



# Immigration Act 1971

## 1971 CHAPTER 77

An Act to amend and replace the present immigration laws, to make certain related changes in the citizenship law and enable help to be given to those wishing to return abroad, and for purposes connected therewith. [28th October 1971]

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:—

### PART I

#### REGULATION OF ENTRY INTO AND STAY IN UNITED KINGDOM

#### 1 General principles

- (1) All those who are in this Act expressed to have the right of abode in the United Kingdom shall be free to live in, and to come and go into and from, the United Kingdom without let or hindrance except such as may be required under and in accordance with this Act to enable their right to be established or as may be otherwise lawfully imposed on any person.
- (2) Those not having that right may live, work and settle in the United Kingdom by permission and subject to such regulation and control of their entry into, stay in and departure from the United Kingdom as is imposed by this Act; and indefinite leave to enter or remain in the United Kingdom shall, by virtue of this provision, be treated as having been given under this Act to those in the United Kingdom at its coming into force, if they are then settled there (and not exempt under this Act from the provisions relating to leave to enter or remain).
- (3) Arrival in and departure from the United Kingdom on a local journey from or to any of the Islands (that is to say, the Channel Islands and Isle of Man) or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the United Kingdom on so arriving, except in so far as any of those places

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is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act the United Kingdom and those places, or such of them as are not so excluded, are collectively referred to as " the common travel area " .

- (4) The rules laid down by the Secretary of State as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the United Kingdom of persons not having the right of abode shall include provision for admitting (in such cases and subject to such restrictions as may be provided by the rules, and subject or not to conditions as to length of stay or otherwise) persons coming for the purpose of taking employment, or for purposes of study, or as visitors, or as dependants of persons lawfully in or entering the United Kingdom.
- (5) The rules shall be so framed that Commonwealth citizens settled in the United Kingdom at the coming into force of this Act and their wives and children are not, by virtue of anything in the rules, any less free to come into and go from the United Kingdom than if this Act had not been passed.

## **2 Statement of right of abode, and related amendments as to citizenship by registration**

- (1) A person is under this Act to have the right of abode in the United Kingdom if—
  - (a) he is a citizen of the United Kingdom and Colonies who has that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or
  - (b) he is a citizen of the United Kingdom and Colonies born to or legally adopted by a parent who had that citizenship at the time of the birth or adoption, and the parent either—
    - (i) then had that citizenship by his birth, adoption, naturalisation or (except as mentioned below) registration in the United Kingdom or in any of the Islands; or
    - (ii) had been born to or legally adopted by a parent who at the time of that birth or adoption so had it; or
  - (c) he is a citizen of the United Kingdom and Colonies who has at any time been settled in the United Kingdom and Islands and had at that time (and while such a citizen) been ordinarily resident there for the last five years or more ; or
  - (d) he is a Commonwealth citizen born to or legally adopted by a parent who at the time of the birth or adoption had citizenship of the United Kingdom and Colonies by his birth in the United Kingdom or in any of the Islands.
- (2) A woman is under this Act also to have the right of abode in the United Kingdom if she is a Commonwealth citizen and either—
  - (a) is the wife of any such citizen of the United Kingdom and Colonies as is mentioned in subsection (1)(a), (b) or (c) above or any such Commonwealth citizen as is mentioned in subsection (1)(d); or
  - (b) has at any time been the wife—
    - (i) of a person then being such a citizen of the United Kingdom and Colonies or Commonwealth citizen; or
    - (ii) of a British subject who but for his death would on the date of commencement of the British Nationality Act 1948 have been such a citizen of the United Kingdom and Colonies as is mentioned in subsection (1)(a) or (b);

but in subsection (1)(a) and (b) above references to registration as a citizen of the United Kingdom and Colonies shall not, in the case of a woman, include registration after the passing of this Act under or by virtue of section 6(2) (wives) of the British Nationality Act 1948 unless she is so registered by virtue of her marriage to a citizen of the United Kingdom and Colonies before the passing of this Act.

- (3) In relation to the parent of a child born after the parent's death, references in subsection (1) above to the time of the child's birth shall be replaced by references to the time of the parent's death; and for purposes of that subsection—
- (a) "parent" includes the mother of an illegitimate child; and
  - (b) references to birth in the United Kingdom shall include birth on a ship or aircraft registered in the United Kingdom, or on an unregistered ship or aircraft of the Government of the United Kingdom, and similarly with references to birth in any of the Islands; and
  - (c) references to citizenship of the United Kingdom and Colonies shall, in relation to a time before the year 1949, be construed as references to British nationality and, in relation to British nationality and to a time before the 31st March 1922, "the United Kingdom" shall mean Great Britain and Ireland; and
  - (d) subject to section 8(5) below, references to a person being settled in the United Kingdom and Islands are references to his being ordinarily resident there without being subject under the immigration laws to any restriction on the period for which he may remain.
- (4) In subsection (1) above, any reference to registration in the United Kingdom shall extend also to registration under arrangements made by virtue of section 8(2) of the British Nationality Act 1948 (registration in independent Commonwealth country by United Kingdom High Commissioner), but, in the case of a registration by virtue of section 7 (children) of that Act, only if the registration was effected before the passing of this Act.
- (5) The law with respect to registration as a citizen of the United Kingdom and Colonies shall be modified as provided by Schedule 1 to this Act.
- (6) In the following provisions of this Act the word "patrial" is used of persons having the right of abode in the United Kingdom.

### **3 General provisions for regulation and control**

- (1) Except as otherwise provided by or under this Act, where a person is not patrial—
- (a) he shall not enter the United Kingdom unless given leave to do so in accordance with this Act;
  - (b) he may be given leave to enter the United Kingdom (or, when already there, leave to remain in the United Kingdom) either for a limited or for an indefinite period;
  - (c) if he is given a limited leave to enter or remain in the United Kingdom, it may be given subject to conditions restricting his employment or occupation in the United Kingdom, or requiring him to register with the police, or both.
- (2) The Secretary of State shall from time to time (and as soon as may be) lay before Parliament statements of the rules, or of any changes in the rules, laid down by him as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the United Kingdom of persons required by this Act to have leave to enter, including any rules as to the period for which leave is to be given and the

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conditions to be attached in different circumstances ; and section 1(4) above shall not be taken to require uniform provision to be made by the rules as regards admission of persons for a purpose or in a capacity specified in section 1(4) (and in particular, for this as well as other purposes of this Act, account may be taken of citizenship or nationality).

If a statement laid before either House of Parliament under this subsection is disapproved by a resolution of that House passed within the period of forty days beginning with the date of laying (and exclusive of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days), then the Secretary of State shall as soon as may be make such changes or further changes in the rules as appear to him to be required in the circumstances, so that the statement of those changes be laid before Parliament at latest by the end of the period of forty days beginning with the date of the resolution (but exclusive as aforesaid).

- (3) In the case of a limited leave to enter or remain in the United Kingdom,—
- (a) a person's leave may be varied, whether by restricting, enlarging or removing the limit on its duration, or by adding, varying or revoking conditions, but if the limit on its duration is removed, any conditions attached to the leave shall cease to apply; and
  - (b) the limitation on and any conditions attached to a person's leave may be imposed (whether originally or on a variation) so that they will, if not superseded, apply also to any subsequent leave he may obtain after an absence from the United Kingdom within the period limited for the duration of the earlier leave.
- (4) A person's leave to enter or remain in the United Kingdom shall lapse on his going to a country or territory outside the common travel area (whether or not he lands there), unless within the period for which he had leave he returns to the United Kingdom in circumstances in which he is not required to obtain leave to enter; but, if he does so return, his previous leave (and any limitation on it or conditions attached to it) shall continue to apply.
- (5) A person who is not patrial shall be liable to deportation from the United Kingdom—
- (a) if, having only a limited leave to enter or remain, he does not observe a condition attached to the leave or remains beyond the time limited by the leave; or
  - (b) if the Secretary of State deems his deportation to be conducive to the public good; or
  - (c) if another person to whose family he belongs is or has been ordered to be deported.
- (6) Without prejudice to the operation of subsection (5) above, a person who is not patrial shall also be liable to deportation from the United Kingdom if, after he has attained the age of seventeen, he is convicted of an offence for which he is punishable with imprisonment and on his conviction is recommended for deportation by a court empowered by this Act to do so.
- (7) Where it appears to Her Majesty proper so to do by reason of restrictions or conditions imposed on citizens of the United Kingdom and Colonies when leaving or seeking to leave any country or the territory subject to the government of any country, Her Majesty may by Order in Council make provision for prohibiting persons who are nationals or citizens of that country and are not patrial from embarking in the United

Kingdom, or from doing so elsewhere than at a port of exit, or for imposing restrictions or conditions on them when embarking or about to embark in the United Kingdom; and Her Majesty may also make provision by Order in Council to enable those who are not patrial to be, in such cases as may be prescribed by the Order, prohibited in the interests of safety from so embarking on a ship or aircraft specified or indicated in the prohibition.

Any Order in Council under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (8) When any question arises under this Act whether or not a person is patrial, or is entitled to any exemption under this Act, it shall lie on the person asserting it to prove that he is.
- (9) A person seeking to enter the United Kingdom and claiming to be patrial by virtue of section 2(1)(c) or (d) or section 2(2) above shall prove it by means of such certificate of patriality as may be specified in the immigration rules, unless in the case of a woman claiming to be patrial by virtue of section 2(2) she shows that she is a citizen of the United Kingdom and Colonies and is patrial by virtue of section 2(2) apart from any reference therein to section 2(1)(c) or (d).

#### **4 Administration of control**

- (1) The power under this Act to give or refuse leave to enter the United Kingdom shall be exercised by immigration officers, and the power to give leave to remain in the United Kingdom, or to vary any leave under section 3 (3)(a) (whether as regards duration or conditions), shall be exercised by the Secretary of State; and, unless otherwise allowed by this Act, those powers shall be exercised by notice in writing given to the person affected, except that the powers under section 3(3)(a) may be exercised generally in respect of any class of persons by order made by statutory instrument.
- (2) The provisions of Schedule 2 to this Act shall have effect with respect to—
  - (a) the appointment and powers of immigration officers and medical inspectors for purposes of this Act;
  - (b) the examination of persons arriving in or leaving the United Kingdom by ship or aircraft, and the special powers exercisable in the case of those who arrive as, or with a view to becoming, members of the crews of ships and aircraft; and
  - (c) the exercise by immigration officers of their powers in relation to entry into the United Kingdom, and the removal from the United Kingdom of persons refused leave to enter or entering or remaining unlawfully; and
  - (d) the detention of persons pending examination or pending removal from the United Kingdom;and for other purposes supplementary to the foregoing provisions of this Act.
- (3) The Secretary of State may by regulations made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make provision as to the effect of a condition under this Act requiring a person to register with the police; and the regulations may include provision—
  - (a) as to the officers of police by whom registers are to be maintained, and as to the form and content of the registers;
  - (b) as to the place and manner in which anyone is to register and as to the documents and information to be furnished by him, whether on registration or on any change of circumstances;

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(c) as to the issue of certificates of registration and as to the payment of fees for certificates of registration;

and the regulations may require anyone who is for the time being subject to such a condition to produce a certificate of registration to such persons and in such circumstances as may be prescribed by the regulations.

(4) The Secretary of State may by order made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make such provision as appears to him to be expedient in connection with this Act for records to be made and kept of persons staying at hotels and other premises where lodging or sleeping accommodation is provided, and for persons (whether patial or not) who stay at any such premises to supply the necessary information.

## **5 Procedure for, and further provisions as to, deportation**

(1) Where a person is under section 3(5) or (6) above liable to deportation, then subject to the following provisions of this Act the Secretary of State may make a deportation order against him, that is to say an order requiring him to leave and prohibiting him from entering the United Kingdom; and a deportation order against a person shall invalidate any leave to enter or remain in the United Kingdom given him before the order is made or while it is in force.

(2) A deportation order against a person may at any time be revoked by a further order of the Secretary of State, and shall cease to have effect if he becomes patial.

(3) A deportation order shall not be made against a person as belonging to the family of another person if more than eight weeks have elapsed since the other person left the United Kingdom after the making of the deportation order against him ; and a deportation order made against a person on that ground shall cease to have effect if he ceases to belong to the family of the other person, or if the deportation order made against the other person ceases to have effect.

(4) For purposes of deportation the following shall be those who are regarded as belonging to another person's family—

(a) where that other person is a man, his wife and his or her children under the age of eighteen; and

(b) where that other person is a woman, her children under the age of eighteen ; and for purposes of this subsection an adopted child, whether legally adopted or not, may be treated as the child of the adopter and, if legally adopted, shall be regarded as the child only of the adopter; an illegitimate child (subject to the foregoing rule as to adoptions) shall be regarded as the child of the mother ; and " wife " includes each of two or more wives.

(5) The provisions of Schedule 3 to this Act shall have effect with respect to the removal from the United Kingdom of persons against whom deportation orders are in force and with respect to the detention or control of persons in connection with ' deportation.

(6) Where a person is liable to deportation under section 3(5)(c) or (6) above but, without a deportation order being made against him, leaves the United Kingdom to live permanently abroad, the Secretary of State may make payments of such amounts as he may determine to meet that person's expenses in so leaving the United Kingdom, including travelling expenses for members of his family or household.

## 6 Recommendations by court for deportation

- (1) Where under section 3(6) above a person convicted of an offence is liable to deportation on the recommendation of a court, he may be recommended for deportation by any court having power to sentence him for the offence unless the court commits him to be sentenced or further dealt with for that offence by another court:

Provided that in Scotland the power to recommend a person for deportation shall be exercisable only by the sheriff or the High Court of Justiciary, and shall not be exercisable by the latter on an appeal unless the appeal is against a conviction on indictment or against a sentence upon such a conviction.

- (2) A court shall not recommend a person for deportation unless he has been given not less than seven days notice in writing stating that a person is not liable to deportation if he is patrial, describing the persons who are patrial and stating (so far as material) the effect of section 3(8) above and section 7 below ; but the powers of adjournment conferred by section 14(3) of the Magistrates' Courts Act 1952, section 26 of the Criminal Justice (Scotland) Act 1949 or any corresponding enactment for the time being in force in Northern Ireland shall include power to adjourn, after convicting an offender, for the purpose of enabling a notice to be given to him under this subsection or, if a notice was so given to him less than seven days previously, for the purpose of enabling the necessary seven days to elapse.

- (3) For purposes of section 3(6) above—

- (a) a person shall be deemed to have attained the age of seventeen at the time of his conviction if, on consideration of any available evidence, he appears to have done so to the court making or considering a recommendation for deportation ; and
- (b) the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any enactment restricting the imprisonment of young offenders or first offenders;

and for purposes of deportation a person who on being charged with an offence is found to have committed it shall, notwithstanding any enactment to the contrary and notwithstanding that the court does not proceed to conviction, be regarded as a person convicted of the offence, and references to conviction shall be construed accordingly.

- (4) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.

- (5) Where a court recommends or purports to recommend a person for deportation, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or against the conviction on which it is made ; but—

- (a) except in Scotland, the recommendation shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence ; and
- (b) in Scotland, a person recommended for deportation may, without prejudice to any other form of appeal under any rule of law, appeal against the recommendation in the same manner as against a conviction.

- (6) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the conviction on which it was made ; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until

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the expiration of the time for bringing that appeal or, in Scotland, until the expiration of twenty-eight days from the date of the recommendation.

- (7) For the purpose of giving effect to any of the provisions of this section in its application to Scotland, the High Court of Justiciary shall have power to make rules by act of adjournal.

## **7 Exemption from deportation for certain existing residents**

- (1) Notwithstanding anything in section 3(5) or (6) above but subject to the provisions of this section, a Commonwealth citizen or citizen of the Republic of Ireland who was such a citizen at the coming into force of this Act and was then ordinarily resident in the United Kingdom—

- (a) shall not be liable to deportation under section 3(5)(b) if at the time of the Secretary of State's decision he had at all times since the coming into force of this Act been ordinarily resident in the United Kingdom and Islands; and
- (b) shall not be liable to deportation under section 3(5)(a), (b) or (c) if at the time of the Secretary of State's decision he had for the last five years been ordinarily resident in the United Kingdom and Islands ; and
- (c) shall not on conviction of an offence be recommended for deportation under section 3(6) if at the time of the conviction he had for the last five years been ordinarily resident in the United Kingdom and Islands.

- (2) A person who has at any time become ordinarily resident in the United Kingdom or in any of the Islands shall not be treated for the purposes of this section as having ceased to be so by reason only of his having remained there in breach of the immigration laws.

- (3) The "last five years" before the material time under subsection (1)(b) or (c) above is to be taken as a period amounting in total to five years exclusive of any time during which the person claiming exemption under this section was undergoing imprisonment or detention by virtue of a sentence passed for an offence on a conviction in the United Kingdom and Islands, and the period for which he was imprisoned or detained by virtue of the sentence amounted to six months or more.

- (4) For purposes of subsection (3) above—

- (a) " sentence " includes any order made on conviction of an offence; and
- (b) two or more sentences for consecutive (or partly consecutive) terms shall be treated as a single sentence; and
- (c) a person shall be deemed to be detained by virtue of a sentence—
  - (i) at any time when he is liable to imprisonment or detention by virtue of the sentence, but is unlawfully at large; and
  - (ii) (unless the sentence is passed after the material time) during any period of custody by which under any relevant enactment the term to be served under the sentence is reduced.

In paragraph (c)(ii) above " relevant enactment " means section 67 of the Criminal Justice Act 1967 (or, before that section operated, section 17(2) of the Criminal Justice Administration Act 1962) and any similar enactment which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands.

- (5) Nothing in this section shall be taken to exclude the operation of section 3(8) above in relation to an exemption under this section.



## **8 Exceptions for seamen, aircrews and other special cases**

(1) Where a person arrives at a place in the United Kingdom as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either—

- (a) there is in force a deportation order made against him; or
- (b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom; or
- (c) an immigration officer requires him to submit to examination in accordance with Schedule 2 to this Act;

he may without leave enter the United Kingdom at that place and remain until the departure of the ship or aircraft on which he is required by his engagement to leave.

(2) The Secretary of State may by order exempt any person or class of persons, either unconditionally or subject to such conditions as may be imposed by or under the order, from all or any of the provisions of this Act relating to those who are not patrial.

An order under this subsection, if made with respect to a class of persons, shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The provisions of this Act relating to those who are not patrial shall not apply to any person so long as he is a member of a mission (within the meaning of the Diplomatic Privileges Act 1964), a person who is a member of the family and forms part of the household of such a member, or a person otherwise entitled to the like immunity from jurisdiction as is conferred by that Act on a diplomatic agent.

(4) The provisions of this Act relating to those who are not patrial, other than the provisions relating to deportation, shall also not apply to any person so long as either—

- (a) he is subject, as a member of the home forces, to service law; or
- (b) being a member of a Commonwealth force or of a force raised under the law of any associated state, colony, protectorate or protected state, is undergoing or about to undergo training in the United Kingdom with any body, contingent or detachment of the home forces; or
- (c) he is serving or posted for service in the United Kingdom as a member of a visiting force or of any force raised as aforesaid or as a member of an international headquarters or defence organisation designated for the time being by an Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964.

(5) Where a person having a limited leave to enter or remain in the United Kingdom becomes entitled to an exemption under this section, that leave shall continue to apply after he ceases to be entitled to the exemption, unless it has by then expired; and a person is not to be regarded for purposes of this Act as having been settled in the United Kingdom and Islands at any time when he was entitled to an exemption under subsection (3) or (4)(b) or (c) above or, unless the order otherwise provides, under subsection (2) or to any corresponding exemption under the former immigration laws or under the immigration laws of any of the Islands.

(6) In this section " the home forces " means any of Her Majesty's forces other than a Commonwealth force or a force raised under the law of any associated state, colony, protectorate or protected state ; " Commonwealth force " means a force of any country to which provisions of the Visiting Forces Act 1952 apply without an Order in

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Council under section 1 of the Act; and "visiting force" means a body, contingent or detachment of the forces of a country to which any of those provisions apply, being a body, contingent or detachment for the time being present in the United Kingdom on the invitation of Her Majesty's Government in the United Kingdom.

## **9 Further provisions as to common travel area**

- (1) Subject to subsection (5) below, the provisions of Schedule 4 to this Act shall have effect for the purpose of taking account in the United Kingdom of the operation in any of the Islands of the immigration laws there.
- (2) Persons who lawfully enter the United Kingdom on a local journey from a place in the common travel area after having either—
  - (a) entered any of the Islands or the Republic of Ireland on coming from a place outside the common travel area; or
  - (b) left the United Kingdom while having a limited leave to enter or remain which has since expired ;

if they are not patrial (and are not to be regarded under Schedule 4 to this Act as having leave to enter the United Kingdom), shall be subject in the United Kingdom to such restrictions on the period for which they may remain, and such conditions restricting their employment or occupation or requiring them to register with the police or both, as may be imposed by an order of the Secretary of State and may be applicable to them.
- (3) Any provision of this Act applying to a limited leave or to conditions attached to a limited leave shall, unless otherwise provided, have effect in relation to a person subject to any restriction or condition by virtue of an order under subsection (2) above as if the provisions of the order applicable to him were terms on which he had been given leave under this Act to enter the United Kingdom.
- (4) Section 1(3) above shall not be taken to affect the operation of a deportation order; and, subject to Schedule 4 to this Act, a person who is not patrial may not by virtue of section 1(3) enter the United Kingdom without leave on a local journey from a place in the common travel area if either—
  - (a) he is on arrival in the United Kingdom given written notice by an immigration officer stating that, the Secretary of State having issued directions for him not to be given entry to the United Kingdom on the ground that his exclusion is conducive to the public good as being in the interests of national security, he is accordingly refused leave to enter the United Kingdom ; or
  - (b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom.
- (5) If it appears to the Secretary of State necessary so to do by reason of differences between the immigration laws of the United Kingdom and any of the Islands, he may by order exclude that island from section 1(3) above for such purposes as may be specified in the order, and references in this Act to the Islands other than any reference in section 2 shall apply to an island so excluded so far only as may be provided by order of the Secretary of State.
- (6) The Secretary of State shall also have power by order to exclude the Republic of Ireland from section 1(3) for such purposes as may be specified in the order.
- (7) An order of the Secretary of State under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **10 Entry otherwise than by sea or air**

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act shall have effect in relation to persons entering or seeking to enter the United Kingdom on arrival otherwise than by ship or aircraft as they have effect in the case of a person arriving by ship or aircraft; and any such Order may make such adaptations or modifications of those provisions, and such provisions supplementary thereto, as appear to Her Majesty to be necessary or expedient for the purposes of the Order.
- (2) The provision made by an Order in Council under this section may include provision for excluding the Republic of Ireland from section 1 (3) of this Act either generally or for any specified purposes.
- (3) No recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

## **11 Construction of references to entry, and other phrases relating to travel**

- (1) A person arriving in the United Kingdom by ship or aircraft shall for purposes of this Act be deemed not to enter the United Kingdom unless and until he disembarks, and on disembarkation at a port shall further be deemed not to enter the United Kingdom so long as he remains in such area (if any) at the port as may be approved for this purpose by an immigration officer ; and a person who has not otherwise entered the United Kingdom shall be deemed not to do so as long as he is detained, or temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act.
- (2) In this Act " disembark " means disembark from a ship or aircraft, and " embark " means embark in a ship or aircraft; and, except in subsection (1) above,—
  - (a) references to disembarking in the United Kingdom do not apply to disembarking after a local journey from a place in the United Kingdom or elsewhere in the common travel area; and
  - (b) references to embarking in the United Kingdom do not apply to embarking for a local journey to a place in the United Kingdom or elsewhere in the common travel area.
- (3) Except in so far as the context otherwise requires, references in this Act to arriving in the United Kingdom by ship shall extend to arrival by any floating structure, and " disembark " shall be construed accordingly; but the provisions of this Act specially relating to members of the crew of a ship shall not by virtue of this provision apply in relation to any floating structure not being a ship.
- (4) For purposes of this Act " common travel area " has the meaning given by section 1(3), and a journey is, in relation to the common travel area, a local journey if but only if it begins and ends in the common travel area and is not made by a ship or aircraft which—
  - (a) in the case of a journey to a place in the United Kingdom, began its voyage from, or has during its voyage called at, a place not in the common travel area ; or
  - (b) in the case of a journey from a place in the United Kingdom, is due to end its voyage in, or call in the course of its voyage at, a place not in the common travel area.

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- (5) A person who enters the United Kingdom lawfully by virtue of section 8(1) above, and seeks to remain beyond the time limited by section 8(1), shall be treated for purposes of this Act as seeking to enter the United Kingdom.

## PART II

### APPEALS

#### *The appellate authorities*

#### **12 Immigration Appeal Tribunal and adjudicators**

The Immigration Appeal Tribunal and adjudicators provided for by the Immigration Appeals Act 1969 shall continue for purposes of this Act, and—

- (a) members of the Tribunal shall continue to be appointed by the Lord Chancellor and adjudicators by the Secretary of State; and
- (b) the provisions of Schedule 1 to that Act shall continue to apply, as set out in Schedule 5 to this Act with the required adaptation of references to that Act, but with the substitution also of references to the Minister for the Civil Service for references to the Treasury.

#### *Appeals to adjudicator or Tribunal in first instance*

#### **13 Appeals against exclusion from United Kingdom**

- (1) Subject to the provisions of this Part of this Act, a person who is refused leave to enter the United Kingdom under this Act may appeal to an adjudicator against the decision that he requires leave or against the refusal.
- (2) Subject to the provisions of this Part of this Act, a person who, on an application duly made, is refused a certificate of patriality or an entry clearance may appeal to an adjudicator against the refusal.
- (3) A person not holding a certificate of patriality shall not be entitled to appeal on the ground that he is patrial by virtue of section 2(1)(c) or (d) or section 2(2) above against a decision that he requires leave to enter the United Kingdom unless in the case of a woman who is a citizen of the United Kingdom and Colonies the ground of appeal is that she is patrial by virtue of section 2(2) apart from any reference therein to section 2(1)(c) or (d); and a person shall not be entitled to appeal against a refusal of leave to enter so long as he is in the United Kingdom, unless he was refused leave at a port of entry and at a time when he held a current entry clearance or was a person named in a current work permit.
- (4) An appeal against a refusal of leave to enter shall be dismissed by the adjudicator if he is satisfied that the appellant was at the time of the refusal an illegal entrant, and an appeal against a refusal of an entry clearance shall be dismissed by the adjudicator if he is satisfied that a deportation order was at the time of the refusal in force in respect of the appellant.
- (5) A person shall not be entitled to appeal against a refusal of leave to enter, or against a refusal of an entry clearance, if the Secretary of State certifies that directions have

been given by the Secretary of State (and not by a person acting under his authority) for the appellant not to be given entry to the United Kingdom on the ground that his exclusion is conducive to the public good, or if the leave to enter or entry clearance was refused in obedience to any such directions.

#### **14 Appeals against conditions**

- (1) Subject to the provisions of this Part of this Act, a person who has a limited leave under this Act to enter or remain in the United Kingdom may appeal to an adjudicator against any variation of the leave (whether as regards duration or conditions), or against any refusal to vary it; and a variation shall not take effect so long as an appeal is pending under this subsection against the variation, nor shall an appellant be required to leave the United Kingdom by reason of the expiration of his leave so long as his appeal is pending under this subsection against a refusal to enlarge or remove the limit on the duration of the leave.
- (2) Subject to the provisions of this Part of this Act, a person who, on ceasing to be entitled to an exemption under any provision of section 8 above other than section 8(1), or on ceasing while in the United Kingdom to be patrial, is given a limited leave to remain may appeal to an adjudicator against any provision limiting the duration of the leave or attaching a condition to it; and so long as an appeal is pending under this subsection against any provision, effect shall not be given to that provision.
- (3) A person shall not be entitled to appeal under subsection (1) above against any variation of his leave which reduces its duration, or against any refusal to enlarge or remove the limit on its duration, if the Secretary of State certifies that the appellant's departure from the United Kingdom would be conducive to the public good, as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature, or the decision questioned by the appeal was taken on that ground by the Secretary of State (and not by a person acting under his authority).
- (4) A person shall not be entitled to appeal under subsection (1) above against any variation made by statutory instrument, or against any refusal of the Secretary of State to make a statutory instrument.

#### **15 Appeals in respect of deportation orders**

- (1) Subject to the provisions of this Part of this Act, a person may appeal to an adjudicator against—
  - (a) a decision of the Secretary of State to make a deportation order against him by virtue of section 3(5) above; or
  - (b) a refusal by the Secretary of State to revoke a deportation order made against him.
- (2) A deportation order shall not be made against a person by virtue of section 3(5) above so long as an appeal may be brought against the decision to make it nor, if such an appeal is duly brought, so long as the appeal is pending; but, in calculating the period of eight weeks limited by section 5(3) above for making a deportation order against a person as belonging to the family of another person, there shall be disregarded any period during which there is pending an appeal against the decision to make it.
- (3) A person shall not be entitled to appeal against a decision to make a deportation order against him if the ground of the decision was that his deportation is conducive to the

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public good as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature.

- (4) A person shall not be entitled to appeal under this section against a refusal to revoke a deportation order, if the Secretary of State certifies that the appellant's exclusion from the United Kingdom is conducive to the public good or if revocation was refused on that ground by the Secretary of State (and not by a person acting under his authority).
- (5) A person shall not be entitled to appeal under this section against a refusal to revoke a deportation order so long as he is in the United Kingdom, whether because he has not complied with the requirement to leave or because he has contravened the prohibition on entering.
- (6) On an appeal against a decision to make a deportation order against a person as belonging to the family of another person, or an appeal against a refusal to revoke a deportation order so made, the appellant shall not be allowed, for the purpose of showing that he does not or did not belong to another person's family, to dispute any statement made with a view to obtaining leave for the appellant to enter or remain in the United Kingdom (including any statement made to obtain an entry clearance) unless the appellant shows that the statement was not so made by him or by any person acting with his authority and that, when he took the benefit of the leave, he did not know any such statement had been made to obtain it or, if he did know, was under the age of eighteen.
- (7) An appeal under this section shall be to the Appeal Tribunal in the first instance, instead of to an adjudicator, if—
  - (a) it is an appeal against a decision to make a deportation order and the ground of the decision was that the deportation of the appellant is conducive to the public good; or
  - (b) it is an appeal against a decision to make a deportation order against a person as belonging to the family of another person, or an appeal against a refusal to revoke a deportation order so made; or
  - (c) there is pending a related appeal to which paragraph (b) above applies.
- (8) Where an appeal to an adjudicator is pending under this section, and before the adjudicator has begun to hear it a related appeal is brought, the appeal to the adjudicator shall be dealt with instead by the Appeal Tribunal and be treated as an appeal duly made to the Tribunal in the first instance.
- (9) In relation to an appeal under this section in respect of a deportation order against any person (whether an appeal against a decision to make or against a refusal to revoke the order), any other appeal under this section is a "related appeal" if it is an appeal in respect of a deportation order against another person as belonging to the family of the first-mentioned person.

## **16 Appeals against validity of directions for removal**

- (1) Subject to the provisions of this Part of this Act, where directions are given under this Act for a person's removal from the United Kingdom either—
  - (a) on the ground that he is an illegal entrant or on the ground specifically that he has entered the United Kingdom in breach of a deportation order; or
  - (b) under the special powers conferred by Schedule 2 to this Act in relation to members of the crew of a ship or aircraft or persons coming to the United Kingdom to join a ship or aircraft as a member of the crew;

then he may appeal to an adjudicator against those directions on the ground that in the facts of his case there was in law no power to give them on the ground on which they were given.

- (2) A person shall not be entitled to appeal under this section so long as he is in the United Kingdom, unless he is appealing against directions given by virtue of a deportation order (whether on the ground specifically that he has returned in breach of that order or on the ground that he is an illegal entrant) and is appealing on the ground that he is not the person named in that order.
- (3) Where a person appeals under this section against directions given by virtue of a deportation order, he shall not be allowed to dispute the original validity of that order.
- (4) An appeal under this section against directions given as mentioned in subsection (1) (b) shall be dismissed by the adjudicator, notwithstanding that the ground of appeal may be made out, if he is satisfied that there was power to give the like directions on the ground that the appellant was an illegal entrant.

## **17 Appeals against removal on objection to destination**

- (1) Subject to the provisions of this Part of this Act, where directions are given under this Act for a person's removal from the United Kingdom either—
  - (a) on his being refused leave to enter ; or
  - (b) on a deportation order being made against him; or
  - (c) on his having entered the United Kingdom in breach of a deportation order;he may appeal to an adjudicator against the directions on the ground that he ought to be removed (if at all) to a different country or territory specified by him.
- (2) Where a person appeals under section 13(1) above on being refused leave to enter the United Kingdom, and either—
  - (a) before he does so, directions have been given for his removal from the United Kingdom to any country or territory; or
  - (b) before or after he does so, the Secretary of State or an immigration officer serves on him notice that any directions which may be given for his removal by virtue of the refusal will be for his removal to a country or territory or one of several countries or territories specified in the notice ;then he may on that appeal object to the country or territory to which he would be removed in pursuance of the directions, or to that specified in the notice (or to one or more of those specified), and claim that he ought to be removed (if at all) to a different country or territory specified by him.
- (3) Where a person appeals under section 15 above against a decision to make a deportation order against him, and before or after he does so the Secretary of State serves on him notice that any directions which may be given for his removal by virtue of the deportation order will be for his removal to a country or territory or one of several countries or territories specified in the notice, then he may on that appeal object to the country or territory specified in the notice (or to one or more of those specified), and claim that he ought to be removed (if at all) to a different country or territory specified by him.
- (4) Where by virtue of subsection (2) or (3) above a person is able to object to a country or territory on an appeal under section 13(1) or 15, and either he does not object to it on that appeal or his objection to it on that appeal is not sustained, then he shall

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not be entitled to appeal under this section against any directions subsequently given by virtue of the refusal or order in question, if their effect will be his removal to that country or territory.

- (5) A person shall not be entitled to appeal under this section against any directions given on his being refused leave to enter the United Kingdom, unless either he is also appealing under section 13(1) against the decision that he requires leave to enter or he was refused leave at a port of entry and at a time when he held a current entry clearance or was a person named in a current work permit.

## **18 Notice of matters in respect of which there are rights of appeal**

- (1) The Secretary of State may by regulations provide—
- (a) for written notice to be given to a person of any such decision or action taken in respect of him as is appealable under this Part of this Act (whether or not he is in the facts of his case entitled to appeal) or would be so appealable but for the ground on which it is taken;
  - (b) for any such notice to include a statement of the reasons for the decision or action and, where the action is the giving of directions for the removal of any person from the United Kingdom, of the country or territory to which he is to be removed ;
  - (c) for any such notice to be accompanied by a statement containing particulars of the rights of appeal available under this Part of this Act and of the procedure by which those rights may be exercised;
  - (d) for the form of any such notice or statement and the way in which a notice is to be or may be given.
- (2) For the purpose of any proceedings under this Part of this Act a statement included in a notice in pursuance of regulations under this section shall be conclusive of the person by whom and of the ground on which any decision or action was taken.
- (3) The power to make regulations under this section shall be exercisable by statutory instrument, and any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **19 Determination of appeals by adjudicators**

- (1) Subject to sections 13(4) and 16(4) above, and to any restriction on the grounds of appeal, an adjudicator on an appeal to him under this Part of this Act—
- (a) shall allow the appeal if he considers—
    - (i) that the decision or action against which the appeal is brought was not in accordance with the law or with any immigration rules applicable to the case; or
    - (ii) where the decision or action involved the exercise of a discretion by the Secretary of State or an officer, that the discretion should have been exercised differently; and
  - (b) in any other case, shall dismiss the appeal.
- (2) For the purposes of subsection (1)(a) above the adjudicator may review any determination of a question of fact on which the decision or action was based; and for the purposes of subsection (1)(a)(ii) no decision or action which is in accordance with the immigration rules shall be treated as having involved the exercise of a discretion



by the Secretary of State by reason only of the fact that he has been requested by or on behalf of the appellant to depart, or to authorise an officer to depart, from the rules and has refused to do so.

- (3) Where an appeal is allowed, the adjudicator shall give such directions for giving effect to the determination as the adjudicator thinks requisite, and may also make recommendations with respect to any other action which the adjudicator considers should be taken in the case under this Act; and, subject to section 20(2) below, it shall be the duty of the Secretary of State and of any officer to whom directions are given under this subsection to comply with them.
- (4) Where in accordance with section 15 above a person appeals to the Appeal Tribunal in the first instance, this section shall apply with the substitution of references to the Tribunal for references to an adjudicator.

#### *Appeals from adjudicator to Tribunal, and review of decisions*

### **20 Appeal to Tribunal from determination of adjudicator**

- (1) Subject to any requirement of rules of procedure as to leave to appeal, any party to an appeal to an adjudicator may, if dissatisfied with his determination thereon, appeal to the Appeal Tribunal, and the Tribunal may affirm the determination or make any other determination which could have been made by the adjudicator.
- (2) Directions given by an adjudicator under section 19(3) above need not be complied with so long as an appeal can be brought against his determination and, if such an appeal is duly brought, so long as the appeal is pending; and if the Tribunal affirm his determination allowing the appeal, they may alter or add to his directions and recommendations under section 19(3) or replace them with their own directions and recommendations, and the provisions of that subsection shall apply to directions given by them accordingly.
- (3) Where an appeal is dismissed by an adjudicator but allowed by the Tribunal, section 19(3) above shall apply with the substitution of references to the Tribunal for references to the adjudicator.

### **21 Reference of cases for further consideration**

- (1) Where in any case—
  - (a) an adjudicator has dismissed an appeal, and there has been no further appeal to the Appeal Tribunal, or the Tribunal has dismissed an appeal made to them in the first instance by virtue of section 15 above; or
  - (b) the Appeal Tribunal has affirmed the determination of an adjudicator dismissing an appeal, or reversed the determination of an adjudicator allowing an appeal;

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

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

### *Supplementary*

## 22 Procedure

- (1) The Secretary of State may make rules (in this Act referred to as " rules of procedure ")—
  - (a) for regulating the exercise of the rights of appeal conferred by this Part of this Act;
  - (b) for prescribing the practice and procedure to be followed on or in connection with appeals thereunder, including the mode and burden of proof and admissibility of evidence on such an appeal; and
  - (c) for other matters preliminary or incidental to or arising out of such appeals, including proof of the decisions of adjudicators or the Appeal Tribunal.
- (2) Rules of procedure may include provision—
  - (a) enabling the Tribunal, on an appeal from an adjudicator, to remit the appeal to an adjudicator for determination by him in accordance with any directions of the Tribunal, or for further evidence to be obtained with a view to determination by the Tribunal; or
  - (b) enabling any functions of the Tribunal which relate to matters preliminary or incidental to an appeal, or which are conferred by Part II of Schedule 2 to this Act, to be performed by a single member of the Tribunal; or
  - (c) conferring on adjudicators or the Tribunal such ancillary powers as the Secretary of State thinks necessary for the purposes of the exercise of their functions.
- (3) The rules of procedure shall provide that any appellant shall have the right to be legally represented.
- (4) Where on an appeal under this Part of this Act it is alleged—
  - (a) that a passport or other travel document, certificate of patriality, entry clearance or work permit (or any part thereof or entry therein) on which a party relies is a forgery; and
  - (b) that the disclosure to that party of any matters relating to the method of detection would be contrary to the public interest;

then (without prejudice to the generality of the power to make rules of procedure) the adjudicator or Tribunal shall arrange for the proceedings to take place in the absence of that party and his representatives while the allegation at (b) above is inquired into by the adjudicator or Tribunal and, if it appears to the adjudicator or Tribunal that the allegation is made out, for such further period as appears necessary in order to ensure that those matters can be presented to the adjudicator or Tribunal without any disclosure being directly or indirectly made contrary to the public interest.
- (5) If under the rules of procedure leave to appeal to the Tribunal is required in cases where an adjudicator dismisses an appeal under section 13 above, then the authority having power to grant leave to appeal shall grant it—
  - (a) in any case where the appeal was against a decision that the appellant required leave to enter the United Kingdom, and the authority is satisfied that at the time of the decision he held a certificate of patriality; and
  - (b) in any case where the appeal was against a refusal of leave to enter, and the authority is satisfied that at the time of the refusal the appellant held

an entry clearance and that the dismissal of the appeal was not required by section 13(4).

- (6) A person who is required under or in accordance with rules of procedure to attend and give evidence or produce documents before an adjudicator or the Tribunal, and fails without reasonable excuse to comply with the requirement, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (7) The power to make rules of procedure shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **23 Financial support for organisations helping persons with rights of appeal**

The Secretary of State may with the consent of the Treasury make grants to any voluntary organisation which provides advice or assistance for, or other services for the welfare of, persons who have rights of appeal under this Part of this Act.

## **PART III**

### **CRIMINAL PROCEEDINGS**

### **24 Illegal entry and similar offences**

- (1) A person who is not patrial shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases:—
  - (a) if contrary to this Act he knowingly enters the United Kingdom in breach of a deportation order or without leave;
  - (b) if, having only a limited leave to enter or remain in the United Kingdom, he knowingly either—
    - (i) remains beyond the time limited by the leave; or
    - (ii) fails to observe a condition of the leave ;
  - (c) if, having lawfully entered the United Kingdom without leave by virtue of section 8(1) above, he remains without leave beyond the time allowed by section 8(1);
  - (d) if, without reasonable excuse, he fails to comply with any requirement imposed on him under Schedule 2 to this Act to report to a medical officer of health, or to attend, or submit to a test or examination, as required by such an officer;
  - (e) if, without reasonable excuse, he fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence or as to reporting to the police or to an immigration officer;
  - (f) if he disembarks in the United Kingdom from a ship or aircraft after being placed on board under Schedule 2 or 3 to this Act with a view to his removal from the United Kingdom;
  - (g) if he embarks in contravention of a restriction imposed by or under an Order in Council under section 3(7) of this Act.

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- (2) A constable or immigration officer may arrest without warrant anyone who has, or whom he, with reasonable cause, suspects to have, committed or attempted to commit an offence under this section other than an offence under subsection (1)(d) above.
- (3) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(a), (b)(i) and (c) above.
- (4) In proceedings for an offence against subsection (1)(a) above of entering the United Kingdom without leave,—
  - (a) any stamp purporting to have been imprinted on a passport or other travel document by an immigration officer on a particular date for the purpose of giving leave shall be presumed to have been duly so imprinted, unless the contrary is proved ;
  - (b) proof that a person had leave to enter the United Kingdom shall lie on the defence if, but only if, he is shown to have entered within six months before the date when the proceedings were commenced.

## **25 Assisting illegal entry, and harbouring**

- (1) Any person knowingly concerned in making or carrying out arrangements for securing or facilitating the entry into the United Kingdom of anyone whom he knows or has reasonable cause for believing to be an illegal entrant shall be guilty of an offence, punishable on summary conviction with a fine of not more than £400 or with imprisonment for not more than six months, or with both, or on conviction on indictment with a fine or with imprisonment for not more than seven years, or with both.
- (2) Without prejudice to subsection (1) above a person knowingly harbouring anyone whom he knows or has reasonable cause for believing to be either an illegal entrant or a person who has committed an offence under section 24(1)(b) or (c) above, shall be guilty of an offence, punishable on summary conviction with a fine of not more than £400 or with imprisonment for not more than six months, or with both.
- (3) A constable or immigration officer may arrest without warrant anyone who has, or whom he, with reasonable cause, suspects to have, committed an offence under subsection (1) above.
- (4) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under this section.
- (5) Subsection (1) above shall apply to things done outside as well as to things done in the United Kingdom where they are done—
  - (a) by a citizen of the United Kingdom and Colonies;
  - (b) by a British subject by virtue of section 2 of the British Nationality Act 1948 (continuance of certain subjects of the Republic of Ireland as British subjects);
  - (c) by a British subject without citizenship by virtue of section 13 or 16 of that Act (which relate respectively to British subjects whose citizenship had not been ascertained at the commencement of that Act and to persons who had ceased to be British on loss of British nationality by a parent);
  - (d) by a British subject by virtue of the British Nationality Act 1965 ; or
  - (e) by a British protected person (within the meaning of the British Nationality Act 1948).

- (6) Where a person convicted on indictment of an offence under subsection (1) above is at the time of the offence—
- (a) the owner or one of the owners of a ship, aircraft or vehicle used or intended to be used in carrying out the arrangements in respect of which the offence is committed ; or
  - (b) a director or manager of a company which is the owner or one of the owners of any such ship, aircraft or vehicle; or
  - (c) captain of any such ship or aircraft;

then subject to subsections (7) and (8) below the court before which he is convicted may order the forfeiture of the ship, aircraft or vehicle.

In this subsection (but not in subsection (7) below) " owner " in relation to a ship, aircraft or vehicle which is the subject of a hire-purchase agreement, includes the person in possession of it under that agreement and, in relation to a ship or aircraft, includes a charterer.

- (7) A court shall not order a ship or aircraft to be forfeited under subsection (6) above on a person's conviction, unless—
- (a) in the case of a ship, it is of less than 500 tons gross tonnage or, in the case of an aircraft (not being a hovercraft), it is of less than 5,700 kilogrammes operating weight; or
  - (b) the person convicted is at the time of the offence the owner or one of the owners, or a director or manager of a company which is the owner or one of the owners, of the ship or aircraft; or
  - (c) the ship or aircraft, under the arrangements in respect of which the offence is committed, has been used for bringing more than 20 persons at one time to the United Kingdom as illegal entrants, and the intention to use the ship or aircraft in bringing persons to the United Kingdom as illegal entrants was known to, or could by the exercise of reasonable diligence, have been discovered by, some person on whose conviction the ship or aircraft would have been liable to forfeiture in accordance with paragraph (b) above.

In this subsection " operating weight " means in relation to an aircraft the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world, in the most favourable circumstances, in accordance with the certificate of airworthiness in force in respect of the aircraft.

- (8) A court shall not order a ship, aircraft or vehicle to be forfeited under subsection (6) above, where a person claiming to be the owner of the ship, aircraft or vehicle or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

## **26 General offences in connection with administration of Act**

- (1) A person shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases—
- (a) if, without reasonable excuse, he refuses or fails to submit to examination under Schedule 2 to this Act;
  - (b) if, without reasonable excuse, he refuses or fails to furnish or produce any information in his possession, or any documents in his possession or control,

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which he is on an examination under that Schedule required to furnish or produce;

- (c) if on any such examination or otherwise he makes or causes to be made to an immigration officer or other person lawfully acting in the execution of this Act a return, statement or representation which he knows to be false or does not believe to be true;
  - (d) if, without lawful authority, he alters any certificate of patriality, entry clearance, work permit or other document issued or made under or for the purposes of this Act, or uses for the purposes of this Act, or has in his possession for such use, any passport, certificate of patriality, entry clearance, work permit or other document which he knows or has reasonable cause to believe to be false ;
  - (e) if, without reasonable excuse, he fails to complete and produce a landing or embarkation card in accordance with any order under Schedule 2 to this Act;
  - (f) if, without reasonable excuse, he fails to comply with any requirement of regulations under section 4(3) or of an order under section 4(4) above ;
  - (g) if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this Act.
- (2) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(c) and (d) above.

## **27 Offences by persons connected with ships or aircraft or with ports**

A person shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases—

- (a) if, being the captain of a ship or aircraft,—
  - (i) he knowingly permits a person to disembark in the United Kingdom when required under Schedule 2 or 3 to this Act to prevent it, or fails without reasonable excuse to take any steps he is required by or under Schedule 2 to take in connection with the disembarkation or examination of passengers or for furnishing a passenger list or particulars of members of the crew; or
  - (ii) he fails, without reasonable excuse, to comply with any directions given him under Schedule 2 or 3 with respect to the removal of a person from the United Kingdom;
- (b) if, as owner or agent of a ship or aircraft,—
  - (i) he arranges, or is knowingly concerned in any arrangements, for the ship or aircraft to call at a port other than a port of entry contrary to any provision of Schedule 2 to this Act; or
  - (ii) he fails, without reasonable excuse, to take any steps required by an order under Schedule 2 for the supply to passengers of landing or embarkation cards; or
  - (iii) he fails, without reasonable excuse, to make arrangements for the removal of a person from the United Kingdom when required to do so by directions given under Schedule 2 or 3 to this Act;
- (c) if, as owner or agent of a ship or aircraft or as a person concerned in the management of a port, he fails, without reasonable excuse, to take any steps required by Schedule 2 in relation to the embarkation or disembarkation of passengers where a control area is designated.

## **28 Proceedings**

- (1) Where the offence is one to which, under section 24, 25 or 26 above, an extended time limit for prosecutions is to apply, then—
  - (a) an information relating to the offence may in England and Wales be tried by a magistrates' court if it is laid within six months after the commission of the offence, or if it is laid within three years after the commission of the offence and not more than two months after the date certified by a chief officer of police to be the date on which evidence sufficient to justify proceedings came, to the notice of an officer of his police force; and
  - (b) summary proceedings for the offence may in Scotland be commenced within six months after the commission of the offence, or within three years after the commission of the offence and not more than two months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings came to his knowledge; and
  - (c) a complaint charging the commission of the offence may in Northern Ireland be heard and determined by a magistrates' court if it is made within six months after the commission of the offence, or if it is made within three years after the commission of the offence and not more than two months after the date certified by an officer of police not below the rank of assistant chief constable to be the date on which evidence sufficient to justify the proceedings came to the notice of the police in Northern Ireland.
- (2) For purposes of subsection (1)(b) above proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay; and a certificate of the Lord Advocate as to the date on which such evidence as is mentioned in subsection (1)(b) came to his knowledge shall be conclusive evidence.
- (3) For the purposes of the trial of a person for an offence under this Part of this Act, the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which he may be.
- (4) Any powers exercisable under this Act in the case of any person may be exercised notwithstanding that proceedings for an offence under this Part of this Act have been taken against him.

## **PART IV**

### **SUPPLEMENTARY**

## **29 Contributions for expenses of persons returning abroad**

- (1) The Secretary of State may, in such cases as he may with the approval of the Treasury determine, make payments of such amount as may be so determined to meet or provide for expenses of persons who are not patrial in leaving the United Kingdom for a country or territory where they intend to reside permanently, including travelling expenses for members of their families or households.
- (2) The Secretary of State shall, so far as practicable, administer this section so as to secure that a person's expenses in leaving the United Kingdom are not met by or out of a payment made by the Secretary of State unless it is shown that it is in that person's interest to leave the United Kingdom and that he wishes to do so.

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### **30 Return of mental patients**

- (1) In the following enactments (which provide in relation to England, Wales and Northern Ireland and in relation to Scotland, respectively, for aliens receiving treatment for mental illness as in-patients to be removed, where proper arrangements have been made, to a country or territory outside the United Kingdom and Islands), that is to say,—
- (a) section 90 of the Mental Health Act 1959 ; and
  - (b) section 82 of the Mental Health (Scotland) Act 1960;
- there shall in each case be substituted for the words " any patient being an alien " the words "any patient who is not patrial within the meaning of the Immigration Act 1971 and ".
- (2) Under section 90 of the Mental Health Act 1959 (as under section 82 of the Mental Health (Scotland) Act 1960) the Secretary of State shall only authorise the removal of a patient if it appears to him to be in the interests of the patient; and accordingly in section 90 after the words " and for his care or treatment there " there shall be inserted the words " and that it is in the interests of the patient to remove him ".

### **31 Expenses**

There shall be defrayed out of moneys provided by Parliament any expenses incurred by a Secretary of State under or by virtue of this Act—

- (a) by way of administrative expenses (including any additional expenses under the British Nationality Acts 1948 to 1965 which are attributable to Schedule 1 to this Act); or
- (b) in connection with the removal of any person from the United Kingdom under Schedule 2 or 3 to this Act or the departure with him of his dependants, or his or their maintenance pending departure ; or
- (c) on account of the remuneration, allowances and other sums payable to or in respect of the adjudicators and members of the Immigration Appeal Tribunal, or of the remuneration of the officers and servants appointed for the adjudicators or Tribunal, or of the expenses of the adjudicators or Tribunal; or
- (d) on the making of any grants or payments under section 23 or 29 above.

### **32 General provisions as to Orders in Council, etc.**

- (1) Any power conferred by Part I of this Act to make, an Order in Council or order (other than a deportation order) or to give any directions includes power to revoke or vary the Order in Council, order or directions.
- (2) Any document purporting to be an order, notice or direction made or given by the Secretary of State for the purposes of this Act and to be signed by him or on his behalf, and any document purporting to be a certificate of the Secretary of State so given and to be signed by him, shall be received in evidence, and shall, until the contrary is proved, be deemed to be made or issued by him.
- (3) Prima facie evidence of any such order, notice, direction or certificate as aforesaid may, in any legal proceedings or proceedings under Part II of this Act, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the order, notice, direction or certificate.



- (4) Where an order under section 8(2) above applies to persons specified in a schedule to the order, or any directions of the Secretary of State given for the purposes of this Act apply to persons specified in a schedule to the directions, prima facie evidence of the provisions of the order or directions other than the schedule and of any entry contained in the schedule may, in any legal proceedings or proceedings under Part II of this Act, be given by the production of a document purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the said provisions and of the relevant entry.

### **33 Interpretation**

- (1) For purposes of this Act, except in so far as the context otherwise requires—
- " aircraft " includes hovercraft, " airport " includes hover-port and " port" includes airport;
  - " captain " means master (of a ship) or commander (of an aircraft);
  - " certificate of patriality " means such a certificate as is referred to in section 3(9) above;
  - " crew ", in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the captain, and " member of the crew " shall be construed accordingly ;
  - " entrant " means a person entering or seeking to enter the United Kingdom, and " illegal entrant" means a person unlawfully entering or seeking to enter in breach of a deportation order or of the immigration laws, and includes also a person who has so entered;
  - " entry clearance " means a visa, entry certificate or other document which, in accordance with the immigration rules, is to be taken as evidence of a person's eligibility, though not patrial, for entry into the United Kingdom (but does not include a work permit);
  - " immigration laws " means this Act and any law for purposes similar to this Act which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands;
  - " immigration rules " means the rules for the time being laid down as mentioned in section 3(2) above ;
  - " the Islands " means the Channel Islands and the Isle of Man, and " the United Kingdom and Islands" means the United Kingdom and the Islands taken together;
  - " legally adopted " means adopted in pursuance of an order made by any court in the United Kingdom and Islands or by any adoption specified as an overseas adoption by order of the Secretary of State under section 4 of the Adoption Act 1968 ;
  - " limited leave " and " indefinite leave " mean respectively leave under this Act to enter or remain in the United Kingdom which is, and one which is not, limited as to duration;
  - " settled " shall be construed in accordance with section 2(3)(d) above but, where used in relation to the United Kingdom only, as if any reference in section 2(3)(d) or in section 8(5) to the Islands were omitted ;
  - " ship " includes every description of vessel used in navigation ;
  - " work permit " means a permit indicating, in accordance with the immigration rules, that a person named in it is eligible, though not patrial, for entry into the United Kingdom for the purpose of taking employment.

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- (2) It is hereby declared that, except as otherwise provided in this Act, a person is not to be treated for the purposes of any provision of this Act as ordinarily resident in the United Kingdom or in any of the Islands at a time when he is there in breach of the immigration laws.
- (3) The ports of entry for purposes of this Act, and the ports of exit for purposes of any Order in Council under section 3(7) above, shall be such ports as may from time to time be designated for the purpose by order of the Secretary of State made by statutory instrument.
- (4) For purposes of this Act an appeal under Part II shall, subject to any express provision to the contrary, be treated as pending during the period beginning when notice of appeal is duly given and ending when the appeal is finally determined or withdrawn; and in the case of an appeal to an adjudicator, the appeal shall not be treated as finally determined so long as a further appeal can be brought by virtue of section 20 nor, if such an appeal is duly brought, until it is determined or withdrawn.
- (5) This Act shall not be taken to supersede or impair any power exercisable by Her Majesty in relation to aliens by virtue of Her prerogative.

### **34 Repeal, transitional and temporary**

- (1) Subject to the following provisions of this section, the enactments mentioned in Schedule 6 to this Act are hereby repealed, as from the coming into force of this Act, to the extent mentioned in column 3 of the Schedule ; and—
  - (a) this Act, as from its coming into force, shall apply in relation to entrants or others arriving in the United Kingdom at whatever date before or after it comes into force; and
  - (b) after this Act comes into force anything done under or for the purposes of the former immigration laws shall have effect, in so far as any corresponding action could be taken under or for the purposes of this Act, as if done by way of action so taken, and in relation to anything so done this Act shall apply accordingly.
- (2) Without prejudice to the generality of subsection (1)(a) and (b) above, a person refused leave to land by virtue of the Aliens Restriction Act 1914 shall be treated as having been refused leave to enter under this Act, and a person given leave to land by virtue of that Act shall be treated as having been given leave to enter under this Act; and similarly with the Commonwealth Immigrants Acts 1962 and 1968.
- (3) A person treated in accordance with subsection (2) above as having leave to enter the United Kingdom—
  - (a) shall be treated as having an indefinite leave, if he is not at the coming into force of this Act subject to a condition limiting his stay in the United Kingdom; and
  - (b) shall be treated, if he is then subject to such a condition, as having a limited leave of such duration, and subject to such conditions (capable of being attached to leave under this Act), as correspond to the conditions to which he is then subject, but not to conditions not capable of being so attached.

This subsection shall have effect in relation to any restriction or requirement imposed by Order in Council under the Aliens Restriction Act 1914 as if it had been imposed by way of a landing condition.

- (4) Notwithstanding anything in the foregoing provisions of this Act, the former immigration laws shall continue to apply, and this Act shall not apply,—
- (a) in relation to the making of deportation orders and matters connected therewith in any case where a decision to make the order has been notified to the person concerned before the coming into force of this Act;
  - (b) in relation to removal from the United Kingdom and matters connected therewith (including detention pending removal or pending the giving of directions for removal) in any case where a person is to be removed in pursuance of a decision taken before the coming into force of this Act or in pursuance of a deportation order to the making of which paragraph (a) above applies;
  - (c) in relation to appeals against any decision taken or other thing done under the former immigration laws, whether taken or done before the coming into force of this Act or by virtue of this subsection.
- (5) Subsection (1) above shall not be taken as empowering a court on appeal to recommend for deportation a person whom the court below could not recommend for deportation, or as affecting any right of appeal in respect of a recommendation for deportation made before this Act comes into force, or as enabling a notice given before this Act comes into force and not complying with section 6(2) to take the place of the notice required by section 6(2) to be given before a person is recommended for deportation.
- (6) So long as section 2 of the Southern Rhodesia Act 1965 remains in force, this Act shall have effect subject to such provision as may (before or after this Act comes into force) be made by Order in Council under and for the purposes of that section.

### **35 Commencement, and interim provisions**

- (1) Except as otherwise provided by this Act, Parts I to III of this Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and references to the coming into force of this Act shall be construed as references to the beginning of the day so appointed.
- (2) Section 25 above, except section 25(2), and section 28 in its application to offences under section 25(1) shall come into force at the end of one month beginning with the date this Act is passed.
- (3) The provisions of section 28(1) and (2) above shall have effect, as from the passing of this Act, in relation to offences under section 4A (unauthorised landing) of the Commonwealth Immigrants Act 1962 as amended by the Commonwealth Immigrants Act 1968, other than offences committed six months or more before the passing of this Act, as those provisions are expressed to have effect in relation to offences to which the extended time limit for prosecutions is to apply under sections 24, 25 and 26 above ; but where proceedings for an offence under section 4A of the Commonwealth Immigrants Act 1962 would have been out of time but for this subsection, section 4A(4) (under which, in certain cases, a person not producing a passport duly stamped by an immigration officer is presumed for purposes of that section to have landed in contravention of it, unless the contrary is proved) shall not apply.
- (4) Section 1(2A)(d) of the Commonwealth Immigrants Act 1962 (which was inserted by section 1 of the Commonwealth Immigrants Act 1968, and excludes from the control

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on immigration under those Acts, among other persons, certain persons registered in the United Kingdom or in an independent country of the Commonwealth as citizens of the United Kingdom and Colonies) shall not apply—

- (a) to a woman registered after the passing of this Act under or by virtue of section 6(2) (wives) of the British Nationality Act 1948, unless so registered either—
    - (i) by virtue of her marriage to a citizen of the United Kingdom and Colonies before the passing of this Act; or
    - (ii) by virtue of her marriage to such a citizen who at the time of her registration or at his death before that time was excluded from the control on immigration under the Commonwealth Immigrants Acts 1962 and 1968 by section 1(2) of the 1962 Act; nor
  - (b) to anyone registered after the passing of this Act under or by virtue of section 7 (children) of the British Nationality Act 1948, unless so registered in the United Kingdom.
- (5) So much of section 1 of the Aliens Restriction (Amendment) Act 1919 as limits the duration of that section, and section 5 of the Commonwealth Immigrants Act 1962 in so far as it limits the duration of Part I of that Act, shall cease to have effect on the passing of this Act.

### **36 Power to extend to Islands**

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the Islands ; and any Order in Council under this subsection may be varied or revoked by a further Order in Council.

### **37 Short title and extent**

- (1) This Act may be cited as the Immigration Act 1971.
- (2) It is hereby declared that this Act extends to Northern Ireland, and (without prejudice to any provision of Schedule 1 to this Act as to the extent of that Schedule) where an enactment repealed by this Act extends outside the United Kingdom, the repeal shall be of like extent.

## SCHEDULES

### SCHEDULE 1

Section 2.

#### REGISTRATION AS CITIZEN BY REASON OF RESIDENCE, CROWN SERVICE ETC.

- 1 The law with respect to registration as a citizen of the United Kingdom and Colonies shall be modified as follows:—
  - (a) in the British Nationality Act 1948, immediately before section 6, there shall be inserted as section 5A the provisions set out in Appendix A to this Schedule, and no person shall be entitled to be registered under or by virtue of section 6(1) of that Act except in the transitional cases allowed for by paragraph 2 below ; and
  - (b) in section 8 of the British Nationality Act 1948 (registration outside United Kingdom)—
    - (i) after the words " foregoing sections " there shall be inserted in subsection (1) the words " or, subject to subsection (1A) of this section, under section 5A " and in subsection (2) the words " or under section 5A of this Act" ; and
    - (ii) there shall be omitted in subsection (1) the words from " and as if " onwards (except for purposes of registration by virtue of paragraph 2 below), and there shall be inserted as subsections (1A) and (1B) the provisions set out in Appendix B to this Schedule ; and
  - (c) for section 9 of the British Nationality Act 1948 there shall be substituted the provisions set out in Appendix C to this Schedule (which insert in the section a reference to the new section 5A and add a requirement for the taking in certain cases of an oath of allegiance).
- 2 Notwithstanding anything in paragraph 1 above or any repeal made by this Act (but subject to paragraph 3 below), a person who would but for this Act have been entitled under or by virtue of section 6(1) of the British Nationality Act 1948 to be registered as a citizen of the United Kingdom and Colonies shall be entitled to be so registered in the United Kingdom if he satisfies the Secretary of State that at the date of his application to be registered he had throughout the last five years or, if it is more than five years, throughout the period since the coming into force of this Act been ordinarily resident in the United Kingdom without being subject, by virtue of any law relating to immigration, to any restriction on the period for which he might remain.
- 3
  - (1) A person in respect of whom a recommendation for deportation is at the date of his application in force shall not be entitled to be registered as a citizen of the United Kingdom and Colonies by virtue of paragraph 2 above.
  - (2) Where, in accordance with any regulations relating to appeals, a person, when he applies to be so registered by virtue of paragraph 2 above, has been given notice of a decision to make a deportation order in respect of him, he shall not be entitled to be so registered by virtue of that paragraph, unless before the date of his application an appeal by him against that decision has been finally determined in his favour or the Secretary of State has notified him that the order will not be made.

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- (3) References in this paragraph to recommendations for deportation, deportation orders and other matters shall include any such recommendation, order or matter under the enactments repealed by this Act; and accordingly this paragraph shall apply for purposes of paragraph 2 above in place of the corresponding provision made by section 12(1) of the Commonwealth Immigrants Act 1962 and section 18 of the Immigration Appeals Act 1969.
- 4 (1) Paragraph 2 above shall apply in relation to a colony or protectorate with the substitution for references to the United Kingdom and to the Secretary of State of references to that colony or protectorate and to the Governor; and in relation to a colony or protectorate paragraph 3 (1) and (2) shall have effect (with any necessary adaptations) with reference to deportation from the colony or protectorate.
- (2) In this paragraph "colony", "protectorate" and "Governor" have the same meanings as they have for purposes of the British Nationality Act 1948, except that "colony" does not include an associated state.
- 5 (1) It is hereby declared that this Schedule extends to each of the associated states ; and in the application of paragraphs 2 and 3 to an associated state—
- (a) in paragraph 2 references to the associated state shall be substituted for references to the United Kingdom; and
- (b) paragraph 3(1) and (2) shall have effect (with any necessary adaptations) with reference to deportation from the associated state.
- (2) In paragraph 4 of Schedule 3 to the West Indies Act 1967 (which provides for a person other than the Secretary of State to be given in relation to an associated state certain functions of the Secretary of State, including those under sections of the British Nationality Act 1948 listed in paragraph 4(3)(a)) there shall be inserted at the beginning of sub-paragraph (3)(a) the words " section 5A except as regards registration under section 5A(1) and " : and where by virtue of that paragraph the functions of the Secretary of State under section 6(1) of the British Nationality Act 1948 are exercisable by another person the reference in paragraph 2 above to the Secretary of State shall have effect as a reference to that person.

## APPENDIX A TO SCHEDULE 1

### PROVISIONS TO HAVE EFFECT AS SECTION 5A OF BRITISH NATIONALITY ACT 1948

- 5A (1) Subject to the provisions of subsections (5) and (6) below, a citizen of any country mentioned in section 1(3) of this Act, being a person of full age and capacity, shall be entitled, on making application therefor to the Secretary of State in the prescribed manner, to be registered as a citizen of the United Kingdom and Colonies if he satisfies the Secretary of State that—
- (a) he is patrial within the meaning of the Immigration Act 1971 by virtue of section 2(1)(d) of that Act or of the reference thereto in section 2(2); and
- (b) he fulfils the condition in subsection (3) below.
- (2) On an application made to the Secretary of State in the prescribed manner, the Secretary of State may cause to be registered as a citizen of the United Kingdom and Colonies any person of full age and capacity who satisfies the Secretary of State that—
- (a) he is a citizen of a country mentioned in section 1(3) of this Act or of Eire ; and

- (b) he fulfils the condition in subsection (3) below; and
  - (c) he is of good character ; and
  - (d) he has sufficient knowledge of the English or Welsh language ; and
  - (e) he intends in the event of his being registered to reside in the United Kingdom or a colony or protectorate or to enter into or continue in relevant employment.
- (3) The condition that a person is required by subsection (1)(b) or (2)(b) above to fulfil is that throughout the period of five years ending with the date of his application to be registered, or such shorter period so ending as the Secretary of State may in the special circumstances of any particular case accept, he has been ordinarily resident in the United Kingdom, or engaged in relevant employment, or partly the one and partly the other.
- (4) For purposes of this section " relevant employment " means—
- (a) Crown service under Her Majesty's Government in the United Kingdom ; or
  - (b) service under an international organisation of which Her Majesty's Government in the United Kingdom is a member ; or
  - (c) service in the employment of a society, company or body of persons established in the United Kingdom ;
- and in subsection (2)(e) includes service in the employment of a society, company or body of persons established either in the United Kingdom or in a colony or protectorate.
- (5) A person shall not be registered under this section wholly or partly by reason of service within subsection (4)(b) or (c) above unless it seems to the Secretary of State fitting that he should be so registered by reason of his close connection with the United Kingdom or, if he is applying for registration under subsection (2), his close connection with the United Kingdom and Colonies.
- (6) A person who has renounced citizenship of the United Kingdom and Colonies under this Act shall not be entitled to be registered as a citizen thereof under subsection (1) above, but may be so registered with the approval of the Secretary of State.
- (7) Where a person is a British subject without citizenship by virtue of section 13 or 16 of this Act or (being a woman) is a British subject by virtue of section 1 of the British Nationality Act 1965 by virtue of her having satisfied the Secretary of State that she has been married to a man who was, or but for his death would have been, a British subject as aforesaid, this section shall apply to that person as it applies to a citizen of a country mentioned in section 1(3) of this Act.

## APPENDIX B TO SCHEDULE 1

### PROVISIONS TO HAVE EFFECT AS SECTION 8(1A) AND (1B) OF BRITISH NATIONALITY ACT 1948

- (1A) Except in the Channel Islands and the Isle of Man, subsection (1) above shall not apply to the functions of the Secretary of State as regards registration under section 5A(1) of this Act; and in its application to any of those islands that section shall have effect as if a reference to that island were substituted in section 5A(5) for the first reference to the United Kingdom.

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- (1B) Subject to subsection (1A) above, section 5A of this Act shall in its application to any colony or protectorate, have effect as if for the references in subsection (3) and in subsection (4)(c) to the United Kingdom there were substituted references to that colony or protectorate, and as if for the reference to the English or Welsh language in subsection (2)(d) there were substituted a reference to the English language or any other language in current use in that colony or protectorate.

### APPENDIX C TO SCHEDULE 1

#### PROVISIONS TO HAVE EFFECT AS SECTION 9 OF BRITISH NATIONALITY ACT 1948

- 9 (1) A person registered under any of the three last foregoing sections or under section 5A of this Act shall, on taking an oath of allegiance in accordance with subsection (2) below if so required by that subsection, be a citizen of the United Kingdom and Colonies by registration as from the date on which he is registered.
- (2) A person of full age and capacity shall on registration as mentioned in subsection (1) above, if not already a citizen of a country of which Her Majesty is Queen nor a British subject by virtue of section 1 of the British Nationality Act 1965, take an oath of allegiance in the form specified in the First Schedule to this Act.

### SCHEDULE 2

Section 4.

#### ADMINISTRATIVE PROVISIONS AS TO CONTROL ON ENTRY ETC.

### PART I

#### GENERAL PROVISIONS

##### *Immigration officers and medical inspectors*

- 1 (1) Immigration officers for the purposes of this Act shall be appointed by the Secretary of State, and he may arrange with the Commissioners of Customs and Excise for the employment of officers of customs and excise as immigration officers under this Act.
- (2) Medical inspectors for the purposes of this Act may be appointed by the Secretary of State or, in Northern Ireland, by the Minister of Health and Social Services or other appropriate Minister of the Government of Northern Ireland in pursuance of arrangements made between that Minister and the Secretary of State, and shall be fully qualified medical practitioners.
- (3) In the exercise of their functions under this Act immigration officers shall act in accordance with such instructions (not inconsistent with the immigration rules) as may be given them by the Secretary of State, and medical inspectors shall act in accordance with such instructions as may be given them by the Secretary of State or, in Northern Ireland, as may be given in pursuance of the arrangements mentioned in sub-paragraph (2) above by the Minister making appointments of medical inspectors in Northern Ireland.
- (4) An immigration officer or medical inspector may board any ship or aircraft for the purpose of exercising his functions under this Act.



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- (5) An immigration officer, for the purpose of satisfying himself whether there are persons he may wish to examine under paragraph 2 below, may search any ship or aircraft and anything on board it, or any vehicle taken off a ship or aircraft on which it has been brought to the United Kingdom.

*Examination by immigration officers, and medical examination*

- 2 (1) An immigration officer may examine any persons who have arrived in the United Kingdom by ship or aircraft (including transit passengers, members of the crew and others not seeking to enter the United Kingdom) for the purpose of determining—
- (a) whether any of them is or is not patrial; and
  - (b) whether, if he is not, he may or may not enter the United Kingdom without leave ; and
  - (c) whether, if he may not, he should be given leave and for what period and on what conditions (if any), or should be refused leave.
- (2) Any such person, if he is seeking to enter the United Kingdom, may be examined also by a medical inspector or by any qualified person carrying out a test or examination required by a medical inspector.
- (3) A person, on being examined under this paragraph by an immigration officer or medical inspector, may be required in writing by him to submit to further examination; but a requirement under this sub-paragraph shall not prevent a person who arrives as a transit passenger, or as a member of the crew of a ship or aircraft, or for the purpose of joining a ship or aircraft as a member of the crew, from leaving by his intended ship or aircraft.
- 3 (1) An immigration officer may examine any person who is embarking or seeking to embark in the United Kingdom for the purpose of determining whether he is patrial and, if he is not, for the purpose of establishing his identity.
- (2) So long as any Order in Council is in force under section 3(7) of this Act, an immigration officer may examine any person who is embarking or seeking to embark in the United Kingdom for the purpose of determining—
- (a) whether any of the provisions of the Order apply to him ; and
  - (b) whether, if so, any power conferred by the Order should be exercised in relation to him and in what way.

*Information and documents*

- 4 (1) It shall be the duty of any person examined under paragraph 2 or 3 above to furnish to the person carrying out the examination all such information in his possession as that person may require for the purpose of his functions under that paragraph.
- (2) A person on his examination under paragraph 2 or 3 above by an immigration officer shall, if so required by the immigration officer—
- (a) produce either a valid passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship ; and
  - (b) declare whether or not he is carrying or conveying documents of any relevant description specified by the immigration officer, and produce any documents of that description which he is carrying or conveying.

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In paragraph (b), " relevant description" means any description appearing to the immigration officer to be relevant for the purposes of the examination.

- (3) Where under sub-paragraph (2)(b) above a person has been required to declare whether or not he is carrying or conveying documents of any description, he and any baggage belonging to him or under his control may be searched with a view to ascertaining whether he is doing so by the immigration officer or a person acting under the directions of the officer :

Provided that no woman or girl shall be searched except by a woman.

- (4) An immigration officer may examine any documents produced pursuant to sub-paragraph (2)(b) above or found on a search under sub-paragraph (3), and may for that purpose detain them for any period not exceeding seven days ; and if on examination of any document so produced or found the immigration officer is of the opinion that it may be needed in connection with proceedings on an appeal under this Act or for an offence, he may detain it until he is satisfied that it will not be so needed.

- 5       The Secretary of State may by order made by statutory instrument make provision for requiring passengers disembarking or embarking in the United Kingdom, or any class of such passengers, to produce to an immigration officer, if so required, landing or embarkation cards in such form as the Secretary of State may direct, and for requiring the owners or agents of ships and aircraft to supply such cards to those passengers.

*Notice of leave to enter or of refusal of leave*

- 6       (1) Subject to sub-paragraph (3) below, where a person examined by an immigration officer under paragraph 2 above is to be given a limited leave to enter the United Kingdom or is to be refused leave, the notice giving or refusing leave shall be given not later than twelve hours after the conclusion of his examination (including any further examination) in pursuance of that paragraph; and if notice giving or refusing leave is not given him before the end of those twelve hours, he shall (if not patial) be deemed to have been given indefinite leave to enter the United Kingdom and the immigration officer shall as soon as may be give him written notice of that leave.
- (2) Where on a person's examination under paragraph 2 above he is given notice of leave to enter the United Kingdom, then at any time before the end of twelve hours from the conclusion of the examination he may be given a further notice in writing by an immigration officer cancelling the earlier notice and refusing him leave to enter.
- (3) Where in accordance with this paragraph a person is given notice refusing him leave to enter the United Kingdom, that notice may at any time be cancelled by notice in writing given him by an immigration officer; and where a person is given a notice of cancellation under this sub-paragraph, the immigration officer may at the same time give him a limited leave to enter, but in the absence of a notice giving a limited leave the notice of cancellation shall be deemed to be a notice giving him indefinite leave to enter.
- (4) Where an entrant is a member of a party in charge of a person appearing to the immigration officer to be a responsible person, any notice to be given in relation to that entrant in accordance with this paragraph shall be duly given if delivered to the person in charge of the party.

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*Power to require medical examination after entry*

- 7 If, on a person's examination by an immigration officer under paragraph 2 above, the immigration officer—
- (a) determines that he may be given leave to enter the United Kingdom; but
  - (b) is of opinion, on the advice of a medical inspector or, where no medical inspector is available, on that of any other fully qualified medical practitioner, that a further medical test or examination may be required in the interests of public health;
- then the immigration officer, on giving that person leave to enter the United Kingdom, may by notice in writing require him to report his arrival to such medical officer of health as may be specified in the notice and thereafter to attend at such place and time, and submit to such test or examination (if any), as that medical officer of health may require.

*Removal of persons refused leave to enter and illegal entrants*

- 8 (1) Where a person arriving in the United Kingdom is refused leave to enter, an immigration officer may, subject to sub-paragraph (2) below—
- (a) give the captain of the ship or aircraft in which he arrives directions requiring the captain to remove him from the United Kingdom in that ship or aircraft; or
  - (b) give the owners or agents of that ship or aircraft directions requiring them to remove him from the United Kingdom in any ship or aircraft specified or indicated in the directions, being a ship or aircraft of which they are the owners or agents ; or
  - (c) give those owners or agents directions requiring them to make arrangements for his removal from the United Kingdom in any ship or aircraft specified or indicated in the directions to a country or territory so specified, being either—
    - (i) a country of which he is a national or citizen ; or
    - (ii) a country or territory in which he has obtained a passport or other document of identity ; or
    - (iii) a country or territory in which he embarked for the United Kingdom ; or
    - (iv) a country or territory to which there is reason to believe that he will be admitted.
- (2) No directions shall be given under this paragraph in respect of anyone after the expiration of two months beginning with the date on which he was refused leave to enter the United Kingdom.
- 9 Where an illegal entrant is not given leave to enter or remain in the United Kingdom, an immigration officer may give any such directions in respect of him as in a case within paragraph 8 above are authorised by paragraph 8(1).
- 10 (1) Where it appears to the Secretary of State either—
- (a) that directions might be given in respect of a person under paragraph 8 or 9 above, but that it is not practicable for them to be given or that, if given, they would be ineffective ; or
  - (b) that directions might have been given in respect of a person under paragraph 8 above but that the time limited by paragraph 8(2) has passed ;

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then the Secretary of State may give to the owners or agents of any ship or aircraft any such directions in respect of that person as are authorised by paragraph 8(1)(c).

- (2) Where the Secretary of State may give directions for a person's removal in accordance with sub-paragraph (1) above, he may instead give directions for his removal in accordance with arrangements to be made by the Secretary of State to any country or territory to which he could be removed under sub-paragraph (1).
- (3) The costs of complying with any directions given under this paragraph shall be defrayed by the Secretary of State.
- 11      A person in respect of whom directions are given under any of paragraphs 8 to 10 above may be placed, under the authority of an immigration officer, on board any ship or aircraft in which he is to be removed in accordance with the directions.

*Seamen and aircrews*

- 12      (1) If, on a person's examination by an immigration officer under paragraph 2 above, the immigration officer is satisfied that he has come to the United Kingdom for the purpose of joining a ship or aircraft as a member of the crew, then the immigration officer may limit the duration of any leave he gives that person to enter the United Kingdom by requiring him to leave the United Kingdom in a ship or aircraft specified or indicated by the notice giving leave.
- (2) Where a person (not being patrial) arrives in the United Kingdom for the purpose of joining a ship or aircraft as a member of the crew and, having been given leave to enter as mentioned in sub-paragraph (1) above, remains beyond the time limited by that leave, or is reasonably suspected by an immigration officer of intending to do so, an immigration officer may—
- (a) give the captain of that ship or aircraft directions requiring the captain to remove him from the United Kingdom in that ship or aircraft; or
  - (b) give the owners or agents of that ship or aircraft directions requiring them to remove him from the United Kingdom in any ship or aircraft specified or indicated in the directions, being a ship or aircraft of which they are 'the owners or agents ; or
  - (c) give those owners or agents directions requiring them to make arrangements for his removal from the United Kingdom in any ship or aircraft specified or indicated in the directions to a country or territory so specified, being either—
    - (i) a country of which he is a national or citizen ; or
    - (ii) a country or territory in which he has obtained a passport or other document of identity ; or
    - (iii) a country or territory in which he embarked for the United Kingdom ; or
    - (iv) a country or territory where he was engaged as a member of the crew of the ship or aircraft which he arrived in the United Kingdom to join ; or
    - (v) a country or territory to which there is reason to believe that he will be admitted.
- 13      (1) Where a person being a member of the crew of a ship or aircraft is examined by an immigration officer under paragraph 2 above, the immigration officer may limit the duration of any leave he gives that person to enter the United Kingdom—

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- (a) in the manner authorised by paragraph 12 (1) above ; or
  - (b) if that person is to be allowed to enter the United Kingdom in order to receive hospital treatment, by requiring him, on completion of that treatment, to leave the United Kingdom in accordance with arrangements to be made for his repatriation ; or
  - (c) by requiring him to leave the United Kingdom within a specified period in accordance with arrangements to be made for his repatriation.
- (2) Where a person (not being patrial) arrives in the United Kingdom as a member of the crew of a ship or aircraft, and either—
- (A) having lawfully entered the United Kingdom without leave by virtue of section 8(1) of this Act, he remains without leave beyond the time allowed by section 8(1), or is reasonably suspected by an Emigration officer of intending to do so; or
  - (B) having been given leave limited as mentioned in sub-paragraph (1) above, he remains beyond the time limited by that leave, or is reasonably suspected by an immigration officer of intending to do so ;
- an immigration officer may—
- (a) give the captain of the ship or aircraft in which he arrived directions requiring the captain to remove him from the United Kingdom in that ship or aircraft; or
  - (b) give the owners or agents of that ship or aircraft directions requiring them to remove him from the United Kingdom in any ship or aircraft specified or indicated in the directions, being a ship or aircraft of which they are the owners or agents ; or
  - (c) give those owners or agents directions requiring them to make arrangements for his removal from the United Kingdom in any ship or aircraft specified or indicated in the directions to a country or territory so specified, being either—
    - (i) a country of which he is a national or citizen ; or
    - (ii) a country or territory in which he has obtained a passport or other document of identity ; or
    - (iii) a country in which he embarked for the United Kingdom ; or
    - (iv) a country or territory in which he was engaged as a member of the crew of the ship or aircraft in which he arrived in the United Kingdom ; or
    - (v) a country or territory to which there is reason to believe that he will be admitted.
- 14 (1) Where it appears to the Secretary of State that directions might be given in respect of a person under paragraph 12 or 13 above, but that it is not practicable for them to be given or that, if given, they would be ineffective, then the Secretary of State may give to the owners or agents of any ship or aircraft any such directions in respect of that person as are authorised by paragraph 12(2)(c) or 13(2)(c).
- (2) Where the Secretary of State may give directions for a person's removal in accordance with sub-paragraph (1) above, he may instead give directions for his removal in accordance with arrangements to be made by the Secretary of State to any country or territory to which he could be removed under sub-paragraph (1).
- (3) The costs of complying with any directions given under this paragraph shall be defrayed by the Secretary of State.

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- 15 A person in respect of whom directions are given under any of paragraphs 12 to 14 above may be placed, under the authority of an immigration officer, on board any ship or aircraft in which he is to be removed in accordance with the directions.

*Detention of persons liable to examination or removal*

- 16 (1) A person who may be required to submit to examination under paragraph 2 above may be detained under the authority of an immigration officer pending his examination and pending a decision to give or refuse him leave to enter.
- (2) A person in respect of whom directions may be given under any of paragraphs 8 to 14 above may be detained under the authority of an immigration officer pending the giving of directions and pending his removal in pursuance of any directions given.
- (3) A person on board a ship or aircraft may, under the authority of an immigration officer, be removed from the ship or aircraft for detention under this paragraph ; but if an immigration officer so requires the captain of a ship or aircraft shall prevent from disembarking in the United Kingdom any person who has arrived in the United Kingdom in the ship or aircraft and been refused leave to enter, and the captain may for that purpose detain him in custody on board the ship or aircraft.
- (4) The captain of a ship or aircraft, if so required by an immigration officer, shall prevent from disembarking in the United Kingdom or before the directions for his removal have been fulfilled any person placed on board the ship or aircraft under paragraph 11 or 15 above, and the captain may for that purpose detain him in custody on board the ship or aircraft.
- 17 (1) A person liable to be detained under paragraph 16 above may be arrested without warrant by a constable or by an immigration officer.
- (2) If—
- (a) a justice of the peace is by written information on oath satisfied that there is reasonable ground for suspecting that a person liable to be arrested under this paragraph is to be found on any premises ; or
- (b) in Scotland, a sheriff, or a magistrate or justice of the peace, having jurisdiction in the place where the premises are situated is by evidence on oath so satisfied ;
- he may grant a warrant authorising any constable acting for the police area in which the premises are situated, or in Northern Ireland any constable, at any time or times within one month from the date of the warrant to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting that person.
- 18 (1) Persons may be detained under paragraph 16 above in such places as the Secretary of State may direct (when not detained in accordance with paragraph 16 on board a ship or aircraft).
- (2) Where a person is detained under paragraph 16, any immigration officer, constable or prison officer, or any other person authorised by the Secretary of State, may take all such steps as may be reasonably necessary for photographing, measuring or otherwise identifying him.
- (3) Any person detained under paragraph 16 may be taken in the custody of a constable, or of any person acting under the authority of an immigration officer, to and from any place where his attendance is required for the purpose of ascertaining his citizenship

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or nationality or of making arrangements for his admission to a country or territory other than the United Kingdom, or where he is required to be for any other purpose connected with the operation of this Act.

- (4) A person shall be deemed to be in legal custody at any time when he is detained under paragraph 16 or is being removed in pursuance of sub-paragraph (3) above.
- 19 (1) Where a person is refused leave to enter the United Kingdom and directions are given in respect of him under paragraph 8 or 10 above, then subject to the provisions of this paragraph the owners or agents of the ship or aircraft in which he arrived shall be liable to pay the Secretary of State on demand any expenses incurred by the latter in respect of the custody, accommodation or maintenance of that person at any time after his arrival while he was detained or liable to be detained under paragraph 16 above.
- (2) Sub-paragraph (1) above shall not apply to expenses in respect of a person who, when he arrived in the United Kingdom, held a certificate of patriality or a current entry clearance or was the person named in a current work permit; and for this purpose a document purporting to be a certificate of patriality, entry clearance or work permit is to be regarded as being one unless its falsity is reasonably apparent.
- (3) If, before the directions for a person's removal under paragraph 8 or 10 above have been carried out, he is given leave to enter the United Kingdom, or if he is afterwards given that leave in consequence of the determination in his favour of an appeal under this Act (being an appeal against a refusal of leave to enter by virtue of which the directions were given), or it is determined on an appeal under this Act that he does not require leave to enter (being an appeal occasioned by such a refusal), no sum shall be demanded under sub-paragraph (1) above for expenses incurred in respect of that person and any sum already demanded and paid shall be refunded.
- (4) Sub-paragraph (1) above shall not have effect in relation to directions which, in consequence of an appeal under this Act, have ceased to have effect or are for the time being of no effect; and the expenses to which that sub-paragraph applies include expenses in conveying the person in question to and from the place where he is detained or accommodated unless the journey is made for the purpose of attending an appeal by him under this Act.
- 20 (1) Subject to the provisions of this paragraph, in either of the following cases, that is to say,—
- (a) where directions are given in respect of an illegal entrant under paragraph 9 or 10 above; and
- (b) where a person has lawfully entered the United Kingdom without leave by virtue of section 8(1) of this Act, but directions are given in respect of him under paragraph 13(2)(A) above or, in a case within paragraph 13(2)(A), under paragraph 14 ;
- the owners or agents of the ship or aircraft in which he arrived in the United Kingdom shall be liable to pay the Secretary of State on demand any expenses incurred by the latter in respect of the custody, accommodation or maintenance of that person at any time after his arrival while he was detained or liable to be detained under paragraph 16 above.
- (2) If, before the directions for a person's removal from the United Kingdom have been carried out, he is given leave to remain in the United Kingdom, no sum shall be demanded under sub-paragraph (1) above for expenses incurred in respect of that person and any sum already demanded and paid shall be refunded.

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- (3) Sub-paragraph (1) above shall not have effect in relation to directions which, in consequence of an appeal under this Act, are for the time being of no effect; and the expenses to which that sub-paragraph applies include expenses in conveying the person in question to and from the place where he is detained or accommodated unless the journey is made for the purpose of attending an appeal by him under this Act.

*Temporary admission or release of persons liable to detention*

- 21 (1) A person liable to detention or detained under paragraph 16 above may, under the written authority of an immigration officer, be temporarily admitted to the United Kingdom without being detained or be released from detention; but this shall not prejudice a later exercise of the power to detain him.
- (2) So long as a person is at large in the United Kingdom by virtue of this paragraph, he shall be subject to such restrictions as to residence and as to reporting to the police or an immigration officer as may from time to time be notified to him in writing by an immigration officer.
- 22 (1) A person detained under paragraph 16(1) above pending examination may, if seven days have elapsed since the date of his arrival in the United Kingdom, be released on bail by an adjudicator on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before an immigration officer at a time and place named in the recognizance or bail bond or at such other time or place as may in the meantime be notified to him in writing by an immigration officer.
- (2) The conditions of a recognizance or bail bond taken under this paragraph may include conditions appearing to the adjudicator to be likely to result in the appearance of the person bailed at the required time and place; and any recognizance shall be with or without sureties as the adjudicator may determine.
- (3) In any case in which an adjudicator has power under this paragraph to release a person on bail, the adjudicator may, instead of taking the bail, fix the amount and conditions of the bail (including the amount in which any sureties are to be bound) with a view to its being taken subsequently by any such person as may be specified by the adjudicator; and on the recognizance or bail bond being so taken the person to be bailed shall be released.
- 23 (1) Where a recognizance entered into under paragraph 22 above appears to an adjudicator to be forfeited, the adjudicator may by order declare it to be forfeited and adjudge the persons bound thereby, whether as principal or sureties, or any of them, to pay the sum in which they are respectively bound or such part of it, if any, as the adjudicator thinks fit; and an order under this sub-paragraph shall specify a magistrates' court or, in Northern Ireland, court of summary jurisdiction, and—
- (a) the recognizance shall be treated for the purposes of collection, enforcement and remission of the sum forfeited as having been forfeited by the court so specified ; and
- (b) the adjudicator shall, as soon as practicable, give particulars of the recognizance to the clerk of that court.
- (2) Where a person released on bail under paragraph 22 above as it applies in Scotland fails to comply with the terms of his bail bond, an adjudicator may declare the bail to be forfeited, and any bail so forfeited shall be transmitted by the adjudicator to the



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sheriff court having jurisdiction in the area where the proceedings took place, and shall be treated as having been forfeited by that court.

- (3) Any sum the payment of which is enforceable by a magistrates' court in England or Wales by virtue of this paragraph shall be treated for the purposes of the Justices of the Peace Act 1949 and, in particular, section 27 thereof as 'being due under a recognizance forfeited by such a court and as being Exchequer moneys.
- (4) Any sum the payment of which is enforceable by virtue of this paragraph by a court of summary jurisdiction in Northern Ireland shall, for the purposes of section 20(5) of the Administration of Justice Act (Northern Ireland) 1954, be treated as a forfeited recognizance.
- 24 (1) An immigration officer or constable may arrest without warrant a person who has been released by virtue of paragraph 22 above—
- (a) if he has reasonable grounds for believing that that person is likely to break the condition of his recognizance or bail bond that he will appear at the time and place required or to break any other condition of it, or has reasonable ground to suspect that that person is breaking or has broken any such other condition ; or
  - (b) if, a recognizance with sureties having been taken, he is notified in writing by any surety of the surety's belief that that person is likely to break the first-mentioned condition, and of the surety's wish for that reason to be relieved of his obligations as a surety ;
- and paragraph 17(2) above shall apply for the arrest of a person under this paragraph as it applies for the arrest of a person under paragraph 17.
- (2) A person arrested under this paragraph—
- (a) if not required by a condition on which he was released to appear before an immigration officer within twenty-four hours after the time of his arrest, shall as soon as practicable be brought before an adjudicator or, if that is not practicable within those twenty-four hours, before a justice of the peace acting for the petty sessions area in which he is arrested or, in Scotland, the sheriff; and
  - (b) if required by such a condition to appear within those twenty-four hours before an immigration officer, shall be brought before that officer.
- (3) An adjudicator, justice of the peace or sheriff before whom a person is brought by virtue of sub-paragraph (2)(a) above—
- (a) if of the opinion that that person has broken or is likely to break any condition on which he was released, may either—
    - (i) direct that he be detained under the authority of the person by whom he was arrested; or
    - (ii) release him, on his original recognizance or on a new recognizance, with or without sureties, or, in Scotland, on his original bail or on new bail; and
  - (b) if not of that opinion, shall release him on his original recognizance or bail.
- 25 The power to make rules of procedure conferred by section 22 of this Act shall include power to make rules with respect to applications to an adjudicator under paragraphs 22 to 24 above and matters arising out of such applications.

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*Supplementary duties of those connected with ships or aircraft or with ports*

- 26 (1) The owners or agents of a ship or aircraft employed to carry passengers for reward shall not, without the approval of the Secretary of State, arrange for the ship or aircraft to call at a port in the United Kingdom other than a port of entry for the purpose of disembarking passengers, if any of the passengers on board may not enter the United Kingdom without leave and have not been given leave, or for the purpose of embarking passengers unless the owners or agents have reasonable cause to believe all of them to be patrial.
- (2) The Secretary of State may from time to time give written notice to the owners or agents of any ships or aircraft designating control areas for the embarkation or disembarkation of passengers in any port in the United Kingdom, and specifying the conditions and restrictions (if any) to be observed in any control area ; and where by notice given to any owners or agents a control area is for the time being designated for the embarkation or disembarkation of passengers at any port, the owners or agents shall take all reasonable steps to secure that, in the case of their ships or aircraft, passengers do not embark or disembark, as the case may be, at the port outside the control area and that any conditions or restrictions notified to them are observed.
- (3) The Secretary of State may also from time to time give to any persons concerned with the management of a port in the United Kingdom written notice designating control areas in the port and specifying conditions or restrictions to be observed in any control area; and any such person shall take all reasonable steps to secure that any conditions or restrictions as notified to him are observed.
- 27 (1) The captain of a ship or aircraft arriving in the United Kingdom—
- (a) shall take such steps as may be necessary to secure that persons on board do not disembark there unless either they have been examined by an immigration officer, or they disembark in accordance with arrangements approved by an immigration officer, or they are members of the crew who may lawfully enter the United Kingdom without leave by virtue of section 8(1) of this Act; and
  - (b) where the examination of persons on board is to be carried out on the ship or aircraft, shall take such steps as may be necessary to secure that those to be examined are presented for the purpose in an orderly manner.
- (2) The Secretary of State may by order made by statutory instrument make provision for requiring captains of ships or aircraft arriving in the United Kingdom, or of such of them as arrive from or by way of countries or places specified in the order, to furnish to immigration officers—
- (a) a passenger list showing the names and nationality or citizenship of passengers arriving on board the ship or aircraft;
  - (b) particulars of members of the crew of the ship or aircraft;
- and for enabling an immigration officer to dispense with the furnishing of any such list or particulars.

## PART II

### EFFECT OF APPEALS

#### *Stay on directions for removal*

- 28 (1) Where a person in the United Kingdom appeals under section 13(1) of this Act on being refused leave to enter, any directions previously given by virtue of the refusal for his removal from the United Kingdom shall cease to have effect, except in so far as they have already been carried out, and no directions shall be so given so long as the appeal is pending.
- (2) Where a person in the United Kingdom appeals under section 16 or 17 of this Act against any directions given under Part I of this Schedule for his removal from the United Kingdom, those directions, except in so far as they have already been carried out, shall be of no effect so long as the appeal is pending.
- (3) Notwithstanding sub-paragraph (1) or (2) above, the provisions of Part I of this Schedule with respect to detention and persons liable to detention shall apply to a person appealing under section 13(1), 16 or 17 of this Act as if there were in force directions for his removal from the United Kingdom, except that he shall not be detained on board a ship or aircraft so as to compel him to leave the United Kingdom while the appeal is pending.
- (4) In calculating the period of two months limited by paragraph 8(2) above for the giving of directions under that paragraph for the removal of a person from the United Kingdom, there shall be disregarded any period during which there is pending an appeal by him under section 13(1) or 17 of this Act.
- (5) For purposes of sub-paragraphs (1) to (3) above (but not for purposes of sub-paragraph (4)), where an appeal to an adjudicator is dismissed, an appeal shall not be regarded as pending unless forthwith after the dismissal—
- (a) the appellant duly gives notice of appeal against the determination of the adjudicator ; or
  - (b) in a case in which leave to appeal against that determination is required and the adjudicator has power to grant leave, the appellant duly applies for and obtains the leave of the adjudicator.
- (6) Where directions are given under Part I of this Schedule for anyone's removal from the United Kingdom, and directions are also so given for the removal with him of persons belonging to his family, then if any of them appeals under section 13(1), 16 or 17 of this Act, the appeal shall have the like effect under this paragraph in relation to the directions given in respect of each of the others as it has in relation to the directions given in respect of the appellant.

#### *Grant of bail pending appeal*

- 29 (1) Where a person (in the following provisions of this Schedule referred to as " an appellant") has an appeal pending under section 13(1), 16 or 17 of this Act and is for the time being detained under Part I of this Schedule, he may be released on bail in accordance with this paragraph.
- (2) An immigration officer not below the rank of chief immigration officer or a police officer not below the rank of inspector may release an appellant on his entering into

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a recognizance or, in Scot-, land, bail bond conditioned for his appearance before an adjudicator or the Appeal Tribunal at a time and place named in the recognizance or bail bond.

- (3) An adjudicator may release an appellant on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before that or any other adjudicator or the Appeal Tribunal at a time and place named in the recognizance or bail bond; and where an adjudicator dismisses an appeal but grants leave to the appellant to appeal to the Tribunal, or, in a case in which leave to appeal is not required, the appellant has duly given notice of appeal to the Tribunal, the adjudicator shall, if the appellant so requests, exercise his powers under this sub-paragraph.
- (4) Where an appellant has duly applied for leave to appeal to the Appeal Tribunal, the Tribunal may release him on his entering into a recognizance or, in Scotland, bail bond conditioned for his appearance before the Tribunal at a time and place named in the recognizance or bail bond ; and where—
  - (a) the Tribunal grants leave to an appellant to appeal to the Tribunal; or
  - (b) in a case in which leave to appeal is not required, the appellant has duly given notice of appeal to the Tribunal;
 the Tribunal shall, if the appellant so requests, release him as aforesaid.
- (5) The conditions of a recognizance or bail bond taken under this paragraph may include conditions appearing to the person fixing the bail to be likely to result in the appearance of the appellant at the time and place named ; and any recognizance shall be with or without sureties as that person may determine.
- (6) In any case in which an adjudicator or the Tribunal has power or is required by this paragraph to release an appellant on bail, the adjudicator or Tribunal may, instead of taking the bail, fix the amount and conditions of the bail (including the amount in which any sureties are to be bound) with a view to its being taken subsequently by any such person as may be specified by the adjudicator or the Tribunal; and on the recognizance or bail bond being so taken the appellant shall be released.

*Restrictions on grant of bail*

- 30 (1) An appellant shall not be released under paragraph 29 above without the consent of the Secretary of State if directions for the removal of the appellant from the United Kingdom are for the time being in force, or the power to give such directions is for the time being exercisable.
- (2) Notwithstanding paragraph 29(3) or (4) above, an adjudicator and the Tribunal shall not be obliged to release an appellant unless the appellant enters into a proper recognizance, with sufficient and satisfactory sureties if required, or in Scotland sufficient and satisfactory bail is found if so required ; and an adjudicator and the Tribunal shall not be obliged to release an appellant if it appears to the adjudicator or the Tribunal, as the case may be—
  - (a) that the appellant, having on any previous occasion been released on bail (whether under paragraph 24 or under any other provision), has failed to comply with the conditions of any recognizance or bail bond entered into by him on that occasion;
  - (b) that the appellant is likely to commit an offence unless he is retained in detention ;
  - (c) that the release of the appellant is likely to cause danger to public health;

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- (d) that the appellant is suffering from mental disorder and that his continued detention is necessary in his own interests or for the protection of any other person ; or
- (e) that the appellant is under the age of seventeen, that arrangements ought to be made for his care in the event of his release and that no satisfactory arrangements for that purpose have been made.

*Forfeiture of recognizances*

- 31 (1) Where under paragraph 29 above (as it applies in England and Wales or in Northern Ireland) a recognizance is entered into conditioned for the appearance of an appellant before an adjudicator or the Tribunal, and it appears to the adjudicator or the Tribunal, as the case may be, to be forfeited, the adjudicator or Tribunal may by order declare it to be forfeited and adjudge the persons bound thereby, whether as principal or sureties, or any of them, to pay the sum in which they are respectively bound or such part of it, if any, as the adjudicator or Tribunal thinks fit.
- (2) An order under this paragraph shall, for the purposes of this sub-paragraph, specify a magistrates' court or, in Northern Ireland, court of summary jurisdiction ; and the recognizance shall be treated for the purposes of collection, enforcement and remission of the sum forfeited as having been forfeited by the court so specified.
- (3) Where an adjudicator or the Tribunal makes an order under this paragraph the adjudicator or Tribunal shall, as soon as practicable, give particulars of the recognizance to the clerk of the court specified in the order in pursuance of sub-paragraph (2) above.
- (4) Any sum the payment of which is enforceable by a magistrates' court in England or Wales by virtue of this paragraph shall be treated for the purposes of the Justices of the Peace Act 1949 and, in particular, section 27 thereof as being due under a recognizance forfeited by such a court and as being Exchequer moneys.
- (5) Any sum the payment of which is enforceable by virtue of this paragraph by a court of summary jurisdiction in Northern Ireland shall, for the purposes of section 20(5) of the Administration of Justice Act (Northern Ireland) 1954, be treated as a forfeited recognizance.
- 32 Where under paragraph 29 above (as it applies in Scotland) a person released on bail fails to comply with the terms of a bail bond conditioned for his appearance before an adjudicator or the Tribunal, the adjudicator or Tribunal may declare the bail to be forfeited, and any bail so forfeited shall be transmitted by the adjudicator or the Tribunal to the sheriff court having jurisdiction in the area where the proceedings took place, and shall be treated as having been forfeited by that court.

*Arrest of appellants released on bail*

- 33 (1) An immigration officer or constable may arrest without warrant a person who has been released by virtue of this Part of this Schedule—
- (a) if he has reasonable grounds for believing that that person is likely to break the condition of his recognizance or bail bond that he will appear at the time and place required or to break any other condition of it, or has reasonable ground to suspect that that person is breaking or has broken any such other condition ; or

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- (b) if, a recognizance with sureties having been taken, he is notified in writing by any surety of the surety's belief that that person is likely to break the first-mentioned condition, and of the surety's wish for that reason to be relieved of his obligations as a surety ;
- and paragraph 17(2) above shall apply for the arrest of a person under this paragraph as it applies for the arrest of a person under paragraph 17.
- (2) A person arrested under this paragraph—
- (a) if not required by a condition on which he was released to appear before an adjudicator or Tribunal within twenty-four hours after the time of his arrest, shall as soon as practicable be brought before an adjudicator or, if that is not practicable within those twenty-four hours, before a justice of the peace acting for the petty sessions area in which he is arrested or, in Scotland, the sheriff; and
- (b) if required by such a condition to appear within those twenty-four hours before an adjudicator or before the Tribunal, shall be brought before that adjudicator or before the Tribunal, as the case may be.
- (3) An adjudicator, justice of the peace or sheriff before whom a person is brought by virtue of sub-paragraph (2)(a) above—
- (a) if of the opinion that that person has broken or is likely to break any condition on which he was released, may either—
- (i) direct that he be detained under the authority of the person by whom he was arrested ; or
- (ii) release him on his original recognizance or on a new recognizance, with or without sureties, or, in Scotland, on his original bail or on new bail; and
- (b) if not of that opinion, shall release him on his original recognizance or bail.

### SCHEDULE 3

Section 5.

#### SUPPLEMENTARY PROVISIONS AS TO DEPORTATION

##### *Removal of persons liable to deportation*

- 1 (1) Where a deportation order is in force against any person, the Secretary of State may give directions for his removal to a country or territory specified in the directions being either—
- (a) a country of which he is a national or citizen ; or
- (b) a country or territory to which there is reason to believe that he will be admitted.
- (2) The directions under sub-paragraph (1) above may be either—
- (a) directions given to the captain of a ship or aircraft about to leave the United Kingdom requiring him to remove the person in question in that ship or aircraft; or
- (b) directions given to the owners or agents of any ship or aircraft requiring them to make arrangements for his removal in a ship or aircraft specified or indicated in the directions ; or

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- (c) directions for his removal in accordance with arrangements to be made by the Secretary of State.
- (3) In relation to directions given under this paragraph, paragraphs 11 and 16(4) of Schedule 2 to this Act shall apply, with the substitution of references to the Secretary of State for references to an immigration officer, as they apply in relation to directions for removal given under paragraph 8 of that Schedule.
- (4) The Secretary of State, if he thinks fit, may apply in or towards payment of the expenses of or incidental to the voyage from the United Kingdom of a person against whom a deportation order is in force, or the maintenance until departure of such a person and his dependants, if any, any money belonging to that person ; and except so far as they are paid as aforesaid, those expenses shall be defrayed by the Secretary of State.

*Detention or control pending deportation*

- 2 (1) Where a recommendation for deportation made by a court is in force in respect of any person, and that person is neither detained in pursuance of the sentence or order of any court nor for the time being released on bail by any court having power so to release him, he shall, unless the court by which the recommendation is made otherwise directs, be detained pending the making of a deportation order in pursuance of the recommendation, unless the Secretary of State directs him to be released pending further consideration of his case.
- (2) Where notice has been given to a person in accordance with regulations under section 18 of this Act of a decision to make a deportation order against him, and he is neither detained in pursuance of the sentence or order of a court nor for the time being released on bail by a court having power so to release him, he may be detained under the authority of the Secretary of State pending the making of the deportation order.
- (3) Where a deportation order is in force against any person, he may be detained under the authority of the Secretary of State pending his removal or departure from the United Kingdom (and if already detained by virtue of sub-paragraph (1) or (2) above when the order is made, shall continue to be detained unless the Secretary of State directs otherwise).
- (4) In relation to detention under sub-paragraph (2) or (3) above, paragraphs 17 and 18 of Schedule 2 to this Act shall apply as they apply in relation to detention under paragraph 16 of that Schedule.
- (5) A person liable to be detained under sub-paragraph (2) or (3) above shall, while not so detained, be subject to such restrictions as to residence and as to reporting to the police as may from time to time be notified to him in writing by the Secretary of State.

*Effect of appeals*

- 3 Part II of Schedule 2 to this Act, so far as it relates to appeals under section 16 or 17, shall apply for purposes of this Schedule as if the references in paragraph 28(2), (3) and (6) and in paragraph 29(1) to Part I of that Schedule were references to this Schedule ; and paragraphs 29 to 33 shall apply in like manner in relation to appeals under section 15(1)(a).

## SCHEDULE 4

Section 9.

### INTEGRATION WITH UNITED KINGDOM LAW OF IMMIGRATION LAW OF ISLANDS

#### *Leave to enter*

- 1 (1) Where under the immigration laws of any of the Islands a person is or has been given leave to enter or remain in the island, or is or has been refused leave, this Act shall have effect in relation to him, if he is not patrial, as if the leave were leave (of like duration) given under this Act to enter or remain in the United Kingdom, or, as the case may be, as if he had under this Act been refused leave to enter the United Kingdom.
- (2) Where under the immigration laws of any of the Islands a person has a limited leave to enter or remain in the island subject to any such conditions as are authorised in the United Kingdom by section 3(1) of this Act (being conditions imposed by notice given to him, whether the notice of leave or a subsequent notice), then on his coming to the United Kingdom this Act shall apply, if he is not patrial, as if those conditions related to his stay in the United Kingdom and had been imposed by notice under this Act.
- (3) Without prejudice to the generality of sub-paragraphs (1) and (2) above, anything having effect in the United Kingdom by virtue of either of those sub-paragraphs may in relation to the United Kingdom be varied or revoked under this Act in like manner, and subject to the like appeal (if any), as if it had originated under this Act as mentioned in that sub-paragraph.
- (4) Where anything having effect in the United Kingdom by virtue of sub-paragraph (1) or (2) above ceases to have effect or is altered in effect as mentioned in sub-paragraph (3) or otherwise by anything done under this Act, sub-paragraph (1) or (2) shall not thereafter apply to it or, as the case may be, shall apply to it as so altered in effect.
- (5) Nothing in this paragraph shall be taken as conferring on a person a right of appeal under this Act against any decision or action taken in any of the Islands.
- 2 Notwithstanding section 3(4) of this Act, leave given to a person under this Act to enter or remain in the United Kingdom shall not continue to apply on his return to the United Kingdom after an absence if he has during that absence entered any of the Islands in circumstances in which he is required under the immigration laws of that island to obtain leave to enter.

#### *Deportation*

- 3 (1) Subject to sub-paragraph (2) below, where under the immigration laws of any of the Islands, a person is or has been ordered to leave the island and forbidden to return, then, if he is not patrial, this Act shall have effect in relation to him as if the order were a deportation order made against him under this Act.
- (2) The Secretary of State shall not by virtue of sub-paragraph (1) above have power to revoke a deportation order made in any of the Islands, but may in any particular case direct that sub-paragraph (1) shall not apply in relation to an order so made ; and nothing in this paragraph shall render it unlawful for a person in respect of whom such an order is in force in any of the Islands to enter the United Kingdom on his way from that island to a place outside the United Kingdom.



*Illegal entrants*

- 4 Notwithstanding anything in section 1(3) of this Act, it shall not be lawful for a person who is not patrial to enter the United Kingdom from any of the Islands where his presence was unlawful under the immigration laws of that island, unless he is given leave to enter.

SCHEDULE 5

Section 12.

THE ADJUDICATORS AND THE TRIBUNAL

**PART I**

THE ADJUDICATORS

- 1 There shall be such number of adjudicators as the Secretary of State may with the consent of the Minister for the Civil Service determine, and the Secretary of State shall appoint one of them as chief adjudicator.
- 2 (1) An adjudicator shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.
- (2) An adjudicator may at any time by notice in writing to the Secretary of State resign his office.
- 3 The Secretary of State shall pay—
- (a) to the adjudicators, such remuneration and allowances as he may, with the approval of the Minister for the Civil Service, determine;
  - (b) as regards any of the adjudicators in whose case he may so determine with the approval of the Minister for the Civil Service, such pension, allowance or gratuity to or in respect of him, or such sums towards the provision of such pension, allowance or gratuity, as may be so determined;
- and, if a person ceases to be an adjudicator and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the Secretary of State may, with the approval of the said Minister, pay to that person a sum of such amount as the Secretary of State may, with the approval of that Minister, determine.
- 4 In Part III of Schedule 1 to the House of Commons Disqualification Act 1957 (which lists offices the holders of which are disqualified for membership of the House of Commons), and in the said Part III as it applies by virtue of Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland, there shall be inserted at the appropriate point the words " Adjudicator appointed for the purposes of the Immigration Act 1971 ".
- 5 The adjudicators shall sit at such times and in such places as the Secretary of State may direct; and the chief adjudicator shall allocate duties among the adjudicators and have such other functions as may be conferred on him by the Secretary of State.

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*Status: This is the original version (as it was originally enacted).*

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## PART II

### THE TRIBUNAL

#### *Members*

6 The Tribunal shall consist of such number of members as the Lord Chancellor may determine, and the Lord Chancellor shall appoint one of them to be president.

7 The president and such number of the other members of the Tribunal as the Lord Chancellor may determine shall be barristers, advocates or solicitors, in each case of not less than seven years standing.

8 (1) A member of the Tribunal shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.

(2) Any member of the Tribunal may at any time by notice in writing to the Lord Chancellor resign his office.

9 The Secretary of State shall pay—

(a) to the members of the Tribunal, such remuneration and allowances as he may, with the approval of the Minister for the Civil Service, determine ;

(b) as regards any member in whose case he may so determine with the approval of the Minister for the Civil Service, such pension, allowance or gratuity to or in respect of him, or such sums towards the provision of such pension, allowance or gratuity, as may be so determined ;

and, if a person ceases to be a member of the Tribunal and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the Secretary of State may, with the approval of the said Minister, pay to that person a sum of such amount as the Secretary of State may, with the approval of that Minister, determine.

10 In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (which lists bodies of which all members are disqualified for membership of the House of Commons), and in the said Part II as it applies by virtue of Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland, there shall be inserted at the appropriate point the words " The Immigration Appeal Tribunal " .

#### *Proceedings*

11 For the purpose of hearing and determining appeals under Part II of this Act or any matter preliminary or incidental to any such appeal, the Tribunal shall sit at such times and in such place or places as the Lord Chancellor may direct, and may sit in two or more divisions.

12 Subject to rules of procedure, the Tribunal shall be deemed to be duly constituted if it consists of three members (or a greater uneven number of members) of whom at least one is qualified as mentioned in paragraph 7 of this Schedule; and the determination of any question before the Tribunal shall be according to the opinion of the majority of the members hearing the case.

13 The Lord Chancellor may appoint members of the Tribunal who are qualified as mentioned in paragraph 7 of this Schedule to act on behalf of the president in his temporary absence or inability to act.

*Status: This is the original version (as it was originally enacted).*

- 14 The president or, in his absence, the member qualified as mentioned in paragraph 7 of this Schedule (or, if there is more than one such member present, the senior of them) shall preside at a sitting of the Tribunal.

### PART III

#### STAFF AND EXPENSES

- 15 The Secretary of State may appoint such officers and servants for the adjudicators and the Tribunal as he may, with the approval of the Minister for the Civil Service as to remuneration and numbers, determine.
- 16 The remuneration of officers and servants appointed as aforesaid, and such expenses of the adjudicators and the Tribunal as the Secretary of State may with the approval of the Minister for the Civil Service determine, shall be defrayed by the Secretary of State.

### SCHEDULE 6

Section 34.

#### REPEALS

Chapter	Short title	Extent of repeal
4 & 5 Geo. 5. c. 12.	The Aliens Restriction Act 1914.	The whole Act.
9 & 10 Geo. 5. c. 92.	The Aliens Restriction (Amendment) Act 1919.	Section 1. Section 2(1). Section 13(3). Section 14(1).
11 & 12 Geo. 6. c. 56.	The British Nationality Act 1948.	Section 6(1). In section 6(2), the words from "and, if" to "Act". Section 8(1) from "and as if" onwards.
6 & 7 Eliz. 2. c. 10.	The British Nationality Act 1958.	Section 3(2). In section 5(3) the words from " including " to " this Act ".
10 & 11 Eliz. 2. c. 21.	The Commonwealth Immigrants Act 1962.	The whole Act, except section 12(2) and (4) and section 20(1) and (3). In section 12(2) the words from the beginning to " six, and ".

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*Status: This is the original version (as it was originally enacted).*

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Chapter	Short title	Extent of repeal
1964 c. 81.	The Diplomatic Privileges Act 1964.	Section 5(1).
1965 c. 34.	The British Nationality Act 1965.	Section 2(3).
1967 c. 4.	The West Indies Act 1967.	In Schedule 3, paragraph 3.
1967 c. 80.	The Criminal Justice Act 1967.	Section 58.
1968 c. 9.	The Commonwealth Immigrants Act 1968.	The whole Act.
1968 c. 19.	The Criminal Appeal Act 1968.	In section 51(1), the definition of "recommendation for deportation".
1968 c. 59.	The Hovercraft Act 1968.	In paragraph 1 of the Schedule, sub-paragraph (f) and the words from " and 1962 " to " 1968 ".
1969 c. 21.	The Immigration Appeals Act 1969.	The whole Act.
1970 c. 58.	The Expiring Laws Continuance Act 1970.	The whole Act.