Immigration and Asylum Act 2002 (c. 41)

- 4 *In section 10(2) (right of abode: certificate of entitlement) –*
 (a) *paragraph (e) shall cease to have effect, and*
 (b) *in paragraph (f) for “(a) to (e)” substitute “(a) to (d)”.*
- 5 *Section 122 (fee for work permit, &c.) shall cease to have effect.* 5

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)

- 6 (1) *Section 42 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (amount of fees) shall be amended as follows.*
- (2) *In subsection (1) –*
- (a) *for “In prescribing a fee for an application or process under a provision specified in subsection (2)” substitute “In prescribing a fee under section 43 of the Immigration, Asylum and Nationality Act 2006 (fees) in connection with a matter specified in subsection (2)”, and* 10
 (b) *omit “, with the consent of the Treasury,”.*
- (3) *For subsection (2) substitute –* 15
- “(2) *Those matters are –*
- (a) *anything done under, by virtue of or in connection with a provision of the British Nationality Act 1981 (c. 61) or of the former nationality Acts (within the meaning given by section 50(1) of that Act),* 20
 (b) *an application for leave to remain in the United Kingdom,*
 (c) *an application for the variation of leave to enter, or remain in, the United Kingdom,*
 (d) *section 10 of the Nationality, Immigration and Asylum Act 2002 (right of abode: certificate of entitlement),* 25
 (e) *a work permit, and*
 (f) *any other document which relates to employment and is issued for a purpose of immigration rules or in connection with leave to enter or remain in the United Kingdom.”*

SCHEDULE 3 Section 46 30

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Prison Act 1952 (c. 52)	Section 55(4A).	
Immigration Act 1971 (c. 77)	Section 3C(2)(b) and (c). In section 27, in paragraph (c) the words “as owner or agent of a ship or aircraft or”.	35
	Section 31A. Section 32(5). In Schedule 2, paragraph 4(2A).	
British Nationality Act 1981	Section 41(2).	40

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
British Nationality Act 1981 – <i>cont.</i>	In section 41(3) – (a) the words “or (2)”, and (b) paragraph (b). Section 42A.	5
Asylum and Immigration Act 1996 (c. 49)	Sections 8 and 8A.	
Immigration and Asylum Act 1999 (c. 33)	Section 5. Section 27. In section 167(1), the definition of “the Immigration Acts”.	10
Nationality, Immigration and Asylum Act 2002 (c. 41)	Section 10(2)(e). Section 82(2)(d) and (e). In section 94(1A), the words “, (d) or (e)”. Section 110. Section 122. Section 158.	15
Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)	Section 25. In section 42(1) the words “, with the consent of the Treasury,”. Section 44.	20
Civil Partnership Act 2004 (c. 33)	Paragraph 2(3) of Schedule 23.	

Immigration, Asylum and Nationality Bill

A

B I L L

To make provision about immigration, asylum and nationality; and for connected purposes.

*Presented by Mr Secretary Clarke
supported by
The Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer,
Mr Secretary Straw, Mr Tony McNulty,
Bridget Prentice and Andy Burnham.*

*Ordered, by The House of Commons,
to be printed, 22nd June 2005.*

© Parliamentary copyright House of Commons 2005
*Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St. Clements House, 2-16 Colegate, Norwich, NR3 1BQ*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON — THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx

Bill 13

(xxxxxx)

54/1

xxxbarxxx