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- <http://www.caritasroma.it/immigrazione/>

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CGIL - <http://www.cgil.milano.it/CDLM/CentroImmigrati/Index.htm>

Consorzio ABN

- <http://www.conorzioabn.it>

Consorzio Europeo per lo Sviluppo della Formazione (European Consortium for Development of Training)

CESFO - <http://www.cesfo.com>

Coordinamento Nazionale Enti Locali per la Pace

- <http://www.entilocalipace.it>

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- <http://www.stabilemarche.it>

Fondazione Cecchini Pace (Cecchini Pace Foundation)

FONDCEC - <http://www.fondazionececchinipace.it>

Unione Italiana Lavoratori – Dipartimento politiche migratorie (Italian Union of Workers – Migration Policy Department)

UIL - <http://www.uil.it>

Unione Italiana Lavoratori-Ufficio stranieri (Italian Union of Workers-office for foreigners)

UIL - <http://www.associazioni.milano.it/uilstranieri/index.htm>

VI. REINO UNIDO

VI.1. La condición de ciudadano y de extranjero. *La British Nationality Act de 1981*

BRITISH NATIONALITY ACT 1981 (1981 c 61)

ARRANGEMENT OF SECTIONS

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Schedule 9.—Repeals

An Act to make fresh provision about citizenship and nationality, and to amend the Immigration Act 1971 as regards the right of abode in the United Kingdom

[30 October 1981]

Discrimination In relation to the carrying out of functions exercisable by virtue of this Act, the Race Relations Act 1976, s 71(1) (b) (specified authorities: general statutory duty), Vol 7, tide Civil Rights and Liberties, has effect with the omission of the words “equality of opportunity and”; see s 71A(1), (1A) of that Act, in the same tide.

British Nationality Acts 1981 and 1983 By the British Nationality (Falkland Islands) Act 1983, s 5(1) post, this Act and that Act may be cited together as the British Nationality Acts 1981 and 1983.

Northern Ireland This Act applies; see s 53(4) post.

PART I

BRITISH CITIZENSHIP

*Acquisition after commencement***1 Acquisition by birth or adoption**

(1) A person born in the United Kingdom after commencement[, or in a qualifying territory on or after the appointed day,] shall be a British citizen if at the time of the birth his father or mother is

(a) a British citizen; or

(b) settled in the United Kingdom [or that territory].

(2) A new-born infant who, after commencement, is found abandoned in the United Kingdom[, or on or after the appointed day is found abandoned in a qualifying territory,] shall, unless the contrary is shown, be deemed for the purposes of subsection (1)—

(a) to have been born in the United Kingdom after commencement [or in that territory on or after the appointed day]; and

(b) to have been born to a parent who at the time of the birth was a British citizen or settled in the United Kingdom [or that territory].

(3) A person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1)

or (2) shall be entitled to be registered as a British citizen if, while he is a minor—

- (a) his father or mother becomes a British citizen or becomes settled in the United Kingdom; and
- (b) an application is made for his registration as a British citizen.

(4) A person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1) or (2) shall be entitled, on an application for his registration as a British citizen made at any time after he has attained the age of ten years, to be registered as such a citizen if, as regards each of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year does not exceed 90.

[(5) Where

- (a) any court in the United Kingdom [or, on or after the appointed day, any court in a qualifying territory] makes an order authorising the adoption of a minor who is not a British citizen; or
- (b) a minor who is not a British citizen is adopted under a Convention adoption,

that minor shall, if the requirements of subsection (5A) are met, be a British citizen as from the date on which the order is made or the Convention adoption is effected, as the case may be.

(5A) Those requirements are that on the date on which the order is made or the Convention adoption is effected (as the case may be)

- (a) the adopter or, in the case, of a joint adoption, one of the adopters is a British citizen; and
- (b) in a case within subsection (5) (b), the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in the United Kingdom.]

(6) Where an order [or a Convention adoption] in consequence of which any person became a British citizen by virtue of subsection (5) ceases to have effect, whether on annulment or otherwise, the cesser shall not affect the status of that person as a British citizen.

(7) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (4) treat the person to whom the application relates as fulfilling the requirement specified in that subsection although, as regards any one or more of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year or each of the years in question exceeds 90.

(8) In this section and elsewhere in this Act "settled" has the meaning given by section 50 *hand in this section* "Convention adoption" has the same meaning as in the Adoption Act 1976 and the Adoption (Scotland) Act 1978].

NOTES

Amendments

Sub-s (1): words in first pair of square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 1(1), (2)(a).

Sub-s (1)(b): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 1(1), (2) (b).

Sub-s (2): words in first pair of square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 1(1), (3)(a).

Sub-s (2)(a): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 1(1), (3)(b).

Sub-s (2)(b): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 1(1), (3)(c).

Sub-s (5) substituted (along with sub-s (5A)) for sub-s (5) by the Adoption (Intercountry Aspects) Act 1999, s 7(1).

Sub-s (5)(a): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 1(1), (4).

Sub-s (5A): substituted (along with sub-s (5)) for sub-s (5) by the Adoption (Intercountry Aspects) Act 1999, s 7(1).

Sub-s (6): words in square brackets inserted by the Adoption (Intercountry Aspects) Act 1999, s 7(2). Sub-s (8): words in square brackets inserted by the Adoption (Intercountry Aspects) Act 1999, s 7 (3).

Prospective amendments

Sub-s (5A)(13): words "effected under the law of a country or territory outside the United Kingdom" inserted at end by the Adoption and Children Act 2002, s 137(3), (4) (a), as from a day to be appointed under s 148(1) thereof, Vol 6, title Children.

Sub-s (5A)(b) words or in a designated territory" inserted at end by the Adoption and Children Act 2002, s 137(3), (4) (b), as from a day to be appointed under s 148(1) thereof, Vol 6, title Children.

Sub-s (8) words in italics repealed by the Adoption and Children Act 2002, ss 137(3), (4) (c), 139(3), Sch 5, as from a day to be appointed under s 148(1) thereof, Vol 6, title Children.

Sub-s (1) Born in the United Kingdom ... or in a qualifying territory As to where a person born outside the United Kingdom or a qualifying territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A) post.

Sub-s (1): At the time of the birth, etc As to posthumous children, see s 48 post.

Sub-s (1): Settled in the United Kingdom In this connection, see also the Immigration Act 1971, s 8(5A) ante.

Sub-s (3): Entitled to be registered; application ... for his registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)(7)(4) post.

Sub-s (4): Attained the age, etc A person attains any age at the beginning of the relevant anniversary of the date of his birth; see s 50(11) (b) post.

Sub-s (4): Days on which he was absent from the United Kingdom Ie whole days on which he was so absent; see s 50(10) (b) post.

Sub-s (7): Secretary of State Ie one of Her Majesty's Principal Secretaries of State; see the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes. As to the exercise of certain functions of the Secretary of State in the Channel Islands, the Isle of Man or any British overseas territory, see s 43 post.

Sub-s' (7): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Status conferred by adoption Neither the provisions of the Adoption Act 1976, s 39, nor of the Adoption and Children Act 2002, s 67, both Vol 6, title Children, apply for the purposes of this Act or any instrument having effect thereunder; see s 47(2)(a), (c) of the 1976 Act, and s 74(2) (a), (c) of the 2002 Act, in the same title.

Adoption Act 1976 For the meaning of "Convention adoption" in that Act, see s 72(1) thereof, Vol 6, title Children.

Adoption (Scotland) Act 1978 1978 c 28; outside the scope of this work.

Cases relating to this section

K (a minor) (adoption: nationality), Re [1995] Fam 38, [1994] 3 All ER 553, CA (sub-s (6))

R v Secretary of State for the Home Department, ex p Puttick [1981] QB 767, [1981] 1 All ER 776 (sub-s (3))

Definitions

"appointed day": s 50(1)

"commencement": s 50(1)

"father": s 50(9)

"minor": s 50(1)

"mother": s 50(9)

"parent": s 50(9)

"qualifying territory": s 50(1) "settled": s 50(1)–(4)

"the United Kingdom": s 50(1)

2 Acquisition by descent

(1) A person born outside the United Kingdom [and the qualifying territories] after commencement shall be a British citizen if at the time of the birth his father or mother

- (a) is a British citizen otherwise than by descent; or
- (b) is a British citizen and is serving outside the United Kingdom [and the qualifying territories] in service to which this paragraph applies, his or her recruitment for that service having taken place in the United Kingdom [or a qualifying territory]; or

(c) is a British citizen and is serving outside the United Kingdom [and the qualifying territories] in service under a Community institution, his or her recruitment for that service having taken place in a country which at the time of the recruitment was a member of the Communities.

(2) Paragraph (b) of subsection (1) applies to

- (a) Crown service under the government of the United Kingdom [or of a qualifying territory]; and
- (b) service of any description for the time being designated under subsection (3):

(3) For the purposes of this section the Secretary of State may by order made by statutory instrument designate any description of service which he considers to be closely associated with the activities outside the United Kingdom [and the qualifying territories] of Her Majesty's government in the United Kingdom [or in a qualifying territory].

(4) Any order made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

NOTES

Amendments

Sub-s (1): words in first pair of square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 2(1), (2)(a), but not so as to affect the operation of this section in relation to persons born before 21 May 2002.

Sub-s (1)(b): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 2(1), (2)(b), but not so as to affect the operation of this section in relation to persons born before 21 May 2002.

Sub-s (1)(c): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 2(1), (2)(c), but not so as to affect the operation of this section in relation to persons born before 21 May 2002.

Sub-s (2)(a): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 2(1), (3), but not so as to affect the operation of this section in relation to persons born before 21 May 2002.

Sub-s (3): words in square brackets inserted by the British Overseas Territories Act 2002, s 5; Sch 1, para 2(1), (4), but not so as to affect the operation of this section in relation to persons born before 21 May 2002.

Sub-s (1): Born outside the United Kingdom and the qualifying territories As to where a person born outside the United Kingdom or a qualifying territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A) post.

Sub-s (1): At the time of the birth, etc As to posthumous children, see s 48 post.

Sub-s (1): Community institution For meaning, see the European Communities Act 1972, Sch 1, Pt II, Vol 17, title European Community, as applied by the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes.

Sub-s (1): The Communities As to the Communities, see the European Communities Act 1972, s 1(2), Vol 17, title European Community, as applied by the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes.

As to the substitution in most existing enactments of references to the European Economic Area for references to the Communities and the making in enactments of consequential modifications, see the European Economic Area Act 1993, ss 2, 3, Vol 17, title European Community. Sub-s (3): Secretary of State See the note to s 1 ante.

Sub-s (3): Statutory instrument For provisions as to statutory instruments generally, see the Statutory Instruments Act 1946, Vol 41, title Statutes.

Sub-s (4): Subject to annulment For provisions as to annulment of statutory instruments in pursuance of a resolution of either House of Parliament, see the Statutory Instruments Act 1946, ss 5(1), 7(1), Vol 41, title Statutes.

Orders under this section

British Citizenship (Designated Service) Order 1982, SI 1982/1004, as amended by SI 1982/1709, SI 1984/1766, SI 1987/611, SI 1990/28, SI 1994/556, SI 1995/552.

Definitions

“British citizen by descent”: s 14

“commencement”: s 50(1)

“Crown service”: s 50(1)

“Crown service under the government of the United Kingdom”: s 50(1)

“father”: s 50(9)

“mother”: s 50(9)

“qualifying territory”: s 50(1)

“the United Kingdom”: s 50(1)

3 Acquisition by registration: minors

(1) If while a person is a minor an application is made for his registration as a British citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

(2) A person born outside the United Kingdom [and the qualifying territories] shall be entitled, on an application for his registration as a British citizen made within the period of twelve months from the date of the birth, to be registered as such a citizen if the requirements specified in subsection (3) or, in the case of a person born stateless, the requirements specified in paragraphs (a) and (b) of that subsection, are fulfilled in the case of either that person's father or his mother (“the parent in question”).

(3) The requirements referred to in subsection (2) are

- (a) that the parent in question was a British citizen by descent at the time of the birth; and

- (b) that the father or mother of the parent in question
 - (i) was a British citizen otherwise than by descent at the time of the birth of the parent in question; or
 - (ii) became a British citizen otherwise than by descent at commencement, or would have become such a citizen otherwise than by descent at commencement but for his or her death; and

- (c) that, as regards some period of three years ending with a date not later than the date of the birth
 - (i) the parent in question was in the United Kingdom [or a qualifying territory] at the beginning of that period; and
 - (ii) the number of days on which the parent in question was absent from the United Kingdom [and the qualifying territories] in that period does not exceed 270.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat subsection (2) as if the reference to twelve months were a reference to six years.

(5) A person born outside the United Kingdom [and the qualifying territories] shall be entitled, on an application for his registration as a British citizen made while he is a minor, to be registered as such a citizen if the following requirements are satisfied, namely

- (a) that at the time of that person's birth his father or mother was a British citizen by descent; and
- (b) subject to subsection (6), that that person and his father and mother were in the United Kingdom [or a qualifying territory] at the beginning of the period of three years ending with the date of the application and that, in the case of each of them, the number of days on which the person in question was absent from the United Kingdom [and the qualifying territories] in that period does not exceed 270; and
- (c) subject to subsection (6), that the consent of his father and mother to the registration has been signified in the prescribed manner.

(6) In the case of an application under subsection (5) of the registration of a person as a British citizen

- (a) if his father or mother died, or their marriage was terminated, on or before the date of the application, or his father and mother were legally separated on that date, the references to his father and mother in paragraph (b) of that subsection shall be read either as references to his father or as references to his mother;
- (b) if his father or mother died on or before that date, the reference to his father and mother in paragraph (c) of that subsection shall be read as a reference to either of them; *and*
- (c) if he was born illegitimate, all those references shall be read as references to his mother.

NOTES

Amendments

Sub-s (2): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 3(1), (2), but not so as to affect the operation of this section in relation to persons born before 21 May 2002.

Sub-s (3)(c): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 3(1), (3), but not so as to affect the operation of this section in relation to persons born before 21 May 2002.

Sub-s (5): words in square brackets inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 3(1), (4), but not so as to affect the operation of this section in relation to persons born before 21 May 2002.

Prospective amendments

Sub-s (6)(a): "and" inserted at the end by the Nationality, Immigration and Asylum Act 2002, s 9(2)(a), as from a day to be appointed under s 162(5) thereof post.

Sub-s (6) (c) (and word "and" preceding it): repealed by the Nationality, Immigration and Asylum Act 2002, ss 9(2)(b), (c), 161, Sch 9, as from a day to be appointed under s 162(5) thereof post.

Sub-s (1): Application ... for his registration ... cause him to be registered As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)-(4) post.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Sub-s (2): Born outside the United Kingdom and the qualifying territories As to where a person born outside the United Kingdom or a qualifying territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A) post.

Sub-s (2): Months This means calendar months; see the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes.

Sub-s (2): Stateless For provisions for reducing statelessness, see s 36 and Sch 2 post.

Sub-s (3): At the time of the birth As to posthumous children, see s 48 post.

Sub-s (3): Days on which the parent ... was absent The whole days on which he was so absent; see s 50(10)(b) post.

Cases relating to this section

R (on the application of Montana) v Secretary of State for the Home Dept [2001] FCR 358, [2001] 1 WLR 552, CA

Stoek v Public Trustee [1921] 2 Ch 67 (sub-s (2))

Definitions

"British citizen by descent": s 14

"commencement": s 50(1)

"date of the application": s 50(8)

"father": s 50(9)

"from" a date: s 50(10) (a)

"minor": s 50(1) "mother": s 50(9) "parent": s 50(9) "prescribed": s 50(1) "qualifying territory": s 50(1)

"the United Kingdom": s 50(1)

4 Acquisition by registration: [British overseas territories citizens] etc

(1) This section applies to any person who is a [British overseas territories citizen], [a British National (Overseas),] a

British Overseas citizen, a British subject under this Act or a British protected person.

(2) A person to whom this section applies shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if the following requirements are satisfied in the case of that person, namely

- (a) subject to subsection (3), that he was in the United Kingdom at the beginning of the period of five years ending with the date of the application and that the number of days on which he was absent from the United Kingdom in that period does not exceed 450; and
- (b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and
- (c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and
- (d) that he was not at any time in the period of five years so ending in the United Kingdom in breach of the immigration laws.

(3) So much of subsection (2) (a) as requires the person in question to have been in the United Kingdom at the beginning of the period there mentioned shall not apply in relation to a person who was settled in the United Kingdom immediately before commencement.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (2) do all or any of the following things, namely

- (a) treat the person to whom the application relates as fulfilling the requirement specified in subsection (2) (a) or subsection (2) (b), or both, although the number of days on which he was absent from the United Kingdom in the period there mentioned exceeds the number there mentioned;
- (b) disregard any such restriction as is mentioned in subsection (2) (c), not being a restriction to which that person was subject on the date of the application;
- (c) treat that person as fulfilling the requirement specified in subsection (2) (d) although he was in the United Kingdom in breach of the immigration laws in the period there mentioned.

(5) If, on an application for registration as a British citizen made by a person to whom this section applies, the Secretary of State is satisfied that the applicant has at any time served in service to which this subsection applies, he may, if he thinks fit in the special circumstances of the applicant's case, cause him to be registered as such a citizen.

(6) Subsection (5) applies to—

- (a) Crown service under the government of a [British overseas territory]; and
- (b) paid or unpaid service (not falling within paragraph (a)) as a member of any body established by law in a [British overseas territory] members of which are appointed by or on behalf of the Crown.

NOTES

Amendments

Sidenote: words in square brackets substituted by the British Overseas Territories Act 2002, s 2 (2) (b) .

Sub-s (1): words in first pair of square brackets substituted by the British Overseas Territories Act 2002, s 2(2) (b); words in second pair of square brackets inserted by Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(2).

Sub-s (6): words in square brackets substituted by the British Overseas Territories Act 2002, s 2(1)(b).

Sub-s (1): British overseas territories citizen As to British overseas territories citizenship, see Pt II, s 36, Sch 2, paras 1, 3—5 post. Any person who, immediately before 21 May 2002, was a British overseas territories citizen became, on that date, a British citizen by virtue of the British Overseas Territories Act 2002, s 3(1) post (but see also s 3(2) thereof).

A person may not be registered as a British overseas territories citizen under a provision of this Act by virtue of a connection with Hong Kong; see the Nationality, Immigration and Asylum Act 2002, s 14 post, as from a day to be appointed under s 162 thereof post.

Sub-s (1): British National (Overseas) For meaning, see s 50(1) post. See also the Hong Kong Act 1985, s 2(2), Schedule, para 2, Vol 7, title Commonwealth and Other Territories. Sub-s (1): British Overseas citizen For meaning, see s 50(1) post. As to British Overseas citizenship, see also Pt III, s 36, Sch 2, paras 1, 2, 4, 5 post.

Sub-s (1): British subject As to the persons who are British subjects under this Act, see Pt IV, s 36, Sch 2, paras 1, 2, 4 post. See also s 37(4) post.

Sub-s (2): Entitled . . . to be registered; application for his registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)—(4), (6) post. See also, as respects British overseas territories citizens, s 4A post, and as respects certain other persons, ss 4B, 4C post.

Sub-s (2): Days on which he was absent from the United Kingdom The whole days on which he was so absent; see s 50(10) (b) post.

Sub-s (2): Months See the note to s 3 ante.

Sub-s (2): In the United Kingdom in breach of the immigration laws As to the construction of this reference, see the Nationality, Immigration and Asylum Act 2002, s 11 post.

Sub-s (4): Secretary of State See the note to s 1 ante.

Sub-s (4): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Definitions

“British National (Overseas)”: s 50(1)

“British Overseas citizen”: s 50(1)

“British overseas territory”: s 50(1)

“British protected person”: s 50(1)

“commencement”: s 50(1)

“Crown service”: s 50(1)

“date of the application”: s 50(8)

“immigration laws”: s 50(1)

“settled”: ss 1(8), 50(1)—(4)

“the United Kingdom”: s 50(1)

[4A Acquisition by registration: further provision for British overseas territories citizens

(1) If an application is made to register as a British citizen a person who is a British overseas territories citizen, the Secretary of State may if he thinks fit cause the person to be so registered.

(2) Subsection (1) does not apply in the case of a British overseas territories citizen who

- (a) is such a citizen by virtue only of a connection with the Sovereign Base Areas of Akrotiri and Dhekelia; or
- (b) has ceased to be a British citizen as a result of a declaration of renunciation.]

NOTES

Amendments

Inserted by the British Overseas Territories Act 2002, s 4.

Sub-s (1): Application is made to register As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)—(4), (6) post.

Sub-s (1): British overseas territories citizen As to British overseas territories citizenship, see Pt II, s 36, Sch 2, paras 1, 3—5 post. Any person who, immediately before 21 May 2002, was a British overseas territories citizen became, on that date, a British citizen by virtue of the British Overseas Territories Act 2002, s 3(1) post (but see also s 3(2) thereof).

A person may not be registered as a British overseas territories citi-

zen under a provision of this Act by virtue of a connection with Hong Kong; see the Nationality, Immigration and Asylum Act 2002, s 14 post, as from a day to be appointed under s 162 thereof post.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Sub-s (2): Sovereign Base Areas of Akrotiri and Dhekelia See the Cyprus Act 1960, s 2(1), Vol 7, title Commonwealth and Other Territories.

Sub-s (2): Declaration of renunciation See ss 12, 24 post.

[4B Acquisition by registration: certain persons without other citizenship

- (1) This section applies to a person who has the status of
 - (a) British Overseas citizen,
 - (b) British subject under this Act, or
 - (c) British protected person.
- (2) A person to whom this section applies shall be entitled to be registered as a British citizen if
 - (a) he applies for registration under this section,
 - (b) the Secretary of State is satisfied that the person does not have, apart from the status mentioned in subsection (1), any citizenship or nationality, and
 - (c) the Secretary of State is satisfied that the person has not after 4th July 2002 renounced, voluntarily relinquished or lost through action or inaction any citizenship or nationality.]

NOTES

Amendments

Inserted by the Nationality, Immigration and Asylum Act 2002, s 12(1).

Sub-s (1): British Overseas citizen For meaning, see s 50(1) post. As to British Overseas citizenship, see also Pt III, s 36, Sch 2, paras 1, 2, 4, 5 post.

Sub-s (1): British subject As to the persons who are British subjects under this Act, see Pt IV, s 36, Sch 2, paras 1, 2, 4 post. See also s 37(4) post.

Sub-s (2): Applies for registration As to the making of regulations in this connection, see s 41(1)(b), (c), (2)(a), (b) post; and for general provisions as to registration, see s 42(1)—(4) post.

Sub-s (2): Secretary of State See the note to s 1 ante.

Sub-s (2): Satisfied As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Definitions

“British Overseas citizen”: s 50(1)

“British protected person”: s 50(1)

[4C Acquisition by registration: certain persons born between 1961 and 1983

(1) A person is entitled to be registered as a British citizen if—

- (a) he applies for registration under this section, and
- (b) he satisfies each of the following conditions.

(2) The first condition is that the applicant was born after 7th February 1961 and before 1st January 1983.

(3) The second condition is that the applicant would at some time before 1st January 1983 have become a citizen of the United Kingdom and Colonies by virtue of section 5 of the British Nationality Act 1948 (c 56) if that section had provided for citizenship by descent from a mother in the same terms as it provided for citizenship by descent from a father.

(4) The third condition is that immediately before 1st January 1983 the applicant would have had the right of abode in the United Kingdom by virtue of section 2 of the Immigration Act 1971 (c 77) had he become a citizen of the United Kingdom and Colonies as described in subsection (3) above.]

NOTES

Amendments

Inserted by the Nationality, Immigration and Asylum Act 2002, s 13(1).

Sub-s (1): Applies for registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)–(4) post.

British Nationality Act 1948, s 5 S 5 of that Act was repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

Immigration Act 1971, s 2 S 2 of that Act was substituted by s 39(2) of this Act. The original text of s 2 is printed in the notes to the present text ante.

Definitions

“the United Kingdom”: s 50(1)

5 Acquisition by registration: nationals for purposes of the Community treaties

A [British overseas territories citizen] who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties shall be entitled to be registered as British citizen if an application is made for his registration as such a citizen.

NOTES

Amendments

Words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

British overseas territories citizen As to British overseas territories citizenship, see Pt II, s 36, Sch 2, paras 1, 3–5 post.

Any person who, immediately before 21 May 2002, was a British overseas territories citizen became, on that date, a British citizen by virtue of the British Overseas Territories Act 2002, s 3(1) post (but see also s 3(2) thereof).

Community Treaties For meaning, see the European Communities Act 1972, s 1(2), Sch 1, Pt I, Vol 17, title European Community, as applied by the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes. See also s 1(3), (4) of the 1972 Act.

Entitled to be registered; application . . . for his registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)–(4), (6) post.

Definitions

“the United Kingdom”: s 50(1)

6 Acquisition by naturalisation

(1) If, on an application for naturalisation as a British citizen made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(2) If, on an application for naturalisation as a British citizen made by a person of full age and capacity who on the date of the application is married to a British citizen, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

NOTES

Sub-s (1): Application for naturalisation; grant . . . a certificate of naturalisation As to the making of regulations in this connection, see s 41(1) (b), (2) (a), (c), (d) post; and for general provisions as to naturalisation, see s 42(1), (2), (5), (6) post.

As to the supply of information for the purpose of determining whether an applicant for naturalisation is of good character, see the Nationality, Immigration and Asylum Act 2002, s 130(3), (5), (6) post, and the Immigration and Asylum Act 1999, s 20 post, as applied by s 131 of the 2002 Act post.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): Satisfied; thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Cases relating to this section

Secretary of State for the Home Dept v Ullah [2001] EWCA Civ 659, [2001] 3 WLR 1508 Definitions

“date of the application”: s 50(8)

“full age”: s 50(11)(a)

“full capacity”: s 50(11)(a)

Acquisition after commencement: special cases

7–9 (*Repealed by the Nationality, Immigration and Asylum Act 2002, ss 15, 161, Sch 2, paras 1(a)–(c), 2, Sch 9, except in relation to a registration made before repeal.*)

10 Registration following renunciation of citizenship of UK and Colonies

(1) Subject to subsection (3), a person shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if immediately before commencement he would (had he applied for it) have been entitled under section 1(1) of the British Nationality Act 1964 (resumption of citizenship) to be registered as a citizen of the United Kingdom and Colonies by virtue of having an appropriate qualifying connection with the United Kingdom or .. by virtue of having been married before commencement to a person who has, or would if living have, such a connection.

(2) On an application for his registration as a British citizen made by a person of full capacity who had before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, the Secretary of State may, if he thinks fit, cause that person to be registered as a British citizen if that person

- (a) has an appropriate qualifying connection with the United Kingdom; or
- (b) ...has been married to a person who has, or would if living have, such a connection.

(3) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(4) For the purposes of this section a person shall be taken to have an appropriate qualifying connection with the United Kingdom if he, his father or his father’s father

- (a) was born in the United Kingdom; or
- (b) is or was a person naturalised in the United Kingdom; or
- (c) was registered as a citizen of the United Kingdom and Colonies in the United Kingdom or in a country which at the time was mentioned in section 1(3) of the 1948 Act.

NOTES

Amendments

Sub-ss (1), (2) (b): words omitted repealed by the Nationality, Immigration and Asylum Act 2002, ss 5, 161, Sch 9.

Sub-s (1): Entitled ... to be registered; application for his registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)–(4) post.

Sub-s (1): Citizen of the United Kingdom and Colonies The main provisions relating to citizenship of the United Kingdom and Colonies were contained in the British Nationality Act 1948, Pt II, which was supplemented, in particular, by certain provisions of the British Nationality Act 1958, the British Nationality Act 1964, and the British Nationality (No 2) Act 1964. All those provisions were repealed by s 52(8) and Sch 9 post, and are printed in italics ante. As to the citizens of the United Kingdom and Colonies who became British citizens, British overseas territories citizens or British Overseas citizens at the commencement of this Act, see ss 11, 23, 26 post respectively; as to registration as a citizen of the United Kingdom and

Colonies after the passing of this Act, see s 49 post; and as to the construction of statutory references to such citizens, see s 51(3) post.

Sub-s (2): Declaration of renunciation Ie a declaration made under s 12 post, under the British Nationality Act 1948, s 19 ante, or under that section as extended by the British Nationality Act 1964, s 2. (S 19 of the 1948 Act and s 2 of the 1964 Act were repealed by s 52(8) and Sch 9 post, and are printed in italics ante.)

Sub-s (2): Secretary of State See the note to s 1 ante.

Sub-s (2): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post..

Sub-s (4): Born in the United Kingdom As to where a person outside the United Kingdom aboard a ship or aircraft is deemed to have been born, see s 50(7) post.

1948 Act Ie the British Nationality Act 1948; see s 50(1) post. S 1 of that Act was repealed by s 52(8) and Sch 9 post., and is printed in italics ante.

British Nationality Act 1964, s 1(1) The whole Act was repealed by s 52(8) and -Sch 9 post, and is printed in italics ante.

Definitions

"the 1948 Act": s 50(1)

"commencement": s 50(1)

"father": s 50 (9)

"full capacity": s 50(1.1)(a)

"person naturalised in the United Kingdom": s 50(6)(a) "the United Kingdom": s 50 (1)

Acquisition at commencement

11 Citizens of UK and Colonies who are to become British citizens at commencement

(1) Subject to subsection (2), a person who immediately before commencement

- (a) was a citizen of the United Kingdom and Colonies; and
- (b) had the right of abode in the United Kingdom under the Immigration Act 1971 as then in force,

shall at commencement become a British citizen.

(2) A person who was registered as a citizen of the United Kingdom and Colonies under section 1 of the British Nationality (No 2) Act 1964 (stateless persons) on the ground mentioned in subsection (1)(a) of that section (namely that his mother was a citizen of the United Kingdom and Colonies at the time when he was born) shall not become a British citizen under subsection (1) unless

- (a) his mother becomes a British citizen under subsection (1) or would have done so but for her death; or
- (b) immediately before commencement he had the right of abode in the United Kingdom by virtue of section 2(1)(c) of the *Immigration Act 1971* as then in force (settlement in United Kingdom, combined with five or more years' ordinary residence there as a citizen of the United Kingdom and Colonies).

(3) A person who—

- (a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of having been registered under subsection (6) of section 12 of the *1948 Act* (British subjects before commencement of 1948 Act becoming citizens of United Kingdom and Colonies) under arrangements made by virtue of subsection (7) of that section (registration in independent Commonwealth country by United Kingdom High Commissioner); and
- (b) was so registered on an application under the said subsection (6) based on the applicant's descent in the male line from a person ("the relevant person") possessing one of the qualifications specified in subsection (1)(a) and (b) of that section (birth or naturalisation in the United Kingdom and Colonies),

shall at commencement become a British citizen if the relevant person was born or naturalised in the United Kingdom.

NOTES

Sub-s (1): Citizen of the United Kingdom and Colonies See the note to s 10 ante.

Sub-s (3): Born . . . in the, United Kingdom As to where a person born outside the United Kingdom aboard a ship or aircraft is to be deemed to have been born, see s 50(7) post.

1948 Act Ie the British Nationality Act 1948; see s 50(1) post. S 12 of that Act, which was repealed by s 52(8) and Sch 9 post, is printed in italics ante.

British Nationality (No 2) Act 1964, s 1 The whole Act, which was repealed by s 52(8) and Sch 9 post, is printed in italics ante.

Immigration Act 1971 S 2 of that Act was substituted by s 39(2) of this Act. The original text of s 2 is printed in the notes to the present text of that section ante.

Definitions

"the 1948 Act": s 50(1)

"commencement": s 50(1)

"mother": s 50(9)

"person naturalised in the United Kingdom": s 50(6) (a)

"the United Kingdom": s 50(1)

Renunciation and resumption

12 Renunciation

(1) If any British citizen of full age and capacity makes in the prescribed manner a declaration of renunciation of British citizenship, then, subject to subsections (3) and (4), the Secretary of State shall cause the declaration to be registered.

(2) On the registration of a declaration made in pursuance of this section the person who made it shall cease to be a British citizen.

(3) A declaration made by a person in pursuance of this section shall not be registered unless the Secretary of State is satisfied that the person who made it will after the registration have or acquire some citizenship or nationality other than British citizenship; and if that person does not have any such citizenship or nationality on the date of registration and does not acquire some such citizenship or nationality within six months from that date, he shall be, and be deemed to have remained, a British citizen notwithstanding the registration.

(4) The Secretary of State may withhold registration of any declaration made in pursuance of this section if it is made during any war in which Her Majesty may be engaged in right of Her Majesty's government in the United Kingdom.

(5) For the purposes of this section any person who has been married shall be deemed to be of full age.

NOTES

Sub-s (1): British citizen As to the acquisition of British citizenship, see ss 1—11 ante, and s 36 and Sch 2, paras 2—5 post; and as to the resumption of British citizenship by a person who has renounced it, see s 13 post. See further the British Nationality (Falkland Islands) Act 1983, the British Nationality (Hong Kong) Act 1990, the Hong Kong (war wives and widows) Act 1996, the British Nationality (Hong Kong) Act 1997, and the British Overseas Territories Act 2002, s 3, all post.

This section applies in relation to British overseas territories citizens and British overseas territories citizenship, to British Overseas citizens and British Overseas citizenship, and to British subjects and the status of British subjects; see ss 24, 29, 34 post.

Sub-s (1): Makes . . . a declaration; cause the declaration to be registered As to the making of regulations in this connection, see s 41(1)(a), (c), (2)(b)—(d) post.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (3): Satisfied As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Sub-s (3): Months See the note to s 3 ante.

Sub-s (4): May withhold See the note "Satisfied" above.

Definitions

“from” a date: s 50(10) (a)

“full age”: s 50(11)(a) (and note sub-s (5) above)

“full capacity”: s 50(11) (a)

“prescribed”: s 50(1)

13 Resumption

(1) Subject to subsection (2), a person who has ceased to be a British citizen as a result of a declaration of renunciation shall be entitled, on an application for his registration as a British citizen, to be registered as such a citizen if

- (a) he is of full capacity; and
- (b) his renunciation of British citizenship was necessary to enable him to retain or acquire some other citizenship or nationality.

(2) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(3) If a person of full capacity who has ceased to be a British citizen as a result of a declaration of renunciation (for whatever reason made) makes an application for his registration as such a citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

NOTES

Sub-s (1): Declaration of renunciation See s 12 ante. This section also applies in relation to British overseas territories citizens and British overseas territories citizenship; see s 24 post.

Sub-s (1): Entitled . . . to be registered; application for his registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)-(4) post.

Sub-s (3): Secretary of State See the note to s 1 ante.

Sub-s (3): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Definitions

“full capacity”: s 50(11)(a)

*Supplementary***14 Meaning of British citizen “by descent”**

(1) For the purposes of this Act a British citizen is a British citizen “by descent” if and only if

- (a) he is a person born outside the United Kingdom after commencement who is a British citizen by virtue of section (2)(1)(a) only or by virtue of registration under section 3(2) or 9; or
- (b) subject to subsection (2), he is a person born outside the United Kingdom before commencement who became a British citizen at commencement and immediately before commencement
 - (i) was a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent); or
 - (ii) was a person who, under any provision of the British Nationality Acts 1948 to 1965, was deemed for the purposes of the proviso to section 5(1) of the 1948 Act to be a citizen of the United Kingdom and Colonies by descent only, or would have been so deemed if male; or
 - (iii) had the right of abode in the United Kingdom by virtue only of paragraph (b) of subsection (1) of section 2 of the Immigration Act 1971 as then in force (connection with United Kingdom through parent or grandparent), or by virtue only of that paragraph and paragraph (c) of that subsection (settlement in United King-

dom with five years’ ordinary residence there), or by virtue only of being or having been the wife of a person who immediately before commencement had that right by virtue only of the said paragraph (b) or the said paragraphs (b) and (c); or

- (iv) being a woman, was a citizen of the United Kingdom and Colonies as a result of her registration as such a citizen under section 6(2) of the 1948 Act by virtue of having been married to a man who at commencement became a British citizen by descent or would have done so but for having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or
 - (c) he is a British citizen by virtue of registration under section 3(1) and either
 - (i) his father or mother was a British citizen at the time of the birth; or
 - (ii) his father or mother was a citizen of the United Kingdom and Colonies at that time and became a British citizen at commencement, or would have done so but for his or her death; or
 - (d) he is a British citizen by virtue of registration under [section 4B[, 4C] or 5]; or
 - (e) subject to subsection (2), being a woman born outside the United Kingdom before commencement, she is a British citizen as a result of her registration as such a citizen under section 8 by virtue of being or having been married to a man who at commencement became a British citizen by descent or would have done so but for his having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or
 - (f) he is a British citizen by virtue of registration under section 10 who, having before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, would, if he had not so ceased, have at commencement become a British citizen by descent by virtue of paragraph (b); or
 - (g) he is a British citizen by virtue of registration under section 13 who, immediately before he ceased to be a British citizen as a result of a declaration of renunciation, was such a citizen by descent; or
 - (h) he is a person born in a [British overseas territory] after commencement who is a British citizen by virtue of paragraph 2 of Schedule 2.
- (2) A person born outside the United Kingdom before commencement is not a British citizen “by descent” by virtue of subsection (1)(b) or (e) if his father was at the time of his birth serving outside the United Kingdom
- (a) in service of a description mentioned in subsection (3), his recruitment for the service in question having taken place in the United Kingdom; or
 - (b) in service under a Community institution, his recruitment for that service having taken place in a country which at the time of the recruitment was a member of the Communities.
- (3) The descriptions of service referred to in subsection (2) are
- (a) Crown service under the government of the United Kingdom; and
 - (b) service of any description at any time designated under section 2(3).

NOTES**Amendments**

Sub-s (1)(d): words in first (outer) pair of square brackets substituted and reference to “, 4C” in second (inner) pair of square brackets inserted by the Nationality, Immigration and Asylum Act 2002, ss 12(2), 13(2).

Sub-s (1)(h): words in square brackets substituted by the British Overseas Territories Act 200, s 1(1)(b)

Sub-s (1): British citizen As to the acquisition of British citizenship, see ss 1—11, 13 ante, and s 36 and Sch 2, paras 2-5 post; and as to the renunciation of British citizenship, see s 12 ante.

Sub-s (1): Born outside the United Kingdom As to where a person born outside the United Kingdom aboard a ship or aircraft is to be deemed to have been born, see s 50(7) post.

Sub-s (1): Became a British citizen at commencement As to the persons who acquired British citizenship at the commencement of this Act, see s 11 ante.

Sub-s (1): Citizen of the United Kingdom and Colonies See the note to s 10 ante.

Sub-s (1): Declaration of renunciation Is a declaration made under s 12 ante, under the British Nationality Act 1948, s 19 ante, or under that section as extended by the British Nationality Act 1964, s 2. (S 19 of the 1948 Act and s 2 of the 1964 Act were repealed by s 52(8) and Sch 9 post, and are printed in italics ante.)

Sub-s (1): At the time of the birth As to posthumous children, see s 48 post.

Sub-s (2): Community institution; the Communities See the notes to s 2 ante.

British citizenship acquired by virtue of British Nationality (Hong Kong) Act 1990, the Hong Kong (War Wives and Widows) Act 1996, or the British Nationality (Hong Kong) Act 1997 As to the citizenship status of persons registered as a British citizen by virtue of these Acts, see s 2(1) of the 1990 Act post, s 2(1) of the 1996 Act, and s 2(1), (2) of the 1997 Act post.

1948 Act Is the British Nationality Act 1948; see s 50(1) post. Ss 5 and 6(2) of that Act were repealed by s 52(8) and Sch 9 post, and are printed in italics ante.

British Nationality Acts 1948 to 1965 Is the British Nationality Act 1948, the British Nationality Act 1958, the British Nationality Act 1964, the British Nationality Act (No 2) 1964, and the British Nationality Act 1965. Those Acts, with the exception of a few provisions of the 1948 Act, were repealed by s 52(8) and Sch 9 post, and are printed in italics ante.

Immigration Act 1971, s 2(1) S 2 of that Act was substituted by s 39(2) of this Act. The original text of s 2 is printed in the notes to the present text of that section ante.

Definitions

“the 1948 Act”: s 50(1)

“British overseas territory”: s 50(1)

“commencement”: s 50(1)

“Crown service”: s 50(1)

“Crown service under the government of the United Kingdom”: s 50(1) “father”: s 50(9)

“mother”: s 50(9)

“the United Kingdom”: s 50(1)

PART II**[BRITISH OVERSEAS TERRITORIES CITIZENSHIP]***Acquisition after commencement***15 Acquisition by birth or adoption**

(1) A person born in a [British overseas territory] after commencement shall be a [British overseas territories citizen] if at the time of the birth his father or mother is

- (a) a [British overseas territories citizen]; or
- (b) settled in a [British overseas territory].

(2) A new-born infant who, after commencement, is found abandoned in a [British overseas territory] shall, unless the contrary is shown, be deemed for the purposes of subsection (1)—

- (a) to have been born in that territory after commencement; and

- (b) to have been born to a parent who at the time of the birth was a [British overseas territories citizen] or settled in a [British overseas territory].

(3) A person born in a [British overseas territory] after commencement who is not a [British overseas territories citizen] by virtue of subsection (1) or (2) shall be entitled to be registered as such a citizen if, while he is a minor

- (a) his father or mother becomes such a citizen or becomes settled in a [British overseas territory]; and
- (b) an application is made for his registration as such a citizen.

(4) A person born in a [British overseas territory] after commencement who is not a [British overseas territories citizen] by virtue of subsection (1) or (2) shall be entitled, on an application for registration as a [British overseas territories citizen] made at any time after he has attained the age of ten years, to be registered as such a citizen if, as regards each of the first ten years of that person’s life, the number of days on which he was absent from that territory in that year does not exceed 90.

(5) Where after commencement an order authorising the adoption of a minor who is not a [British overseas territories citizen] is made by a court in any [British overseas territory], he shall be a [British overseas territories citizen] as from the date on which the order is made if the adopter or, in the case of a joint adoption, one of the adopters, is a [British overseas territories citizen] on that date.

(6) Where an order in consequence of which any person became a [British overseas territories citizen] by virtue of subsection (5) ceases to have effect, whether on annulment or otherwise, the cesser shall not affect the status of that person as such a citizen.

(7) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (4) treat the person to whom the application relates as fulfilling the requirements specified in that subsection although, as regards any one or more of the first ten years of that person’s life, the number of days on which he was absent from the [British overseas territory] there mentioned in that year or each of the years in question exceeds 90.

NOTES**Amendments**

Part heading: words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(a).

Sub-ss (1)–(5): words in square brackets substituted by the British Overseas Territories Act 2002, ss 1(1)(b), 2(2)(b).

Sub-s (6): words in square brackets substituted by the British Overseas Territories Act 2002, s 2 (2) (b) .

Sub-s (7): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Prospective amendments

Sub-s (5A): inserted after sub-s (5) by the Adoption and Children Act 2002, s 137(3), (5) (a), as from a day to be appointed under s 148 thereof, Vol 6, title Children, as follows:

“(5A) Where

- (a) a minor who is not a British overseas territories citizen is adopted under a Convention adoption,
- (b) on the date on which the adoption is effected
 - (i) the adopter or, in the case of a joint adoption, one of the adopters is a British overseas territories citizen, and
 - (ii) the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in a designated territory, and
- (c) the Convention adoption is effected under the law of a country or territory outside the designated territory,

the minor shall be a British overseas territories citizen as from that date.”.

Sub-s (6): words “or a Convention adoption” inserted after word “order” by the Adoption and Children Act 2002, s 137(3), (5) (b), as from a day to be appointed under s 148 thereof Vol 6, title Children.

Sub-s (1): Born in a British overseas territory As to where a person born outside a British overseas territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A), (7B) post.

Sub-s (1): At the time of the birth, etc As to posthumous children, see s 48 post. Sub-s (3): Entitled to be registered; application ... for his registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)-(4), (6) post.

Sub-s (4): Attained the age, etc A person attains any age at the beginning of the relevant anniversary of the date of his birth; see s 50(11)(b) post.

Sub-s (4): Days on which he was absent from that territory Ie whole days on which he was so absent; see s 50(10)(b) post.

Sub-s (7): Secretary of State See the note to s 1 ante.

Sub-s (7): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Status conferred by adoption Neither the provisions of the Adoption Act 1976, s 39, nor of the Adoption and Children Act 2002, s 67, both Vol 6, title Children, apply for the purposes of this Act or any instrument having effect thereunder; see s 47(2)(a), (c) of the 1976 Act, and s 74(2) (a), (c) of the 2002 Act, in the same title.

Person becoming a British citizen by virtue of the British Nationality (Hong Kong) Act 1990 A British overseas territories citizen ceases to be such a citizen if he becomes, or has become, a British citizen by virtue of the British Nationality (Hong Kong) Act 1990; see s 2(2) of that Act post, as from a day to be appointed under s 6(4) thereof post.

Definitions

“British overseas territory”: s 50(1)

“commencement”: s 50(1) “father”: s 50(9)

“minor”: s 50(1)

“mother”: s 50(9)

“parent”: s 50(9)

“settled”: ss 1(8), 50(1)-(4)

16 Acquisition by descent

(1) A person born outside the [British overseas territories] after commencement shall be a [British overseas territories citizen] if at the time of the birth his father or mother

- (a) is such a citizen otherwise than by descent; or
- (b) is such a citizen and is serving outside the [British overseas territories] in service to which this paragraph applies, his or her recruitment for that service having taken place in a [British overseas territory].

(2) Paragraph (b) of subsection (1) applies to

- (a) Crown service under the government of a [British overseas territory]; and
- (b) service of any description for the time being designated under subsection (3).

(3) For the purposes of this section the Secretary of State may by order made by statutory instrument designate any description of service which he considers to be closely associated with the activities outside the [British overseas territories] of the government of any [British overseas territory].

(4) Any order made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

NOTES

Amendments

Sub-s (1): words in square brackets substituted by the British Overseas Territories Act 2002, ss 1(1)(b), 2(2)(b)

Sub-ss (2), (3): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Sub-s (1): Born outside the British overseas territories As to where a person born outside a British overseas territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A), (7B)

post.

Sub-s (1): At the time of the birth, etc As to posthumous children, see s 48 post. Sub-s (3): Secretary of State See the note to s 1 ante.

Sub-s (3): May As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Sub-s (3): Statutory instrument See the note to s 2 ante.

Sub-s (4): Subject to annulment See the note to s 2 ante.

Orders under this section

British Dependent Territories Citizenship (Designated Service) Order 1982, SI 1982/1710.

Definitions

“British overseas territories citizen by descent”: s 25

“British overseas territory”: s 50(1)

“commencement”: s 50(1)

“Crown service”: s 50(1)

“father”: s 50(9)

“mother”: s 50(9)

17 Acquisition by registration: minors

(1) If while a person is a minor an application is made for his registration as a [British overseas territories citizen] the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

(2) A person born outside the [British overseas territories] shall be entitled, on an application for his registration as a [British overseas territories citizen] made within the period of twelve months from the date of the birth, to be registered as such a citizen if the requirements specified in subsection (3) or, in the case of a person born stateless, the requirements specified in paragraphs (a) and (b) of that subsection, are fulfilled in the case of either that person’s father or mother (“the parent in question”).

(3) The requirements referred to in subsection (2) are

- (a) that the parent in question was a [British overseas territories citizen] by descent at the time of the birth; and
- (b) that the father or mother of the parent in question
 - (i) was a [British overseas territories citizen] otherwise than by descent at the time of birth of the parent in question; or
 - (ii) became a [British overseas territories citizen] otherwise than by descent at commencement, or would have become such a citizen otherwise than by descent at commencement but for his or her death; and
- (c) that, as regards some period of three years ending with a date not later than the date of the birth
 - (i) the parent in question was in a [British overseas territory] at the beginning of that period; and
 - (ii) the number of days on which the parent in question was absent from that territory in that period does not exceed 270.

(4) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat subsection (2) as if the reference to twelve months were a reference to six years.

(5) A person born outside the [British overseas territories] shall be entitled, on an application for his registration as a [British overseas territories citizen] made while he is a minor, to be registered as such a citizen if the following requirements are satisfied, namely

- (a) that at the time of that person’s birth his father or mother was a [British overseas territories citizen] by descent; and
- (b) subject to subsection (6), that that person and his father and mother were in one and the same [British overseas territory] (no matter which) at the begin-

ning of the period of three years ending with the date of the application and that, in the case of each of them, the number of days on which the person in question was absent from the last-mentioned territory in that period does not exceed 270; and

(c) subject to subsection (6), that the consent of his father and mother to the registration has been signified in the prescribed manner.

(6) In the case of an application under subsection (5) for the registration of a person as a [British overseas territories citizen]

- (a) if his father or mother died, or their marriage was terminated, on or before the date of the application, or his father and mother were legally separated on that date, the references to his father and mother in paragraph (b) of that subsection shall be read either as references to his father or as references to his mother;
- (b) if his father or mother died on or before that date, the reference to his father and mother in paragraph (c) of that subsection shall be read as a reference to either of them; *and*
- (c) *if he was born illegitimate, all those reference shall be read as references to his mother.*

NOTES

Amendments

Sub-ss (1), (6): words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Sub-ss (2), (3), (5): words in square brackets substituted by the British Overseas Territories Act 2002, ss 1(1) (b), 2 (2) (b) .

Prospective amendments

Sub-s (6)(a): “and” inserted at the end by the Nationality, Immigration and Asylum Act 2002, s 9(3)(a), as from a day to be appointed under s 162(5) thereof post.

Sub-s (6)(c) (and word “and” preceding it): repealed by the Nationality, Immigration and Asylum Act 2002, ss 9(3) (b), (c), 161, Sch 9, as from a day to be appointed under s 162(5) thereof post.

Sub-s (1): Application . . . for his registration; cause him to be registered As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)-(4), (6) post.

A person may not be registered as a British overseas territories citizen under a provision of this Act by virtue of a connection with Hong Kong; see the Nationality, Immigration and Asylum Act 2002, s 14 post, as from a day to be appointed under s 162 thereof post.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Sub-s (2): Born outside the British overseas territories As to where a person born outside a British overseas territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A), (7B) post.

Sub-s (2): Months See the note to s 3 ante.

Sub-s (3): At the time of the birth As to posthumous children, see s 48 post.

Sub-s (3): Days on which the parent . . . was absent from that territory The whole days on which he was so absent; see s 50(10) (b) post.

Definitions

“British overseas territories citizen by descent”: s 25

“British overseas territory”: s 50(1)

“commencement”: s 50(1)

“date of the application”: s 50(8)

“father”: s 50(9)

“from” a date: s 50(10) (a)

“minor”: s 50(1)

“mother”: s 50(9)

“parent”: s 50(9)

“prescribed”: s 50(1)

18 Acquisition by naturalisation

(1) If, on an application for naturalisation as a [British overseas territories citizen] made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(2) If, on an application for naturalisation as a [British overseas territories citizen] made by a person of full age and capacity who on the date of the application is married to such a citizen, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

(3) Every application under this section shall specify the [British overseas territory] which is to be treated as the relevant territory for the purposes of that application; and, in relation to any such application, references in Schedule 1 to the relevant territory shall be construed accordingly.

NOTES

Amendments

Sub-ss (1), (2): words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Sub-s (3): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Sub-s (1): Application for naturalisation; grant . . . a certificate of naturalisation As to the making of regulations in this connection, see s 41(1) (b), (2) (a), (c), (d) post; and for general provisions as to naturalisation, see s 42 post.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): Satisfied; thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Definitions

“British overseas territory”: s 50(1)

“date of the application”: s 50(8)

“full age”: s 50(11)(a)

“full capacity”: s 50(11)(a)

Acquisition after commencement: special cases

19-21 (Repealed by the Nationality, Immigration and Asylum Act 2002, ss 15, 161, Sch 2, paras 1(d)—(f), 2, Sch 9, except in relation to a registration made before repeal.)

22 Right to registration replacing right to resume citizenship of UK and colonies

(1) Subject to subsection (3), a person shall be entitled, on an application for his registration as a [British overseas territories citizen], to be registered as such a citizen if immediately before commencement he would (had he applied for it) have been entitled under section 1(1) of the British Nationality Act 1964 (resumption of citizenship) to be registered as a citizen of the United Kingdom and Colonies by virtue of having an appropriate qualifying connection with a [British overseas territory] or . . . by virtue of having been married before commencement to a person who has, or would if living have, such a connection.

(2) On an application for his registration as a [British overseas territories citizen] made by a person of full capacity who had before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, the Secretary of State may, if he thinks fit, cause that person to be registered as a [British overseas territories citizen] if that person—

- (a) has an appropriate qualifying connection with a [British overseas territory]; or

- (b) . . . has been married to a person who has, or would if living have, such a connection.

(3) A person shall not be entitled to registration under subsection (1) on more than one occasion.

(4) For the purposes of this section a person shall be taken to have an appropriate qualifying connection with a [British overseas territory] if he, his father or his father's father—

- (a) was born in that territory; or
- (b) is or was a person naturalised in that territory; or
- (c) was registered as a citizen of the United Kingdom and Colonies in that territory; or
- (d) became a British subject by reason of the annexation of any territory included in that territory.

NOTES

Amendments

Sub-ss (1), (2): words in square brackets substituted by the British Overseas Territories Act 2002, ss 1(1) (b), 2(2) (b); words omitted repealed by the Nationality, Immigration and Asylum Act 2002, ss 5(b), 161, Sch 9.

Sub-s (4): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Sub-s (1): Entitled ... to be registered; application for his registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)-(4), (6) post.

Sub-s (1): Citizen of the United Kingdom and Colonies See the note to s 10 ante.

Sub-s (2): Declaration of renunciation In a declaration made under s 12 ante as applied by s 24 post, under the British Nationality Act 1948, s 19 ante, or under that section as extended by the British Nationality Act 1964, s 2. (S 19 of the 1948 Act and s 2 of the 1964 Act were repealed by s 52(8) and Sch 9 post, and are printed in italics ante.)

Sub-s (2): Secretary of State See the note to s 1 ante.

Sub-s (2): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Sub-s (4): Born in that territory As to where a person born outside a British overseas territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A), (7B) post.

British Nationality Act 1964, s 1(1) The whole Act was repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

Definitions

“British overseas territory”: s 50(1)

“commencement”: s 50(1)

“father”: s 50(9)

“full capacity”: s 50(11) (a)

“naturalised in a British overseas territory”: s 50(6) (b)

Acquisition at commencement

23 Citizens of UK and Colonies who are to become [British overseas territories citizens] at commencement

(1) A person shall at commencement become a [British overseas territories citizen] if—

- (a) immediately before commencement he was a citizen of the United Kingdom and Colonies who had that citizenship by his birth, naturalisation or registration in a [British overseas territory]; or
- (b) he was immediately before commencement a citizen of the United Kingdom and Colonies, and was born to a parent—
 - (i) who at the time of the birth (“the material time”) was a citizen of the United Kingdom and Colonies; and
 - (ii) who either had that citizenship at the material time by his birth, naturalisation or registration in a [British overseas territory] or was himself born to a parent who at the time of that birth so had that citizenship; or

- (c) being a woman, she was immediately before commencement a citizen of the United Kingdom and Colonies and either was then, or had at any time been, the wife of a man who under paragraph (a) or (b) becomes a [British overseas territories citizen] at commencement or would have done so but for his death.

(2) A person shall at commencement become a [British overseas territories citizen] if—

- (a) immediately before commencement he was a citizen of the United Kingdom and Colonies by virtue of registration under section 7 of the 1948 Act (minor children) or section 1 of the British Nationality (No 2) Act 1964 (stateless persons); and
- (b) he was so registered otherwise than in a [British overseas territory]; and
- (c) his father or mother (in the case of a person registered under the said section 7) or his mother (in the case of a person registered under the said section 1)—
 - (i) was a citizen of the United Kingdom and Colonies at the time of the registration or would have been such a citizen at that time but for his or her death; and
 - (ii) becomes a [British overseas territories citizen] at commencement or would have done so but for his or her death.

(3) A person who

- (a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of having been registered under subsection (6) of section 12 of the 1948 Act (British subjects before commencement of 1948 Act becoming citizens of United Kingdom and Colonies) otherwise than in a [British overseas territory]; and
- (b) was so registered on an application under that subsection based on the applicant's descent in the male line from a person (“the relevant person”) possessing one of the qualifications specified in subsection (1) of that section (birth or naturalisation in the United Kingdom and Colonies, or acquisition of the status of British subject by reason of annexation of territory),
- (c) shall at commencement become a [British overseas territories citizen] if the relevant person
 - (i) was born or naturalised in a [British overseas territory]; or
 - (ii) became a British subject by reason of the annexation of any territory included in a [British overseas territory].

(4) A person who—

- (a) immediately before commencement was a citizen of the United Kingdom and Colonies by virtue of registration under section 1 of the British Nationality Act 1964 (resumption of citizenship); and
- (b) was so registered otherwise than in a [British overseas territory]; and
- (c) was so registered by virtue of having an appropriate qualifying connection with a [British overseas territory] or, if a woman, by virtue of having been married to a person who at the time of the registration had or would, if then living, have had such a connection,

shall at commencement become a [British overseas territories citizen].

(5) For the purposes of subsection (4) a person shall be taken to have an appropriate qualifying connection with a [British overseas territory] if he, his father or his father's father—

- (a) was born in a [British overseas territory]; or
- (b) is or was a person naturalised in a [British overseas territory]; or
- (c) was registered as a citizen of the United Kingdom and Colonies in a [British overseas territory]; or
- (d) became a British subject by reason of the annexation of any territory included in a [British overseas territory].

(6) For the purposes of subsection (1)(b) 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.

NOTES

Amendments

Sidenote: words in square brackets substituted by the British Overseas Territories Act 2002, s 2 (2) (b) .

Sub-ss (1)–(4): words in square brackets substituted by the British Overseas Territories Act 2002, ss 1(1)(b), 2(2)(b).

Sub-s (5): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Sub-s (1): Citizen of the United Kingdom and Colonies See the note to s 10 ante.

Sub-s (1): At the time of the birth, etc As to posthumous children, see s 48 post.

Sub-s (3): Born . . . in a British overseas territory As to where a person born outside a British overseas territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A), (7B) post.

Sub-s (6): Before the year 1949 The British Nationality Act 1948 came into force on 1 January 1949 by virtue of s 34(2) of that Act. The 1948 Act was largely repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

1948 Act Ie the British Nationality Act 1948; see s 50(1) post. Ss 7 and 12 of that Act, which were repealed by s 52(8) and Sch 9 post, are printed in italics ante.

British Nationality Act 1964, s 1 Repealed by s 52(8) and Sch 9 post, and printed in italics ante.

British Nationality (No 2) Act 1964, s 1 Repealed by s 52(8) and Sch 9 post, and printed in italics ante.

Definitions

“the 1948 Act”: s 50(1)

“British overseas territory”: s 50(1)

“commencement”: s 50(1)

“father”: s 50(9)

“mother”: s 50(9)

“naturalised in a British overseas territory”: s 50(6) (b)

“parent”: s 50(9)

Renunciation and resumption

24 Renunciation and resumption

The provisions of sections 12 and 13 shall apply in relation to [British overseas territories citizens] and [British overseas territories citizenship] as they apply in relation to British citizens and British citizenship.

NOTES

Amendments

Words in square brackets substituted by the British Overseas Territories Act 2002, ss 1(1) (b), 2(2).

Supplementary

25 Meaning of [British overseas territories citizen] “by descent”

(1) For the purposes of this Act a [British overseas territories citizen] is such a citizen “by descent” if and only if—

- (a) he is a person born outside the [British overseas territories] after commencement who is a [British overseas territories citizen] by virtue by section 16(1) (a) only or by virtue of registration under section 17(2) or 21; or
- (b) subject to subsection (2), he is a person born outside the [British overseas territories] before commencement who became a [British overseas territories citizen] at commencement and immediately before commencement
 - (i) was a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent); or
 - (ii) was a person who, under any provision of the British Nationality Acts 1948 to 1965, was deemed for the purposes of the proviso to section 5(1) of the 1948 Act to be a citizen of the United Kingdom and Colonies by descent only, or would have been so deemed if male; or
- (c) he is a [British overseas territories citizen] by virtue of registration under section 17(1) and either—
 - (i) his father or mother was a [British overseas territories citizen] at the time of the birth; or
 - (ii) his father or mother was a citizen of the United Kingdom and Colonies at that time and became a [British overseas territories citizen] at commencement, or would have done so but for his or her death; or
- (d) subject to subsection (2), he is a person born outside the [British overseas territories] before commencement who became a [British overseas territories citizen] at commencement under section 23(1)(b) only; or
- (e) subject to subsection (2), being a woman, she became a [British overseas territories citizen] at commencement under section 23(1)(c) only, and did so only by virtue of having been, immediately before commencement or earlier, the wife of a man who immediately after commencement was, or would but for his death have been, a [British overseas territories citizen] by descent by virtue of paragraph (b) or (d) of this subsection; or
- (f) subject to subsection (2), being a woman born outside the [British overseas territories] before commencement, she is a [British overseas territories citizen] as a result of her registration as such a citizen under section 20 by virtue of being or having been married to a man who at commencement became such a citizen by descent or would have done so but for his having died or ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation; or
- (g) he is a [British overseas territories citizen] by virtue of registration under section 22 who, having before commencement ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, would, if he had not so ceased, have at commencement become a [British overseas territories citizen] by descent by virtue of paragraph (b), (d) or (e);
- (h) he is a [British overseas territories citizen] by virtue of registration under section 13 (as applied by section 24) who, immediately before he ceased to be a [British overseas territories citizen] as a result of a declaration of renunciation, was such a citizen by descent; or
- (i) he is a person born in the United Kingdom after

commencement who is a [British overseas territories citizen] by virtue of paragraph 1 of Schedule 2.

(2) A person born outside the [British overseas territories] before commencement is not a [British overseas territories citizen] “by descent” by virtue of subsection (1)(b), (d), (e) or (f) if his father was at the time of his birth serving outside the [British overseas territories] in service of a description mentioned in subsection (3), his recruitment for the service in question having taken place in a [British overseas territory].

(3) The descriptions of service referred to in subsection (2) are—

- (a) Crown service under the government of a [British overseas territory]; and
- (b) service of any description at any time designated under section 16(3).

NOTES

Amendments

Sidenote: words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Sub-ss (1), (2): words in square brackets substituted by the British Overseas Territories Act 2002, ss 1(1)(b), 2(2)(b).

Sub-s (3)(a): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1) (b).

Sub-s (1): British overseas territories citizen As to the acquisition of British overseas territories citizenship, see ss 15—23 ante, s 13 ante, as applied by s 24 ante, and s 36, Sch 2, paras 1, 3-5 post.

Sub-s (1): Born outside the British overseas territories As to where a person born outside a British overseas territory aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A), (7B) post.

Sub-s (1): Became a British overseas territories citizen at commencement As to the persons who acquired British overseas territories citizenship at the commencement of this Act, see s 23 ante.

Sub-s (1): Citizen of the United Kingdom and Colonies See the note to s 10 ante.

Sub-s (1): Declaration of renunciation Ie a declaration made under s 12 ante as applied by s 24 ante, under the British Nationality Act 1948, s 19 ante, or under that section as extended by the British Nationality Act 1964, s 2. (S 19 of the 1948 Act and s 2 of the 1964 Act were repealed by s 52(8) and Sch 9 post, and are printed in italics ante.)

Sub-s (2): At the time of his birth As to posthumous children, see s 48 post.

1948 Act Ie the British Nationality Act 1948; see s 50(1) post. S 5 of that Act is repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

British Nationality Acts 1948 to 1965 See the note to s 14 ante.

Definitions

“the 1948 Act”: s 50(1)

“British overseas territory”: s 50(1)

“commencement”: s 50(1)

“Crown service”: s 50(1)

“father”: s 50(9)

“mother” s 50(9)

“the United Kingdom”: s 50(1)

PART III

BRITISH OVERSEAS CITIZENSHIP

26 Citizens of UK and Colonies who are to become British Overseas citizens at commencement

Any person who was a citizen of the United Kingdom and Colonies immediately before commencement and who does not at commencement become either a British citizen or a [British overseas territories citizen] shall at commencement become a British Overseas citizen.

NOTES

Amendments

Words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Citizen of the United Kingdom and Colonies See the note to s 10 ante.

Does not at commencement become either a British citizen or a British overseas territories citizen As to the persons who acquired British citizenship at the commencement of this Act, see s 11 ante, and as to the persons who acquired British overseas territories citizenship at that time, see s 23 ante.

Definitions

“British Overseas citizen”: s 50(1)

“commencement”: s 50(1)

27 Registration of minors

(1) If while a person is a minor an application is made for his registration as a British Overseas citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

(2) . . .

NOTES

Amendments

Sub-s (2): repealed by the Nationality, Immigration and Asylum Act 2002, ss 15, 161, Sch 2, paras 1(g), 2, Sch 9, except in relation to a registration made before repeal.

Sub-s (1): Application . . . for his registration; cause him to be registered As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)—(4) post.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Definitions

“British Overseas citizen”: s 50(1)

“minor”: s 50(1)

28 (Repealed by the Nationality, Immigration and Asylum Act 2002, ss 15, 161, Sch 2, paras 1(h), 2, Sch 9, except in relation to a registration made before repeal.)

29 Renunciation

The provisions of section 12 shall apply in relation to British Overseas citizens and British Overseas citizenship as they apply in relation to British citizens and British citizenship.

NOTES

Definitions

“British Overseas citizen”: s 50(1)

PART IV

BRITISH SUBJECTS

30 Continuance as British subjects of existing British subjects of certain descriptions

A person who immediately before commencement was

- (a) a British subject without citizenship by virtue of section 13 to 16 of the 1948 Act; or
- (b) a British subject by virtue of section 1 of the British Nationality Act 1965 (registration of alien women who have been married to British subjects of certain descriptions),

shall as from commencement be a British subject by virtue of this section.

NOTES

1948 Act *Ie the British Nationality Act 1948; see s 50(1) post. Ss 13-16 of that Act, which were repealed by s 52(8) and Sch 9 post, are printed in italics ante.*

British Nationality Act 1965, s 1 *The whole Act was repealed by s 52(8) and Sch 9 post, and is printed in italics ante.*

Definitions

“the 1948 Act”: s 50(1)

“commencement”: s 50(1)

31 Continuance as British subjects of certain former citizens of Eire

(1) A person is within this subsection if immediately before 1st January 1949 he was both a citizen of Eire and a British subject.

(2) A person within subsection (1) who immediately before commencement was a British subject by virtue of section 2 of the 1948 Act (continuance of certain citizens of Eire as British subjects) shall as from commencement be a British subject by virtue of this subsection.

(3) If at any time after commencement a citizen of the Republic of Ireland who is within subsection (1) but is not a British subject by virtue of subsection (2) gives notice in writing to the Secretary of State claiming to remain a British subject on either or both of the following grounds, namely

- (a) that he is or has been in Crown Service under the government of the United Kingdom; and
- (b) that he has associations by way of descent, residence or otherwise with the United Kingdom or with any [British overseas territory],
- (c) he shall as from that time be a British subject by virtue of this subsection.

(4) A person who is a British subject by virtue of subsection (2) or (3) shall be deemed to have remained a British subject from 1st January 1949 to the time when (whether already a British subject by virtue of the said section 2 or not) he became a British subject by virtue of that subsection.

NOTES**Amendments**

Sub-s (3)(b): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Sub-s (1): 1st January 1949 *Ie the date on which the British Nationality Act 1948 (largely repealed by s 52(8) and Sch 9 post, and printed in italics ante) came into force by virtue of s 34(2) of that Act.*

Sub-s (3): Republic of Ireland *Ie that part of Ireland previously known as Eire and originally called the Irish Free State; see the Ireland Act 1949, s 1(1), (3), Vol 7, title Commonwealth and Other Territories, in conjunction with the Eire (Confirmation of Agreements) Act 1938, s 1 (repealed).*

Sub-s (3): Notice *As to the making of regulations in this connection, see s 41(1) (e), (2) (d) post.*

Sub-s (3): Writing *Unless the contrary intention appears this includes other modes of representing or reproducing words in a visible form; see the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes.*

Sub-s (3): Secretary of State *See the note to s 1 ante.*

1948 Act *Ie the British Nationality Act 1948; see s 50(1) post. S 2 of that Act was repealed by s 52(8) and Sch 9 post, and is printed in italics ante.*

Definitions

“the 1948 Act”: s 50(1)

“British overseas territory”: s 50(1) “commencement”: s 50(1)

“Crown service”: s 50(1)

“Crown service under the government of the United Kingdom”: s 50(1) “the United Kingdom”: s 50(1)

32 Registration of minors

If while a person is a minor an application is made for his registration as a British subject, the Secretary of State may, if he thinks fit, cause him to be registered as a British subject.

NOTES

Application . . . for his registration; cause him to be registered *As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) post; and for general provisions as to registration, see s 42(1)–(4) post.*

Secretary of State *See the note to s 1 ante.*

Thinks fit *As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.*

Definitions

“minor”: s 50(1)

33 *(Repealed by the Nationality, Immigration and Asylum Act 2002, ss 15, 161, Sch 2, paras 1(i), 2, Sch 9, except in relation to a registration made before repeal.)*

34 Renunciation

The provisions of section 12 shall apply in relation to British subjects and the status of a British subject as they apply in relation to British citizens and British citizenship.

35 Circumstances in which British subjects are to lose that status

A person who under this Act is a British subject otherwise than by virtue of section 31 shall cease to be such a subject if, in whatever circumstances and whether under this Act or otherwise, he acquires any other citizenship or nationality whatever.

PART V**MISCELLANEOUS AND SUPPLEMENTARY****36 Provisions for reducing statelessness**

The provisions of Schedule 2 shall have effect for the purpose of reducing statelessness.

37 Commonwealth citizenship

(1) Every person who—

- (a) under [the British Nationality Acts 1981 and 1983] [or the British Overseas Territories Act 2002] is a British citizen, a [British overseas territories citizen], [a British National (Overseas),] a British Overseas citizen or a British subject; or
- (b) under any enactment for the time being in force in any country mentioned in Schedule 3 is a citizen of that country,

shall have the status of a Commonwealth citizen.

(2) Her Majesty may by Order in Council amend Schedule 3 by the alteration of any entry, the removal of any entry, or the insertion of any additional entry.

(3) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) After commencement no person shall have the status of a Commonwealth citizen or the status of a British subject otherwise than under this Act.

NOTES**Amendments**

Sub-s (1): words in first pair of square brackets substituted by the British Nationality (Falkland Islands) Act 1983, s 4(3); words in second pair of square brackets inserted and words in third pair of square brackets substituted by the British Overseas Territories Act 2002, ss 2(2)(b), 5, Sch 1, para 4; words in fourth pair of square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(3)(b).

Sub-s (1): British citizen As to British citizenship, see Pt I and s 36 ante, Sch 2, paras 2-5 post.

Sub-s (1): British overseas territories citizen As to British overseas territories citizenship, see Pt II and s 36 ante, and Sch 2, paras 1, 3-5 post.

Sub-s (1): British National (Overseas) For meaning, see s 50(1) post. See also the Hong Kong Act 1985, s 2(2), Schedule, para 2, Vol 7, title Commonwealth and Other Territories.

Sub-s (1): British Overseas citizen For meaning, see s 50(1) post. As to British Overseas citizenship, see also Pt III and s 36 ante, and Sch 2, paras 1, 2, 4, 5 post.

Sub-s (1): British subject As to the persons who are British subjects under this Act, see Pt IV and s 36 ante, and Sch 2, paras 1, 2, 4 post.

Sub-s (1): Country mentioned in Schedule 3 This includes the dependencies of any such country; see s 50(12) post.

Sub-s (2): Removal of any entry For special provisions relating to the removal of the Republic of Cyprus from Sch 3 post, see the Cyprus Act 1960, s 6, Vol 7, title Commonwealth and Other Territories.

Sub-s (3): Subject to annulment For provisions as to annulment of statutory instruments in pursuance of a resolution of either House of Parliament, see the Statutory Instruments Act 1946, ss 5(1), 7(1), Vol 41, title Statutes.

Application This section and ss 40, 41 (other than sub-s (2)), ss 42, 44(1), 45, 46, 47, 48, 50 post have effect as if the British Nationality (Hong Kong) Act 1990 were included in this Act; see s 2(3) of the 1990 Act post.

This section and ss 40, 41 (other than sub-s (2)), ss 42, 44(1), (2), 45, 50, 51(3) post have effect as if the Hong Kong (War Wives and Widows) Act 1996 were included in this Act; see s 2(2) of the 1996 Act post.

This section and ss 40, 41, 42, 45, 46, 47, 48, 50, 51(3) post have effect as if the British Nationality (Hong Kong) Act 1997 were included in this Act; see s 2(3) of the 1997 Act post.

British Nationality Acts 1981 and 1983 This means the present Act and the British Nationality (Falkland Islands) Act 1983 post; see s 5(1) of the 1983 Act.

British Overseas Territories Act 2002 See this tide post.

Orders in Council under this section

British Nationality (Brunei) Order 1983, SI 1983/1699.

British Nationality (Cameroon and Mozambique) Order 1998, SI 1998/3161.

British Nationality (Namibia) Order 1990, SI 1990/1502.

British Nationality (Pakistan) Order 1989, SI 1989/1331.

British Nationality (South Africa) Order 1994, SI 1994/1634.

The power to make Orders in Council is exercisable by statutory instrument; see the Statutory Instruments Act 1946, s 1(1), Vol 41, title Statutes.

Definitions

“British National (Overseas)”: s 50(1)

“British Overseas citizen”: s 50(1)

“commencement”: s 50(1)

“Commonwealth citizen”: s 50(1)

“enactment”: s 50(1)

38 British protected persons

(1) Her Majesty may by Order in Council made in relation to any territory which was at any time before commencement—

- (a) a protectorate or protected state for the purposes of the 1948 Act; or
- (b) a United Kingdom trust territory within the meaning of that Act, declare to be British protected persons for the purposes of this Act any class of person who are connected with that territory and are not citizens of any country mentioned in Schedule 3 which consists of or includes that territory.

(2) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

NOTES

Sub-s (1): Country mentioned in Schedule 3 This includes the dependencies of any such country; see s 50(12) post.

Sub-s (2): Subject to annulment See the note to s 37 ante.

1948 Act I.e. the British Nationality Act 1948; see s 50(1) post. As to the territories which were protectorates or protected states for the purposes of that Act, see s 30 thereof, and for the meaning of “United Kingdom trust territory” (and “trust territory”), see s 32(1) thereof. (Those provisions, which were repealed by s 52(8) and Sch 9 post, are printed in italics ante).

Orders in Council under this section

British Nationality (Brunei) Order 1983, SI 1983/1699.

British Protectorates, Protected States and Protected Persons Order 1982, SI 1982/1070, as amended by SI 1983/1699.

The power to make Orders in Council is exercisable by statutory instrument; see the Statutory Instruments Act 1946, s 1(1), Vol 41, title Statutes.

Definitions

the 1948 Act”: s 50(1)

“British protected person”: s 50(1)

“commencement”: s 50(1)

39 Amendment of Immigration Act 1971

(1) The Immigration Act 1971 shall be amended in accordance with the following provisions of this section.

(2)-(5) . . .

(6) Schedule 4 (which contains further amendments of the Immigration Act 1971) shall have effect.

(7) . . .

(8) A certificate of patriality issued under the Immigration Act 1971 and in force immediately before commencement shall have effect after commencement as if it were a certificate of entitlement issued under that Act [as in force after commencement], unless at commencement the holder ceases to have right of abode in the United Kingdom.

NOTES

Amendments

Sub-s (2): substitutes the Immigration Act 1971, s 2 ante.

Sub-s (3): repealed by the Immigration Act 1988, s 3(3).

Sub-s (4): inserts the Immigration Act 1971, s 8(5A) ante.

Sub-s (5): repealed by the Immigration Act 1988, s 3(3).

Sub-s (7): amends the Mental Health Act 1959, s 90 (repealed), and the Mental Health (Scotland) Act 1960, s 82 (outside the scope in this work).

Sub-s (8): words in square brackets substituted by the Immigration Act 1988, s 3(3).

Sub-s (8): Certificate of entitlement The reference to a certificate of entitlement in the Immigration Act 1988, s 2(2)(b) (restriction on exercise of right of abode in cases of polygamy) includes a reference to a certificate treated as such a certificate by virtue of sub-s (8) above; see s 2(8) of the 1988 Act post.

Immigration Act 1971 As to the issue of certificates of patriality under that Act prior to the commencement of this Act, see the original s 3(9) of that Act, which is set out in the notes to that section ante.

Definitions

“commencement”: s 50(1)

“United Kingdom”: s 50(1)

[40 Deprivation of citizenship

(1) In this section a reference to a person’s “citizenship status” is a reference to his status as—

- (a) a British citizen,
- (b) a British overseas territories citizen,
- (c) a British Overseas citizen,
- (d) a British National (Overseas),
- (e) a British protected person, or
- (f) a British subject.

(2) The Secretary of State may by order deprive a person of a citizenship status if the Secretary of State is satisfied that the person has done anything seriously prejudicial to the vital interests of—

- (a) the United Kingdom, or
- (b) a British overseas territory.

(3) The Secretary of State may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of—

- (a) fraud,
- (b) false representation, or
- (c) concealment of a material fact.

(4) The Secretary of State may not make an order under subsection (2) if he is satisfied that the order would make a person stateless.

(5) Before making an order under this section in respect of a person the Secretary of State must give the person written notice specifying

- (a) that the Secretary of State has decided to make an order,
- (b) the reasons for the order, and
- (c) the person's right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997 (c 68).

(6) Where a person acquired a citizenship status by the operation of a law which applied to him because of his registration or naturalisation under an enactment having effect before commencement, the Secretary of State may by order deprive the person of the citizenship status if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of—

- (a) fraud,
- (b) false representation, or
- (c) concealment of a material fact.]

NOTES

Amendments

Substituted (along with s 40A post) for s 40 by the Nationality, Immigration and Asylum Act 2002, s 4(1).

Sub-s (1): British citizen As to British citizenship, see Pt I and s 36 ante, Sch 2, paras 2-5 post.

Sub-s (1): British overseas territories citizen As to British overseas territories citizenship, see Pt II and s 36 ante, and Sch 2, paras 1, 3-5 post.

Sub-s (1): British Overseas citizen For meaning, see s 50(1) post. As to British Overseas citizenship, see also Pt III and s 36 ante, and Sch 2, paras 1, 2, 4, 5 post.

Sub-s (1): British National (Overseas) For meaning, see s 50(1) post. See also the Hong Kong Act 1985, s 2(2), Schedule, para 2, Vol 7, tide Commonwealth and Other Territories.

Sub-s (1): British subject As to the persons who are British subjects under this Act, see Pt IV and s 36 ante, and Sch 2, paras 1, 2, 4 post.

Sub-s (2): Secretary of State See the note to s 1 ante. See further, in connection with the exercise of a power of the Secretary of State under this section, the Nationality, Immigration and Asylum Act 2002, s 4(4) post.

Sub-s (2): May; satisfied As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 post.

Sub-s (2): Deprive . . . of a citizenship As to the making of regulations in this connection, see s 41(1) (f) post.

Sub-s (4): Stateless For provisions for reducing statelessness, see s 36 ante, Sch 2 post. **Sub-s (5): Written** See the note "Writing" to s 31 ante.

Sub-s (5): Notice As to the making of regulations in this connection, see s 41(1)(e) post. Application See the note to s 37 ante.

Special Immigration Appeals Commission Act 1997, s 2B See this tide post.

Cases relating to this section

R v Secretary of State for the Home Department and Governor of Horsfield Prison, ex p Sultan Mahmood [1981] QB 58, [1980] 3 WLR 312, CA

R v Secretary of State for the Home Department, ex p Akhtar [1981] QB 46, [1980] 2 All ER 735, CA

Definitions

"British National (Overseas)": s 50(1)

"British Overseas citizen": s 50(1)

"British overseas territory": s 50(1)

"British protected person": s 50(1)

"commencement": s 50(1)

"enactment": s 50(1)

"the United Kingdom": s 50(1)

[40A Deprivation of citizenship: appeal

(1) A person who is given notice under section 40(5) of a decision to make an order in respect of him under section 40 may appeal against the decision to an adjudicator appointed under section 81 of the Nationality, Immigration and Asylum Act 2002 (immigration appeal).

(2) Subsection (1) shall not apply to a decision if the Secretary of State certifies that it was taken wholly or partly in reliance on information which in his opinion should not be made public—

- (a) in the interests of national security,
- (b) in the interests of the relationship between the United Kingdom and another country, or
- (c) otherwise in the public interest.

(3) A party to an appeal to an adjudicator under subsection (1) may, with the permission of the Immigration Appeal Tribunal, appeal to the Tribunal against the adjudicator's determination on a point of law.

(4) A party to an appeal to the Immigration Appeal Tribunal under subsection (3) may bring a further appeal on a point of law—

- (a) where the decision of the adjudicator was made in Scotland, to the Court of Session, or
- (b) in any other case, to the Court of Appeal.

(5) An appeal under subsection (4) may be brought only with the permission of—

- (a) the Tribunal, or
- (b) if the Tribunal refuses permission, the court referred to in subsection (4)(a) or (b).

(6) An order under section 40 may not be made in respect of a person while an appeal under this section or section 2B of the Special Immigration Appeals Commission Act 1997 (c 68)—

- (a) has been instituted and has not yet been finally determined, withdrawn or abandoned, or
- (b) could be brought (ignoring any possibility of an appeal out of time with permission).

(7) Rules under section 106 of the Nationality, Immigration and Asylum Act 2002 (immigration appeal: rules) may make provision about an appeal under this section.

(8) Directions under section 107 of that Act (practice directions) may make provision about an appeal under this section.]

NOTES

Amendments

Substituted as noted to s 40 ante.

Sub-s (1): Notice As to the making of regulations in this connection, see s 41(1) (e) post.

Sub-s (2): Shall not apply A person may appeal to the Special Immigration Appeals Commission against a decision to make an order under s 40 ante if he is not entitled to appeal under sub-s (1) above because of a certificate under sub-s (2) above; see the Special Immigration Appeals Commission Act 1997, s 2B post.

Sub-s (2): Secretary of State See the note to s 1 ante.

Sub-s (3): Immigration Appeal Tribunal As to the Immigration Appeal Tribunal, see the Nationality, Immigration and Asylum Act 2002, s 100, Sch 5 post.

Sub-s (4): Court of Appeal I.e. Her Majesty's Court of Appeal in England; see the Interpretation Act 1978, s 5, Sch 1, Vol 41, title

Statutes. For the constitution of the court, see the Supreme Court Act 1981, s 2, and for its two divisions, see s 3 of that Act, Vol 11, title Courts and Legal Services.

Nationality, Immigration and Asylum Act 2002, ss 81, 106, 107
See this title post.

Special Immigration Appeals Commission Act 1997, s 2B See this title post.

Definitions

“the United Kingdom”: s 50(1)

41 Regulations and Orders in Council

(1) The Secretary of State may by regulations make provision generally for carrying into effect the purposes of this Act, and in particular provision—

- (a) for prescribing anything which under this Act is to be prescribed;
- (b) for prescribing the manner in which, and the persons to and by whom, applications for registration or naturalisation under any provision of this Act may or must be made;
- (c) for the registration of anything required or authorised by or under this Act to be registered;
- (d) for the administration and taking of oaths of allegiance under this Act, as to the time within which oaths of allegiance must be taken, and for the registration of oaths of allegiance;
- (e) for the giving of any notice required or authorised to be given to any person under this Act;
- (f) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship [or of the status of a British National (Overseas)] under this Act, and for requiring such certificates to be delivered up for those purposes;
- (g) for the births and deaths of persons of any class or description born or dying in a country mentioned in Schedule 3 to be registered there by the High Commissioner for Her Majesty's government in the United Kingdom or by members of his official staff;
- (h) for the births and deaths of persons of any class or description born or dying in a foreign country to be registered there by consular officers or other officers in the service of Her Majesty's government in the United Kingdom;
- (i) for enabling the births and deaths of British citizens, [British overseas territories citizens], [British Nationals (Overseas)], British Overseas citizens, British subjects and British protected persons born or dying in any country in which Her Majesty's government in the United Kingdom has for the time being no diplomatic or consular representatives to be registered—
 - (i) by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with Her Majesty's government in the United Kingdom, has undertaken to represent that government's interest in that country, or
 - (ii) by a person authorised in that behalf by the Secretary of State.

(2) The Secretary of State may with the consent of the Treasury by regulations make provision for the imposition, recovery and application of fees in connection with any of the following matters, namely

- (a) any application made to the Secretary of State under this Act [other than an application for the

purpose of acquiring the status of a British National (Overseas)];

- (b) the effecting in the United Kingdom of any registration authorised by or under this Act [other than registration as a British National (Overseas)];
- (c) the making in the United Kingdom of any declaration, the grant there of any certificate, or the taking there of any oath of allegiance authorised to be made, granted or taken by or under this Act;
- (d) the supplying in the United Kingdom of a certified or other copy of any notice, certificate, order, declaration or entry given, granted or made under or by virtue of this Act or any of the former nationality Acts;
- (e) the carrying out of searches in or of any registers or other records, being registers or records held in the United Kingdom by or on behalf of the Secretary of State, which are or may be relevant for the purpose of determining the status of any person under this Act or any of the former nationality Acts;
- (f) the supplying by or on behalf of the Secretary of State of an opinion in writing concerning the status of any person under this Act or any of the former nationality Acts, or a certified or other copy of such an opinion.

(3) Regulations under subsection (1) or (2) may make different provision for different circumstances; and

- (a) regulations under subsection (1) may provide for the extension of any time-limit for the taking of oaths of allegiance, and
- (b) regulations under subsection (2) may provide for any fees imposed by the regulations to be payable at such times as may be prescribed.

(4) Her Majesty may by Order in Council provide for any Act or Northern Ireland legislation to which this subsection applies to apply, with such adaptations and modifications as appear to Her necessary, to births and deaths registered

- (a) in accordance with regulations made in pursuance of subsection (1)(g) to (i) of this section or subsection (1)(f) and (g) of section 29 of the 1948 Act; or
- (b) at a consulate of Her Majesty in accordance with regulations made under the British Nationality and Status of Aliens Act 1914 to 1943 or in accordance with instructions of the Secretary of State; or
- (c) by a High Commissioner for Her Majesty's government in the United Kingdom or members of his official staff in accordance with instructions of the Secretary of State;

and an Order in Council under this subsection may exclude, in relation to births and deaths so registered, any of the provisions of section 45.

(5) Subsection (4) applies to

- (a) the Births and Deaths Registration Act 1953, the Registration Service Act 1953 and the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and
- (b) so much of any Northern Ireland legislation for the time being in force (whether passed or made before or after commencement) as relates to the registration of births and deaths.

(6) The power to make regulations under subsection (1) or (2) shall be exercisable by statutory instrument.

(7) Any regulations or Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

NOTES

Amendments

Sub-s (1)(f): words in square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(b).

Sub-s (1)(i): words in first pair of square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b); words in second pair of square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(c).

Sub-s (2) (a), (b): words in square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(d).

Prospective amendments

Sub-s (1)(ba), (bb): inserted after sub-s (1) (b) by the Nationality, Immigration and Asylum Act 2002, s 1(3), as from a day to be appointed under s 162 thereof post as follows:

“(ba) for determining whether a person has sufficient knowledge of a language for the purpose of an application for naturalisation;

(bb) for determining whether a person has sufficient knowledge about life in the United Kingdom for the purpose of an application for naturalisation;”.

Sub-s (1)(d): substituted by the Nationality, Immigration and Asylum Act 2002, s 3, Sch 1, paras 3, 4, as from a day to be appointed under s 162 thereof post as follows:

“(d) for the time within which an obligation to make a citizenship oath and pledge at a citizenship ceremony must be satisfied;

(da) for the time within which an obligation to make a citizenship oath or pledge must be satisfied;

(db) for the content and conduct of a citizenship ceremony;

(dc) for the administration and making of a citizenship oath or pledge;

(dd) for the registration and certification of the making of a citizenship oath or pledge;

(de) for the completion and grant of a certificate of registration or naturalisation;”.

Sub-s (1A): inserted after sub-s (1) by the Nationality, Immigration and Asylum Act 2002, s 1(4), as from a day to be appointed under s 162 thereof post as follows:

“(1A) Regulations under subsection (1)(ba) or (bb) may, in particular

(a) make provision by reference to possession of a specified qualification;

(b) make provision by reference to possession of a qualification of a specified kind;

(c) make provision by reference to attendance on a specified course;

(d) make provision by reference to attendance on a course of a specified kind;

(e) make provision by reference to a specified level of achievement;

(f) enable a person designated by the Secretary of State to determine sufficiency of knowledge in specified circumstances;

(g) enable the Secretary of State to accept a qualification of a specified kind as evidence of sufficient knowledge of a language.”.

Sub-s (2)(c): words “the making there of a citizenship oath or pledge” substituted for words in italics in first place, and words “or granted” substituted for words in italics in second place, by the Nationality, Immigration and Asylum Act 2002, s 3, Sch 1, paras 3, 5, as from a day to be appointed under s 162 thereof post.

Sub-s (3)(a): words “making of oaths and pledges of citizenship” substituted for words in italics by the Nationality, Immigration and Asylum Act 2002, s 3, Sch 1, paras 3, 6, as from a day to be appointed under s 162 thereof post.

Sub-ss (3A), (3B): inserted after sub-s (3) by the Nationality, Immigration and Asylum Act 2002, s 3, Sch 1, paras 3, 7, as from a day to be appointed under s 162 thereof post as follows:

“(3A) Regulations under subsection (1)(d) to (de) may, in particular

(a) enable the Secretary of State to designate or authorise a person to exercise a function (which may include a discretion) in connection with a citizenship ceremony or a citizenship oath or pledge;

(b) require, or enable the Secretary of State to require, a local authority to provide specified facilities and to make specified arrangements in connection with citizenship ceremonies;

(c) impose, or enable the Secretary of State to impose, a function (which may include a discretion) on a local authority or on a registrar.

(3B) In subsection (3A) “local authority” means

(a) in relation to England and Wales, a county council, a county borough council, a metropolitan district council, a London Borough Council and the Common Council of the City of London, and

(b) in relation to Scotland, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 (c 39), and

“registrar” means

(a) in relation to England and Wales, a superintendent registrar of births, deaths and marriages (or, in accordance with section 8 of the Registration Service Act 1953 (c 37), a deputy superintendent registrar), and

(b) in relation to Scotland, a district registrar within the meaning of section 7(12) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c 49).”.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): British National (Overseas) For meaning, see s 50(1) post. See also the Hong Kong Act 1985, s 2(2), Schedule, para 2, Vol 7, title Commonwealth and Other Territories.

Sub-s (1): Requiring such certificates to be delivered up For penalty for failure to deliver up a certificate of naturalisation, see s 46(2) post.

Sub-s (1): Country mentioned in Sch 3 This includes the dependencies of any such country; see s 50(12) post.

Sub-s (1): Consular officers For meaning, see, by virtue of the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes, the Consular Relations Act 1968, Sch 1, Art 1, Vol 10, title Constitutional Law (Pt 5).

Sub-s (1) British citizens As to British citizenship, see Pt I and s 36 ante, Sch 2, paras 2—5 post.

Sub-s (1): British overseas territories citizens As to British overseas territories citizenship, see Pt II and s 36 ante, and Sch 2, paras 1, 3-5 post.

Sub-s (1) British Overseas citizens For meaning, see s 50(1) post. As to British Overseas citizenship, see also Pt III and s 36 ante, and Sch 2, paras 1, 2, 4, 5 post.

Sub-s (1): British subjects As to the persons who are British subjects under this Act, see Pt IV and s 36 ante, and Sch 2, paras 1, 2, 4 post. See also s 37(4) ante.

Sub-s (2): Writing See the note to s 31 ante.

Sub-s (4): Northern Ireland legislation For meaning, see the Interpretation Act 1978, ss 5, 24(5), Sch 1, Vol 41, title Statutes.

Sub-s (6): Statutory instrument See the note to s 2 ante.

Sub-s (7): Subject to annulment See the note to s 2 ante.

Application This section, so far as it relates to the making of regulations, s 42 post, so far as it relates to registration, and ss 44, 45, 46, 47, 48, 50 post apply for the purposes of the British Nationality (Falkland Islands) Act 1983 post, as they apply for the purposes of this Act; see s 4(2) of the 1983 Act. See also the note to s 37 ante.

1948 Act Is the British Nationality Act 1948; see s 50(1) post. S 29(1) of that Act was repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

Births and Deaths Registration Act 1953 See Vol 37, title Registration Concerning the Individual.

British Nationality and Status of Aliens Acts 1914 to 1943 This collective title was given by the British Nationality and Status of Aliens Act 1943, s 11(1). All the Acts comprised in the collective title with the exception of part of the British Nationality and Status of Aliens Act 1914 (which was renamed the Status of Aliens Act 1914, by virtue of the partial repeal of s 28(2) of that Act, and which is printed in this title ante) were repealed by the British Nationality Act 1948, s 34(3), Sch 4, Pt II.

Registration of Births, Deaths and Marriages (Scotland) Act 1965 1965 c 49; outside the scope of this work.

Registration Service Act 1953 See Vol 37, title Registration Concerning the Individual.

Regulations under this section

British Nationality (Dependent Territories) Regulations 1982, SI 1982/987, as amended by SI 2003/539.

British Nationality (Falkland Islands) Regulations 1983, SI 1983/479.

British Nationality (Fees) Regulations 1996, SI 1996/444, as amended by SI 1997/1328. British Nationality (General) Regulations 2003, SI 2003/548.

British Nationality (Hong Kong) Regulations 1986, SI 1986/2175, as amended by SI 2003/540. Registration of Overseas Births and Deaths Regulations 1982, SI 1982/1123, as amended by SI 1982/1647, SI 1985/1574, SI 1997/1466.

Orders in Council under this section

Registration (Entries of Overseas Births and Deaths) Order 1982, SI 1982/1526.

The power to make Orders *in Council* is exercisable by statutory instrument; see the Statutory Instruments Act 1946, s 1(1), Vol 41, title Statutes.

Definitions

“the 1948 Act”: s 50(1)

“British National (Overseas)”: s 50(1) “British Overseas citizen”: s 50(1) “British protected person”: s 50(1) “commencement”: s 50(1)

“foreign country”: s 50(1)

“the former nationality Acts”: s 50(1) “High Commissioner”: s 50(1)

“prescribed”: s 50(1)

“status of a British National (Overseas)”: s 50(1)

the United Kingdom”: s 50(1)

42 Registration and naturalisation: general provisions

(1) Subject to subsection (2)—

(a) a person shall not be registered under any provision of this Act as a citizen of any description or as a British subject; and

(b) a certificate of naturalisation shall not be granted to a person under any provision of this Act, unless—

(i) any fee payable by virtue of this Act in connection with the registration or, as the case may be, the grant of the certificate has been paid; and

(ii) the person concerned has within the prescribed time taken an oath of allegiance in the form indicated in Schedule 5.

(2) So much of subsection (1) as required the taking of an oath of allegiance shall not apply to a person who—

(a) is not of full age; or

(b) is already a British citizen, a [British overseas territories citizen], [a British National (Overseas)], a British Overseas citizen, a British subject, or a citizen of any country of which Her Majesty is Queen.

(3) Any provision of this Act which provides for a person to be entitled to registration as a citizen of any description or as a British subject shall have effect subject to the preceding provisions of this section.

(4) A person registered under any provision of this Act as a British citizen, or as a British overseas territories citizen] [, or as a British National (Overseas)], or as a British Overseas citizen, or as a British subject, shall be a citizen of that description or, as the case may be, [a British National (Overseas) or] a British subject as from the date on which he is so registered.

(5) A person to whom a certificate of naturalisation as a British citizen or as a British overseas territories citizen] is granted under any provision of this Act shall be a citizen of that description as from the date on which the certificate is granted.

[(6) A person who applies for registration or naturalisation as a British overseas territories citizen] under any provision of this Act by virtue (wholly or partly) of his having a connection with Hong Kong, may not be naturalised or registered, as the case may be, unless he makes his application on or before 31st March 1996.]

NOTES

Amendments

Sub-s (2)(1*): words in first pair of square brackets substituted by the British Overseas Territories Act 2002, s 2(2) (b); words in second pair of square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(5).

Sub-s (4): words in first pair of square brackets substituted by the British Overseas Territories Act 2002, s 2(2) (b); words in second and third pairs of square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(5).

Sub-s (5): words in square brackets substituted by the British Overseas Territories Act 2002, s 2 (2) (b) .

Sub-s (6): inserted by the Hong Kong (British Nationality) (Amendment) Order 1993, SI 1993/1795, art 3; words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Prospective amendments

Substituted by the Nationality, Immigration and Asylum Act 2002, s 3, Sch 1, para 1, as from a day to be appointed under s 162 thereof post as follows:

“42 Registration and naturalisation: citizenship ceremony, oath and pledge

(1) A person of full age shall not be registered under this Act as a British citizen unless he has made the relevant citizenship oath and pledge specified in Schedule 5 at a citizenship ceremony.

(2) A certificate of naturalisation as a British citizen shall not be granted under this Act to a person of full age unless he has made the relevant citizenship oath and pledge specified in Schedule 5 at a citizenship ceremony.

(3) A person of full age shall not be registered under this Act as a British overseas territories citizen unless he has made the relevant citizenship oath and pledge specified in Schedule 5.

(4) A certificate of naturalisation as a British overseas territories citizen shall not be granted under this Act to a person of full age unless he has made the relevant citizenship oath and pledge specified in Schedule 5.

(5) A person of full age shall not be registered under this Act as a British Overseas citizen or a British subject unless he has made the relevant citizenship oath specified in Schedule 5.

(6) Where the Secretary of State thinks it appropriate because of the special circumstances of a case he may—

(a) disapply any of subsections (1) to (5), or

(b) modify the effect of any of those subsections.

(7) Sections 5 and 6 of the Oaths Act 1978 (c 19) (affirmation) apply to a citizenship oath; and a reference in this Act to a citizenship oath includes a reference to a citizenship affirmation.

42A Registration and naturalisation: fee

(1) A person shall not be registered under a provision of this Act as a citizen of any description or as a British subject unless any fee payable by virtue of this Act in connection with the registration has been paid.

(2) A certificate of naturalisation shall not be granted to a person under a provision of this Act unless any fee payable by virtue of this Act in connection with the grant of the certificate has been paid.

42B Registration and naturalisation: timing

(1) A person who is registered under this Act as a citizen of any description or as a British subject shall be treated as having become a citizen or subject

(a) immediately on making the required citizenship oath and pledge in accordance with section 42, or

(b) where the requirement for an oath and pledge is disapplied, immediately on registration.

(2) A person granted a certificate of naturalisation under this Act as a citizen of any description shall be treated as having become a citizen

(a) immediately on making the required citizenship oath and pledge in accordance with section 42, or

(b) where the requirement for an oath and pledge is disapplied, immediately on the grant of the certificate.

(3) In the application of subsection (1) to registration as a British Overseas citizen or as a British subject the reference to the citizenship oath and pledge shall be taken as a reference to the citizenship oath.”

Sub-s (1): British subject As to the persons who are British subjects under this Act, see Pt W and s 36 ante, and Sch 2, paras 1, 2, 4 post. See also s 37(4) ante.

Sub-s (1): Oath of allegiance As to the making of regulations in this connection; see s 41(1) (d), (2) (c), (3) (a) ante.

Sub-s (2): British citizen As to British citizenship, see Pt I and s 36 ante, Sch 2, paras 2–5 post. Sub-s (2): British overseas territories citizen As to British overseas territories citizenship, see Pt II and s 36 ante, and Sch 2, paras 1, 3–5 post.

Sub-s (2): British National (Overseas) For meaning, see s 50(1) post. See also the Hong Kong Act 1985, s 2(2), Schedule, para 2, Vol 7, title Commonwealth and Other Territories.

Sub-s (2): British Overseas citizen For meaning, see s 50(1) post. As to British Overseas citizenship, see also Pt III and s 36 ante, and Sch 2, paras 1, 2, 4, 5 post.

Sub-s (6): British overseas territories citizen A person may not be registered as a British overseas territories citizen under a provision of this Act by virtue of a connection with Hong Kong; see the Nationality, Immigration and Asylum Act 2002, s 14 post, as from a day to be appointed under s 162 thereof post.

Application This section has effect in relation to citizens of Mauritius as if the Mauritius Republic Act 1992, s 1(1), Vol 7, title Commonwealth and Other Territories, had not been enacted; see s 1(3) of the 1992 Act. See also the notes to ss 37, 41 ante.

Cases relating to this section

R v Secretary of State for the Home Department, ex p Naheed Ejaz [1994] QB 496, [1994] 2 All ER 436, CA (sub-s (5))

Definitions

"British National (Overseas)": s 50(1)

"British Overseas citizen": s 50(1)

"full age": s 50(11) (a)

"prescribed": s 50(1)

43 Exercise of functions of Secretary of State by Governors and others

(1) Subject to subsection (3), the Secretary of State may, in the case of any of his functions under this Act with respect to any of the matters mentioned in subsection (2), make arrangements for that function to be exercised—

- (a) in any of the Islands, by the Lieutenant-Governor in cases concerning British citizens or British citizenship;
- (b) in any [British overseas territory] ... , by the Governor in cases concerning [British overseas territories citizens] or [British overseas territories citizenship] [and in cases concerning British Nationals (Overseas) or the status of a British National (Overseas)].

(2) The said matters are—

- (a) registration and naturalisation; and
 - (b) renunciation, resumption and deprivation of British citizenship or [British overseas territories citizenship];
- [(c) renunciation and deprivation of the status of a British National (Overseas)].

(3) Nothing in this section applies in the case of any power to make regulations or rules conferred on the Secretary of State by this Act.

(4) Arrangements under subsection (1) may provide for any such function as is there mentioned to be exercisable only with the approval of the Secretary of State.

NOTES

Amendments

Sub-s (1)(b): words in first, second and third pairs of square brackets substituted and words omitted repealed by the British Overseas Territories Act 2002, ss 1(1) (b), 2(2), 7, Sch 2; words in fourth pair of square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(6)(b)

Sub-s (2)(b): words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(a).

Sub-s (2) (c): inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(6) (c). Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): British citizens As to British citizenship, see Pt I and s 36 ante, and Sch 2, paras 2-5 post.

Sub-s (1): British overseas territories citizens As to British overseas territories citizenship, see Pt II and s 36 ante, and Sch 2, paras 1, 3-5 post.

Sub-s (1): British National (Overseas) For meaning, see s 50(1) post. See also the Hong Kong Act 1985, s 2(2), Schedule, para 2, Vol 7, title Commonwealth and Other Territories.

Definitions

"British National (Overseas)": s 50(1)

"British overseas territory": s 50(1)

"Governor": s 50(1)

"the Islands": s 50(1)

"status of a British National (Overseas)": s 50(1)

44 Decisions involving exercise of discretion

(1) Any discretion vested by or under this Act in the Secretary of State, a Governor or a Lieutenant-Governor shall be exercised without regard to the race, colour or religion of any person who may be affected by its exercise.

(2), (3) . . .

NOTES

Amendments

Sub-ss (2), (3): repealed by the Nationality, Immigration and Asylum Act 2002, ss 7(1), 161, Sch 9.

Sub-s (1): Secretary of State See the note to s 1 ante.

Application See the first and second paragraphs of the note to s 37 ante, and see also the note to s 41 ante.

Definitions

"Governor": s 50(1)

45 Evidence

(1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register, or a subscription of an oath of allegiance, given, granted or made under this Act or any of the former nationality Acts shall be received in evidence and shall, unless the contrary is provided, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

(2) Prima facie evidence of any such document may be given by the production of a document purporting to be certified as a true copy of it by such person and in such manner as may be prescribed.

(3) Any entry in a register made under this Act or any of the former nationality Acts shall be received as evidence (and in Scotland as sufficient evidence) of the matters stated in the entry.

(4) A certificate given by or on behalf of the Secretary of State that a person was at any time in Crown service under the government of the United Kingdom or that a person's recruitment for such service took place in the United Kingdom shall, for the purposes of this Act, be conclusive evidence of that fact.

NOTES

Sub-s (4): Secretary of State See the note to s 1 ante.

Application This section and ss 46, 48, 50 post have effect for the purposes of the Solomon Islands Act 1978, ss 2-6, as if those sections were included in this Act; see s 6(2) of the 1978 Act, Vol 7, title Commonwealth and Other Territories. See also the notes to ss 37, 41 ante.

Exclusion This section may be excluded by Order in Council under s 41(4) ante, in relation to births and deaths registered as there mentioned.

Definitions

"Crown service": s 50(1)

"Crown service under the government of the United Kingdom": s 50(1)

"the former nationality Acts": s 50(1)

"prescribed": s 50(1)

"the United Kingdom": s 50(1)

46 Offences and proceedings

(1) Any person who for the purpose of procuring anything to be done or not to be done under this Act—

- (a) makes any statement which he knows to be false in a material particular; or
- (b) recklessly makes any statement which is false in a material particular,
- (c) shall be liable on summary conviction in the United Kingdom to imprisonment for a term not exceeding three months or to a fine not exceeding [level 5 on the standard scale], or both.

(2) Any person who without reasonable excuse fails to comply with any requirement imposed on him by regulations made under this Act with respect to the delivering up of certificates of naturalisation shall be liable on summary conviction in the United Kingdom to a fine not exceeding [level 4 on the standard scale].

(3) In the case of an offence under subsection (1)

- (a) any 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.

(4) For the purposes of subsection (3) (b) 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 (3) (b) came to his knowledge shall be conclusive evidence.

(5) For the purposes of the trial of a person for an offence under subsection (1) or (2), 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.

(6) In their application to the Bailiwick of Jersey subsections (1) and (2) shall have effect with the omission of the words "on summary conviction".

NOTES

Amendments

Sub-ss (1), (2): references to levels on the standard scale substituted by virtue of the Criminal Justice Act 1982, s 46, Vol 27, title Magistrates.

Sub-s (1): Summary conviction Summary jurisdiction and procedure are mainly governed by the Magistrates' Courts Act 1980, Vol 27, title Magistrates, and by rules made under s 144 of that Act.

Sub-s (1): Standard scale By the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes, and the Criminal Justice Act 1982, s 37(3), Vol 27, title Magistrates, this means the standard scale set out in s 37(2) of the 1982 Act. The scale is: level 1: £200; level 2: £500; level 3: £1,000; level 4: £2,500; and level 5: £5,000, but different amounts may be substituted by order under the Magistrates' Courts Act 1980, s 143, Vol 27, title Magistrates.

Sub-s (2): Requirement . . . with respect to the - delivering up of certificates of naturalisation See s 41(1) (f) ante.

Sub-s (3): England; Wales For meanings, see the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes.

Sub-s (3): Magistrates' court For meaning, see the Magistrates' Courts Act 1980, s 148, Vol 27, title Magistrates, or, in relation to Northern Ireland, the Magistrates' Courts (Northern Ireland) Order 1981, SI 1981/1675 (NI 26), as applied, in both cases, by s 5 of, and Sch 1 to, the Interpretation Act 1978, Vol 41, title Statutes.

Sub-s (3): Chief officer of police; police force For meaning, see the Police Act 1996, s 101(1), Vol 33, title Police, as applied by the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes.

Application See the first and third paragraphs to the note to s 37 ante, and see also the notes to ss 41, 45 ante.

Definitions

"United Kingdom": s 50(1)

47 Legitimated children

(1) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage, be treated for the purposes of this Act as if he had been born legitimate.

(2) A person shall be deemed for the purposes of this section to have been legitimated by the subsequent marriage of his parents !-by the law of the place in which his father was domiciled at the time of the marriage the marriage operated immediately or subsequently to legitimate him, and not otherwise.

NOTES

Prospective repeal Repealed by the Nationality, Immigration and Asylum Act 2002, ss 9(4), 161, Sch 9, as from a day to be appointed under s 162(5) thereof post.

Sub-s (1): Legitimated by the subsequent marriage of his parents As to such legitimation, see the Legitimacy Act 1976, ss 2-4, Vol 6, title Children.

Sub-s (2): Domiciled A person is domiciled in that country in which he either has or is deemed by law to have his permanent home.' See, further, as to domicile, 8(1) Halsbury's Laws (4th edn reissue) para 680 et -seq; and for amendments of the law relating to domicile, see the Domicile and Matrimonial Proceedings Act 1973, s 1, Vol 27, title Matrimonial Law (Pt 1), and ss 3 and 4 of that Act, Vol 6, title Children.

Application See the first and third paragraphs to the note to s 37 ante, and see also the note to s 41 ante.

Definitions

"father": s 50(9)

"parent": s 50(9)

48 Posthumous children

Any reference in this Act to the status or description of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of his father or mother, be construed as a reference to the status or description of the parent in question at the time of that parent's death; and where that death occurred before, and the birth occurs after, commencement, the status or description which would have been applicable to the father or mother had she died after commencement shall be deemed to be the status or description applicable to him or her at the time of his or her death.

NOTES

Application See the first and third paragraphs to the note to s 37 ante, and see also the notes to ss 41, 45 ante.

Definitions

"commencement": s 50(1)

"father": s 50(9)

"mother": s 50(9)

"parent": s 50(9)

49 Registration and naturalisation under British Nationality Acts 1948 to 1965

(1) *After the passing of this Act—*

(a) *a person shall not be registered under any provision of the existing nationality Acts as a citizen of the United Kingdom and Colonies or a British subject; and*

(b) *a certificate of naturalisation shall not be granted to a person under any provision of those Acts,*

unless—

(i) *any fee payable by virtue of those Acts in connection with the registration or, as the case may be, the grant of the certificate has been paid; and*

(ii) *where applicable, the person in question has taken the oath of allegiance which, but for this section, he would have been required by, those Acts to take in connection with the registration or, as the case may be, the grant to him of the certificate.*

(2) *Any provision of the existing nationality Acts which provides for a person to be entitled to registration as a citizen of the United Kingdom and Colonies or a British subject shall have effect subject to subsection (1).*

(3) *A person registered after the passing of this Act under any provision of the existing nationality Acts as a citizen of the United Kingdom and Colonies or a British subject shall be such a citizen by registration or, as the case may be, a British subject by virtue of that provision as from the date on which he is so registered; and a person to whom a certificate of naturalisation is after the passing of this Act granted under any such provision shall be a citizen of the United Kingdom and Colonies by naturalisation as from the date on which the certificate is granted.*

(4) *The following provisions of the existing nationality Acts, namely*

(a) *in the 1948 Act, section 9 and, in section 10(1), the words from "and the person" onwards; and*

(b) *section 1(2) of the British Nationality Act 1965,*

shall not apply in relation to any application for registration or for a certificate of naturalisation under any provision of the existing nationality Acts, whenever made, unless the person to whom that application relates has been registered or, as the case may be, granted such a certificate before the passing of this Act.

(5) *In this section "the existing nationality Acts" means the British Nationality Acts 1948 to 1965.*

NOTES**Amendments**

Repealed by s 52(8), Sch 9 post, as from 1 January 1983, but printed for the reasons stated in the Introductory Note to the British Nationality Act 1948 ante.

Sub-s (1): Passing of this Act This Act was passed, ie received royal assent, on 30 October 1981.

Sub-s (1): Citizen of the United Kingdom and Colonies See the note to s 10 ante.

1948 Act Ie the British Nationality Act 1948; see s 50(1) post. Ss 9,

10(1) of that Act were repealed by s 52(8) and Sch 9 post, and are printed in italics ante.

British Nationality Act 1965, s 1 The whole Act was repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

British Nationality Acts 1948 to 1965 See the note to s 14 ante.

Definitions

"the 1948 Act": s 50(1)

50 Interpretation

(1) In this Act, unless the context otherwise requires "the 1948 Act" means the British Nationality Act 1948; "alien" means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland;

["appointed day" means the day appointed by the Secretary of State under section 8 of the British Overseas Territories Act 2002 for the commencement of Schedule 1 to that Act;]

"association" means an unincorporated body of persons; ["British National (Overseas)" means a person who is a British National (Overseas) under the Hong Kong (British Nationality) Order 1986, and "status of a British National (Overseas)" shall be construed accordingly,

"British Overseas citizen" includes a person who is a British Overseas citizen under the Hong Kong (British Nationality) Order 1986;]

["British overseas territory" means a territory mentioned in Schedule 6;]

"British protected person" means a person who is a member of any class of person declared to be British protected persons by an Order in Council for the time being in force under section 38 or is a British protected person by virtue of the Solomon Islands Act 1978;

"commencement", without more, means the commencement of this Act; "Commonwealth citizen" means a person who has the status of a Commonwealth citizen under this Act;

"company" means a body corporate;

"Crown service" means the service of the Crown, whether within Her Majesty's dominions or elsewhere;

"Crown service under the government of the United Kingdom" means Crown service under Her Majesty's government in the United Kingdom or under Her Majesty's government in Northern Ireland [or under the Scottish Administration];

"enactment" includes an enactment comprised in Northern Ireland legislation;

"foreign country" means a country other than the United Kingdom, a [British overseas territory], a country mentioned in Schedule 3 and the Republic of Ireland;

"the former nationality Acts" means

(a) the British Nationality Acts 1948 to 1965;

(b) the British Nationality and Status of Aliens Acts 1914 to 1943; and

(c) any Act repealed by the said Acts of 1914 to 1943 or by the Naturalization Act 1870;

"Governor", in relation to a [British overseas territory], includes the officer for the time being administering the government of that territory;

"High Commissioner" includes an acting High Commissioner;

"immigration laws—

- (a) in relation to the United Kingdom, means the Immigration Act 1971 and any law for purposes similar to that Act which is for the time being or has at any time been in force in any part of the United Kingdom;
- (b) in relation to a [British overseas territory], means any law for purposes similar to the Immigration Act 1971 which is for the time being or has at any time been in force in that territory;

"the Islands" means the Channel Islands and the Isle of Man;

"minor" means a person who has not attained the age of eighteen years;

"prescribed" means prescribed by regulations made under section 41;

"settled" shall be construed in accordance with subsections (2) to (4); "ship" includes a hovercraft;

"statutory provision" means any enactment or any provision contained in—

- (a) subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978); or
- (b) any instrument of a legislative character made under any Northern Ireland legislation;

"the United Kingdom" means Great Britain, Northern Ireland and the Islands, *taken together*;

"United Kingdom consulate" means the office of a consular officer of Her Majesty's government in the United Kingdom where a register of births is kept or, where there is no such office, such office as may be prescribed.

(2) Subject to subsection (3), references in this Act to a person being settled in the United Kingdom or in a [British overseas territory] are references to his being ordinarily resident in the United Kingdom or, as the case may be, in that territory without being subject under the immigration laws to any restriction on the period for which he may remain.

(3) Subject to subsection (4), a person is not to be regarded for the purposes of this Act

- (a) as having been settled in the United Kingdom at any time when he was entitled to an exemption under section 8(3) or (4) (b) or (c) of the Immigration Act 1971 or, unless the order under section 8(2) of that Act conferring the exemption in question provides otherwise, to an exemption under the said section 8(2), or to any corresponding exemption under the former immigration laws; or
- (b) as having been settled in a [British overseas territory] at any time when he was under the immigration laws entitled to any exemption corresponding to any such exemption as is mentioned in paragraph (a) (that paragraph being for the purposes of this paragraph read as if the words from "unless" to "otherwise" were omitted).

(4) A person to whom a child is born in the United Kingdom after commencement is to be regarded for the purposes of section 1(1) as being settled in the United Kingdom at the time of the birth if

- (a) he would fall to be so regarded but for being at that time entitled to an exemption under section 8(3) of the Immigration Act 1971; and
- (b) immediately before he became entitled to that exemption he was settled in the United Kingdom; and
- (c) he was ordinarily resident in the United Kingdom from the time when he became entitled to that exemption to the time of the birth;

but this subsection shall not apply if at the time of the birth the child's father or mother is a person on whom any immu-

nity from jurisdiction is conferred by or under the Diplomatic Privileges Act 1964.

(5) It is hereby declared that a person is not to be treated for the purpose of any provision of this Act as ordinarily resident in the United Kingdom or in a [British overseas territory] at a time when he is in the United Kingdom or, as the case may be, in that territory in breach of the immigration laws.

(6) For the purposes of this Act

- (a) a person shall be taken to have been naturalised in the United Kingdom if but only if, he is
 - (i) a person to whom a certificate of naturalisation was granted under any of the former nationality Acts by the Secretary of State or, in any of the Islands, by the Lieutenant-Governor; or
 - (ii) a person who by virtue of section 27(2) of the British Nationality and Status of Aliens Act 1914 was deemed to be a person to whom a certificate of naturalisation was granted, if the certificate of naturalisation in which his name was included was granted by the Secretary of State; or
 - (iii) a person who by virtue of section 10(5) of the Naturalization Act 1870 was deemed to be a naturalised British subject by reason of his residence with his father or mother;
- (b) a person shall be taken to have been naturalised in a [British overseas territory] if, but only if, he is
 - (i) a person to whom a certificate of naturalisation was granted under any of the former nationality Acts, by the Governor of that territory or by a person for the time being specified in a direction given in relation to that territory under paragraph 4 of Schedule 3 to the West Indies Act 1967 or for the time being holding an office so specified; or
 - (ii) a person who by virtue of the said section 27(2) was deemed to be a person to whom a certificate of naturalisation was granted, if the certificate of naturalisation in which his name was included was granted by the Governor of that territory; or
 - (iii) a person who by the law in force in that territory enjoyed the privileges of naturalisation within that territory only,

and references in this Act to naturalisation in the United Kingdom or in a [British overseas territory] shall be construed accordingly.

(7) For the purposes of this Act a person born outside the United Kingdom aboard a ship or aircraft

- (a) shall be deemed to have been born in the United Kingdom if
 - (i) at the time of the birth his father or mother was a British citizen; or
 - (ii) he would, but for this subsection, have been born stateless, and (in either case) at the time of the birth the ship or aircraft was registered in the United Kingdom or was an unregistered ship or aircraft of the government of the United Kingdom; but
- (b) subject to paragraph (a), is to be regarded as born outside the United Kingdom, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered.

[(7A) For the purposes of this Act a person born outside a qualifying territory aboard a ship or aircraft—

- (a) shall be deemed to have been born in that territory if—

- (i) at the time of the birth his father or mother was a British citizen or a British overseas territories citizen; or
- (ii) he would, but for this subsection, have been born stateless, and (in either case) at the time of the birth the ship or aircraft was registered in that territory or was an unregistered ship or aircraft of the government of that territory; but
- (b) subject to paragraph (a), is to be regarded as born outside that territory, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered.

(7B) For the purposes of this Act a person born outside a British overseas territory, other than a qualifying territory, aboard a ship or aircraft—

- (a) shall be deemed to have been born in that territory if—
 - (i) at the time of the birth his father or mother was a British overseas territories citizen; or
 - (ii) he would, but for this subsection, have been born stateless, and (in either case) at the time of the birth the ship or aircraft was registered in that territory or was an unregistered ship or aircraft of the government of that territory; but
- (b) subject to paragraph (a), is to be regarded as born outside that territory, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered.]

(8) For the purposes of this Act, an application under any provision thereof shall be taken to have been made at the time of its receipt by a person authorised to receive it on behalf of the person to whom it is made; and references in this Act to the date of such an application are references to the date of its receipt by a person so authorised.

(9) For the purposes of this Act—

- (a) *the relationship of mother and child shall be taken to exist between a woman and any child (legitimate or illegitimate) born to her, but*
- (b) *subject to section 47, the relationship of father and child shall be taken to exist only between a man and any legitimate child born to him;*

and, the expressions “mother”, “father”, “parent”, “child” and “descended” shall be construed accordingly.

(10) For the purposes of this Act—

- (a) a period “from” or “to” a specified date includes that date; and
- (b) any reference to a day on which a person was absent from the United Kingdom or from a [British overseas territory] or from the [British overseas territories] is a reference to a day for the whole of which he was so absent.

(11) For the purposes of this Act

- (a) a person is of full age if he has attained the age of eighteen years, and of full capacity if he is not of unsound mind; and
- (b) a person attains any particular age at the beginning of the relevant anniversary of the date of his birth.

(12) References in this Act to any country mentioned in Schedule 3 include references to the dependencies of that country.

(13) Her Majesty may by Order in Council subject to annulment in pursuance of a resolution of either House of Parliament amend Schedule 6 in any of the following circumstances, namely—

- (a) where the name of any territory mentioned in it is altered or

- (b) where any territory mentioned in it is divided into two or more territories.

NOTES

Amendments

Sub-s (1): definitions “appointed day” and “qualifying territory”: inserted by the British Overseas Territories Act 2002, s 5, Sch 1, para 5(1), (2).

Sub-s (1): definitions “British National (Overseas)” and “British Overseas citizen”: inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(8).

Sub-s (1): definition “British overseas territory”: inserted by the British Overseas Territories Act 2002, s 1(1)(a).

Sub-s (1): definition “Crown service under the government of the United Kingdom”: words in square brackets inserted by the Scotland Act 1998 (Consequential Modifications) (No 1) Order 1999, SI 1999/1042, art 3, Sch 1, Pt 1, para 10.

Sub-s (1): definition “dependent territory”: repealed by the British Overseas Territories Act 2002, s7, Sch 2.

Sub-s (1) : definition “foreign country” : words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(13).

Sub-s (1): definition “Governor”: words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Sub-s (1): definition “immigration laws”: words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Sub-ss (2), (3), (5), (6): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Sub-ss (7A), (7B) : substituted for final paragraph of sub-s (7) by the British Overseas Territories Act 2002, s 5, Sch 1, para 5(1), (3).

Sub-s (10)(3): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b)•

Prospective amendments

Sub-s (1) definition “Convention adoption”: inserted after definition “Adoption and Children Act 2002, s 137(3), -(6) (a), as from a day to be appointed under s 148 thereof, Vol 6, title Children, as follows:

““Convention adoption” means an adoption effected under the law of a country or territory in which the Convention is in force, and certified in pursuance of Article 23(1) of the Convention”.

Sub-s (1): definition “designated territory”: inserted after definition “Crown service under the government of the United Kingdom” by the Adoption and Children Act 2002, s 137(3), (0)03, as from a day to be appointed under s 148 thereof, Vol 6, title Children, as follows:

““designated territory means a qualifying territory, or the Sovereign Base Areas of Akrotiri and

Dhekelia, which is designated by Her Majesty by Order in Council under subsection (14)” Sub-s (9) : substituted by the Nationality, Immigration and Asylum Act 2002, s 9(1), as from a day to be appointed under s 162(5) thereof post as follows:

“(9)For the purposes of this Act a child’s mother is the woman who gives birth to the child.

(9A) For the purposes of this Act a child’s father is

- (a) the husband, at the time of the child’s birth, of the woman who gives birth to the child, or
- (b) where a person is treated as the father of the child under section 28 of the Human Fertilisation and Embryology Act 1990 (c 37) (father), that person, or
- (c) where neither paragraph (a) nor paragraph (b) applies, any person who satisfies prescribed requirements as to proof of paternity.

(9B) In subsection (9A) (c) “prescribed means prescribed by regulations of the Secretary of State; and the regulations

- (a) may confer a function (which may be a discretionary function) on the Secretary of State or another person,
- (b) may make provision which applies generally or only in specified circumstances,
- (c) may make different provision for different circumstances,
- (d) must be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9C) The expressions “parent”, child and descended shall be construed in accordance

with subsections (9) and (9A).”.

Sub-s (14): inserted after sub-s (13) by the Adoption and Children

Act 2002, s 137(3), (7), as from a day to be appointed under s 148 thereof, Vol 6, title Children, as follows: .

“(14) For the purposes of the definition of “designated territory” in subsection (1), an Order in Council may

- (a) designate any qualifying territory, or the Sovereign Base Areas of Akrotiri and Dhekelia, if the Convention is in force there, and
- (b) make different designations for the purposes^o of section 1 and section 15;

and, for the purposes of this subsection and the definition of “Convention adoption” in subsection (1), the Convention means the Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993.

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

Sub-s (1): Commonwealth citizen For the persons who have the status of a Commonwealth citizen under this Act, see s 37 ante.

Sub-s (1): Republic of Ireland See the note to s 31 ante.

Sub-s (1): Secretary of State See the note to s 1 ante.

Sub-s (1): Commencement of this Act See s 53(2), (3) post.

Sub-s (1): Scottish Administration As to the Scottish Administration, see the Scotland Act 1998, Pt II, Vol 10, title Constitutional Law (Pt 6).

Sub-s (1): Northern Ireland legislation See the note to s 41 ante.

Sub-s (1): United Kingdom Ie Great Britain and Northern Ireland; see the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes. “Great Britain” means England, Scotland and Wales by virtue of the Union with Scotland Act 1706, preamble, Art I, Vol 10, title Constitutional Law (Pt 1), as read with s 22(1) of, and Sch 2, para 5(a) to, the 1978 Act. Neither the Channel Islands nor the Isle of Man is within the United Kingdom.

Sub-s (1): Great Britain Ie England, Scotland and Wales; see the Union with Scotland Act 1706, preamble, Art I, Vol 10, title Constitutional Law (Pt 1), as read with the Interpretation Act 1978, s 22(1), Sch 2, para 5(a), Vol 41, title Statutes.

Sub-s (1): Consular officer See the note “Consular officers” to s 41 ante.

Sub-s (4): A person to whom, etc By the Diplomatic Privileges Act 1964, s 3(2), Vol 10, title Constitutional Law (Pt 5), an Order in Council under s 3 of that Act, restricting privileges and immunities in certain cases, is to be disregarded for the purposes of sub-s (4) above.

Sub-s (5): In the United Kingdom . . . in breach of the immigration laws As to the construction of this reference, see the Nationality, Immigration and Asylum Act 2002, s 11 post. Sub-s (7): At the time of the birth As to posthumous children, see s 48 ante.

Sub-s (7): British citizen As to British citizenship, see Pt I and s 36 ante, and Sch 2, paras 2—5 post. Sub-s (7): Stateless For provisions reducing statelessness, see s 36 ante, Sch 2 post.

Sub-s (7A): British overseas territories citizen As to British overseas territories citizenship, see Pt II and s 36 ante, and Sch 2, paras 1, 3-5 post.

Sub-s (13): Subject to annulment See the note to s 37 ante.

Application See the notes to ss 37, 41, 45 ante.

British Nationality Act 1948 That Act is largely repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

British Nationality Acts 1948 to 1965 See the note to s 14 ante.

British Nationality and Status of Aliens Act 1914, s 27(2) Repealed; as to the repeal of the greater part of that Act and its renaming, see the note “British Nationality and Status of Aliens Acts 1914 to 1943” to s 41 ante.

British Nationality and Status of Aliens Acts 1914 to 1943 See the note to s 41 ante. British Overseas Territories Act 2002 See this title post.

Diplomatic Privileges Act 1964 See Vol 10, title Constitutional Law (Pt 5).

Immigration Act 1971 See this title ante.

Interpretation Act 1978, s 21(1) See Vol 41, title Statutes.

Naturalization Act 1870 Repealed by the Status of Aliens Act 1914, s 28(1), Sch 3.

Solomon Islands Act 1978 As to the persons who are British protected persons by virtue of that Act, see ss 2(4), 4 thereof, Vol 7, title Commonwealth and Other Territories.

West Indies Act 1967, s 3, para 4 Repealed by the Statute Law (Repeals) Act 1986.

Hong Kong (British Nationality) Order 1986 SI 1986/948.

Orders in Council under this section

British Nationality Act 1981 (Amendment of Schedule 6) Order 2001, SI 2001/3497. Saint Christopher and Nevis Modification of Enactments Order 1983, SI 1983/882.

The power to make Orders in Council is exercisable by statutory instrument; see the Statutory Instruments Act 1946, s 1(1), Vol 41, title Statutes.

51 Meaning of certain expressions relating to nationality in other Acts and instruments

(1) Without prejudice to subsection (3)(c), in any enactment or instrument whatever passed or made before commencement “British subject” and “Commonwealth citizen” have the same meaning, that is

- (a) in relation to any time before commencement
 - (i) a person who under the 1948 Act was at that time a citizen of the United Kingdom and Colonies or who, under any enactment then in force in a country mentioned in section 1(3) of that Act as then in force, was at that time a citizen of that country; and
 - (ii) any other person who had at that time the status of a British subject under that Act or any other enactment then in force;
- (b) in relation to any time after commencement, a person who has the status of a Commonwealth citizen under this Act.

(2) In any enactment or instrument whatever passed or made after commencement

- “British subject” means a person who has the status of a British subject under this Act;
- “Commonwealth citizen” means a person who has the status of a Commonwealth citizen under this Act.

(3) In any enactment or instrument whatever passed or made before commencement

- (a) “citizen of the United Kingdom and Colonies”
 - (i) in relation to any time before commencement, means a person who under the 1948 Act was at that time a citizen of the United Kingdom and Colonies;
 - (ii) in relation to any time after commencement, means a person who under [the British Nationality Acts 1981 and 1983] [or the British Overseas Territories Act 2002] is a British citizen, a [British overseas territories citizen] or a British Overseas citizen [or who under the Hong Kong (British Nationality) Order 1986 is a British National (Overseas)];
- (b) any reference to ceasing to be a citizen of the United Kingdom and Colonies shall, in relation to any time after commencement, be construed as a reference to becoming a person who is neither a British citizen nor a [British overseas territories citizen] [nor a British National (Overseas)] nor a British Overseas citizen;
- (c) any reference to a person who is a British subject (or a British subject without citizenship) by virtue of section 2, 13, or 16 of the 1948 Act or by virtue of, or of section 1 of, the British Nationality Act 1965 shall, in relation to any time after commencement, be construed as a reference to a person who under this Act is a British subject.

(4) In any statutory provision, whether passed or made before or after commencement, and in any other instrument whatever made after commencement “alien”, in relation to any time after commencement, means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland.

- (5) The preceding provisions of this section
- (a) shall not apply in cases where the context otherwise requires; and
- (b) shall not apply to this Act or to any instrument made under this Act.

NOTES

Amendments

Sub-s (3) (a) (ii) : words in first pair of square brackets substituted by the British Nationality (Falkland Islands) Act 1983, s 4(3); words in second pair of square brackets inserted and words in third pair of square brackets substituted by the British Overseas Territories Act 2002, ss 2(2)(b), 5, Sch 1, para 6; words in fourth pair of square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(9).

Sub-s (3)(b): words in first pair of square brackets substituted by the British Overseas Territories Act 2002, s 2(2) (b); words in second pair of square brackets inserted by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 7(9).

Sub-s (1): Citizen of the United Kingdom and Colonies See the note to s 10 ante.

Sub-s (1): Commonwealth citizen under this Act See s 37 ante.

Sub-s (2): British subject under this Act As to the persons who are British subjects under this Act, see Pt IV and s 36 ante, and Sch 2, paras 1, 2, 4 post. See also s 37(4) ante.

Sub-s (3): British citizen As to British citizenship, see Pt I and s 36 ante, and Sch 2, paras 2-5 post. Sub-s (3): British overseas territories citizen As to British overseas territories citizenship, see Pt II and s 36 ante, and Sch 2, paras 1, 3-5 post.

Sub-s (3): British Overseas citizen For meaning, see s 50(1) ante. As to British Overseas citizenship, see also Pt III and s 36 ante, and Sch 2, paras 1, 2, 4, 5 post.

-Sub-s (3): British National (Overseas) For meaning, see s 50(1) ante. See also the Hong Kong Act 1985, s 2(2), Schedule, para 2, Vol -7, title Commonwealth and Other Territories. Sub-s (4): Republic of Ireland See the note to s 31 ante.

Application See the second and third paragraphs to the .note to s 37 ante.

1948 Act Ie the British Nationality Act 1948; see s 50(1) ante. That Act was largely repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

British Nationality Act 1965 That Act was repealed by s 52(8) and Sch 9 post, and is printed in italics ante.

British Nationality Acts 1981 and 1983 This means the present Act and the British Nationality (Falkland Islands) Act 1983 post; see s 5(1) of the 1983 Act.

British Overseas Territories Act 2002 See this title post.

Hong Kong (British Nationality) Order 1986 SI 1986/948.

Definitions

“the 1948 Act”: s 50(1)

“British National (Overseas) s 50(1)

“British Overseas citizen”: s 50(1)

“British protected person”: s 50(1)

“commencement”: s 50(1)

“enactment”: s 50(1)

“statutory provision”: s 50(1)

52 Consequential amendments, transitional provisions, repeals and savings

(1) In any enactment or instrument whatever passed or made before commencement, *for* any reference to section 1(3) of the 1948 Act (list of countries whose citizens are Commonwealth citizens under that Act) there shall be substituted a reference to Schedule 3 to this Act, unless the context makes that substitution inappropriate.

(2) Subject to subsection (3), Her Majesty may by Order in Council make such consequential modifications of—

- (a) any enactment of the Parliament of the United Kingdom passed before commencement;
- (b) any provision contained in any Northern Ireland legislation passed or made before commencement; or

- (b) any instrument made before commencement under any such enactment or provision,
- (c) as appear to Her necessary, or expedient for preserving after commencement the substantive effect of that enactment, provision or instrument.

(3) Subsection (2) shall not apply in relation to—

- (a) the Immigration Act 1971; or
- (b) any provision of this Act not contained in Schedule 7.

(4) Any Order in Council made under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any provision made by Order in Council under subsection (2) after commencement may be made with retrospective effect as from commencement or any later date.

(6) The enactments specified in Schedule 7 shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act.

(7) This Act shall have effect subject to the transitional provisions contained in Schedule 8.

(8) The enactments mentioned in Schedule 9 are hereby repealed to the extent specified in the third column of that Schedule.

(9) Without prejudice to section 51, nothing in this Act affects the operation, in relation to any time before commencement, of any statutory provision passed or made before commencement.

(10) Nothing in this Act shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

(11) In this section “modifications” includes additions, omissions and alterations.

NOTES

Sub-s (2): Northern Ireland legislation See the note to s 41 ante.

Sub-s (4): Subject to annulment See the note to s 37 ante.

1948 Act Ie the British Nationality Act 1948; see s 50(1) ante. That Act was repealed by sub-s (8) above and Sch 9 post, and is printed in italics ante.

Immigration Act 1971 See this title ante.

Interpretation Act 1978, ss 16, 17 See Vol 41, title Statutes.

Orders in Council under this section

British Nationality (Modification of Enactments) Order 1982, SI 1982/1832.

The power to make Orders in Council is exercisable by statutory instrument; see the Statutory Instruments Act 1946, s 1(1), Vol 41, title Statutes.

Definitions

“the 1948 Act”: s 50(1)

“commencement”: s 50(1)

“enactment”: s 50(1)

“statutory provision”: s 50(1)

“the United Kingdom” : s 50(1)

53 Citation, commencement and extent

(1) This Act may be cited as the British Nationality Act 1981.

(2) This Act, excepts the provisions mentioned in subsection (3), shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and references to the commencement of this Act shall be construed as references to the beginning of that day.

(3) Section 49 and this section shall come into force on the passing of this Act.

(4) This Act extends to Northern Ireland.

(5) The provisions of this Act, except those mentioned in subsection (7), extend to the Islands and all [British overseas

territories]; and section 36 of the Immigration Act 1971 (power to extend provisions of that Act to Islands) shall apply to the said excepted provisions as if they were provisions of that Act.

(6) . . .

(7) The provisions referred to in subsections (5).. . are

- (a) section 39 and Schedule 4;
- (b) section 52(7) and Schedule 8 so far as they relate to the Inirtugration Act 1971; and
- (c) section 52(8) and Schedule 9 so far as they relate to provisions of the Immigration Act 1971 other than Schedule 1.

NOTES

Amendments

Sub-s (5): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b)•

Sub-s (6) : repealed by the Statute Law (Repeals) Act 1995.

Sub-s (7) : words omitted repealed by the Statute Law (Repeals) Act 1995.

Sub-s (2): Secretary of State See the note-to s 1 ante.

Sub-s (2): Statutory instrument For provisions as to statutory instruments generally, see the Statutory Instruments Act 1946, Vol 41, title Statutes.

Sub-s (3) Passing of this Act This Act was passed, ie received royal assent, on 30 October 1981. Immigration Act 1971 See this title ante.

Orders under this section

British Nationality Act 1981 (Commencement) Order 1982, SI 1982/933 (bringing the whole Act into operation on 1 January 1983 (with the exception of s 49 and this section which came into force on the passing of the Act by virtue of sub-s (3) above)).

Definitions

“British overseas territory” : s 50(1)

“the Islands”: s 50(1)

SCHEDULES

SCHEDULE 1

Sections 6, 18

REQUIREMENTS FOR NATURALISATION

Naturalisation as a British citizen under section 6(1)

1.—(1) Subject to paragraph 2, the requirements for naturalisation as a British citizen under section 6(1) are, in the case of any person who applies for it

- (a) the requirements specified in sub-paragraph (2) of this paragraph, or the alternative requirement specified in sub-paragraph (3) of this paragraph; and
- (b) that he is of good character; and
- (c) that he has a sufficient knowledge of the English, Welsh or Scottish Gaelic language; and
- (d) that either
 - (i) his intentions are such that, in the event of a certificate of naturalisation as a British citizen being granted to him, his home or (if he has more than one) his principal home will be in the United Kingdom; or
 - (ii) he intends, in the event of such a certificate being granted to him, to enter into, or continue in, Crown service under the government of the United Kingdom, or service under an international organisation of which the United Kingdom or Her Majesty’s government therein is a member, or service in the employment of a

company or association established in the United Kingdom.

(2) The requirements referred to in sub-paragraph (1)(a) of this paragraph are—

- (a) that the applicant was in the United Kingdom at the beginning of the period of five years ending with the date of the application, and that the number of days on which he was absent from the United Kingdom in that period does not exceed 450; and
- (b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and
- (c) that he was not at any time in, the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and
- (d) that he was not at any time in the period of five years so ending in the United Kingdom in breach of the immigration laws.

(3) The alternative requirement referred to in sub-paragraph (1)(a) of this paragraph is that on the date of the application he is serving outside the United Kingdom in Crown service under the government of the United Kingdom.

2. If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 1 do all or any of the following things, namely—

- (a) treat the applicant as fulfilling the requirement specified in paragraph 1(2) (a) or paragraph 1(2) (b), or both, although the number of days on which he was absent from the United Kingdom in the period there mentioned exceeds the number there mentioned;
- (b) treat the applicant as having been in the United Kingdom for the whole or any part of any period during which he would otherwise fall to be treated under paragraph 9(1) as having been absent;
- (c) disregard any such restriction as is mentioned in paragraph 1(2) (c), not being a restriction to which the applicant was subject on the date of the application;
- (d) treat the applicant as fulfilling the requirement specified in paragraph, 1(2) (d) although he was in the United Kingdom in breach of the immigration laws in the period there mentioned;
- (e) waive the need to fulfil the requirement specified in paragraph 1(1)(c) if he considers that because of the applicant’s age or physical or mental condition it would be unreasonable to expect him to full it.

Naturalisation as a British citizen under section 6(2)

3. Subject to paragraph 4, the requirements for naturalisation as a British citizen under section 6(2) are, in the case of any person who applies for it—

- (a) that he was in the United Kingdom at the beginning of the period of three years ending with the date of the application, and that the number of days on which he was absent from the United Kingdom in that period does not exceed 270; and
- (b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and
- (c) that on the date of the application he was not subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and
- (d) that he was not at any time in the period of three

years ending with the date of the application in the United Kingdom in breach of the immigration laws; and

(e) the requirement specified in paragraph 1(1)(b).

4. Paragraph 2 shall apply in relation to paragraph 3 with the following modifications namely—

- (a) the reference to the purposes of paragraph 1 shall be read as a reference to the purposes of paragraph 3;
- (b) the references to paragraphs 1(2)(a) 1(2)(b) and 1(2)(d) shall be read as references to paragraphs 3(a), 3(b) and 3(d) respectively;
- (c) paragraph 2(c) and (e) shall be omitted; and
- (d) after paragraph (e) there shall be added
 - “(f) waive the need to fulfil all or any of the requirements specified in paragraph 3(a) and (b) if on the date of the application the person to whom the applicant is married is serving in service to which section 2(1)(b) applies, that person’s recruitment for that service having taken place in the United Kingdom”.

Naturalisation as a [British overseas territories citizen] under section 18(1)

5.—(1) Subject to paragraph 6, the requirements for naturalisation as a [British overseas territories citizen] under section 18(1) are, in the case of any person who applies for it

- (a) the requirements specified in sub-paragraph (2) of this paragraph, or the
- (b) alternative specified in sub-paragraph (3) of this paragraph; and
- (b) that he is of good character; and
- (c) that he has a sufficient knowledge of the English language or any other language recognised for official purposes in the relevant territory; and
- (d) that either—
 - (i) his intentions are such that, in the event of a certificate of naturalisation as a [British overseas territories citizen] being granted to him, his home or (if he has more than one) his principal home will be in the relevant territory; or
 - (ii) he intends, in the event of such a certificate being granted to him, to enter into, or continue in, Crown service under the government of that territory, or service under an international organisation of which that territory or the government of that territory is a member, or service in the employment of a company or association established in that territory.

(2) The requirements referred to in sub-paragraph (1)(a) of this paragraph are—

- (a) that he was in the relevant territory at the beginning of the period of five years ending with the date of the application, and that the number of days on which he was absent from that territory in that period does not exceed 450; and
- (b) that the number of days on which he was absent from that territory in the period of twelve months so ending does not exceed 90; and
- (c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in that territory; and
- (d) that he was not at any time in the period of five years so ending in that

territory in breach of the immigration laws.

(3) The alternative requirement referred to in sub-paragraph (1)(a) of this paragraph is that on the date of the application he is serving outside the relevant territory in Crown service under the government of that territory.

6. If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 5 do all or any of the following things, namely—

- (a) treat the applicant as fulfilling the requirement specified in paragraph 5(2)(a) or paragraph 5(2)(b), or both, although the number of days on which he was absent from the relevant territory in the period there mentioned exceeds the number there mentioned;
- (b) treat the applicant as having been in the relevant territory for the whole or any part of any period during which he would otherwise fall to be treated under paragraph 9(2) as having been absent;
- (c) disregard any such restriction as is mentioned in paragraph 5(2)(c), not being a restriction to which the applicant was subject on the date of the application;
- (d) treat the applicant as fulfilling the requirement specified in paragraph 5(2)(d) although he was in the relevant territory in breach of the immigration laws in the period there mentioned;
- (e) waive the need to fulfil the requirement specified in paragraph 5(1)(c) if he considers that because of the applicant’s age or physical or mental condition it would be unreasonable to expect him to fulfil it.

Naturalisation as a [British overseas territories citizen] under section 18(2)

7. Subject to paragraph 8, the requirements for naturalisation as a [British overseas territories citizen] under section 18(2) are, in the case of any person who applies for it

- (a) that he was in the relevant territory at the beginning of the period of three years ending with the date of the application, and that the number of days on which he was absent from that territory in that period does not exceed 270; and
- (b) that the number of days on which he was absent from that territory in the period of twelve months so ending does not exceed 90; and
- (c) that on the date of the application he was not subject under the immigration laws to any restriction on the period for which he might remain in that territory; and
- (d) that he was not at any time in the period of three years ending with the date of the application in that territory in breach of the immigration laws; and
- (e) the requirement specified in paragraph 5(1)(b).

8. Paragraph 6 shall apply in relation to paragraph 7 with the following modifications, namely

- (a) the reference to the purposes of paragraph 5 shall be read as a reference to the purposes of paragraph 7;
- (b) the references to paragraphs 5(2)(a), 5(2)(b) and 5(2)(d) shall be read as references to paragraph 7(a), 7(b) and 7(d) respectively;
- (c) paragraph 6(c) and (e) shall be omitted; and
- (d) after paragraph (e) there shall be added
 - “(f) waive the need to fulfil all or any of the requirements specified in paragraph 7(a) and (b) if on the date of the application the person to

whom the applicant is married is serving in service to which section 16(1)(b) applies, that person's recruitment for that service having taken place in a [British overseas territory]".

Periods to be treated as periods of absence from UK or a [British overseas territory]

9.—(1) For the purposes of this Schedule a person shall (subject to paragraph 2(b)) be treated as having been absent from the United Kingdom during any of the following periods, that is to say—

- (a) any period when he was in the United Kingdom and either was entitled to an exemption under section 8(3) or (4) of the Immigration Act 1971 (exemptions for diplomatic agents etc and members of the forces) or was a member of the family and formed part of the household of a person so entitled;
- (b) any period when he was detained
 - (i) in any place of detention in the United Kingdom in pursuance of a sentence passed on him by a court in the United Kingdom or elsewhere for any offence;
 - (ii) in any hospital in the United Kingdom under a hospital order made under [Part III of the Mental Health Act 1983] or section 175 or 376 of the Criminal Procedure (Scotland) Act 1975 or Part III of the Mental Health [(Northern Ireland) Order 1986], being an order made in connection with his conviction of an offence; or
 - (iii) under any power of detention conferred by the immigration laws of the United Kingdom;
- (c) any period when, being liable to be detained as mentioned in paragraph (b) (i) or (ii) of this sub-paragraph, he was unlawfully at large or absent without leave and for that reason liable to be arrested or taken into custody;
- (d) any period when, his actual detention under any such power as is mentioned in paragraph (b)(iii) of this sub-paragraph being required or specifically authorised, he was unlawfully at large and for that reason liable to be arrested.

(2) For the purposes of this Schedule a person shall (subject to paragraph 6(b)) be treated as having been absent from any particular [British overseas territory] during any of the following periods, that is to say—

- (a) any period when he was in that territory and either was entitled to an exemption under the immigration laws of that territory corresponding to any such exemption as is mentioned in sub-paragraph (1)(a) or was a member of the family and formed part of the household of a person so entitled;
- (b) any period when he was detained—
 - (i) in any place of detention in the relevant territory in pursuance of a sentence passed on him by a court in that territory or elsewhere for any offence;
 - (ii) in any hospital in that territory under a direction (however described) made under any law for purposes similar to [Part III of the Mental Health Act 1983] which was for the time being in force in that territory, being a direction made in connection with his conviction of an offence and corresponding to a hospital order under that Part; or
 - (iii) under any power of detention conferred by the immigration laws of that territory;

- (c) any period when, being liable to be detained as mentioned in paragraph (b) (i) or (ii) of this sub-paragraph, he was unlawfully at large or absent without leave and for that reason liable to be arrested or taken into custody,.
- (d) any period when, his actual detention under any such power as is mentioned in paragraph (b) (iii) of this sub-paragraph being required or specifically authorised, he was unlawfully at large and for that reason liable to be arrested.

Interpretation

10. In this Schedule "the relevant territory" has the meaning given by section 18(3).

NOTES

Amendments

Para 5: cross-heading: words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Para 5(1): words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Para 7: cross-heading: words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Para 7: words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b). Para 8(d): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 9: cross-heading: words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 9(1)(b): words in first pair of square brackets substituted by the Mental Health Act 1983, s 148, Sch 4, para 60; words in second pair of square brackets substituted by the Mental Health (Northern Ireland Consequential Amendments) Order 1986, SI 1986/596.

Para 9(2): words in first pair of square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 9(2)(b): words in square brackets substituted by the Mental Health Act 1983, s 148, Sch 4, para 60.

Prospective amendments

Para 1(1) (ca) : inserted after the word "and" after para 1(1) (c) by the Nationality, Immigration and Asylum Act 2002, s 1(1), as from a day to be appointed under s 162 thereof post as follows:

"(ca) that he has sufficient knowledge about life in the United Kingdom; and".

Para 2(e): words "either or both of the requirements specified in paragraph 1(1)(c) and (ca)" substituted for words in italics in first place, and words "expect him to fulfil that requirement or those requirements" substituted for words in italics in second place, by the Nationality, Immigration and Asylum Act 2002, s 1(2), as from a day to be appointed under s 162 thereof post.

Para 3(e): words "requirements specified in paragraph 1(1) (b), (c) and (ca)" substituted for words in italics by the Immigration and Asylum Act 2002, s 2(1) (a), as from a day to be appointed under s 162 thereof post.

Para 4(c): words in italics repealed by the Immigration and Asylum Act 2002, ss 2(1)(b), 161, Sch 9, as from a day to be appointed under s 162 thereof post.

Para 7(e): words "requirements specified in paragraph 5(1)(b) and (c)" substituted for words in italics by the Immigration and Asylum Act 2002, s 2(2)(a), as from a day to be appointed under s 162 thereof post.

Para 8(c): words in italics repealed by the Immigration and Asylum Act 2002, ss 2(2)(b), 161, Sch 9, as from a day to be appointed under s 162 thereof post.

Para 1: Days on which he was absent the whole days on which he was so absent; see s 50(10) (b) ante.

Para 1: In the United Kingdom in breach of the immigration laws As to the construction of this reference, see the Nationality, Immigration and Asylum Act 2002, s 11 post. Para 2: Secretary of State See the note to s 1 ante.

Para 2: Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 ante.

Criminal Procedure (Scotland) Act 1975 Ss 175, 376 of that Act were repealed by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995, ss 4, 6(1), (2), 118(4), Schs 3, 5, 6, subject to transitional provisions and savings.

Immigration Act 1971, s 8(3), (4) See this title ante.

Mental Health Act 1983, Pt III See Vol 28, title Mental Health.

Mental Health (Northern Ireland) Order 1986 SI 1986/595 (NI 4).

Definitions

“association”: s 50(1)

“British overseas territory”: s 50(1)

“company”: s 50(1)

“Crown service”: s 50(1)

“Crown service under the government of the United Kingdom”: s 50(1)

“date of the application”: s 50(8)

“immigration laws”: s 50(1)

“the United Kingdom”: s 50(1)

SCHEDULE 2

Section 36

PROVISIONS FOR REDUCING STATELESSNESS

Persons born in the United Kingdom after commencement

1.—(1) Where a person born in the United Kingdom after commencement would, but for this paragraph, be born stateless, then, subject to sub-paragraph (3)—

- (a) if at the time of the birth his father or mother is a citizen or subject of a description mentioned in sub-paragraph (2), he shall be a citizen or subject of that description; and accordingly
- (b) if *he is born legitimate and* at the time of the birth each of his parents is a citizen or subject of a different description so mentioned, he shall be a citizen or subject of the same description so mentioned as each of them is respectively at that time.

(2) The descriptions referred to in sub-paragraph (1) are a [British overseas territories citizen], a British Overseas citizen and a British subject under this Act.

(3) A person shall not be a British subject by virtue of this paragraph if by virtue of it he is a citizen of a description mentioned in sub-paragraph (2).

Persons born in a (British overseas territory) after commencement

2.—(1) Where a person born in a [British overseas territory] after commencement would, but for this paragraph, be born stateless, then, subject to sub-paragraph (3)

- (a) if at the time of the birth his father or mother is a citizen or subject of a description mentioned in sub-paragraph (2), he shall be a citizen or subject of that description; and accordingly
- (b) if *he is born legitimate and at* the time of the birth each of his parents is a citizen or subject of a different description so mentioned, he shall be a citizen or subject of the same description so mentioned as each of them is respectively at that time.

(2) The descriptions referred to in sub-paragraph (1) are a British citizen, a British Overseas citizen and a British subject under this Act.

(3) A person *shall* not be a British subject by virtue of this paragraph if by virtue of it he is a citizen of a description mentioned in sub-paragraph (2).

Persons born in the United Kingdom or a [British overseas territory] after commencement

3.—(1) A person born in the United Kingdom or a [British overseas territory] after commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the following requirements are satisfied in his case, namely—

- (a) that he is and always has been stateless; and
 - (b) that on the date of the application he ...was under the age of twenty-two; and
 - (c) that he was in the United Kingdom or a [British overseas territory] (no matter which) at the beginning of the period of five years ending with that date and that (subject to paragraph 6) the number of days on which he was absent from both the United Kingdom and the [British overseas territories] in that period does not exceed 450.
- (2) A person entitled to registration under this paragraph—
- (a) shall be registered under it as a British citizen if, in the period of five years mentioned in sub-paragraph (1), the number of days wholly or partly spent by him in the United Kingdom exceeds the number of days wholly or partly spent by him in the [British overseas territories];
 - (b) in any other case, shall be registered under it as a [British overseas territories citizen].

Persons born outside the United Kingdom and the [British overseas territories] after commencement

4.—(1) A person born outside the United Kingdom and the [British overseas territories] after commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the following requirements are satisfied, namely—

- (a) that that person is and always has been stateless; and
- (b) that at the time of that person's birth his father or mother was a citizen or subject of a description mentioned in sub-paragraph (4); and
- (c) that that person was in the United Kingdom or a [British overseas territory] (no matter which) at the beginning of the period of three years ending with the date of the application and that (subject to paragraph 6) the number of days on which he was absent from both the United Kingdom and the [British overseas territories] in that period does not exceed 270.

(2) A person entitled to registration under this paragraph—

- (a) shall be registered under it as a citizen or subject of a description available to him in accordance with sub-paragraph (3); and
- (b) if more than one description is so available to him, shall be registered under this paragraph as a citizen of whichever one or more of the descriptions so available to him is or are stated in the application under this paragraph to be wanted.

(3) For the purposes of this paragraph the descriptions of citizen or subject available to a person entitled to registration under this paragraph are—

- (a) in the case of a person whose father or mother was at the time of that person's birth a citizen of a description mentioned in sub-paragraph (4), any description of citizen so mentioned which applied to his father or mother at that time;
- (b) in any other case, a British subject under this Act.

(4) The descriptions referred to in sub-paragraphs (1): to

(3) are a British citizen, a [British overseas territories citizen], a British Overseas citizen and a British subject under this Act.

Persons born stateless before commencement

5.—(1) A person born before commencement shall be entitled, on an application for his registration under this paragraph, to be so registered if the circumstances are such that, if

- (a) this Act had not been passed, and the enactments repealed or amended by this Act had continued in force accordingly; and
- (b) an application for the registration of that person under section 1 of the British Nationality (No 2) Act 1964 (stateless persons) as a citizen of the United Kingdom and Colonies had been made on the date of the application under this paragraph,
- (c) that person would have been entitled under that section to be registered as such a citizen.

(2) A person entitled to registration under this paragraph shall be registered under it as such a citizen as he would have become at commencement if, immediately before commencement, he had been registered as a citizen of the United Kingdom and Colonies under section 1 of the British Nationality (No 2) Act 1964 on whichever of the grounds mentioned in subsection (1)(a) to (c) of that section he would have been entitled to be so registered on in the circumstances described in sub-paragraph (1)(a) and (b) of this paragraph.

Supplementary

6. If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 3 or 4 treat the person who is the subject of the application as fulfilling the requirement specified in sub-paragraph (1)(c) of that paragraph although the number of days on which he was absent from both the United Kingdom and the [British overseas territories] in the period there mentioned exceeds the number there mentioned.

NOTES

Amendments

Para 1(2) : words in square brackets substituted by the British Overseas Territories Act 2002, s 2 (2) (b) .

Para 2: cross-heading: words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 2(1): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 3: cross-heading: words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 3(1): words in first pair of square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 3(1)(b): words omitted repealed by the Nationality, Immigration and Asylum Act 2002, ss 8, 161, Sch 9.

Para 3(1)(c): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 3(2): words in square brackets substituted by the British Overseas Territories Act 2002, ss 1(1)(b), 2(2)(b).

Para 4: cross-heading: words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 4(1): words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1)(b).

Para 4(4) : words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2) (b) .

Para 6: words in square brackets substituted by the British Overseas Territories Act 2002, s 1(1) (b).

Prospective amendments

Para 1(1)(b): words in italics repealed by the Nationality, Immigration and Asylum Act 2002, ss 9(5)(a), 161, Sch 9, as from a day to be appointed under s 162(5) thereof post.

Para 2(1)(b): words in italics repealed by the Nationality, Immigration and Asylum Act 2002, ss 9(5)(b), 161, Sch 9, as from a day to be appointed under s 162(5) thereof post.

Para 1: Born in, etc As to where a person born outside the United Kingdom, a qualifying territory, or a British overseas territory other than a qualifying territory, aboard a ship or aircraft is to be deemed to have been born, see s 50(7), (7A), (7B). ante.

Para 1: At the time of the birth, etc As to posthumous children, see s 48 ante.

Para 1: British overseas territories citizen As to British overseas territories citizenship, see Pt II of this Act ante.

Para 1: British Overseas citizen For meaning, see s 50(1) ante. As to British Overseas citizenship, see also Pt III of this Act ante.

Para 1: British subject As to the persons who are British subjects under this Act, see Pt IV of this Act ante. See also s 37(4) ante.

Para 2: British citizen As to British citizenship, see Pt I of this Act ante.

Para 3: Entitled . . . to be so registered; application for his registration As to the making of regulations in this connection, see s 41(1) (b), (c), (2) (a), (b) ante; and for general provisions as to registration, see s 42(1)-(4), (6) ante.

Para 3: Age A person attains any age at the beginning of the relevant anniversary of the date of his birth, see s 50(11)(b) ante.

Para 3: Days on which he was absent The whole days on which he was so absent; see s 50(10)(b) ante.

Para 5: Enactments repealed or amended by this Act See s 52(6), (8) ante and Schs 7, 9 post. Para 5: Citizen of the United Kingdom and Colonies See the note to s 10 ante. Para 6: Secretary of State See the note to s 1 ante.

Para 6: Thinks fit As to decisions involving the exercise of the discretion of the Secretary of State, see s 44 ante.

British Nationality (No 2) Act 1964, s 1 That section is repealed by s 52(8) ante and Sch 9 post, and is printed in italics ante.

Definitions

“British Overseas citizen”: s 50(1)

“British overseas territory” : s 50(1)

“commencement”: s 50(1)

“date of the application”: s 50(8)

“enactment”: s 50(1)

“father”: s 50(9)

“mother”: s 50(9)

“parent”: s 50(9)

“the United Kingdom” : s 50(1)

SCHEDULE 3

Section 37

COUNTRIES WHOSE CITIZENS ARE COMMON-WEALTH CITIZENS

Antigua and Barbuda
Australia
The Bahamas
Bangladesh Barbados Belize
Botswana [Brunei] [Cameroon]
Canada
Republic of Cyprus
Dominica Fiji
The Gambia
Ghana
Grenada Guyana
India
Jamaica
Kenya
Kiribati
Lesotho Malawi
Malaysia [Maldives] Malta
Mauritius [Mozambique]
Nauru
New Zealand
Nigeria
[Pakistan]
Papua New Guinea

[Saint Christopher and Nevis]
 Saint Lucia
 Saint Vincent and the Grenadines
 Seychelles Sierra Leone Singapore Solomon Islands
 [South Africa]
 Sri Lanka Swaziland Tanzania Tonga
 Trinidad and Tobago
 Tuvalu
 Uganda Vanuatu Western Samoa
 Zambia Zimbabwe
 [Namibia]

NOTES

Amendments

Entry "Brunei": inserted by the British Nationality (Brunei) Order 1983, SI 1983/1699.

Entry "Cameroon": inserted by the British Nationality (Cameroon and Mozambique) Order 1998, SI 1998/3161

Entry "Maldives": inserted by the Brunei and Maldives Act 1985, s 1, Schedule, para 8.

Entry "Mozambique": inserted by the British Nationality (Cameroon and Mozambique) Order 1998, SI 1998/3161.

Entry "Pakistan inserted by the British Nationality (Pakistan) Order 1989, SI 1989/1331.

Entry "Saint Christopher and Nevis": inserted by the Saint Christopher and Nevis Modification of Enactments Order 1983, SI 1983/882.

Entry "South Africa": inserted by the British Nationality (South Africa) Order 1994, SI 1994/1634. Entry "Namibia": inserted by the British Nationality (Namibia) Order 1990, SI 1990/1502 (which specified that the entry be added at the end rather than inserted alphabetically).

Power to amend This Schedule may be amended by Order in Council made in accordance with s 37(2), (3) ante. See also the Cyprus Act 1960, s 6, Vol 7, title Commonwealth and Other Territories, for *special provisions* as to the removal of the Republic of Cyprus from this Schedule.

Dependencies Note that by s 50(12) ante, references in this Act to any country mentioned in this Schedule include references to the dependencies of that country.

SCHEDULE 4

Para 1: introductory.

Para 2: repealed in part by the Nationality, Immigration and Asylum Act 2002, s 161, Sch 9; remainder amends the Immigration Act 1971, ss 3, 4(4), 5(2), 6(2), 8, 9, 14(2), 24(1), 33(1), Sch 2, paras 2(1)(a), 3(1), 6(1), 12(2), 13(2), 26(1), Sch 4, paras 1, 3(1), (4) ante.

Para 3(1): amends the Immigration Act 1971, ss 13(2), 22(4)(a), (5)(a), 26(1)(d), Sch 2, para 19(2) ante.

Para 3(2): amends the Immigration Act 1971, s 33(1) ante.

Para 4: amends the Immigration Act 1971, s 3(7) ante.

Para 5: amends the Immigration Act 1971, s 8(5) ante.

Para 6: repealed by the Nationality, Immigration and Asylum Act 2002, s 161, Sch 9. Para 7: amends the Immigration Act 1971, s 33 ante.

SCHEDULE 5

Section 42(1)

FORM OF OATH OF ALLEGIANCE

The form of the oath of allegiance is as shown below, with the insertion after the words "on becoming", -of whichever of the following expressions is appropriate, namely

"a British citizen"

"a British overseas territories citizen]"

"a British Overseas citizen"

"a British subject".

Oath of allegiance

I, A. B, swear by Almighty God that, on becoming I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second Her Heirs and Successors according to law.

NOTES

Amendments

Words in square brackets substituted by the British Overseas Territories Act 2002, s 2(2)(b).

Prospective amendments

Substituted by the Nationality, Immigration and Asylum Act 2002, s 3, Sch 1, para 2, as from a day to be appointed under s 162 thereof post as follows:

"SCHEDULE 5

CITIZENSHIP OATH AND PLEDGE

1. The form of citizenship oath and pledge is as follows for registration of or naturalisation as a British citizen

Oath

"I, [name], swear by Almighty God that, on becoming a British citizen, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law."

Pledge

"I will give my loyalty to the United Kingdom and respect its rights and freedoms. I will uphold its democratic values. I will observe its laws faithfully and fulfil my duties and obligations as a British citizen."

2. The form of citizenship oath and pledge is as follows for registration of or naturalisation as a British overseas territories citizen

Oath

"I, [name], swear by Almighty God that, on becoming a British overseas territories citizen, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law."

Pledge

"I will give my loyalty to [name of territory] and respect its rights and freedoms. I will uphold its democratic values. I will observe its laws faithfully and fulfil my duties and obligations as a British overseas territories citizen."

3. The form of citizenship oath is as follows for registration of a British Overseas citizen

I, [name], swear by Almighty God that, on becoming a British Overseas citizen, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law."

4. The form of citizenship oath is as follows for registration of a British subject

"I, [name], swear by Almighty God that, on becoming a British subject, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law."

Oath of allegiance As to the making of regulations in this connection, see s 41(1) (d), (2) (c), (3) (a) ante.

Definitions

"British Overseas citizen": s 50(1)

SCHEDULE 6

Section 50(1)

[BRITISH OVERSEAS TERRITORIES]

Anguilla
 Bermuda
 British Antarctic Territory
 British Indian Ocean Territory
 Cayman Islands
 Falkland Islands . . .
 Gibraltar
 Montserrat
 Pitcairn, Henderson, Ducie and Oeno Islands

St Helena and Dependencies

[South Georgia and the South Sandwich Islands]

The Sovereign Base Areas of Akrotiri and Dhekelia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960)

Turks and Caicos Islands

Virgin Islands

NOTES

Amendments

Schedule heading: substituted by the British Overseas Territories Act 2002, s 1(1)(c).

Words omitted in first place repealed and words in square brackets inserted by the British Nationality Act 1981 (Amendment of Schedule 6) Order 2001, SI 2001/3497.

Words omitted in second place repealed by the Hong Kong (British Nationality) Order 1986, SI 1986/948, art 5.

Words omitted in third place repealed by the Saint Christopher and Nevis Modification of Enactments Order 1983, SI 1983/882.

Power to amend This Schedule may be amended by Order in Council made under s 50(13) ante.

Cyprus Act 1960, s 2(1) See Vol 7, title Commonwealth and Other Territories.

SCHEDULE 7

Repealed in part by the Civil Aviation Act 1982, s 109, Sch 16, the Aviation Security Act 1982, s 40, Sch 3, the Income and Corporation Taxes Act 1988, s 844(4), Sch 31, the Extradition Act 1989, s 37(1), Sch 2, the Antarctic Act 1994, s 33, Schedule, and the Defamation Act 1996, s 16, Sch 2; remainder excludes the Act of Settlement (1700), s 3, Vol 10, title Constitutional Law (Pt 1), in relation to Commonwealth or Republic of Ireland citizens, amends the Legitimacy Declaration Act 1858 (outside the scope of this work), amends the Submarine Telegraph Act 1885, s 3(5), Vol 45, title Telecommunications and Broadcasting, inserts the British Nationality Act 1948, s 3(4) ante, substitutes the Ireland Act 1949, ss 3(1)(a)(i), 7(2), Vol 7, title Commonwealth and Other Territories, amends the Cyprus Act 1960, s 6(1), in the same title, amends the Emergency Laws (Re-enactments and Repeals) Act 1964, s 9(2), Vol 50, title War and Emergency, substitutes the Diplomatic Privileges Act 1964, s 3(2), Vol 10, title Constitutional Law (Pt 5), amends the Commonwealth Secretariat Act 1966, Schedule, paras 5(1), 7, Vol 7, title Commonwealth and Other Territories, amends the West Indies Act 1967, s 13(3), Sch 3 (repealed), substitutes the Marine, &c., Broadcasting (Offences) Act 1967, s 3(3)(a)-(e), Vol 45, title Telecommunications and Broadcasting, amends the Consular Relations Act 1968, s 1(2), Vol 10, title Constitutional Law (Pt 5), amends the Tanzania Act 1969, s 4(3), Vol 7, title Commonwealth and Other Territories, amends the Merchant Shipping Act 1970, ss 70(3), 93(3) (repealed), amends

the Children Act 1975, Sch 1, para 7(2)(a), (d) (repealed), amends the Adoption Act 1976, s 47(2), Vol 6, title Children, amends the National Health Service Act 1977, Sch 11, para 3, Vol 30, title National Health Service, amends the Solomon Islands Act 1978, s 6, Vol 7, title Commonwealth and Other Territories, amends the Adoption (Scotland) Act 1978 (outside the scope of this work), amends the National Health Service (Scotland) Act 1978 (outside the scope of this work), amends the State Immunity Act 1978, s 4(5), Vol 10, title Constitutional Law (Pt 5), and amends the Deep Sea Mining (Temporary Provisions) Act 1981, ss 1, 14(3), Vol 29, title Mines, Minerals and Quarries.

SCHEDULE 8

Section 52(7)

TRANSITIONAL PROVISIONS

Applications for naturalisation or registration pending at commencement

1. (1) This paragraph applies to any application—

- (a) for registration under any provision of the British Nationality Acts 1948 to 1965 as a citizen of the United Kingdom and Colonies or as a British subject; or
- (b) for a certificate of naturalisation under section 10 of the 1948 Act,

which is received before commencement by a person authorised to receive it on behalf of the person to whom it is made but which at commencement has not been determined.

(2) In relation to any application to which this paragraph applies

- (a) the British Nationality Acts 1948 to 1965 and all regulations and arrangements in force under them immediately before commencement shall (so far as applicable) continue to apply; and
- (b) this Act shall not apply;
- (c) but on the granting of such an application and the taking under those Acts of such other steps as are necessary for the person in question to become
 - (i) a citizen of the United Kingdom and Colonies by virtue of any provision of those Acts; or
 - (ii) a British subject by virtue of registration under any provision of those Acts,

that person, instead of becoming a citizen or subject of that description, shall become under this Act such a citizen or subject as he would have become at commencement if, immediately before commencement, he had been such a citizen or subject as is mentioned in paragraph (i) or (ii), as the case may be.

(3) Sub-paragraph (2) shall have effect as if the references in it to the British Nationality Acts 1948 to 1965 did, and as if the reference in paragraph (b) of it to this Act did not, include section 49 of this Act.

2. Where a person who has been registered or to whom a certificate of naturalisation has been granted before the passing of this Act has at commencement not yet taken the oath of allegiance, paragraph 1(2) shall apply as if the application on which he was registered or the certificate was granted were an application to which paragraph 1 applies.

Registration at UK consulate, after commencement, of certain births occurring in foreign countries less than a year before commencement

3—(1) This paragraph applies to a person born less than a year before commencement if—

- (a) the birth occurred in a place in a foreign country (within the meaning of the 1948 Act); and
- (b) at the time of the birth his father was a citizen of the United Kingdom and Colonies by descent only, and
- (c) the birth was not registered at a United Kingdom consulate before commencement.

(2) If the birth of a person to whom this paragraph applies is registered at a United Kingdom consulate within one year of its occurrence, he shall be deemed for the purposes of this Act to have been, immediately before commencement, a citizen of the United Kingdom and Colonies by virtue of section 5 of the 1948 Act (citizenship by descent).

(3) References in this paragraph to the 1948 Act are references to that Act as in force at the time of the birth in question.

Declarations by certain persons who by virtue of an Order in Council under section 4 of the Cyprus Act 1960 have ceased to be citizens of the United Kingdom and Colonies

4.—(1) Where

- (a) a person has before commencement duly made a declaration under section 4(2) of the Cyprus Act 1960 of his intention to resume citizenship of the United Kingdom and Colonies; but
- (b) at commencement the declaration has not been registered,

the Secretary of State shall cause the declaration to be registered.

(2) If—

- (a) a person who in consequence of anything done before he attained the age of sixteen years ceased by virtue of an Order in Council under section 4 of the Cyprus Act 1960 to be a citizen of the United Kingdom and Colonies makes, in such a manner as the Secretary of State may direct, a declaration of his intention to accept the citizenship available to him under this paragraph; and
- (b) the declaration is made by him after commencement and within one year after his attaining/the age of twenty-one years,

the Secretary of State shall cause the declaration to be registered.

(3) On the registration under sub-paragraph (1) or (2) of any such declaration as is there mentioned the person who made it shall become under this Act such a citizen as he would have become at commencement if, immediately before commencement, he had been a citizen of the United Kingdom and Colonies by virtue of section 4(2) of the Cyprus Act 1960.

Applications for certificates of patriality pending at commencement'

5. Any application for a certificate of patriality under the Immigration Act 1971 duly made but not determined before commencement shall be treated as if it were an application for a certificate of entitlement under that Act as amended by this Act.

Appeals under Part II of Immigration Act 1971

6. Where a person who has been refused a certificate of patriality under the Immigration Act 1971 before commencement has immediately before commencement a right of appeal under Part II (appeals) of that Act against the refusal, the provisions of that Part shall have effect in relation to the refusal as if he had applied for, and been refused, a certificate of entitlement under that Act as amended by this Act.

7. Any appeal under Part II of the Immigration Act 1971 against a refusal of a certificate of patriality under that Act which is pending immediately before commencement shall be treated as if it were an appeal against a refusal of a certificate of entitlement under that Act as amended by this Act.

8. In relation to appeals against any decision taken or other thing done under the Immigration Act 1971 before commencement, other than a refusal of a certificate of patriality under that Act, the provisions of that Act shall continue to apply as in force immediately before commencement, and not as amended by this Act.

NOTES

Para 1: Citizen of the United Kingdom and Colonies See the note to s 10 ante.

Para 2: Passing of this Act This Act was passed, ie received royal assent, on 30 October 1981. Para 3: At the time of the birth, etc As to posthumous children, see s 48 ante.

Para 3: By descent As to citizenship of the United Kingdom and Colonies by descent, 'see the British Nationality Act 1948, s 5, which was repealed by s 52(8) ante and Sch 9 post, and is printed in italics ante.

Para 3: Shall be deemed to have been . . . a citizen, etc As to the acquisition of citizenship under this Act by such citizens of the United Kingdom and Colonies as are mentioned in para 3(2) above, see ss 11, 23 or 26 ante.

Para 4: Secretary of State See the note to s 1 ante.

Para 4: Cause the declaration to be registered As to the making of regulations in this connection, see s 41(1) (c), (2) (b), (c) ante.

Para 4: Attained the age, etc A person attains any age at the beginning of the relevant anniversary of the date of his birth see s 50(11)(b) ante.

1948 Act Ie the British Nationality Act 1948; see s 50(1) ante. For ss 5, 10 of that Act, see this title ante, and for the meaning of "foreign country", see s 32(1) of that Act ante. Those provisions are repealed by s 52(8) ante, and Sch 9 post, and are printed in italics.

British Nationality Acts 1948 to 1965 See the note to s 14 ante.

Cyprus Act 1960, s 4 See Vol 7, title Commonwealth and Other Territories.

Immigration Act 1971 See this title ante. By virtue of s 3(9) of that Act as originally enacted, a person seeking to enter the United Kingdom and claiming to be patrial by virtue of s 2(1)(c) or (d) or s 2(2) of that Act was required (except in certain specified circumstances) to prove it by means of such certificate of patriality as was specified in the immigration rules. For the current provisions--relating to certificates of entitlement under the 1971 Act, see the present s 3(9) of that Act ante.

Definitions

"the 1948 Act": s 50(1)

"commencement": s 50(1)

"father": s 50(9)

"United Kingdom consulate": s 50(1)

SCHEDULE 9

Section 52(8)

REPEALS

Chapter	Short Title	Extent of Repeal
11 & 12 Geo 6 c 3	Burma Independence Act 1947	Section 2. Schedule 1.
11 & 12 Geo 6 c 56	British Nationality Act 1948	The whole Act except— (a) section 3; (b) section 32(3); (c) section 33(1) from the beginning to the words “Isle of Man”; and (d) section 34(1).
12, 13 & 14 Geo 6 c 41	Ireland Act 1949	Section 5.
14 Geo 6 c 5	Newfoundland (Consequential Provisions) Act 1950	The whole Act.
15 & 16 Geo 6 & 1 Eliz 2	Visiting Forces Act 1952	Section 15(3)(c) and (d).
5 & 6 Eliz 2 c 6	Ghana Independence Act 1957	Section 2.
5 & 6 Eliz 2 c 60	Federation of Malaya Independence Act 1957	In Schedule 1, paragraph 1.
6 & 7 Eliz 2 c 10	British Nationality Act 1958	The whole Act.
7 & 8 Eliz 2 c 5	Adoption Act 1958	Section 19. In section 60(2), the words “section nineteen, and”.
8 & 9 Eliz 2 c 52	Cyprus Act 1960	Section 4(2) to (4) and (7). In the Schedule, paragraph 1.
8 & 9 Eliz 2 c 55	Nigeria Independence Act 1960	Section 2.
9 & 10 Eliz 2 c 16	Sierra Leone Independence Act 1961	Section 2.
10 Eliz 2 c 1	Tanganyika Independence Act 1961	Section 2.
10 & 11 Eliz 2 c 8	Civil Aviation (Eurocontrol) Act 1962	Section 9(2).
10 & 11 Eliz 2 c 21	Commonwealth Immigrants Act 1962	Section 12(2) and (4).
10 & 11 Eliz 2 c 23	South Africa Act 1962	Section 1(2). Schedule 1.
10 & 11 Eliz 2 c 40	Jamaica Independence Act 1962	Section 2.
10 & 11 Eliz 2 c 54	Trinidad and Tobago Independence Act 1962	Section 2.
10 & 11 Eliz 2 c 57	Uganda Independence Act 1962	Section 2.
1963 c 35	Malaysia Act 1963	Section 2. Schedule 1.
1963 c 54	Kenya Independence Act 1963	Sections 2 and 3.
1963 c 55	Zanzibar Act 1963	Section 2. Schedule 2.
1964 c 5	International Headquarters and Defence Organisations Act 1964	Section 2(1)(c). In section 2(1)(d), the reference to paragraph (c).

Chapter	Short Title	Extent of Repeal
1964 c 22	British Nationality Act 1964	The whole Act.
1964 c 46	Malawi Independence Act 1964	Sections 2 and 3.
1964 c 54	British Nationality (No 2) Act 1964	The whole Act.
1964 c 57	Adoption Act 1964	Section 1(3). In section 4(4), the words from "except" to "1958".
1964 c 65	Zambia Independence Act 1964	Sections 3 and 4.
1964 c 81	Diplomatic Privileges Act 1964	Section 5(2).
1964 c 86	Malta Independence Act 1964	Sections 2 and 3.
1964 c 93	Gambia Independence Act 1964	Sections 2 and 3.
1965 c 34	British Nationality Act 1965	The whole Act.
1966 c 14	Guyana Independence Act 1966	Sections 2 and 3.
1966 c 23	Botswana Independence Act 1966	Sections 3 and 4.
1966 c 24	Lesotho Independence Act 1966	Sections 3 and 4.
1966 c 29	Singapore Act 1966	In the Schedule, paragraph 1.
1966 c 37	Barbados Independence Act 1966	Sections 2 and 3.
1967 c 4	West Indies Act 1967	Section 12. In Schedule 3, paragraphs 1 to 3, 5 and 7 and, in paragraph 4(1), the words from "(subject" to "Schedule)".
1967 c 71	Aden, Perim and Kuria Muria Islands Act 1967	Section 2. Schedule.
1968 c 8	Mauritius Independence Act 1968	Sections 2 and 3.
1968 c 18	Consular Relations Act 1968	Section 7.
1968 c 53	Adoption Act 1968	Section 9(5). In section 14(3), the words "except sections 9(5) and this section".
1968 c 56	Swaziland Independence Act 1968	Sections 3 and 4.
1968 c 59	Hovercraft Act 1968	In the Schedule, paragraph 1(d).
1969 c 29	Tanzania Act 1969	Section 1. Section 7(1)(a) and (2).
1969 c 46	Family Law Reform Act 1969	Section 28(4)(a). In Schedule 1, the entry relating to the British Nationality Act 1948.
1970 c 22	Tonga Act 1970	Section 2.
1970 c 50	Fiji Independence Act 1970	Sections 2 and 3.
1971 c 62	Tribunals and Inquiries Act 1971	In section 14(3), the words from "affect" to "1948 or".
1971 c 77	Immigration Act 1971	In section 9(5), the words from "other" to "section 2". Section 30(1).

Chapter	Short Title	Extent of Repeal
1971 c 77— <i>contd</i>	Immigration Act 1971— <i>contd</i>	In section 31(a), the words from “(including” to “Act)”. Schedule 1 (including Appendices A to C).
1972 c 55	Sri Lanka Republic Act 1972	Section 1(3) and (5).
1973 c 27	Bahamas Independence Act 1973	Section 2(1), (2) and (6).
1973 c 48	Pakistan Act 1973	Section 1. Schedules 1 and 2.
1973 c 49	Bangladesh Act 1973	Section 2.
1975 c 31	Malta Republic Act 1975	Section 1(3).
1975 c 72	Children Act 1975	In section 109(2)(b), the words “and 63” and “and”. Section 109(2)(c). In Schedule 3, paragraph 63.
1976 c 19	Seychelles Act 1976	Sections 3 and 4. Section 5(3).
1976 c 36	Adoption Act 1976	Section 40. In section 47(2), the words “Without prejudice to section 40”. In section 74(4), the words from “except” to “1968”.
1976 c 54	Trinidad and Tobago Republic Act 1976	Section 1(3).
1978 c 15	Solomon Islands Act 1978	Section 2(1). Section 4(5). Section 5(1) and (3).
1978 c 20	Tuvalu Act 1978	Sections 2, 3 and 5(2).
1978 c 23	Judicature (Northern Ireland) Act 1978	Section 22(2)(a).
1978 c 28	Adoption (Scotland) Act 1978	Section 40. In section 41(2), the words “Without prejudice to section 40”.
1978 c 30	Interpretation Act 1978	In section 24(4), the words “British subject and Commonwealth citizen;”. In Schedule 1, the entry defining “British subject” and “Commonwealth citizen”. In Schedule 2, in paragraph 6, the words “British subject and Commonwealth citizen;”.
1979 c 27	Kiribati Act 1979	Section 3(3). Sections 4 and 5. Section 7(2).
1979 c 60	Zimbabwe Act 1979	Section 2. In section 5(2)— (a) paragraph (a); and (b) in paragraph (b), the words “1 or”. Schedule 1.

Chapter	Short Title	Extent of Repeal
1980 c 2	Papua New Guinea, Western Samoa and Nauru (Miscellaneous Provisions) Act 1980	In section 1, subsection (1) and, in subsection (3), the reference to section 3(2). Section 2. Section 3(2).
1980 c 16	New Hebrides Act 1980	Section 1. In section 4(2), the reference to section 1(2).
1981 c 52	Belize Act 1981	Section 4(1).
1981 c 61	British Nationality Act 1981	Section 49.

VI.2. Normativa en materia de emigración

VI.2.1. Legislación del Reino Unido

2006

Identity Cards Act 2006 Chapter 15

Immigration, Asylum and Nationality Act 2006 Chapter 13

Racial and Religious Hatred Act 2006 Chapter 1

The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003

- Statutory Instrument 2003 No. 2818

The Social Security (Persons from Abroad) Amendment Regulations 2006

- Statutory Instrument 2006 No. 1026

The Immigration (European Economic Area) Regulations 2006
- Statutory Instrument 2006 No. 1003 The Immigration

2005

Constitutional Reform Act 2005 Chapter 4

The Immigration (Leave to Remain) (Prescribed Forms and Procedures) (No. 2) Regulations 2005

- Statutory Instrument 2005 No. 2358

The Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005

- Statutory Instrument 2005 No. 930

The Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2005

- Statutory Instrument 2005 No. 771

The Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005

- Statutory Instrument 2005 No. 560

The Asylum and Immigration Tribunal (Judicial Titles) Order 2005

- Statutory Instrument 2005 No. 227

2004

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

The Immigration (Assisting Unlawful Immigration) (Section 25 List of Schengen Acquis States) Order 2004

- Statutory Instrument 2004 No. 2877

The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003

- Statutory Instrument 2003 No. 2818

The Immigration Services Commissioner (Registration Fee) Order 2004

- Statutory Instrument 2004 No. 802

The Immigration (Restrictions on Employment) Order 2004

- Statutory Instrument 2004 No. 755

2003

The Nationality, Immigration and Asylum Act 2002 (Consequential and Incidental Provisions) Order 2003

- Statutory Instrument 2003 No. 1016

The Special Immigration Appeals Commission (Procedure) Rules 2003

- Statutory Instrument 2003 No. 1034

2002

Nationality, Immigration and Asylum Act 2002 Chapter 41

The Immigration (Passenger Transit Visa) Order 2003

- Statutory Instrument 2003 No. 1185 The Immigration (Passenger Transit Visa)

The Immigration (Entry Otherwise than by Sea or Air) Order 2002

- Statutory Instrument 2002 No. 1832 The Immigration (Entry Otherwise than by Sea or Air)

2001

The Immigration (Leave to Enter) Order 2001

- Statutory Instrument 2001 No. 2590

Immigration, Asylum and Nationality

Act 2006.—CHAPTER 13

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An Act to make provision about immigration, asylum and nationality; and for connected purposes. [30th March 2006]

E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows:—

Appeals

1 Variation of leave to enter or remain

After section 83 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of appeal: asylum claim) insert—
“83A Appeal: variation of limited leave

- (1) This section applies where—
- (a) a person has made an asylum claim,
 - (b) he was granted limited leave to enter or remain in the United Kingdom as a refugee within the meaning of the Refugee Convention,
 - (c) a decision is made that he is not a refugee, and
 - (d) following the decision specified in paragraph (c) he has limited leave to enter or remain in the United Kingdom otherwise than as a refugee.

(2) The person may appeal to the Tribunal against the decision to curtail or to refuse to extend his limited leave.”

B

2 Removal

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

3 Grounds of appeal

After section 84(3) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (grounds of appeal) add—

“(4) An appeal under section 83A must be brought on the grounds that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention.”

4 Entry clearance

(1) For sections 88A, 90 and 91 of the Nationality, Immigration and Asylum Act 2002 (restricted right of appeal in relation to refusal of entry clearance for visitor or student) substitute—

“88 A Entry clearance

(1) A person may not appeal under section 82(1) against refusal of an application for entry clearance unless the application was made for the purpose of—

- (a) visiting a person of a class or description prescribed by regulations for the purpose of this subsection, or
- (b) entering as the dependant of a person in circumstances prescribed by regulations for the purpose of this subsection.

(2) Regulations under subsection (1) may, in particular—

- (a) make provision by reference to whether the applicant is a member of the family (within such meaning as the regulations may assign) of the person he seeks to visit;
 - (b) provide for the determination of whether one person is dependent on another;
 - (c) make provision by reference to the circumstances of the applicant, of the person whom the applicant seeks to visit or on whom he depends, or of both (and the regulations may, in particular, include provision by reference to—
 - (i) whether or not a person is lawfully settled in the United Kingdom within such meaning as the regulations may assign;
 - (ii) the duration of two individuals' residence together);
 - (d) make provision by reference to an applicant's purpose in entering as a dependant;
 - (e) make provision by reference to immigration rules;
 - (f) confer a discretion.
- (3) Subsection (1)—
- (a) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c), and
 - (b) is without prejudice to the effect of section 88 in relation to an appeal under section 82(1) against refusal of entry clearance.”

(2) For section 23(1) of the Immigration and Asylum Act 1999 (c. 33) (monitoring refusals of entry clearance) substitute—

“(1) The Secretary of State must appoint a person to monitor, in such manner as the Secretary of State may determine, refusals of entry clearance in cases where, as a result of section 88A of the Nationality, Immigration and Asylum Act 2002 (c. 41) (entry clearance: non-family visitors and students), an appeal under section 82(1) of that Act may be brought only on the grounds referred to in section 84(1)(b) and (c) of that Act (racial discrimination and human rights).”

(3) Within the period of three years beginning with the commencement (for any purpose) of subsection (1), the Secretary of State shall lay before Parliament a report about the effect of that subsection; and the report—

- (a) must specify the number of applications for entry clearance made during that period,
- (b) must specify the number of those applications refused,
- (c) must specify the number of those applications granted, after an initial indication to the applicant of intention to refuse the application, as a result of further consideration in accordance with arrangements established by the Secretary of State,
- (d) must describe those arrangements,

- (e) must describe the effect of regulations made under section 88A(1)(a) or
- (b) as substituted by subsection (1) above,
- (f) may include other information about the process and criteria used to determine applications for entry clearance, and
- (g) may record opinions.

5 Failure to provide documents

After section 88(2)(b) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeal: ineligibility) insert—

“(ba) has failed to supply a medical report or a medical certificate in accordance with a requirement of immigration rules.”

6 Refusal of leave to enter

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

“89 Refusal of leave to enter

(1) A person may not appeal under section 82(1) against refusal of leave to enter the United Kingdom unless—

- (a) on his arrival in the United Kingdom he had entry clearance, and
- (b) the purpose of entry specified in the entry clearance is the same as that specified in his application for leave to enter.

(2) Subsection (1) does not prevent the bringing of an appeal on any or all of the grounds referred to in section 84(1)(b), (c) and (g).”

7 Deportation

(1) After section 97 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals: national security) insert—

“97 A National security: deportation

(1) This section applies where the Secretary of State certifies that the decision to make a deportation order in respect of a person was taken on the grounds that his removal from the United Kingdom would be in the interests of national security.

(2) Where this section applies—

- (a) section 79 shall not apply,
- (b) the Secretary of State shall be taken to have certified the decision to make the deportation order under section 97, and
- (c) for the purposes of section 2(5) of the Special Immigration Appeals Commission Act 1997 (c. 68) (appeals from within United Kingdom) it shall be assumed that section 92 of this Act—
 - (i) would not apply to an appeal against the decision to make the deportation order by virtue of section 92(2) to (3D),
 - (ii) would not apply to an appeal against that decision by virtue of section 92(4)(a) in respect of an asylum claim, and
 - (iii) would be capable of applying to an appeal against that decision by virtue of section 92(4)(a) in respect of a human rights claim unless the Secretary of State certifies that the removal of the person from the United Kingdom would not breach the United Kingdom’s obligations under the Human Rights Convention.

(3) A person in respect of whom a certificate is issued under subsection

(2) (c)(iii) may appeal to the Special Immigration Appeals Commission against the issue of the certificate; and for that purpose the Special Immigration Appeals Commission Act 1997

shall apply as to an appeal against an immigration decision to which section 92 of this Act applies.

(4) The Secretary of State may repeal this section by order.”

(2) In section 112 of that Act (regulations, &c.) after subsection (5A) insert—

“(5B) An order under section 97A(4)—

- (a) must be made by statutory instrument,
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
- (c) may include transitional provision.”

8 Legal aid

(1) Section 103D of the Nationality, Immigration and Asylum Act 2002 (c. 41) (reconsideration: legal aid) shall be amended as follows.

(2) In subsection (2) for the words “where the Tribunal has decided an appeal following reconsideration pursuant to an order made” substitute “where an order for reconsideration is made”.

(3) For subsection (3) substitute—

“(3) The Tribunal may order payment out of that Fund of the appellant’s costs—

- (a) in respect of the application for reconsideration;
- (b) in respect of preparation for reconsideration;
- (c) in respect of the reconsideration.”

9 Abandonment of appeal

For section 104(4) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (pending appeal: deemed abandonment) substitute—

“(4) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant leaves the United Kingdom.

(4A) An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom (subject to subsections (4B) and (4C)).

(4B) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground relating to the Refugee Convention specified in section 84(1)(g) where the appellant—

- (a) is granted leave to enter or remain in the United Kingdom for a period exceeding 12 months, and
- (b) gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.

(4C) Subsection (4A) shall not apply to an appeal in so far as it is brought on the ground specified in section 84(1)(b) where the appellant gives notice, in accordance with any relevant procedural rules (which may include provision about timing), that he wishes to pursue the appeal in so far as it is brought on that ground.”

10 Grants

Section 110 (grants to advisory organisations) of the Nationality, Immigration and Asylum Act 2002 shall cease to have effect.

11 Continuation of leave

(1) Section 3C of the Immigration Act 1971 (c. 77) (continuation of leave to enter or remain pending variation decision) shall be amended as follows.

(2) In subsection (2)(b) (continuation pending possible appeal) after “could be brought” insert “, while the appellant is in the United Kingdom”.

(3) In subsection (2)(c) (continuation pending actual appeal) after “against that decision” insert “, brought while the appel-

lant is in the United Kingdom.”.

(4) For subsection (6) (decision) substitute—

“(6) The Secretary of State may make regulations determining when an application is decided for the purposes of this section; and the regulations—

- (a) may make provision by reference to receipt of a notice,
- (b) may provide for a notice to be treated as having been received in specified circumstances,
- (c) may make different provision for different purposes or circumstances,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(5) After section 3C insert—

“3D Continuation of leave following revocation

(1) This section applies if a person’s leave to enter or remain in the United Kingdom—

- (a) is varied with the result that he has no leave to enter or remain in the United Kingdom, or
- (b) is revoked.

(2) The person’s leave is extended by virtue of this section during any period when—

- (a) an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 could be brought, while the person is in the United Kingdom, against the variation or revocation (ignoring any possibility of an appeal out of time with permission), or
- (b) an appeal under that section against the variation or revocation, brought while the appellant is in the United Kingdom, is pending (within the meaning of section 104 of that Act).

(3) A person’s leave as extended by virtue of this section shall lapse if he leaves the United Kingdom.

(4) A person may not make an application for variation of his leave to enter or remain in the United Kingdom while that leave is extended by virtue of this section.”

(6) Section 82(3) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (variation and revocation: extension of leave pending appeal) shall cease to have effect.

12 Asylum and human rights claims: definition

(1) Section 113(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals: interpretation) shall be amended as follows.

(2) For the definition of “asylum claim” substitute—
““asylum claim”—

- (a) means a claim made by a person that to remove him from or require him to leave the United Kingdom would breach the United Kingdom’s obligations under the Refugee Convention, but
- (b) does not include a claim which, having regard to a former claim, falls to be disregarded for the purposes of this Part in accordance with immigration rules.”.

(3) For the definition of “human rights claim” substitute—
““human rights claim”—

- (a) means a claim made by a person that to remove him from or require him to leave the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998 (c. 42) (public authority not to act contrary to Convention) as being incompatible with his Convention rights, but
- (b) does not include a claim which, having regard to a former claim, falls to be disregarded for the purposes of this Part in accordance with immigration rules.”.

13 Appeal from within United Kingdom: certification of unfounded claim

After section 94(6A) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeal from within United Kingdom: unfounded human rights or asylum claim) insert—

“(6B) A certificate under subsection (1A) or (2) may not be issued (and subsection (3) shall not apply) in relation to an appeal under section 82(2)(d) or (e) against a decision relating to leave to enter or remain in the United Kingdom, where the leave was given in circumstances specified for the purposes of this subsection by order of the Secretary of State.”

14 Consequential amendments

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

Employment

15 Penalty

(1) It is contrary to this section to employ an adult subject to immigration control if—

- (a) he has not been granted leave to enter or remain in the United Kingdom, or
- (b) his leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing him from accepting the employment.

(2) The Secretary of State may give an employer who acts contrary to this section a notice requiring him to pay a penalty of a specified amount not exceeding the prescribed maximum.

(3) An employer is excused from paying a penalty if he shows that he complied with any prescribed requirements in relation to the employment.

(4) But the excuse in subsection (3) shall not apply to an employer who knew, at any time during the period of the employment, that it was contrary to this+ section.

(5) The Secretary of State may give a penalty notice without having established whether subsection (3) applies.

(6) A penalty notice must—

- (a) state why the Secretary of State thinks the employer is liable to the penalty,
- (b) state the amount of the penalty,
- (c) specify a date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,
- (d) specify how the penalty must be paid,
- (e) explain how the employer may object to the penalty, and
- (f) explain how the Secretary of State may enforce the penalty.

(7) An order prescribing requirements for the purposes of subsection (3) may, in particular—

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

- (e) require action to be taken at specified intervals or on specified occasions during the course of employment.

16 Objection

(1) This section applies where an employer to whom a penalty notice is given objects on the ground that—

- (a) he is not liable to the imposition of a penalty,
- (b) he is excused payment by virtue of section 15(3), or
- (c) the amount of the penalty is too high.

(2) The employer may give a notice of objection to the Secretary of State.

(3) A notice of objection must—

- (a) be in writing,
- (b) give the objector's reasons,
- (c) be given in the prescribed manner, and
- (d) be given before the end of the prescribed period.

(4) Where the Secretary of State receives a notice of objection to a penalty he shall consider it and—

- (a) cancel the penalty,
- (b) reduce the penalty,
- (c) increase the penalty, or
- (d) determine to take no action.

(5) Where the Secretary of State considers a notice of objection he shall—

- (a) have regard to the code of practice under section 19 (in so far as the objection relates to the amount of the penalty),
- (b) inform the objector of his decision before the end of the prescribed period or such longer period as he may agree with the objector,
- (c) if he increases the penalty, issue a new penalty notice under section 15, and
- (d) if he reduces the penalty, notify the objector of the reduced amount.

17 Appeal

(1) An employer to whom a penalty notice is given may appeal to the court on the ground that—

- (a) he is not liable to the imposition of a penalty,
- (b) he is excused payment by virtue of section 15(3), or
- (c) the amount of the penalty is too high.

(2) The court may—

- (a) allow the appeal and cancel the penalty,
- (b) allow the appeal and reduce the penalty, or
- (c) dismiss the appeal.

(3) An appeal shall be a re-hearing of the Secretary of State's decision to impose a penalty and shall be determined having regard to—

- (a) the code of practice under section 19 that has effect at the time of the appeal (in so far as the appeal relates to the amount of the penalty), and
- (b) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware); and this subsection has effect despite any provision of rules of court.

(4) An appeal must be brought within the period of 28 days beginning with—

- (a) the date specified in the penalty notice as the date upon which it is given, or
- (b) if the employer gives a notice of objection and the Secretary of State reduces the penalty, the date specified in the notice of reduction as the date upon which it is given, or
- (c) if the employer gives a notice of objection and the Secretary of State determines to take no action, the

date specified in the notice of that determination as the date upon which it is given.

(5) An appeal may be brought by an employer whether or not—

- (a) he has given a notice of objection under section 16;
- (b) the penalty has been increased or reduced under that section.

(6) In this section "the court" means—

- (a) where the employer has his principal place of business in England and Wales, a county court,
- (b) where the employer has his principal place of business in Scotland, the sheriff, and
- (c) where the employer has his principal place of business in Northern Ireland, a county court.

18 Enforcement

(1) A sum payable to the Secretary of State as a penalty under section 15 may be recovered by the Secretary of State as a debt due to him.

(2) In proceedings for the enforcement of a penalty no question may be raised as to—

- (a) liability to the imposition of the penalty,
- (b) the application of the excuse in section 15(3), or
- (c) the amount of the penalty.

(3) Money paid to the Secretary of State by way of penalty shall be paid into the Consolidated Fund.

19 Code of practice

(1) The Secretary of State shall issue a code of practice specifying factors to be considered by him in determining the amount of a penalty imposed under section 15.

(2) The code—

- (a) shall not be issued unless a draft has been laid before Parliament, and
- (b) shall come into force in accordance with provision made by order of the Secretary of State.

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

20 Orders

(1) An order of the Secretary of State under section 15, 16 or 19—

- (a) may make provision which applies generally or only in specified circumstances,
- (b) may make different provision for different circumstances,
- (c) may include transitional or incidental provision, and
- (d) shall be made by statutory instrument.

(2) An order under section 15(2) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(3) Any other order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

21 Offence

(1) A person commits an offence if he employs another ("the employee") knowing that the employee is an adult subject to immigration control and that—

- (a) he has not been granted leave to enter or remain in the United Kingdom, or
- (b) his leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or

(iii) is subject to a condition preventing him from accepting the employment.

(2) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding two years,
 - (ii) to a fine, or
 - (iii) to both, or
- (b) on summary conviction—
 - (i) to imprisonment for a term not exceeding 12 months in England and Wales or 6 months in Scotland or Northern Ireland,
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both.

(3) An offence under this section shall be treated as—

- (a) a relevant offence for the purpose of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and
- (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28E, 28G and 28H (search after arrest).

(4) In relation to a conviction occurring before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' powers to imprison) the reference to 12 months in subsection (2)(b)(i) shall be taken as a reference to 6 months.

22 Offence: bodies corporate, &c.

(1) For the purposes of section 21(1) a body (whether corporate or not) shall be treated as knowing a fact about an employee if a person who has responsibility within the body for an aspect of the employment knows the fact.

(2) If an offence under section 21(1) is committed by a body corporate with the consent or connivance of an officer of the body, the officer, as well as the body, shall be treated as having committed the offence.

(3) In subsection (2) a reference to an officer of a body includes a reference to—

- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary, and
- (c) if the affairs of the body are managed by its members, a member.

(4) Where an offence under section 21(1) is committed by a partnership (whether or not a limited partnership) subsection (2) above shall have effect, but as if a reference to an officer of the body were a reference to—

- (a) a partner, and
- (b) a person purporting to act as a partner.

23 Discrimination: code of practice

(1) The Secretary of State shall issue a code of practice specifying what an employer should or should not do in order to ensure that, while avoiding liability to a penalty under section 15 and while avoiding the commission of an offence under section 21, he also avoids contravening—

- (a) the Race Relations Act 1976 (c. 74), or
- (b) the Race Relations (Northern Ireland) Order 1997 (S.I. 869 (N.I. 6)).

(2) Before issuing the code the Secretary of State shall—

- (a) consult—
 - (i) the Commission for Equality and Human Rights,
 - (ii) the Equality Commission for Northern Ireland,
 - (iii) such bodies representing employers as he thinks appropriate, and

(iv) such bodies representing workers as he thinks appropriate,

- (b) publish a draft code (after that consultation),
- (c) consider any representations made about the published draft, and
- (d) lay a draft code before Parliament (after considering representations under paragraph (c) and with or without modifications to reflect the representations).

(3) The code shall come into force in accordance with provision made by order of the Secretary of State; and an order—

- (a) may include transitional provision,
- (b) shall be made by statutory instrument, and
- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) A breach of the code—

- (a) shall not make a person liable to civil or criminal proceedings, but
- (b) may be taken into account by a court or tribunal.

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

(6) Until the dissolution of the Commission for Racial Equality, the reference in subsection (2)(a)(i) to the Commission for Equality and Human Rights shall be treated as a reference to the Commission for Racial Equality.

24 Temporary admission, &c.

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

- (a) he shall be treated for the purposes of sections 15(1) and 21(1) as if he had been granted leave to enter the United Kingdom, and
- (b) any restriction as to employment imposed under paragraph 21(2) shall be treated for those purposes as a condition of leave.

25 Interpretation

In sections 15 to 24—

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

26 Repeal

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

Information

27 Documents produced or found

(1) For paragraph 4(4) of Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry: documents) substitute—

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

- (a) for the purpose of examining it, for a period not exceeding 7 days;
- (b) for any purpose, until the person to whom the document relates is given leave to enter the Unit-

ed Kingdom or is about to depart or be removed following refusal of leave or until it is decided that the person does not require leave to enter;

- (c) after a time described in paragraph (b), while the immigration officer thinks that the document may be required in connection with proceedings in respect of an appeal under the Immigration Acts or in respect of an offence.

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

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

28 Fingerprinting

(1) Section 141 of the Immigration and Asylum Act 1999 (c. 33) (fingerprinting) shall be amended as follows.

(2) In subsection (7)(d) for "arrested under paragraph 17 of Schedule 2 to the 1971 Act;" substitute "detained under paragraph 16 of Schedule 2 to the 1971 Act or arrested under paragraph 17 of that Schedule;"

(3) In subsection (8)(d) for "arrest;" substitute "detention or arrest;"

(4) At the end add—

"(17) Section 157(1) applies to this section (in so far as it relates to removal centres by virtue of subsection (5)(e)) as it applies to Part VIII."

29 Attendance for fingerprinting

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

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

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

(2A) In the case of a notice given to a person of a kind specified in section

141(7)(e) or (f) (in so far as it applies to a dependant of a person of a kind specified in section 141(7)(e)), the notice—

- (a) may require him to attend during a specified period beginning with a day not less than three days after the date given in the notice as its date of issue,
- (b) may require him to attend on a specified day not less than three days after the date given in the notice as its date of issue, and
- (c) may require him to attend at a specified time of day or during specified hours."

30 Proof of right of abode

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

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

- (a) a United Kingdom passport describing him as a British citizen,
- (b) a United Kingdom passport describing him as a British subject with the right of abode in the United Kingdom,
- (c) an ID card issued under the Identity Cards Act 2006 describing him as a British citizen,
- (d) an ID card issued under that Act describing him as a British subject with the right of abode in the United Kingdom, or
- (e) a certificate of entitlement."

31 Provision of information to immigration officers

(1) Schedule 2 to the Immigration Act 1971 (controls on entry: administration) shall be amended as follows.

(2) In paragraph 27 (provision of passenger lists, &c.) for sub-paragraph (2) substitute—

"(2) The Secretary of State may by order require, or enable an immigration officer to require, a responsible person in respect of a ship or aircraft to supply—

- (a) a passenger list showing the names and nationality or citizenship of passengers arriving or leaving on board the ship or aircraft;
- (b) particulars of members of the crew of the ship or aircraft.

(3) An order under sub-paragraph (2) may relate—

- (a) to all ships or aircraft arriving or expected to arrive in the United Kingdom;
- (b) to all ships or aircraft leaving or expected to leave the United Kingdom;
- (c) to ships or aircraft arriving or expected to arrive in the United Kingdom from or by way of a specified country;
- (d) to ships or aircraft leaving or expected to leave the United Kingdom to travel to or by way of a specified country;
- (e) to specified ships or specified aircraft.

(4) For the purposes of sub-paragraph (2) the following are responsible persons in respect of a ship or aircraft—

- (a) the owner or agent, and
- (b) the captain.

(5) An order under sub-paragraph (2)—

- (a) may specify the time at which or period during which information is to be provided,
- (b) may specify the form and manner in which information is to be provided,
- (c) shall be made by statutory instrument, and
- (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(3) In paragraph 27B (passenger information)—

- (a) in each place after "passenger information" insert "or service information", and
- (b) after sub-paragraph (9) insert—

"(9A) "Service information" means such information relating to the voyage or flight undertaken by the ship or aircraft as may be specified."

(4) In section 27 of the Immigration Act 1971 (c. 77) (offences)—

- (a) in paragraph (b)(iv) for "the requirements of paragraph 27B or 27C of Schedule 2" substitute "a requirement imposed by or under Schedule 2", and
- (b) in paragraph (c) omit "as owner or agent of a ship or aircraft or".

32 Passenger and crew information: police powers

(1) This section applies to ships and aircraft which are—

- (a) arriving, or expected to arrive, in the United Kingdom, or

(b) leaving, or expected to leave, the United Kingdom.

(2) The owner or agent of a ship or aircraft shall comply with any requirement imposed by a constable of the rank of superintendent or above to provide passenger or service information.

(3) A passenger or member of crew shall provide to the owner or agent of a ship or aircraft any information that he requires for the purpose of complying with a requirement imposed by virtue of subsection (2).

(4) A constable may impose a requirement under subsection (2) only if he thinks it necessary—

- (a) in the case of a constable in England, Wales or Northern Ireland, for police purposes, or
- (b) in the case of a constable in Scotland, for police purposes which are or relate to reserved matters.

(5) In this section—

- (a) “passenger or service information” means information which is of a kind specified by order of the Secretary of State and which relates to—
 - (i) passengers,
 - (ii) members of crew, or
 - (iii) a voyage or flight,
- (b) “police purposes” has the meaning given by section 21(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure by Secretary of State), and
- (c) “reserved matters” has the same meaning as in the Scotland Act 1998 (c. 46).

(6) A requirement imposed under subsection (2)—

- (a) must be in writing,
- (b) may apply generally or only to one or more specified ships or aircraft,
- (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect,
- (d) must state—
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided.

(7) The Secretary of State may make an order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).

(8) An order under subsection (5)(a)—

- (a) may apply generally or only to specified cases or circumstances,
- (b) may make different provision for different cases or circumstances,
- (c) may specify the form and manner in which information is to be provided,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

33 Freight information: police powers

(1) This section applies to ships, aircraft and vehicles which are—

- (a) arriving, or expected to arrive, in the United Kingdom, or
- (b) leaving, or expected to leave, the United Kingdom.

(2) If a constable of the rank of superintendent or above requires a person specified in subsection (3) to provide freight information he shall comply with the requirement.

(3) The persons referred to in subsection (2) are—

- (a) in the case of a ship or aircraft, the owner or agent,
- (b) in the case of a vehicle, the owner or hirer, and
- (c) in any case, persons responsible for the import or

export of the freight into or from the United Kingdom.

(4) A constable may impose a requirement under subsection (2) only if he thinks it necessary—

- (a) in the case of a constable in England, Wales or Northern Ireland, for police purposes, or
- (b) in the case of a constable in Scotland, for police purposes which are or relate to reserved matters.

(5) In this section—

- (a) “freight information” means information which is of a kind specified by order of the Secretary of State and which relates to freight carried,
- (b) “police purposes” has the meaning given by section 21(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure by Secretary of State), and
- (c) “reserved matters” has the same meaning as in the Scotland Act 1998 (c. 46).

(6) A requirement imposed under subsection (2)—

- (a) must be in writing,
- (b) may apply generally or only to one or more specified ships, aircraft or vehicles,
- (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect, and
- (d) must state—
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided.

(7) The Secretary of State may make an order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).

(8) An order under subsection (5)(a)—

- (a) may apply generally or only to specified cases or circumstances,
- (b) may make different provision for different cases or circumstances,
- (c) may specify the form and manner in which the information is to be provided,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

34 Offence

(1) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed under section 32(2) or (3) or 33(2).

(2) But—

- (a) a person who fails without reasonable excuse to comply with a requirement imposed under section 32(2) or 33(2) by a constable in England and Wales or Northern Ireland otherwise than in relation to a reserved matter (within the meaning of the Scotland Act 1998 (c. 46)) shall not be treated as having committed the offence in Scotland (but has committed the offence in England and Wales or Northern Ireland), and
- (b) a person who fails without reasonable excuse to comply with a requirement which is imposed under section 32(3) for the purpose of complying with a requirement to which paragraph (a) applies—
 - (i) shall not be treated as having committed the offence in Scotland, but
 - (ii) shall be treated as having committed the offence in England and Wales or Northern Ireland.

(3) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding 51 weeks in England and Wales or 6 months in Scotland or Northern Ireland,
- (b) a fine not exceeding level 4 on the standard scale, or
- (c) both.

(4) In relation to a conviction occurring before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference to 51 weeks in subsection (2)(a) shall be taken as a reference to three months.

35 Power of Revenue and Customs to obtain information

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

36 Duty to share information

(1) This section applies to—

- (a) the Secretary of State in so far as he has functions under the Immigration Acts,
- (b) a chief officer of police, and
- (c) Her Majesty’s Revenue and Customs.

(2) The persons specified in subsection (1) shall share information to which subsection (4) applies and which is obtained or held by them in the course of their functions to the extent that the information is likely to be of use for—

- (a) immigration purposes,
- (b) police purposes, or
- (c) Revenue and Customs purposes.

(3) But a chief officer of police in Scotland shall share information under subsection (2) only to the extent that it is likely to be of use for—

- (a) immigration purposes,
- (b) police purposes, in so far as they are or relate to reserved matters within the meaning of the Scotland Act 1998, or
- (c) Revenue and Customs purposes other than the prosecution of crime.

(4) This subsection applies to information which—

- (a) is obtained or held in the exercise of a power specified by the Secretary of State and the Treasury jointly by order and relates to—
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,
 - (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, or
- (b) relates to such other matters in respect of travel or freight as the Secretary of State and the Treasury may jointly specify by order.

(5) The Secretary of State and the Treasury may make an order under subsection

(4) which has the effect of requiring information to be shared only if satisfied that—

- (a) the sharing is likely to be of use for—
 - (i) immigration purposes,
 - (ii) police purposes, or
 - (iii) Revenue and Customs purposes, and

(b) the nature of the information is such that there are likely to be circumstances in which it can be shared under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).

(6) Information shared in accordance with subsection (2)—

- (a) shall be made available to each of the persons specified in subsection (1), and

(b) may be used for immigration purposes, police purposes or Revenue and Customs purposes (regardless of its source).

(7) An order under subsection (4) may not specify—

- (a) a power of Her Majesty’s Revenue and Customs if or in so far as it relates to a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (former Inland Revenue matters) applies, or
- (b) a matter to which that section applies.

(8) An order under subsection (4)—

- (a) shall be made by statutory instrument, and
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(9) In this section—

“chief officer of police” means—

- (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c. 16),
- (b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77), and
- (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland, “immigration purposes” has the meaning given by section 20(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure to Secretary of State), “police purposes” has the meaning given by section 21(3) of that Act (disclosure by Secretary of State), and “Revenue and Customs purposes” means those functions of Her Majesty’s Revenue and Customs specified in section 21(6) of that Act.

(10) This section has effect despite any restriction on the purposes for which information may be disclosed or used.

37 Information sharing: code of practice

(1) The Secretary of State and the Treasury shall jointly issue one or more codes of practice about—

- (a) the use of information shared in accordance with section 36(2), and
- (b) the extent to which, or form or manner in which, shared information is to be made available in accordance with section 36(6).

(2) A code—

- (a) shall not be issued unless a draft has been laid before Parliament, and
- (b) shall come into force in accordance with provision made by order of the Secretary of State and the Treasury jointly.

(3) The Secretary of State and the Treasury shall jointly from time to time review a code and may revise and re-issue it following a review; and subsection (2) shall apply to a revised code.

(4) An order under subsection (2)—

- (a) shall be made by statutory instrument, and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

38 Disclosure of information for security purposes

(1) A person specified in subsection (2) may disclose information obtained or held in the course of his functions to a person specified in subsection (3) if he thinks that the information is likely to be of use for a purpose specified in—

- (a) section 1 of the Security Service Act 1989 (c. 5), or
- (b) section 1 or 3 of the Intelligence Services Act 1994 (c. 13).

(2) The persons who may disclose information in accordance with subsection (1) are—

- (a) the Secretary of State in so far as he has functions under the Immigration Acts,
- (b) a chief officer of police, and
- (c) Her Majesty's Revenue and Customs.

(3) The persons to whom information may be disclosed in accordance with subsection (1) are—

- (a) the Director-General of the Security Service,
- (b) the Chief of the Secret Intelligence Service, and
- (c) the Director of the Government Communications Headquarters.

(4) The information referred to in subsection (1) is information—

- (a) which is obtained or held in the exercise of a power specified by the Secretary of State and the Treasury jointly by order and relates to—
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,
 - (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, or
- (b) which relates to such other matters in respect of travel or freight as the Secretary of State and the Treasury may jointly specify by order.

(5) In subsection (2) "chief officer of police" means—

(a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c. 16),

(b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77), and

(c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.

(6) An order under subsection (4) may not specify—

(a) a power of Her Majesty's Revenue and Customs if or in so far as it relates to a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (former Inland Revenue matters) applies, or

(b) a matter to which that section applies.

(7) An order under this section—

(a) shall be made by statutory instrument, and

(b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

(8) This section has effect despite any restriction on the purposes for which information may be disclosed or used.

39 Disclosure to law enforcement agencies

(1) A chief officer of police may disclose information obtained in accordance with section 32 or 33 to—

- (a) the States of Jersey police force;
- (b) the salaried police force of the Island of Guernsey;
- (c) the Isle of Man constabulary;
- (d) any other foreign law enforcement agency.

(2) In subsection (1) "foreign law enforcement agency" means a person outside the United Kingdom with functions similar to functions of—

- (a) a police force in the United Kingdom, or
- (b) the Serious Organised Crime Agency.

(3) In subsection (1) "chief officer of police" means—

(a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996,

(b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967, and

(c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.

40 Searches: contracting out

(1) An authorised person may, in accordance with arrangements made under this section, search a searchable ship, air-

craft, vehicle or other thing for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine under paragraph 2 of Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry: administrative provisions).

(2) For the purposes of subsection (1)—

(a) "authorised" means authorised for the purpose of this section by the Secretary of State, and

(b) a ship, aircraft, vehicle or other thing is "searchable" if an immigration officer could search it under paragraph 1(5) of that Schedule.

(3) The Secretary of State may authorise a specified class of constable for the purpose of this section.

(4) The Secretary of State may, with the consent of the Commissioners for Her Majesty's Revenue and Customs, authorise a specified class of officers of Revenue and Customs for the purpose of this section.

(5) The Secretary of State may authorise a person other than a constable or officer of Revenue and Customs for the purpose of this section only if—

(a) the person applies to be authorised, and

(b) the Secretary of State thinks that the person is—

- (i) fit and proper for the purpose, and
- (ii) suitably trained.

(6) The Secretary of State—

(a) may make arrangements for the exercise by authorised constables of the powers under subsection (1),

(b) may make arrangements with the Commissioners for Her Majesty's Revenue and Customs for the exercise by authorised officers of Revenue and Customs of the powers under subsection (1), and

(c) may make arrangements with one or more persons for the exercise by authorised persons other than constables and officers of Revenue and Customs of the power under subsection (1).

(7) Where in the course of a search under this section an authorised person discovers an individual whom he thinks an immigration officer might wish to examine under paragraph 2 of that Schedule, the authorised person may—

(a) search the individual for the purpose of discovering whether he has with him anything of a kind that might be used—

(i) by him to cause physical harm to himself or another,

(ii) by him to assist his escape from detention, or

(iii) to establish information about his identity, nationality or citizenship or about his journey;

(b) retain, and as soon as is reasonably practicable deliver to an immigration officer, anything of a kind described in paragraph (a) found on a search under that paragraph;

(c) detain the individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of an immigration officer to whom the individual is to be delivered;

(d) take the individual, as speedily as is reasonably practicable, to a place for the purpose of delivering him to an immigration officer there;

(e) use reasonable force for the purpose of doing anything under paragraphs (a) to (d).

(8) Despite the generality of subsection (7)—

(a) an individual searched under that subsection may not be required to remove clothing other than an outer coat, a jacket or a glove (but he may be required to open his mouth), and

(b) an item may not be retained under subsection (7)(b) if it is subject to legal privilege—

(i) in relation to a search carried out in England and Wales, within the meaning of the Police and Criminal Evidence Act 1984 (c. 60),

(ii) in relation to a search carried out in Scotland, within the meaning of section 412 of the Proceeds of Crime Act 2002 (c. 29), and

(iii) in relation to a search carried out in Northern Ireland, within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

41 Section 40: supplemental

(1) Arrangements under section 40(6)(c) must include provision for the appointment of a Crown servant to—

- (a) monitor the exercise of powers under that section by authorised persons (other than constables or officers of Revenue and Customs),
- (b) inspect from time to time the way in which the powers are being exercised by authorised persons (other than constables or officers of Revenue and Customs), and
- (c) investigate and report to the Secretary of State about any allegation made against an authorised person (other than a constable or officer of Revenue and Customs) in respect of anything done or not done in the purported exercise of a power under that section.

(2) The authorisation for the purpose of section 40 of a constable or officer of Revenue and Customs or of a class of constable or officer of Revenue and Customs—

- (a) may be revoked, and
- (b) shall have effect, unless revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.

(3) The authorisation of a person other than a constable or officer of Revenue and Customs for the purpose of section 40—

- (a) may be subject to conditions,
- (b) may be suspended or revoked by the Secretary of State by notice in writing to the authorised person, and
- (c) shall have effect, unless suspended or revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.

(4) A class may be specified for the purposes of section 40(3) or (4) by reference to—

- (a) named individuals,
- (b) the functions being exercised by a person,
- (c) the location or circumstances in which a person is exercising functions, or
- (d) any other matter.

(5) An individual or article delivered to an immigration officer under section 40 shall be treated as if discovered by the immigration officer on a search under Schedule 2 to the Immigration Act 1971 (c. 77).

(6) A person commits an offence if he—

- (a) absconds from detention under section 40(7)(c),
- (b) absconds while being taken to a place under section 40(7)(d) or having been taken to a place in accordance with that paragraph but before being delivered to an immigration officer,
- (c) obstructs an authorised person in the exercise of a power under section 40, or
- (d) assaults an authorised person who is exercising a power under section 40.

(7) But a person does not commit an offence under subsection (6) by doing or failing to do anything in respect of an authorised person who is not readily identifiable—

- (a) as a constable or officer of Revenue and Customs, or

(b) as an authorised person (whether by means of a uniform or badge or otherwise).

(8) A person guilty of an offence under subsection (6) shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding 51 weeks, in the case of a conviction in England and Wales, or six months, in the case of a conviction in Scotland or Northern Ireland,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

(9) In relation to a conviction occurring before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in subsection (8)(a) to 51 weeks shall be treated as a reference to six months.

42 Information: embarking passengers

(1) Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry, &c.) shall be amended as follows.

(2) In paragraph 3(1) for the words from “and if he is not” to the end substitute— “and, if he is not a British citizen, for the purpose of establishing—

- (a) his identity;
- (b) whether he entered the United Kingdom lawfully;
- (c) whether he has complied with any conditions of leave to enter or remain in the United Kingdom;
- (d) whether his return to the United Kingdom is prohibited or restricted.

(1A) An immigration officer who examines a person under sub-paragraph

(1) may require him, by notice in writing, to submit to further examination for a purpose specified in that sub-paragraph.”

(3) After paragraph 16(1A) insert—

“(1B) A person who has been required to submit to further examination under paragraph 3(1A) may be detained under the authority of an immigration officer, for a period not exceeding 12 hours, pending the completion of the examination.”

(4) In paragraph 21(1) after “16” insert “(1), (1A) or (2)”.
Claimants and applicants

43 Accommodation

(1) In section 99(1) of the Immigration and Asylum Act 1999 (c. 33) (provision of support by local authorities)—

- (a) for “asylum-seekers and their dependants (if any)” substitute “persons”, and
- (b) after “section” insert “4,”.

(2) In section 99(4) (expenditure) after “section” insert “4,”.

(3) In section 118(1)(b) (housing authority accommodation) for “95” substitute “4, 95 or 98”.

(4) In the following provisions for “under Part VI of the Immigration and Asylum Act 1999” substitute “under section 4 or Part VI of the Immigration and Asylum Act 1999”—

- (a) section 3A(7A) of the Protection from Eviction Act 1977 (c. 43) (excluded tenancies and licences),
- (b) paragraph 3A(1) of Schedule 2 to the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15)) (non-secure tenancies),
- (c) section 23A(5A) of the Rent (Scotland) Act 1984 (c. 58) (excluded tenancies and occupancy rights),
- (d) paragraph 4A(1) of Schedule 1 to the Housing Act 1985 (c. 68) (nonsecure tenancies),
- (e) paragraph 11B of Schedule 4 to the Housing (Scotland) Act 1988 (c. 43) (non-assured tenancies), and
- (f) paragraph 12A(1) of Schedule 1 to the Housing Act 1988 (c. 50) (nonassured tenancies).

(5) A tenancy is not a Scottish secure tenancy (within the meaning of the Housing (Scotland) Act 2001 (asp 10) if it is

granted in order to provide accommodation under section 4 of the Immigration and Asylum Act 1999 (accommodation).

(6) A tenancy which would be a Scottish secure tenancy but for subsection (4) becomes a Scottish secure tenancy if the landlord notifies the tenant that it is to be regarded as such.

(7) At the end of section 4 of the Immigration and Asylum Act 1999 (c. 33) (accommodation) add—

“(10) The Secretary of State may make regulations permitting a person who is provided with accommodation under this section to be supplied also with services or facilities of a specified kind.

(11) Regulations under subsection (10)—

- (a) may, in particular, permit a person to be supplied with a voucher which may be exchanged for goods or services,
- (b) may not permit a person to be supplied with money,
- (c) may restrict the extent or value of services or facilities to be provided, and
- (d) may confer a discretion.”

44 Failed asylum-seekers: withdrawal of support

(1) The Secretary of State may by order provide for paragraph 7A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (c. 41) (failed asylumseeker with family: withdrawal of support) to cease to have effect.

(2) An order under subsection (1) shall also provide for the following to cease to have effect—

- (a) section 9(1), (2) and (4) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (which insert paragraph 7A of Schedule 3 and make consequential provision), and
- (b) in section 9(3)(a) and (b) of that Act, the words “other than paragraph 7A.”

(3) An order under subsection (1)—

- (a) may include transitional provision,
- (b) shall be made by statutory instrument, and
- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

45 Integration loans

(1) Section 13 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (integration loan for refugees) shall be amended as follows.

(2) In subsection (1) for “to refugees.” substitute “—

- (a) to refugees, and
- (b) to such other classes of person, or to persons other than refugees in such circumstances, as the regulations may prescribe.”

(3) In subsection (2)(b) for “granted him indefinite leave to enter or remain” substitute “granted him leave to enter or remain”.

(4) In subsection (3)(a)(iii) after “as a refugee” insert “or since some other event”.

(5) In subsection (3)(h) for “refugee” substitute “person”.

(6) The heading to the section becomes “Integration loans for refugees and others”.

46 Inspection of detention facilities

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

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

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

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

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

(2) In section 55 of that Act (extent)—

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

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

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

47 Removal: persons with statutorily extended leave

(1) Where a person's leave to enter or remain in the United Kingdom is extended by section 3C(2)(b) or 3D(2)(a) of the Immigration Act 1971 (c. 77) (extension pending appeal), the Secretary of State may decide that the person is to be removed from the United Kingdom, in accordance with directions to be given by an immigration officer if and when the leave ends.

(2) Directions under this section may impose any requirements of a kind prescribed for the purpose of section 10 of the Immigration and Asylum Act 1999 (c. 33) (removal of persons unlawfully in United Kingdom).

(3) In relation to directions under this section, paragraphs 10, 11, 16 to 18, 21 and 22 to 24 of Schedule 2 to the Immigration Act 1971 (administrative provisions as to control of entry) apply as they apply in relation to directions under paragraph 8 of that Schedule.

(4) The costs of complying with a direction given under this section (so far as reasonably incurred) must be met by the Secretary of State.

(5) A person shall not be liable to removal from the United Kingdom under this section at a time when section 7(1)(b) of the Immigration Act 1971 (Commonwealth and Irish citizens ordinarily resident in United Kingdom) would prevent a decision to deport him.

(6) In section 82(2) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of appeal: general) after paragraph (h) insert—

“(ha) a decision that a person is to be removed from the United Kingdom by way of directions under section 47 of the Immigration, Asylum and Nationality Act 2006 (removal: persons with statutorily extended leave).”

(7) In section 92(2) of that Act (appeal from within United Kingdom) after “(f)” insert “, (ha)”.

(8) In section 94(1A) of that Act (appeal from within United Kingdom: unfounded claim) for “or (e)” substitute “(e) or (ha)”.

48 Removal: cancellation of leave

For section 10(8) of the Immigration and Asylum Act 1999 (c. 33) (removal directions: cancellation of leave to enter or remain in UK) substitute—

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

49 Capacity to make nationality application

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

“44A Waiver of requirement for full capacity

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

50 Procedure

(1) Rules under section 3 of the Immigration Act 1971 (c. 77)—

- (a) may require a specified procedure to be followed in making or pursuing an application or claim (whether or not under those rules or any other enactment),
- (b) may, in particular, require the use of a specified form and the submission of specified information or documents,
- (c) may make provision about the manner in which a fee is to be paid, and
- (d) may make provision for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c).

(2) In respect of any application or claim in connection with immigration (whether or not under the rules referred to in subsection (1) or any other enactment) the Secretary of State—

- (a) may require the use of a specified form,
- (b) may require the submission of specified information or documents, and
- (c) may direct the manner in which a fee is to be paid; and the rules referred to in subsection (1) may provide for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c).

(3) The following shall cease to have effect—

- (a) section 31A of the Immigration Act 1971 (procedure for applications), and
- (b) section 25 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (c. 19) (marriage: application for permission).

(4) At the end of section 41(1) of the British Nationality Act 1981 (procedure) add—

“(j) as to the consequences of failure to comply with provision made under any of paragraphs (a) to (i).”

(5) In section 10(2)(c) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of abode: certificate of entitlement: procedure) for “made in a specified form;” substitute “accompanied by specified information;”.

(6) Paragraph 2(3) of Schedule 23 to the Civil Partnership Act 2004 (c. 33) (immigration: procedure) shall cease to have effect.

51 Fees

(1) The Secretary of State may by order require an application or claim in connection with immigration or nationality (whether or not under an enactment) to be accompanied by a specified fee.

(2) The Secretary of State may by order provide for a fee to be charged by him, by an immigration officer or by another specified person in respect of—

- (a) the provision on request of a service (whether or not under an enactment) in connection with immigration or nationality,
- (b) a process (whether or not under an enactment) in connection with immigration or nationality,
- (c) the provision on request of advice in connection with immigration or nationality, or

(d) the provision on request of information in connection with immigration or nationality.

(3) Where an order under this section provides for a fee to be charged, regulations made by the Secretary of State—

- (a) shall specify the amount of the fee,
- (b) may provide for exceptions,
- (c) may confer a discretion to reduce, waive or refund all or part of a fee,
- (d) may make provision about the consequences of failure to pay a fee,
- (e) may make provision about enforcement, and
- (f) may make provision about the time or period of time at or during which a fee may or must be paid.

(4) Fees paid by virtue of this section shall—

- (a) be paid into the Consolidated Fund, or
- (b) be applied in such other way as the relevant order may specify.

52 Fees: supplemental

(1) A fee imposed under section 51 may relate to a thing whether or not it is done wholly or partly outside the United Kingdom; but that section is without prejudice to—

- (a) section 1 of the Consular Fees Act 1980 (c. 23), and
- (b) any other power to charge a fee.

(2) Section 51 is without prejudice to the application of section 102 of the Finance (No. 2) Act 1987 (c. 51) (government fees and charges); and an order made under that section in respect of a power repealed by Schedule 2 to this Act shall have effect as if it related to the powers under section 51 above in so far as they relate to the same matters as the repealed power.

(3) An order or regulations under section 51—

- (a) may make provision generally or only in respect of specified cases or circumstances,
- (b) may make different provision for different cases or circumstances,
- (c) may include incidental, consequential or transitional provision, and
- (d) shall be made by statutory instrument.

(4) An order under section 51—

- (a) may be made only with the consent of the Treasury, and
- (b) may be made only if a draft has been laid before and approved by resolution of each House of Parliament.

(5) Regulations under section 51—

- (a) may be made only with the consent of the Treasury, and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) A reference in section 51 to anything in connection with immigration or nationality includes a reference to anything in connection with an enactment (including an enactment of a jurisdiction outside the United Kingdom) that relates wholly or partly to immigration or nationality.

(7) Schedule 2 (consequential amendments) shall have effect.

*Miscellaneous***53 Arrest pending deportation**

At the end of paragraph 2(4) of Schedule 3 to the Immigration Act 1971 (c. 77) (deportation: power to detain) insert “; and for that purpose the reference in paragraph 17(1) to a person liable to detention includes a reference to a person who would be liable to detention upon receipt of a notice which is ready to be given to him.”

54 Refugee Convention: construction

(1) In the construction and application of Article 1(F)(c) of the Refugee Convention the reference to acts contrary to the purposes and principles of the United Nations shall be taken as including, in particular—

- (a) acts of committing, preparing or instigating terrorism (whether or not the acts amount to an actual or inchoate offence), and
- (b) acts of encouraging or inducing others to commit, prepare or instigate terrorism (whether or not the acts amount to an actual or inchoate offence).

(2) In this section—

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and “terrorism” has the meaning given by section 1 of the Terrorism Act 2000 (c. 11).

55 Refugee Convention: certification

(1) This section applies to an asylum appeal where the Secretary of State issues a certificate that the appellant is not entitled to the protection of Article 33(1) of the Refugee Convention because—

- (a) Article 1(F) applies to him (whether or not he would otherwise be entitled to protection), or
- (b) Article 33(2) applies to him on grounds of national security (whether or not he would otherwise be entitled to protection).

(2) In this section—

(a) “asylum appeal” means an appeal—

- (i) which is brought under section 82, 83 or 101 of the Nationality, Immigration and Asylum Act 2002 (c. 41) or section 2 of the Special Immigration Appeals Commission Act 1997 (c. 68), and
- (ii) in which the appellant claims that to remove him from or require him to leave the United Kingdom would be contrary to the United Kingdom’s obligations under the Refugee Convention, and

(b) “the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951.

(3) The Asylum and Immigration Tribunal or the Special Immigration Appeals Commission must begin substantive deliberations on the asylum appeal by considering the statements in the Secretary of State’s certificate.

(4) If the Tribunal or Commission agrees with those statements it must dismiss such part of the asylum appeal as amounts to an asylum claim (before considering any other aspect of the case).

(5) Section 72(10)(a) of the Nationality, Immigration and Asylum Act 2002 (serious criminal: Tribunal or Commission to begin by considering certificate) shall have effect subject to subsection (3) above.

(6) Section 33 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (certificate of non-application of Refugee Convention) shall cease to have effect.

56 Deprivation of citizenship

(1) For section 40(2) of the British Nationality Act 1981 (c. 61) (deprivation of citizenship: prejudicing UK interests) substitute—

“(2) The Secretary of State may by order deprive a person of a citizenship status if the Secretary of State is satisfied that deprivation is conducive to the public good.”

(2) At the end of section 40A(3) of that Act (deprivation: appeal) add—, and (e) section 108 (forged document: proceed-

ings in private).”; (and omit the word “and” before section 40A(3)(d)).

57 Deprivation of right of abode

(1) After section 2 of the Immigration Act 1971 (c. 77) (right of abode) insert—

“2A Deprivation of right of abode

(1) The Secretary of State may by order remove from a specified person a right of abode in the United Kingdom which he has under section 2(1)(b).

(2) The Secretary of State may make an order under subsection (1) in respect of a person only if the Secretary of State thinks that it would be conducive to the public good for the person to be excluded or removed from the United Kingdom.

(3) An order under subsection (1) may be revoked by order of the Secretary of State.

(4) While an order under subsection (1) has effect in relation to a person—

- (a) section 2(2) shall not apply to him, and
- (b) any certificate of entitlement granted to him shall have no effect.”

(2) In section 82(2) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of appeal: definition of immigration decision) after paragraph (ia) insert—

“(ib) a decision to make an order under section 2A of that Act (deprivation of right of abode).”

58 Acquisition of British nationality, &c.

(1) The Secretary of State shall not grant an application for registration of an adult or young person as a citizen of any description or as a British subject under a provision listed in subsection (2) unless satisfied that the adult or young person is of good character.

(2) Those provisions are—

- (a) sections 1(3) and (4), 3(1) and (5), 4(2) and (5), 4A, 4C, 5, 10(1) and (2), 13(1) and (3) of the British Nationality Act 1981 (c. 61) (registration as British citizen),
- (b) sections 15(3) and (4), 17(1) and (5), 22(1) and (2), 24, 27(1) and 32 of that Act (registration as British overseas territories citizen, &c.),
- (c) section 1 of the Hong Kong (War Wives and Widows) Act 1996 (c. 41) (registration as British citizen), and
- (d) section 1 of the British Nationality (Hong Kong) Act 1997 (c. 20) (registration as British citizen).

(3) In subsection (1) “adult or young person” means a person who has attained the age of 10 at the time when the application is made.

(4) Where the Secretary of State makes arrangements under section 43 of the British Nationality Act 1981 for a function to be exercised by some other person, subsection (1) above shall have effect in relation to that function as if the reference to the Secretary of State were a reference to that other person.

59 Detained persons: national minimum wage

(1) After section 153 of the Immigration and Asylum Act 1999 (c. 33) (removal centres: rules) insert—

“153A Detained persons: national minimum wage

A detained person does not qualify for the national minimum wage in respect of work which he does in pursuance of removal centre rules.”

(2) After section 45A of the National Minimum Wage Act 1998 (c. 39) (exemptions from national minimum wage: persons discharging fines) insert—

“45B Immigration: detained persons Section 153A of the Immigration and Asylum Act 1999 (c. 33) (persons detained in removal centres) disqualifies certain persons for the national minimum wage.”

*General***60 Money**

There shall be paid out of money provided by Parliament—

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

61 Repeals

Schedule 3 (repeals) shall have effect.

62 Commencement

(1) The preceding provisions of this Act shall come into force in accordance with provision made by order of the Secretary of State.

(2) An order under subsection (1)—

- (a) may make provision generally or only for specified purposes,
- (b) may make different provision for different purposes,
- (c) may include transitional or incidental provision or savings, and
- (d) shall be made by statutory instrument.

63 Extent

(1) This Act extends to—

- (a) England and Wales,
- (b) Scotland, and
- (c) Northern Ireland.

(2) But—

- (a) an amendment by this Act of another Act has the same extent as that Act or as the relevant part of that Act (ignoring extent by virtue of an Order in Council), and
- (b) a provision of this Act shall, so far as it relates to nationality, have the same extent as the British Nationality Act 1981 (c. 61) (disregarding excepted provisions under section 53(7) of that Act).

(3) Her Majesty may by Order in Council direct that a provision of this Act is to extend, with or without modification or adaptation, to—

- (a) any of the Channel Islands;
- (b) the Isle of Man.

(4) Subsection (3) does not apply in relation to the extension to a place of a provision which extends there by virtue of subsection (2)(b).

64 Citation

(1) This Act may be cited as the Immigration, Asylum and Nationality Act 2006.

(2) A reference (in any enactment, including one passed or made before this Act) to “the Immigration Acts” is to—

- (a) the Immigration Act 1971 (c. 77),
- (b) the Immigration Act 1988 (c. 14),
- (c) the Asylum and Immigration Appeals Act 1993 (c. 23),
- (d) the Asylum and Immigration Act 1996 (c. 49),
- (e) the Immigration and Asylum Act 1999 (c. 33),
- (f) the Nationality, Immigration and Asylum Act 2002 (c. 41),
- (g) the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), and
- (h) this Act.

(3) The following shall cease to have effect—

- (a) section 32(5) of the Immigration Act 1971 (“the Immigration Acts”),

- (b) in section 167(1) of the Immigration and Asylum Act 1999, the definition of “the Immigration Acts”,
- (c) section 158 of the Nationality, Immigration and Asylum Act 2002 (“the Immigration Acts”), and
- (d) section 44 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (“the Immigration Acts”).

(4) In Schedule 1 to the Interpretation Act 1978 (c. 30) (defined expressions) at the appropriate place insert—
 ““The Immigration Acts” has the meaning given by section 64 of the Immigration, Asylum and Nationality Act 2006.”

Schedule 1 — Immigration and Asylum Appeals: Consequential Amendments*SCHEDULE 5*

SCHEDULE 1

SECTION 14

IMMIGRATION AND ASYLUM APPEALS:
CONSEQUENTIAL AMENDMENTS*Nationality, Immigration and Asylum Act 2002 (c. 41)*

- 1 The Nationality, Immigration and Asylum Act 2002 (appeals) shall be amended as follows.
- 2 In section 72(9) (serious criminal) after “, 83” insert “, 83A”.
- 3 In section 85(4) (matters to be considered) for “or 83(2)” substitute “, 83(2) or 83A(2)”.
- 4 In section 86(1) (determination of appeal) for “or 83.” substitute “, 83 or 83A.”
- 5 In section 87(1) (successful appeal: direction) for “or 83” substitute “, 83 or 83A”.
- 6 In section 97(1) and (3) (national security, &c.) for “or 83(2)” substitute “, 83(2) or 83A(2)”.
- 7 In section 103A(1) (review of Tribunal’s decision) for “or 83” substitute “, 83 or 83A”.
- 8 In section 103E(1) (appeal from Tribunal sitting as panel) for “or 83” substitute “, 83 or 83A”.
- 9 In section 106(1)(a) and (b) (rules) for “or 83” substitute “, 83 or 83A”.
- 10 In section 108(1)(a) (forged document: proceedings in private) for “or 83” substitute “, 83 or 83A”.
- 11 In section 112 (regulations and orders) in subsection (5) for “94(6)” substitute “94(6) or (6B)”.

Race Relations Act 1976 (c. 74)

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

British Nationality Act 1981 (c. 61)

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

Schedule 1 — Immigration and Asylum Appeals: Consequential Amendments*Special Immigration Appeals Commission Act 1997 (c. 68)*

14 In section 2 of the Special Immigration Appeals Commission Act 1997 (jurisdiction: appeals)—

- (a) in subsection (1)(a) and (b) for “or 83(2)” substitute “, 83(2) or 83A(2)”,

- (b) in subsection (2)(a)—
 - (i) after “3C” insert “or 3D”, and
 - (ii) for “(continuation of leave pending variation decision)” substitute “continuation of leave”, and
- (c) in subsection (3)—
 - (i) for “an appeal against the rejection of a claim for asylum” substitute “an appeal against a decision other than an immigration decision”, and
 - (ii) after “83(2)” insert “or 83A(2)”.

SCHEDULE 2

SECTION 52

FEES: CONSEQUENTIAL AMENDMENTS

British Nationality Act 1981 (c. 61)

1 In section 41 of the British Nationality Act 1981 (regulations and Orders in Council)—

- (a) omit subsection (2), and
- (b) in subsection (3)—
 - (i) omit “or (2)”, and
 - (ii) omit paragraph (b).

2 Section 42A of the British Nationality Act 1981 (registration and naturalisation: fee) shall cease to have effect.

Immigration and Asylum Act 1999 (c. 33)

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

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

4 In section 10(2) (right of abode: certificate of entitlement)—

- (a) paragraph (e) shall cease to have effect, and
- (b) in paragraph (f) for “(a) to (e)” substitute “(a) to (d)”.

5 Section 122 (fee for work permit, &c.) shall cease to have effect.

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

6 (1) Section 42 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (amount of fees) shall be amended as follows.

(2) In subsection (1)—

Schedule 2 — Fees: Consequential Amendments

- (a) for “In prescribing a fee for an application or process under a provision specified in subsection (2)” substitute “In prescribing a fee under section 51 of the Immigration, Asylum and Nationality Act 2006 (fees) in connection with a matter specified in subsection (2)”, and
 - (b) omit “, with the consent of the Treasury.”.
- (3) For subsection (2) substitute—
- “(2) Those matters are—
- (a) anything done under, by virtue of or in connection with a provision of the British Nationality Act 1981 (c. 61) or of the former nationality Acts (within the meaning given by section 50(1) of that Act),
 - (b) an application for leave to remain in the United Kingdom,

- (c) an application for the variation of leave to enter, or remain in, the United Kingdom,
- (d) section 10 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (right of abode: certificate of entitlement),
- (e) a work permit, and
- (f) any other document which relates to employment and is issued for a purpose of immigration rules or in connection with leave to enter or remain in the United Kingdom.”

SCHEDULE 3

SECTION 61

REPEALS

Short title and chapter Extent of repeal

- Prison Act 1952 (c. 52) Section 55(4A).
 Immigration Act 1971 (c. 77) In section 27, in paragraph (c) the words “as owner or agent of a ship or aircraft or”.
 Section 31A.
 Section 32(5).
 In Schedule 2, paragraph 4(2A).
 British Nationality Act 1981 In section 40A(3), the word “and” before paragraph (d).
 Section 41(2).
 In section 41(3)—
 - (a) the words “or (2)”, and
 - (b) paragraph (b).
 Section 42A.
 Asylum and Immigration Act 1996 (c. 49)
 Sections 8 and 8A.
 Immigration and Asylum Act 1999 (c. 33)
 Section 5.
 Section 27.
 In section 167(1), the definition of “the Immigration Acts”.
 Anti-terrorism, Crime and Security Act 2001 (c. 24)
 Section 33.

Schedule 3 — Repeals

- Nationality, Immigration and Asylum Act 2002 (c. 41)
 Section 10(2)(e).
 Section 82(3).
 Section 110.
 Section 122.
 Section 158.
 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)
 Section 25.
 In section 42(1) the words “, with the consent of the Treasury.”.
 Section 44.
 Civil Partnership Act 2004 (c. 33)
 Paragraph 2(3) of Schedule 23.
 Short title and chapter Extent of repeal

Racial and Religious Hatred Act 2006

CHAPTER 1

CONTENTS

- 1 Hatred against persons on religious grounds
- 2 Racial and religious hatred offences: powers of arrest
- 3 Short title, commencement and extent

Schedule – Hatred against persons on religious grounds

An Act to make provision about offences involving stirring up hatred against persons on racial or religious grounds.

[16th February 2006]

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:—

1 Hatred against persons on religious grounds

The Public Order Act 1986 (c. 64) is amended in accordance with the Schedule to this Act, which creates offences involving stirring up hatred against persons on religious grounds.

2 Racial and religious hatred offences: powers of arrest

In section 24A of the Police and Criminal Evidence Act 1984 (c. 60) (arrest without warrant by persons other than constables) after subsection (4) add—

“(5) This section does not apply in relation to an offence under Part 3 or 3A of the Public Order Act 1986.”

3 Short title, commencement and extent

(1) This Act may be cited as the Racial and Religious Hatred Act 2006.

(2) This Act comes into force on such day as the Secretary of State may appoint by order made by statutory instrument.

(3) An order under subsection (2) may make—

(a) such supplementary, incidental or consequential provision, or

(b) such transitory, transitional or saving provision, as the Secretary of State considers appropriate in connection with the coming into force of this Act.

(4) This Act extends to England and Wales only.

SCHEDULE

HATRED AGAINST PERSONS ON RELIGIOUS GROUNDS

In the Public Order Act 1986 (c. 64), after Part 3 insert—

“PART 3A

HATRED AGAINST PERSONS ON RELIGIOUS GROUNDS

Meaning of “religious hatred”

29A Meaning of “religious hatred”

In this Part “religious hatred” means hatred against a group of persons defined by reference to religious belief or lack of religious belief.

Acts intended to stir up religious hatred

29B Use of words or behaviour or display of written material

- (1) A person who uses threatening words or behaviour, or displays any written material which is threatening, is guilty of an offence if he intends thereby to stir up religious hatred.
- (2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the written material is displayed, by a person inside a dwelling and are not heard or seen except by other persons in that or another dwelling.
- (3) A constable may arrest without warrant anyone he reasonably suspects is committing an offence under this section.
- (4) In proceedings for an offence under this section it is a defence for the accused to prove that he was inside a dwelling and had no reason to believe that the words or behaviour used, or the written material displayed, would be heard or seen by a person outside that or any other dwelling.
- (5) This section does not apply to words or behaviour used, or written material displayed, solely for the purpose of being included in a programme service.

29C Publishing or distributing written material

- (1) A person who publishes or distributes written material which is threatening is guilty of an offence if he intends thereby to stir up religious hatred.
- (2) References in this Part to the publication or distribution of written material are to its publication or distribution to the public or a section of the public.

29D Public performance of play

- (1) If a public performance of a play is given which involves the use of threatening words or behaviour, any person who presents or directs the performance is guilty of an offence if he intends thereby to stir up religious hatred.
- (2) This section does not apply to a performance given solely or primarily for one or more of the following purposes—
 - (a) rehearsal,
 - (b) making a recording of the performance, or
 - (c) enabling the performance to be included in a programme service;
 but if it is proved that the performance was attended by persons other than those directly connected with the giving of the performance or the doing in relation to it of the things mentioned in paragraph (b) or (c), the performance shall, unless the contrary is shown, be taken not to have been given solely or primarily for the purpose mentioned above.
- (3) For the purposes of this section—
 - (a) a person shall not be treated as presenting a performance of a play by reason only of his taking part in it as a performer,
 - (b) a person taking part as a performer in a performance directed by another shall be treated as a person who directed the performance if

without reasonable excuse he performs otherwise than in accordance with that person's direction, and

- (c) a person shall be taken to have directed a performance of a play given under his direction notwithstanding that he was not present during the performance;

and a person shall not be treated as aiding or abetting the commission of an offence under this section by reason only of his taking part in a performance as a performer.

- (4) In this section "play" and "public performance" have the same meaning as in the Theatres Act 1968.
 (5) The following provisions of the Theatres Act 1968 apply in relation to an offence under this section as they apply to an offence under section 2 of that Act- section 9 (script as evidence of what was performed), section 10 (power to make copies of script), section 15 (powers of entry and inspection).

29E Distributing, showing or playing a recording

- (1) A person who distributes, or shows or plays, a recording of visual images or sounds which are threatening is guilty of an offence if he intends thereby to stir up religious hatred.
 (2) In this Part "recording" means any record from which visual images or sounds may, by any means, be reproduced; and references to the distribution, showing or playing of a recording are to its distribution, showing or playing to the public or a section of the public.
 (3) This section does not apply to the showing or playing of a recording solely for the purpose of enabling the recording to be included in a programme service.

29F Broadcasting or including programme in programme service

- (1) If a programme involving threatening visual images or sounds is included in a programme service, each of the persons mentioned in subsection (2) is guilty of an offence if he intends thereby to stir up religious hatred.
 (2) The persons are—
 (a) the person providing the programme service,
 (b) any person by whom the programme is produced or directed, and
 (c) any person by whom offending words or behaviour are used.

Inflammatory material

29G Possession of inflammatory material

- (1) A person who has in his possession written material which is threatening, or a recording of visual images or sounds which are threatening, with a view to—
 (a) in the case of written material, its being displayed, published, distributed, or included in a programme service whether by himself or another, or
 (b) in the case of a recording, its being distributed, shown, played, or included in a programme service, whether by himself or another,
 is guilty of an offence if he intends religious hatred to be stirred up thereby.

- (2) For this purpose regard shall be had to such display, publication, distribution, showing, playing, or inclusion in a programme service as he has, or it may be reasonably be inferred that he has, in view.

29H Powers of entry and search

- (1) If in England and Wales a justice of the peace is satisfied by information on oath laid by a constable that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 29G, the justice may issue a warrant under his hand authorising any constable to enter and search the premises where it is suspected the material or recording is situated.
 (2) If in Scotland a sheriff or justice of the peace is satisfied by evidence on oath that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 29G, the sheriff or justice may issue a warrant authorising any constable to enter and search the premises where it is suspected the material or recording is situated.
 (3) A constable entering or searching premises in pursuance of a warrant issued under this section may use reasonable force if necessary.
 (4) In this section "premises" means any place and, in particular, includes—
 (a) any vehicle, vessel, aircraft or hovercraft,
 (b) any offshore installation as defined in section 12 of the Mineral Workings (Offshore Installations) Act 1971, and
 (c) any tent or movable structure.

29I Power to order forfeiture

- (1) A court by or before which a person is convicted of—
 (a) an offence under section 29B relating to the display of written material, or
 (b) an offence under section 29C, 29E or 29G, shall order to be forfeited any written material or recording produced to the court and shown to its satisfaction to be written material or a recording to which the offence relates.
 (2) An order made under this section shall not take effect—
 (a) in the case of an order made in proceedings in England and Wales, until the expiry of the ordinary time within which an appeal may be instituted or, where an appeal is duly instituted, until it is finally decided or abandoned;
 (b) in the case of an order made in proceedings in Scotland, until the expiration of the time within which, by virtue of any statute, an appeal may be instituted or, where such an appeal is duly instituted, until the appeal is finally decided or abandoned.
 (3) For the purposes of subsection (2)(a)—
 (a) an application for a case stated or for leave to appeal shall be treated as the institution of an appeal, and
 (b) where a decision on appeal is subject to a further appeal, the appeal is not finally determined until the expiry of the ordinary time within which a further appeal may be instituted or, where a further appeal is duly instituted,

until the further appeal is finally decided or abandoned.

- (4) For the purposes of subsection (2)(b) the lodging of an application for a stated case or note of appeal against sentence shall be treated as the institution of an appeal.

29J Protection of freedom of expression

Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.

Supplementary provisions

29K Savings for reports of parliamentary or judicial proceedings

- (1) Nothing in this Part applies to a fair and accurate report of proceedings in Parliament or in the Scottish Parliament.
- (2) Nothing in this Part applies to a fair and accurate report of proceedings publicly heard before a court or tribunal exercising judicial authority where the report is published contemporaneously with the proceedings or, if it is not reasonably practicable or would be unlawful to publish a report of them contemporaneously, as soon as publication is reasonably practicable and lawful.

29L Procedure and punishment

- (1) No proceedings for an offence under this Part may be instituted in England and Wales except by or with the consent of the Attorney General.
- (2) For the purposes of the rules in England and Wales against charging more than one offence in the same count or information, each of sections 29B to 29G creates one offence.
- (3) A person guilty of an offence under this Part is liable—
- on conviction on indictment to imprisonment for a term not exceeding seven years or a fine or both;
 - on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

29M Offences by corporations

- (1) Where a body corporate is guilty of an offence under this Part and it is shown that the offence was committed with the consent or connivance of a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as it applies to a director.

29N Interpretation

In this Part—

“distribute”, and related expressions, shall be construed in accordance with section 29C(2) (written material) and section 29E(2) (recordings);

“dwelling” means any structure or part of a structure occupied as a person’s home or other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and for this purpose “structure” includes a tent, caravan, vehicle, vessel or other temporary or movable structure;

“programme” means any item which is included in a programme service;

“programme service” has the same meaning as in the Broadcasting Act 1990;

“publish”, and related expressions, in relation to written material, shall be construed in accordance with section 29C(2);

“religious hatred” has the meaning given by section 29A;

“recording” has the meaning given by section 29E(2), and “play” and “show”, and related expressions, in relation to a recording, shall be construed in accordance with that provision;

“written material” includes any sign or other visible representation.”

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

2004 Chapter 19

An Act to make provision about asylum and immigration.
[22nd July 2004]

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:—

Offences

1 Assisting unlawful immigration

(1) At the end of section 25 of the Immigration Act 1971 (c. 77) (offence of assisting unlawful immigration to member State) add—

“(7) In this section—

- a reference to a member State includes a reference to a State on a list prescribed for the purposes of this section by order of the Secretary of State (to be known as the “Section 25 List of Schengen Acquis States”), and
 - a reference to a citizen of the European Union includes a reference to a person who is a national of a State on that list.
- (8) An order under subsection (7)(a)—
- may be made only if the Secretary of State thinks it necessary for the purpose of complying with the United Kingdom’s obligations under the Community Treaties,
 - may include transitional, consequential or incidental provision,
 - shall be made by statutory instrument, and

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

(2) In section 25C(9)(a) of that Act (forfeiture of vehicle, ship or aircraft) for “(within the meaning of section 25)” substitute “(for which purpose “member State” and “immigration law” have the meanings given by section 25(2) and (7))”.

2 Entering United Kingdom without passport, &c.

(1) A person commits an offence if at a leave or asylum interview he does not have with him an immigration document which—

- (a) is in force, and
- (b) satisfactorily establishes his identity and nationality or citizenship.

(2) A person commits an offence if at a leave or asylum interview he does not have with him, in respect of any dependent child with whom he claims to be travelling or living, an immigration document which—

- (a) is in force, and
- (b) satisfactorily establishes the child’s identity and nationality or citizenship.

(3) But a person does not commit an offence under subsection (1) or (2) if—

- (a) the interview referred to in that subsection takes place after the person has entered the United Kingdom, and
- (b) within the period of three days beginning with the date of the interview the person provides to an immigration officer or to the Secretary of State a document of the kind referred to in that subsection.

(4) It is a defence for a person charged with an offence under subsection (1)—

- (a) to prove that he is an EEA national,
- (b) to prove that he is a member of the family of an EEA national and that he is exercising a right under the Community Treaties in respect of entry to or residence in the United Kingdom,
- (c) to prove that he has a reasonable excuse for not being in possession of a document of the kind specified in subsection (1),
- (d) to produce a false immigration document and to prove that he used that document as an immigration document for all purposes in connection with his journey to the United Kingdom, or
- (e) to prove that he travelled to the United Kingdom without, at any stage since he set out on the journey, having possession of an immigration document.

(5) It is a defence for a person charged with an offence under subsection (2) in respect of a child—

- (a) to prove that the child is an EEA national,
- (b) to prove that the child is a member of the family of an EEA national and that the child is exercising a right under the Community Treaties in respect of entry to or residence in the United Kingdom,
- (c) to prove that the person has a reasonable excuse for not being in possession of a document of the kind specified in subsection (2),
- (d) to produce a false immigration document and to prove that it was used as an immigration document for all purposes in connection with the child’s journey to the United Kingdom, or
- (e) to prove that he travelled to the United Kingdom with the child without, at any stage since he set out on the journey, having possession of an immigration document in respect of the child.

(6) Where the charge for an offence under subsection (1)

or (2) relates to an interview which takes place after the defendant has entered the United Kingdom—

- (a) subsections (4)(c) and (5)(c) shall not apply, but
- (b) it is a defence for the defendant to prove that he has a reasonable excuse for not providing a document in accordance with subsection (3).

(7) For the purposes of subsections (4) to (6)—

- (a) the fact that a document was deliberately destroyed or disposed of is not a reasonable excuse for not being in possession of it or for not providing it in accordance with subsection (3), unless it is shown that the destruction or disposal was—
 - (i) for a reasonable cause, or
 - (ii) beyond the control of the person charged with the offence, and
- (b) in paragraph (a)(i) “reasonable cause” does not include the purpose of—
 - (i) delaying the handling or resolution of a claim or application or the taking of a decision,
 - (ii) increasing the chances of success of a claim or application, or
 - (iii) complying with instructions or advice given by a person who offers advice about, or facilitates, immigration into the United Kingdom, unless in the circumstances of the case it is unreasonable to expect non-compliance with the instructions or advice.

(8) A person shall be presumed for the purposes of this section not to have a document with him if he fails to produce it to an immigration officer or official of the Secretary of State on request.

(9) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum or to both.

(10) If a constable or immigration officer reasonably suspects that a person has committed an offence under this section he may arrest the person without warrant.

(11) An offence under this section shall be treated as—

- (a) a relevant offence for the purposes of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and
- (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28(4), 28E, 28G and 28H (search after arrest, &c.) of that Act.

(12) In this section—

“EEA national” means a national of a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time),

“immigration document” means—

- (a) a passport, and
- (b) a document which relates to a national of a State other than the United Kingdom and which is designed to serve the same purpose as a passport, and

“leave or asylum interview” means an interview with an immigration officer or an official of the Secretary of State at which a person—

- (a) seeks leave to enter or remain in the United Kingdom, or
- (b) claims that to remove him from or require him to leave the United Kingdom would breach the United Kingdom’s obligations under the Refugee Convention or would be unlawful under section 6 of the

Human Rights Act 1998 (c. 42) as being incompatible with his Convention rights.

(13) For the purposes of this section—

- (a) a document which purports to be, or is designed to look like, an immigration document, is a false immigration document, and
- (b) an immigration document is a false immigration document if and in so far as it is used—
 - (i) outside the period for which it is expressed to be valid,
 - (ii) contrary to provision for its use made by the person issuing it, or
 - (iii) by or in respect of a person other than the person to or for whom it was issued.

(14) Section 11 of the Immigration Act 1971 (c. 77) shall have effect for the purpose of the construction of a reference in this section to entering the United Kingdom.

(15) In so far as this section extends to England and Wales, subsection (9)(b) shall, until the commencement of section 154 of the Criminal Justice Act 2003 (c. 44) (increased limit on magistrates' power of imprisonment), have effect as if the reference to twelve months were a reference to six months.

(16) In so far as this section extends to Scotland, subsection (9)(b) shall have effect as if the reference to twelve months were a reference to six months.

(17) In so far as this section extends to Northern Ireland, subsection (9)(b) shall have effect as if the reference to twelve months were a reference to six months.

3 Immigration documents: forgery

(1) Section 5 of the Forgery and Counterfeiting Act 1981 (c. 45) (offences relating to various documents) shall be amended as follows.

(2) After subsection (5)(f) (passports) insert—

“(fa) immigration documents;”.

(3) After subsection (8) add—

“(9) In subsection (5)(fa) “immigration document” means a card, adhesive label or other instrument which satisfies subsection (10) or (11).

(10) A card, adhesive label or other instrument satisfies this subsection if it—

- (a) is designed to be given, in the exercise of a function under the Immigration Acts (within the meaning of section 44 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004), to a person who has been granted leave to enter or remain in the United Kingdom, and
- (b) carries information (whether or not wholly or partly electronically) about the leave granted.

(11) A card, adhesive label or other instrument satisfies this subsection if it is given to a person to confirm a right of his under the Community Treaties in respect of entry to or residence in the United Kingdom.”

4 Trafficking people for exploitation

(1) A person commits an offence if he arranges or facilitates the arrival in the United Kingdom of an individual (the “passenger”) and—

- (a) he intends to exploit the passenger in the United Kingdom or elsewhere, or
- (b) he believes that another person is likely to exploit the passenger in the United Kingdom or elsewhere.

(2) A person commits an offence if he arranges or facilitates travel within the United Kingdom by an individual (the “passenger”) in respect of whom he believes that an offence under subsection (1) may have been committed and—

(a) he intends to exploit the passenger in the United Kingdom or elsewhere, or

(b) he believes that another person is likely to exploit the passenger in the United Kingdom or elsewhere.

(3) A person commits an offence if he arranges or facilitates the departure from the United Kingdom of an individual (the “passenger”) and—

- (a) he intends to exploit the passenger outside the United Kingdom, or
- (b) he believes that another person is likely to exploit the passenger outside the United Kingdom.

(4) For the purposes of this section a person is exploited if (and only if)—

(a) he is the victim of behaviour that contravenes Article 4 of the Human Rights Convention (slavery and forced labour),

(b) he is encouraged, required or expected to do anything as a result of which he or another person would commit an offence under the Human Organ Transplants Act 1989 (c. 31) or the Human Organ Transplants (Northern Ireland) Order 1989 (S.I. 1989/2408 (N.I. 21)),

(c) he is subjected to force, threats or deception designed to induce him—

- (i) to provide services of any kind,
- (ii) to provide another person with benefits of any kind, or
- (iii) to enable another person to acquire benefits of any kind, or

(d) he is requested or induced to undertake any activity, having been chosen as the subject of the request or inducement on the grounds that—

- (i) he is mentally or physically ill or disabled, he is young or he has a family relationship with a person, and
- (ii) a person without the illness, disability, youth or family relationship would be likely to refuse the request or resist the inducement.

(5) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum or to both.

5 Section 4: supplemental

(1) Subsections (1) to (3) of section 4 apply to anything done—

- (a) in the United Kingdom,
- (b) outside the United Kingdom by an individual to whom subsection (2) below applies, or
- (c) outside the United Kingdom by a body incorporated under the law of a part of the United Kingdom.

(2) This subsection applies to—

- (a) a British citizen,
- (b) a British overseas territories citizen,
- (c) a British National (Overseas),
- (d) a British Overseas citizen,
- (e) a person who is a British subject under the British Nationality Act 1981 (c. 61), and
- (f) a British protected person within the meaning of that Act.

(3) In section 4(4)(a) “the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950.

(4) Sections 25C and 25D of the Immigration Act 1971 (c. 77) (forfeiture or detention of vehicle, &c.) shall apply in relation to an offence under section 4 of this Act as they apply in relation to an offence under section 25 of that Act.

(5) At the end of section 25C(9)(b), (10)(b) and (11) of that Act add “or section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).”

(6) After paragraph 2(n) of Schedule 4 to the Criminal Justice and Court Services Act 2000 (c. 43) (offence against child) insert—

“(o) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).”

(7) At the end of paragraph 4 of Schedule 2 to the Proceeds of Crime Act 2002 (c. 29) (lifestyle offences: England and Wales: people trafficking) add—

“(3) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation).”

(8) At the end of paragraph 4 of Schedule 4 to the Proceeds of Crime Act 2002 (lifestyle offences: Scotland: people trafficking) add “or under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation).”

(9) At the end of paragraph 4 of Schedule 5 to the Proceeds of Crime Act 2002 (lifestyle offences: Northern Ireland: people trafficking) add—

“(3) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation).”

(10) After paragraph 2(l) of the Schedule to the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (S.I. 2003/417 (N.I. 4)) (offence against child) insert—

“(m) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).”

(11) In so far as section 4 extends to England and Wales, subsection (5)(b) shall, until the commencement of section 154 of the Criminal Justice Act 2003 (c. 44) (increased limit on magistrates’ power of imprisonment), have effect as if the reference to twelve months were a reference to six months.

(12) In so far as section 4 extends to Scotland, subsection (5)(b) shall have effect as if the reference to twelve months were a reference to six months.

(13) In so far as section 4 extends to Northern Ireland, subsection (5)(b) shall have effect as if the reference to twelve months were a reference to six months.

6 Employment

(1) For section 8(4) of the Asylum and Immigration Act 1996 (c. 49) (employment: penalty) substitute—

“(4) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to a fine, or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.”

(2) Section 8(9) of that Act (extension of time limit for prosecution) shall cease to have effect.

7 Advice of Director of Public Prosecutions

In section 3(2) of the Prosecution of Offences Act 1985 (c. 23) (functions of Director of Public Prosecutions) after paragraph (eb) insert—

“(ec) to give, to such extent as he considers appropriate, advice to immigration officers on matters relating to criminal offences;”.

Treatment of claimants

8 Claimant’s credibility

(1) In determining whether to believe a statement made by or on behalf of a person who makes an asylum claim or a human rights claim, a deciding authority shall take account, as damaging the claimant’s credibility, of any behaviour to which this section applies.

(2) This section applies to any behaviour by the claimant that the deciding authority thinks—

- (a) is designed or likely to conceal information,
- (b) is designed or likely to mislead, or
- (c) is designed or likely to obstruct or delay the handling or resolution of the claim or the taking of a decision in relation to the claimant.

(3) Without prejudice to the generality of subsection (2) the following kinds of behaviour shall be treated as designed or likely to conceal information or to mislead—

- (a) failure without reasonable explanation to produce a passport on request to an immigration officer or to the Secretary of State,
- (b) the production of a document which is not a valid passport as if it were,
- (c) the destruction, alteration or disposal, in each case without reasonable explanation, of a passport,
- (d) the destruction, alteration or disposal, in each case without reasonable explanation, of a ticket or other document connected with travel, and
- (e) failure without reasonable explanation to answer a question asked by a deciding authority.

(4) This section also applies to failure by the claimant to take advantage of a reasonable opportunity to make an asylum claim or human rights claim while in a safe country.

(5) This section also applies to failure by the claimant to make an asylum claim or human rights claim before being notified of an immigration decision, unless the claim relies wholly on matters arising after the notification.

(6) This section also applies to failure by the claimant to make an asylum claim or human rights claim before being arrested under an immigration provision, unless—

- (a) he had no reasonable opportunity to make the claim before the arrest, or
- (b) the claim relies wholly on matters arising after the arrest.

(7) In this section—

“asylum claim” has the meaning given by section 113(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (subject to subsection (9) below),

“deciding authority” means—

- (a) an immigration officer,
 - (b) the Secretary of State,
 - (c) the Asylum and Immigration Tribunal, or
 - (d) the Special Immigration Appeals Commission,
- “human rights claim” has the meaning given by section 113(1) of the Nationality, Immigration and Asylum Act 2002 (subject to subsection (9) below),

“immigration decision” means—

- (a) refusal of leave to enter the United Kingdom,
- (b) refusal to vary a person’s leave to enter or remain in the United Kingdom,
- (c) grant of leave to enter or remain in the United Kingdom,
- (d) a decision that a person is to be removed from the United Kingdom by way of directions under section 10(1)(a), (b), (ba) or (c) of the Immigration and Asylum Act 1999 (c. 33) (removal of persons unlawfully in United Kingdom),
- (e) a decision that a person is to be removed from the

United Kingdom by way of directions under paragraphs 8 to 12 of Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry: removal),

- (f) a decision to make a deportation order under section 5(1) of that Act, and
- (g) a decision to take action in relation to a person in connection with extradition from the United Kingdom,

“immigration provision” means—

- (a) sections 28A, 28AA, 28B, 28C and 28CA of the Immigration Act 1971 (immigration offences: enforcement),
- (b) paragraph 17 of Schedule 2 to that Act (control of entry),
- (c) section 14 of this Act, and
- (d) a provision of the Extradition Act 1989 (c. 33) or 2003 (c. 41),

“notified” means notified in such manner as may be specified by regulations made by the Secretary of State, “passport” includes a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport, and

“safe country” means a country to which Part 2 of Schedule 3 applies.

(8) A passport produced by or on behalf of a person is valid for the purposes of subsection (3)(b) if it—

- (a) relates to the person by whom or on whose behalf it is produced,
- (b) has not been altered otherwise than by or with the permission of the authority who issued it, and
- (c) was not obtained by deception.

(9) In subsection (4) a reference to an asylum claim or human rights claim shall be treated as including a reference to a claim of entitlement to remain in a country other than the United Kingdom made by reference to the rights that a person invokes in making an asylum claim or a human rights claim in the United Kingdom.

(10) Regulations under subsection (7) specifying a manner of notification may, in particular—

- (a) apply or refer to regulations under section 105 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (notice of immigration decisions);
- (b) make provision similar to provision that is or could be made by regulations under that section;
- (c) modify a provision of regulations under that section in its effect for the purpose of regulations under this section;
- (d) provide for notice to be treated as received at a specified time if sent to a specified class of place in a specified manner.

(11) Regulations under subsection (7) specifying a manner of notification—

- (a) may make incidental, consequential or transitional provision,
- (b) shall be made by statutory instrument, and
- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(12) This section shall not prevent a deciding authority from determining not to believe a statement on the grounds of behaviour to which this section does not apply.

(13) Before the coming into force of section 26 a reference in this section to the Asylum and Immigration Tribunal shall be treated as a reference to—

- (a) an adjudicator appointed, or treated as if appointed, under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals), and
- (b) the Immigration Appeal Tribunal.

9 Failed asylum seekers: withdrawal of support

(1) In Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (withholding and withdrawal of support) after paragraph 7 insert—

“7AFifth class of ineligible person: failed asylum-seeker with family

(1) Paragraph 1 applies to a person if—

(a) he—

- (i) is treated as an asylum-seeker for the purposes of Part VI of the Immigration and Asylum Act 1999 (c. 33) (support) by virtue only of section 94(3A) (failed asylum-seeker with dependent child), or
- (ii) is treated as an asylum-seeker for the purposes of Part 2 of this Act by virtue only of section 18(2),

(b) the Secretary of State has certified that in his opinion the person has failed without reasonable excuse to take reasonable steps—

- (i) to leave the United Kingdom voluntarily, or
- (ii) to place himself in a position in which he is able to leave the United Kingdom voluntarily,

(c) the person has received a copy of the Secretary of State’s certificate, and

(d) the period of 14 days, beginning with the date on which the person receives the copy of the certificate, has elapsed.

(2) Paragraph 1 also applies to a dependant of a person to whom that paragraph applies by virtue of sub-paragraph (1).

(3) For the purpose of sub-paragraph (1)(d) if the Secretary of State sends a copy of a certificate by first class post to a person’s last known address, the person shall be treated as receiving the copy on the second day after the day on which it was posted.

(4) The Secretary of State may by regulations vary the period specified in sub-paragraph (1)(d).”

(2) In paragraph 14(1) and (2) of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (local authority to notify Secretary of State) for “paragraph 6 or 7” substitute “paragraph 6, 7 or 7A”.

(3) No appeal may be brought under section 103 of the Immigration and Asylum Act 1999 (asylum support appeal) against a decision—

(a) that by virtue of a provision of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (c. 41) other than paragraph 7A a person is not qualified to receive support, or

(b) on the grounds of the application of a provision of that Schedule other than paragraph 7A, to stop providing support to a person.

(4) On an appeal under section 103 of the Immigration and Asylum Act 1999 (c. 33) against a decision made by virtue of paragraph 7A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 the adjudicator may, in particular—

(a) annul a certificate of the Secretary of State issued for the purposes of that paragraph;

(b) require the Secretary of State to reconsider the matters certified.

(5) An order under section 48 providing for this section to come into force may, in particular, provide for this section to have effect with specified modifications before the coming into force of a provision of the Nationality, Immigration and Asylum Act 2002.

10 Failed asylum seekers: accommodation

(1) At the end of section 4 of the Immigration and Asylum Act 1999 (provision of accommodation for failed asylum seekers, &c.) add—

“(5) The Secretary of State may make regulations specifying criteria to be used in determining—

- (a) whether or not to provide accommodation, or arrange for the provision of accommodation, for a person under this section;
- (b) whether or not to continue to provide accommodation, or arrange for the provision of accommodation, for a person under this section.

(6) The regulations may, in particular—

- (a) provide for the continuation of the provision of accommodation for a person to be conditional upon his performance of or participation in community activities in accordance with arrangements made by the Secretary of State;
- (b) provide for the continuation of the provision of accommodation to be subject to other conditions;
- (c) provide for the provision of accommodation (or the continuation of the provision of accommodation) to be a matter for the Secretary of State’s discretion to a specified extent or in a specified class of case.

(7) For the purposes of subsection (6)(a)—

- (a) “community activities” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and
- (b) the Secretary of State may, in particular—
 - (i) appoint one person to supervise or manage the performance of or participation in activities by another person;
 - (ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;
 - (iii) pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.

(8) Regulations by virtue of subsection (6)(a) may, in particular, provide for a condition requiring the performance of or participation in community activities to apply to a person only if the Secretary of State has made arrangements for community activities in an area that includes the place where accommodation is provided for the person.

(9) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.”

(2) In section 166(5) of that Act (regulations: affirmative instrument) before paragraph (a) insert—

“(za) section 4(5).”

(3) In section 103 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seekers: appeal) as it has effect before the commencement of section 53 of the Nationality, Immigration and Asylum Act 2002 (c. 41)—

(a) after subsection (2) insert—

“(2A) If the Secretary of State decides not to provide accommodation for a person under section 4, or not to continue to provide accommodation for a person under section 4, the person may appeal to an adjudicator.”, and

(b) in subsections (6) and (7) for “section 95” substitute “section 4 or 95”.

(4) In section 103 of the Immigration and Asylum Act 1999

(support for asylum-seekers: appeal) as it has effect after the commencement of section 53 of the Nationality, Immigration and Asylum Act 2002—

(a) for subsection (1) substitute—

“(1) This section applies where a person has applied for support under all or any of the following provisions—

- (a) section 4,
- (b) section 95, and
- (c) section 17 of the Nationality, Immigration and Asylum Act 2002.”,

(b) in subsection (4)(a) for “the other provision” substitute “another of those provisions”, and

(c) in subsection (7) for “subsection (1)(a) or (b)” substitute “subsection (1)”.

(5) In section 103A of the Immigration and Asylum Act 1999 (appeal about location of support) in subsection (1) (and in the heading) for “section 95” substitute “section 4 or 95”.

(6) In an amendment made by this section a reference to providing accommodation includes a reference to arranging for the provision of accommodation.

(7) Regulations under section 4(5)(b) of the Immigration and Asylum Act 1999 (c. 33) (as inserted by subsection (1) above) may apply to persons receiving support under section 4 when the regulations come into force.

11 Accommodation for asylum seekers: local connection

(1) At the end of section 199 of the Housing Act 1996 (c. 52) (local connection) add—

“(6) A person has a local connection with the district of a local housing authority if he was (at any time) provided with accommodation in that district under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers).

(7) But subsection (6) does not apply—

- (a) to the provision of accommodation for a person in a district of a local housing authority if he was subsequently provided with accommodation in the district of another local housing authority under section 95 of that Act, or
- (b) to the provision of accommodation in an accommodation centre by virtue of section 22 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (use of accommodation centres for section 95 support).”

(2) Subsection (3) applies where—

- (a) a local housing authority would (but for subsection (3)) be obliged to secure that accommodation is available for occupation by a person under section 193 of the Housing Act 1996 (homeless persons),
- (b) the person was (at any time) provided with accommodation in a place in Scotland under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers),
- (c) the accommodation was not provided in an accommodation centre by virtue of section 22 of the Nationality, Immigration and Asylum Act 2002 (use of accommodation centres for section 95 support), and

(d) the person has neither—

- (i) a local connection with the district of a local housing authority (in England or Wales) within the meaning of section 199 of the Housing Act 1996 as amended by subsection (1) above, nor
- (ii) a local connection with a district (in Scotland) within the meaning of section 27 of the Housing (Scotland) Act 1987 (c. 26).

- (3) Where this subsection applies—
- (a) the duty of the local housing authority under section 193 of the Housing Act 1996 in relation to the person shall not apply, but
 - (b) the local housing authority—
 - (i) may secure that accommodation is available for occupation by the person for a period giving him a reasonable opportunity of securing accommodation for his occupation, and
 - (ii) may provide the person (or secure that he is provided with) advice and assistance in any attempts he may make to secure that accommodation becomes available for his occupation.

12 Refugee: back-dating of benefits

(1) Section 123 of the Immigration and Asylum Act 1999 (c. 33) (back-dating of benefits for refugees) shall cease to have effect.

(2) Accordingly (and without prejudice to any other implied repeal, revocation or amendment) the following (each of which concerns the treatment of refugees) lapse—

- (a) in the Income Support (General) Regulations 1987 (S.I. 1987/1967)—
 - (i) regulation 21ZB,
 - (ii) paragraph 18A of Schedule 1B, and
 - (iii) paragraph 57 of Schedule 9,
- (b) in the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459)—
 - (i) regulation 21A,
 - (ii) paragraph 18A of Schedule 1B, and
 - (iii) paragraph 57 of Schedule 9,
- (c) in the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968)—
 - (i) regulation 4(3C),
 - (ii) regulation 6(4D), and
 - (iii) regulation 19(8),
- (d) in the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 465)—
 - (i) regulation 4(3C),
 - (ii) regulation 6(4D), and
 - (iii) regulation 19(8),
- (e) in the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971)—
 - (i) regulation 7B,
 - (ii) Schedule A1,
 - (iii) paragraphs 61 and 62 of Schedule 4, and
 - (iv) paragraphs 50 and 51 of Schedule 5,
- (f) in the Housing Benefit (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 461)—
 - (i) regulation 7B,
 - (ii) Schedule A1,
 - (iii) paragraphs 62 and 63 of Schedule 4, and
 - (iv) paragraphs 48 and 49 of Schedule 5, and
- (g) in the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814)—
 - (i) regulation 4D,
 - (ii) Schedule A1,
 - (iii) paragraphs 60 and 61 of Schedule 4, and
 - (iv) paragraphs 50 and 51 of Schedule 5.

(3) Regulation 12(1) and (2) of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636) (which save for transitional purposes the effect of provision made for back-payment of benefits for ref-

ugees under section 11(2) of the Asylum and Immigration Act 1996 (c. 49)) shall cease to have effect.

(4) Regulation 11(1) and (2) of the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000 (S.R. 2000 No. 71) (which make similar transitional savings) shall cease to have effect.

(5) An order under section 48 bringing this section into force may, in particular, provide for this section to have effect in relation to persons recorded as refugees after a specified date (irrespective of when the process resulting in the record was begun).

13 Integration loan for refugees

(1) The Secretary of State may make regulations enabling him to make loans to refugees.

(2) A person is a refugee for the purpose of subsection (1) if the Secretary of State has—

- (a) recorded him as a refugee within the meaning of the Convention relating to the Status of Refugees done at Geneva on 28 July 1951, and
- (b) granted him indefinite leave to enter or remain in the United Kingdom (within the meaning of section 33(1) of the Immigration Act 1971 (c. 77)).

(3) Regulations under subsection (1)—

- (a) shall specify matters which the Secretary of State shall, in addition to other matters appearing to him to be relevant, take into account in determining whether or not to make a loan (and those matters may, in particular, relate to—
 - (i) a person's income or assets,
 - (ii) a person's likely ability to repay a loan, or
 - (iii) the length of time since a person was recorded as a refugee),
- (b) shall enable the Secretary of State to specify (and vary from time to time) a minimum and a maximum amount of a loan,
- (c) shall prevent a person from receiving a loan if—
 - (i) he is under the age of 18,
 - (ii) he is insolvent, within a meaning given by the regulations, or
 - (iii) he has received a loan under the regulations,
- (d) shall make provision about repayment of a loan (and may, in particular, make provision—
 - (i) about interest;
 - (ii) for repayment by deduction from a social security benefit or similar payment due to the person to whom the loan is made),
- (e) shall enable the Secretary of State to attach conditions to a loan (which may include conditions about the use of the loan),
- (f) shall make provision about—
 - (i) the making of an application for a loan, and
 - (ii) the information, which may include information about the intended use of a loan, to be provided in or with an application,
- (g) may make provision about steps to be taken by the Secretary of State in establishing an applicant's likely ability to repay a loan,
- (h) may make provision for a loan to be made jointly to more than one refugee, and
 - (i) may confer a discretion on the Secretary of State.

(4) Regulations under this section—

- (a) shall be made by statutory instrument, and
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

*Enforcement powers***14 Immigration officer: power of arrest**

(1) Where an immigration officer in the course of exercising a function under the Immigration Acts forms a reasonable suspicion that a person has committed or attempted to commit an offence listed in subsection (2), he may arrest the person without warrant.

(2) Those offences are—

- (a) the offence of conspiracy at common law (in relation to conspiracy to defraud),
 - (b) at common law in Scotland, any of the following offences—
 - (i) fraud,
 - (ii) conspiracy to defraud,
 - (iii) uttering and fraud,
 - (iv) bigamy,
 - (v) theft, and
 - (vi) reset,
 - (c) an offence under section 57 of the Offences against the Person Act 1861 (c. 100) (bigamy),
 - (d) an offence under section 3 or 4 of the Perjury Act 1911 (c. 6) (false statements),
 - (e) an offence under section 7 of that Act (aiding, abetting &c.) if it relates to an offence under section 3 or 4 of that Act,
 - (f) an offence under section 53 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49) (knowingly giving false information to district registrar, &c.),
 - (g) an offence under any of the following provisions of the Theft Act 1968 (c. 60)—
 - (i) section 1 (theft),
 - (ii) section 15 (obtaining property by deception),
 - (iii) section 16 (obtaining pecuniary advantage by deception),
 - (iv) section 17 (false accounting), and
 - (v) section 22 (handling stolen goods),
 - (h) an offence under section 1, 15, 16, 17 or 21 of the Theft Act (Northern Ireland) 1969 (c. 16) (N.I.),
 - (i) an offence under section 1 or 2 of the Theft Act 1978 (c. 31) (obtaining services, or evading liability, by deception),
 - (j) an offence under Article 3 or 4 of the Theft (Northern Ireland) Order 1978 (S.I. 1978/1407 (N.I. 23)),
 - (k) an offence under Article 8 or 9 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)),
 - (l) an offence under Article 12 of that Order if it relates to an offence under Article 8 or 9 of that Order,
 - (m) an offence under any of the following provisions of the Forgery and Counterfeiting Act 1981 (c. 45)—
 - (i) section 1 (forgery),
 - (ii) section 2 (copying false instrument),
 - (iii) section 3 (using false instrument),
 - (iv) section 4 (using copy of false instrument), and
 - (v) section 5(1) and (3) (false documents),
 - (n) an offence under any of sections 57 to 59 of the Sexual Offences Act 2003 (c. 42) (trafficking for sexual exploitation),
 - (o) an offence under section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (trafficking in prostitution), and
 - (p) an offence under section 4 of this Act.
- (3) The following provisions of the Immigration Act 1971

(c. 77) shall have effect for the purpose of making, or in connection with, an arrest under this section as they have effect for the purpose of making, or in connection with, arrests for offences under that Act—

- (a) section 28C (entry and search before arrest),
 - (b) sections 28E and 28F (entry and search after arrest),
 - (c) sections 28G and 28H (search of arrested person), and
 - (d) section 28I (seized material).
- (4) In section 19D(5)(a) of the Race Relations Act 1976 (c. 74) (permitted discrimination)—
- (a) for “(within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002)” substitute “(within the meaning of section 44 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004)”, and
 - (b) at the end add “and excluding section 14 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004”.

15 Fingerprinting

- (1) Section 141 of the Immigration and Asylum Act 1999 (c. 33) (fingerprinting) shall be amended as follows.
- (2) In subsection (7) for paragraph (c) substitute—
“(c) any person (“C”) in respect of whom a relevant immigration decision has been made;”.
 - (3) In subsection (8) for paragraph (c) substitute—
“(c) for C, on the service on him of notice of the relevant immigration decision by virtue of section 105 of the Nationality, Immigration and Asylum Act 2002 (c. 41);”.
 - (4) In subsection (9) for paragraph (c) substitute—
“(c) for C—
 - (i) the time when the relevant immigration decision ceases to have effect, whether as a result of an appeal or otherwise, or
 - (ii) if a deportation order has been made against him, its revocation or its otherwise ceasing to have effect;”.
 - (5) After subsection (15) add—
“(16) “Relevant immigration decision” means a decision of the kind mentioned in section 82(2)(g), (h), (i), (j) or (k) of the Nationality, Immigration and Asylum Act 2002 (c. 41).”

16 Information about passengers

In paragraph 27B of Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry: provision of information about passengers) after sub-paragraph (4) insert—

“(4A) The officer may ask the carrier to provide a copy of all or part of a document that relates to a passenger and contains passenger information.”

17 Retention of documents

Where a document comes into the possession of the Secretary of State or an immigration officer in the course of the exercise of an immigration function, the Secretary of State or an immigration officer may retain the document while he suspects that—

- (a) a person to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and
- (b) retention of the document may facilitate the removal.

18 Control of entry

After paragraph 2A(2) of Schedule 2 to the Immigration Act 1971 (control of entry: persons arriving with leave to enter) insert—

“(2A) Where the person’s leave to enter derives, by virtue of section 3A(3), from an entry clearance, he may also be examined by an immigration officer for the purpose of establishing whether the leave should be cancelled on the grounds that the person’s purpose in arriving in the United Kingdom is different from the purpose specified in the entry clearance.”

Procedure for marriage

19 England and Wales

- (1) This section applies to a marriage—
 - (a) which is to be solemnised on the authority of certificates issued by a superintendent registrar under Part III of the Marriage Act 1949 (c. 76), and
 - (b) a party to which is subject to immigration control.
- (2) In relation to a marriage to which this section applies, the notices under section 27 of the Marriage Act 1949—
 - (a) shall be given to the superintendent registrar of a registration district specified for the purpose of this paragraph by regulations made by the Secretary of State,
 - (b) shall be delivered to the superintendent registrar in person by the two parties to the marriage,
 - (c) may be given only if each party to the marriage has been resident in a registration district for the period of seven days immediately before the giving of his or her notice (but the district need not be that in which the notice is given and the parties need not have resided in the same district), and
 - (d) shall state, in relation to each party, the registration district by reference to which paragraph (c) is satisfied.
- (3) The superintendent registrar shall not enter in the marriage notice book notice of a marriage to which this section applies unless satisfied, by the provision of specified evidence, that the party subject to immigration control—
 - (a) has an entry clearance granted expressly for the purpose of enabling him to marry in the United Kingdom,
 - (b) has the written permission of the Secretary of State to marry in the United Kingdom, or
 - (c) falls within a class specified for the purpose of this paragraph by regulations made by the Secretary of State.
- (4) For the purposes of this section—
 - (a) a person is subject to immigration control if—
 - (i) he is not an EEA national, and
 - (ii) under the Immigration Act 1971 (c. 77) he requires leave to enter or remain in the United Kingdom (whether or not leave has been given),
 - (b) “EEA national” means a national of a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time),
 - (c) “entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971, and
 - (d) “specified evidence” means such evidence as may be specified in guidance issued by the Registrar General.

20 England and Wales: supplemental

- (1) The Marriage Act 1949 (c. 76) shall have effect in relation to a marriage to which section 19 applies—
 - (a) subject to that section, and
 - (b) with any necessary consequential modification.
- (2) In particular—
 - (a) section 28(1)(b) of that Act (declaration: residence) shall have effect as if it required a declaration that—
 - (i) the notice of marriage is given in compliance with section 19(2) above, and
 - (ii) the party subject to immigration control satisfies section 19(3)(a), (b) or (c), and
 - (b) section 48 of that Act (proof of certain matters not essential to validity of marriage) shall have effect as if the list of matters in section 48(1)(a) to (e) included compliance with section 19 above.
- (3) Regulations of the Secretary of State under section 19(2)(a) or (3)(c)—
 - (a) may make transitional provision,
 - (b) shall be made by statutory instrument, and
 - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Before making regulations under section 19(2)(a) the Secretary of State shall consult the Registrar General.
- (5) An expression used in section 19 or this section and in Part III of the Marriage Act 1949 (c. 76) has the same meaning in section 19 or this section as in that Part.
- (6) An order under the Regulatory Reform Act 2001 (c. 6) may include provision—
 - (a) amending section 19, this section or section 25 in consequence of other provision of the order, or
 - (b) repealing section 19, this section and section 25 and re-enacting them with modifications consequential upon other provision of the order.

21 Scotland

- (1) This section applies to a marriage—
 - (a) which is intended to be solemnised in Scotland, and
 - (b) a party to which is subject to immigration control.
- (2) In relation to a marriage to which this section applies, notice under section 3 of the Marriage (Scotland) Act 1977 (c. 15)—
 - (a) may be submitted to the district registrar of a registration district prescribed for the purposes of this section, and
 - (b) may not be submitted to the district registrar of any other registration district.
- (3) Where the district registrar to whom notice is submitted by virtue of subsection (2) is the district registrar for the registration district in which the marriage is to be solemnised, he shall not make an entry under section 4, or complete a Marriage Schedule under section 6, of the Marriage (Scotland) Act 1977 in respect of the marriage unless satisfied, by the provision of specified evidence, that the party subject to immigration control—
 - (a) has an entry clearance granted expressly for the purpose of enabling him to marry in the United Kingdom,
 - (b) has the written permission of the Secretary of State to marry in the United Kingdom, or
 - (c) falls within a class specified for the purpose of this paragraph by regulations made by the Secretary of State.
- (4) Where the district registrar to whom notice is submitted by virtue of subsection (2) (here the “notified registrar”) is not the district registrar for the registration district in which the marriage is to be solemnised (here the “second registrar”)—

- (a) the notified registrar shall, if satisfied as is mentioned in subsection (3), send the notices and any fee, certificate or declaration which accompanied them, to the second registrar, and
- (b) the second registrar shall be treated as having received the notices from the parties to the marriage on the dates on which the notified registrar received them.

(5) Subsection (4) of section 19 applies for the purposes of this section as it applies for the purposes of that section except that for the purposes of this section the reference in paragraph (d) of that subsection to guidance issued by the Registrar General shall be construed as a reference to guidance issued by the Secretary of State after consultation with the Registrar General for Scotland.

22 Scotland: supplemental

(1) The Marriage (Scotland) Act 1977 shall have effect in relation to a marriage to which section 21 applies—

- (a) subject to that section, and
- (b) with any necessary consequential modification.

(2) In subsection (2)(a) of that section “prescribed” means prescribed by regulations made by the Secretary of State after consultation with the Registrar General for Scotland; and other expressions used in subsections (1) to (4) of that section and in the Marriage (Scotland) Act 1977 have the same meaning in those subsections as in that Act.

(3) Regulations made by of the Secretary of State under subsection (2)(a) or (3)(c) of that section—

- (a) may make transitional provision,
- (b) shall be made by statutory instrument, and
- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

23 Northern Ireland

(1) This section applies to a marriage—

- (a) which is intended to be solemnised in Northern Ireland, and
- (b) a party to which is subject to immigration control.

(2) In relation to a marriage to which this section applies, the marriage notices—

- (a) shall be given only to a prescribed registrar, and
- (b) shall, in prescribed cases, be given by both parties together in person at a prescribed register office.

(3) The prescribed registrar shall not act under Article 4 or 7 of the Marriage (Northern Ireland) Order 2003 (S.I. 2003/413 (N.I.3)) (marriage notice book, list of intended marriages and marriage schedule) unless he is satisfied, by the provision of specified evidence, that the party subject to immigration control—

- (a) has an entry clearance granted expressly for the purpose of enabling him to marry in the United Kingdom,
- (b) has the written permission of the Secretary of State to marry in the United Kingdom, or
- (c) falls within a class specified for the purpose of this paragraph by regulations made by the Secretary of State.

(4) Subject to subsection (5), if the prescribed registrar is not the registrar for the purposes of Article 4 of that Order, the prescribed registrar shall send him the marriage notices and he shall be treated as having received them from the parties to the marriage on the dates on which the prescribed registrar received them.

(5) The prescribed registrar shall not act under subsection (4) unless he is satisfied as mentioned in subsection (3).

(6) For the purposes of this section—

- (a) a person is subject to immigration control if—
 - (i) he is not an EEA national, and
 - (ii) under the Immigration Act 1971 (c. 77) he requires leave to enter or remain in the United Kingdom (whether or not leave has been given),
- (b) “EEA national” means a national of a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time),
- (c) “entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971, and
- (d) “specified evidence” means such evidence as may be specified in guidance issued by the Secretary of State after consulting the Registrar General for Northern Ireland.

24 Northern Ireland: supplemental

(1) The Marriage (Northern Ireland) Order 2003 (S.I. 2003/413 (N.I.3)) shall have effect in relation to a marriage to which section 23 applies—

- (a) subject to section 23, and
- (b) with any necessary consequential modification.

(2) In section 23 “prescribed” means prescribed for the purposes of that section by regulations made by the Secretary of State after consulting the Registrar General for Northern Ireland and other expressions used in that section or this section and the Marriage (Northern Ireland) Order 2003 have the same meaning in section 23 or this section as in that Order.

(3) Section 18(3) of the Interpretation Act (Northern Ireland) 1954 (c.33 (N.I.)) (provisions as to holders of offices) shall apply to section 23 as if that section were an enactment within the meaning of that Act.

(4) Regulations of the Secretary of State under section 23—

- (a) may make transitional provision,
- (b) shall be made by statutory instrument, and
- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

25 Application for permission under section 19(3)(b), 21(3)(b) or 23(3)(b)

(1) The Secretary of State may make regulations requiring a person seeking permission under section 19(3)(b), 21(3)(b) or 23(3)(b)—

- (a) to make an application in writing, and
- (b) to pay a fee.

(2) The regulations shall, in particular, specify—

- (a) the information to be contained in or provided with the application,
- (b) the amount of the fee, and
- (c) how and to whom the fee is to be paid.

(3) The regulations may, in particular, make provision—

- (a) excepting a specified class of persons from the requirement to pay a fee;
- (b) permitting a specified class of persons to pay a reduced fee;
- (c) for the refund of all or part of a fee in specified circumstances.

(4) Regulations under this section—

- (a) shall be made by statutory instrument, and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Appeals

26 Unification of appeal system

(1) For section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals: adjudicators) substitute—

*“Appeal to Tribunal***81 The Asylum and Immigration Tribunal**

(1) There shall be a tribunal to be known as the Asylum and Immigration Tribunal.

(2) Schedule 4 (which makes provision about the Tribunal) shall have effect.

(3) A reference in this Part to the Tribunal is a reference to the Asylum and Immigration Tribunal.”

(2) In section 82(1) of that Act (right of appeal: general) for “to an adjudicator” substitute “to the Tribunal”.

(3) In section 83(2) of that Act (appeal: asylum claim) for “to an adjudicator” substitute “to the Tribunal”.

(4) For Schedule 4 to that Act (adjudicators) substitute the Schedule set out in Schedule 1 to this Act (Asylum and Immigration Tribunal).

(5) The following provisions of that Act shall cease to have effect—

(a) sections 100 to 103 (Immigration Appeal Tribunal), and

(b) Schedule 5 (Immigration Appeal Tribunal).

(6) Before section 104 of that Act (pending appeal) insert—

“103A Review of Tribunal’s decision

(1) A party to an appeal under section 82 or 83 may apply to the appropriate court, on the grounds that the Tribunal made an error of law, for an order requiring the Tribunal to reconsider its decision on the appeal.

(2) The appropriate court may make an order under subsection (1)—

(a) only if it thinks that the Tribunal may have made an error of law, and

(b) only once in relation to an appeal.

(3) An application under subsection (1) must be made—

(a) in the case of an application by the appellant made while he is in the United Kingdom, within the period of 5 days beginning with the date on which he is treated, in accordance with rules under section 106, as receiving notice of the Tribunal’s decision,

(b) in the case of an application by the appellant made while he is outside the United Kingdom, within the period of 28 days beginning with the date on which he is treated, in accordance with rules under section 106, as receiving notice of the Tribunal’s decision, and

(c) in the case of an application brought by a party to the appeal other than the appellant, within the period of 5 days beginning with the date on which he is treated, in accordance with rules under section 106, as receiving notice of the Tribunal’s decision.

(4) But—

(a) rules of court may specify days to be disregarded in applying subsection (3)(a), (b) or (c), and

(b) the appropriate court may permit an application under subsection (1) to be made outside the period specified in subsection (3) where it thinks that the application could not reasonably practicably have been made within that period.

(5) An application under subsection (1) shall be determined by reference only to—

(a) written submissions of the applicant, and

(b) where rules of court permit, other written submissions.

(6) A decision of the appropriate court on an application under subsection (1) shall be final.

(7) In this section a reference to the Tribunal’s decision on an appeal does not include a reference to—

(a) a procedural, ancillary or preliminary decision, or

(b) a decision following remittal under section 103B, 103C or 103E.

(8) This section does not apply to a decision of the Tribunal where its jurisdiction is exercised by three or more legally qualified members.

(9) In this section “the appropriate court” means—

(a) in relation to an appeal decided in England or Wales, the High Court,

(b) in relation to an appeal decided in Scotland, the Court of Session, and

(c) in relation to an appeal decided in Northern Ireland, the High Court in Northern Ireland.

(10) An application under subsection (1) to the Court of Session shall be to the Outer House.

103B Appeal from Tribunal following reconsideration

(1) Where an appeal to the Tribunal has been reconsidered, a party to the appeal may bring a further appeal on a point of law to the appropriate appellate court.

(2) In subsection (1) the reference to reconsideration is to reconsideration pursuant to—

(a) an order under section 103A(1), or

(b) remittal to the Tribunal under this section or under section 103C or 103E.

(3) An appeal under subsection (1) may be brought only with the permission of—

(a) the Tribunal, or

(b) if the Tribunal refuses permission, the appropriate appellate court.

(4) On an appeal under subsection (1) the appropriate appellate court may—

(a) affirm the Tribunal’s decision;

(b) make any decision which the Tribunal could have made;

(c) remit the case to the Tribunal;

(d) affirm a direction under section 87;

(e) vary a direction under section 87;

(f) give a direction which the Tribunal could have given under section 87.

(5) In this section “the appropriate appellate court” means—

(a) in relation to an appeal decided in England or Wales, the Court of Appeal,

(b) in relation to an appeal decided in Scotland, the Court of Session, and

(c) in relation to an appeal decided in Northern Ireland, the Court of Appeal in Northern Ireland.

(6) An appeal under subsection (1) to the Court of Session shall be to the Inner House.

103C Appeal from Tribunal instead of reconsideration

(1) On an application under section 103A in respect of an appeal the appropriate court, if it thinks the appeal raises a question of law of such importance that it should be decided by the appropriate appellate court, may refer the appeal to that court.

(2) On a reference under subsection (1) the appropriate appellate court may—

(a) affirm the Tribunal’s decision;

(b) make any decision which the Tribunal could have made;

- (c) remit the case to the Tribunal;
 - (d) affirm a direction under section 87;
 - (e) vary a direction under section 87;
 - (f) give a direction which the Tribunal could have given under section 87;
 - (g) restore the application under section 103A to the appropriate court.
- (3) In this section—
 “the appropriate court” has the same meaning as in section 103A, and
 “the appropriate appellate court” has the same meaning as in section 103B.
- (4) A reference under subsection (1) to the Court of Session shall be to the Inner House.

103D Reconsideration: legal aid

- (1) On the application of an appellant under section 103A, the appropriate court may order that the appellant’s costs in respect of the application under section 103A shall be paid out of the Community Legal Service Fund established under section 5 of the Access to Justice Act 1999 (c. 22).
- (2) Subsection (3) applies where the Tribunal has decided an appeal following reconsideration pursuant to an order made—
- (a) under section 103A(1), and
 - (b) on the application of the appellant.
- (3) The Tribunal may order that the appellant’s costs—
- (a) in respect of the application for reconsideration, and
 - (b) in respect of the reconsideration, shall be paid out of that Fund.
- (4) The Secretary of State may make regulations about the exercise of the powers in subsections (1) and (3).
- (5) Regulations under subsection (4) may, in particular, make provision—
- (a) specifying or providing for the determination of the amount of payments;
 - (b) about the persons to whom the payments are to be made;
 - (c) restricting the exercise of the power (whether by reference to the prospects of success in respect of the appeal at the time when the application for reconsideration was made, the fact that a reference has been made under section 103C(1), the circumstances of the appellant, the nature of the appellant’s legal representatives, or otherwise).
- (6) Regulations under subsection (4) may make provision—
- (a) conferring a function on the Legal Services Commission;
 - (b) modifying a duty or power of the Legal Services Commission in respect of compliance with orders under subsection (3);
 - (c) applying (with or without modifications), modifying or disapplying a provision of, or of anything done under, an enactment relating to the funding of legal services.
- (7) Before making regulations under subsection (4) the Secretary of State shall consult such persons as he thinks appropriate.
- (8) This section has effect only in relation to an appeal decided in—
- (a) England,
 - (b) Wales, or
 - (c) Northern Ireland.

- (9) In relation to an appeal decided in Northern Ireland this section shall have effect—
- (a) as if a reference to the Community Legal Service Fund were to the fund established under paragraph 4(2)(a) of Schedule 3 to the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/ 435 (N.I. 10)), and
 - (b) with any other necessary modifications.

103E Appeal from Tribunal sitting as panel

- (1) This section applies to a decision of the Tribunal on an appeal under section 82 or 83 where its jurisdiction is exercised by three or more legally qualified members.
- (2) A party to the appeal may bring a further appeal on a point of law to the appropriate appellate court.
- (3) An appeal under subsection (2) may be brought only with the permission of—
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the appropriate appellate court.
- (4) On an appeal under subsection (2) the appropriate appellate court may—
- (a) affirm the Tribunal’s decision;
 - (b) make any decision which the Tribunal could have made;
 - (c) remit the case to the Tribunal;
 - (d) affirm a direction under section 87;
 - (e) vary a direction under section 87;
 - (f) give a direction which the Tribunal could have given under section 87.
- (5) In this section “the appropriate appellate court” means—
- (a) in relation to an appeal decided in England or Wales, the Court of Appeal,
 - (b) in relation to an appeal decided in Scotland, the Court of Session, and
 - (c) in relation to an appeal decided in Northern Ireland, the Court of Appeal in Northern Ireland.
- (6) A further appeal under subsection (2) to the Court of Session shall be to the Inner House.
- (7) In this section a reference to the Tribunal’s decision on an appeal does not include a reference to—
- (a) a procedural, ancillary or preliminary decision, or
 - (b) a decision following remittal under section 103B or 103C.”
- (7) Schedule 2 (which makes amendments consequential on this section, and transitional provision) shall have effect.
- (8) The Lord Chancellor may by order vary a period specified in—
- (a) section 103A(3)(a), (b) or (c) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (review of Tribunal’s decision) (as inserted by subsection (6) above), or
 - (b) paragraph 30(5)(b)[a] of Schedule 2 to this Act.
- (9) An order under subsection (8)—
- (a) may make provision generally or only for specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) shall be made by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Before making an order under subsection (8) the Lord Chancellor shall consult—
- (a) the Lord Chief Justice, if the order affects proceedings in England and Wales,

- (b) the Lord President of the Court of Session, if the order affects proceedings in Scotland, and
- (c) the Lord Chief Justice of Northern Ireland, if the order affects proceedings in Northern Ireland.

27 Unfounded human rights or asylum claim

(1) Section 94 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (no appeal from within United Kingdom for unfounded human rights or asylum claim) shall be amended as follows.

(2) After subsection (1) insert—

“(1A) A person may not bring an appeal against an immigration decision of a kind specified in section 82(2)(c), (d) or (e) in reliance on section 92(2) if the Secretary of State certifies that the claim or claims mentioned in subsection (1) above is or are clearly unfounded.”

(3) In subsection (2) for “in reliance on section 92(4)” substitute “in reliance on section 92(4)(a)”.

(4) In subsection (4) omit paragraphs (a) to (j).

(5) After subsection (5) insert—

“(5A) If the Secretary of State is satisfied that the statements in subsection (5) (a) and (b) are true of a State or part of a State in relation to a description of person, an order under subsection (5) may add the State or part to the list in subsection (4) in respect of that description of person.

(5B) Where a State or part of a State is added to the list in subsection (4) in respect of a description of person, subsection (3) shall have effect in relation to a claimant only if the Secretary of State is satisfied that he is within that description (as well as being satisfied that he is entitled to reside in the State or part).

(5C) A description for the purposes of subsection (5A) may refer to—

- (a) gender,
- (b) language,
- (c) race,
- (d) religion,
- (e) nationality,
- (f) membership of a social or other group,
- (g) political opinion, or
- (h) any other attribute or circumstance that the Secretary of State thinks appropriate.”

(6) For subsection (6) substitute—

“(6) The Secretary of State may by order amend the list in subsection (4) so as to omit a State or part added under subsection (5); and the omission may be—

- (a) general, or
- (b) effected so that the State or part remains listed in respect of a description of person.”

(7) After subsection (6) insert—

“(6A) Subsection (3) shall not apply in relation to an asylum claimant or human rights claimant who—

- (a) is the subject of a certificate under section 2 or 70 of the Extradition Act 2003 (c. 41),
- (b) is in custody pursuant to arrest under section 5 of that Act,
- (c) is the subject of a provisional warrant under section 73 of that Act,
- (d) is the subject of an authority to proceed under section 7 of the Extradition Act 1989 (c. 33) or an order under paragraph 4(2) of Schedule 1 to that Act, or
- (e) is the subject of a provisional warrant under section 8 of that Act or of a warrant under paragraph 5(1)(b) of Schedule 1 to that Act.”

(8) After section 112(5) of that Act (orders, &c.) insert—

“(5A) If an instrument makes provision under section 94(5) and 94(6)—

- (a) subsection (4)(b) above shall apply, and
- (b) subsection (5)(b) above shall not apply.”

28 Appeal from within United Kingdom

For section 92(3) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeal from within United Kingdom: person with entry clearance or work permit) substitute—

“(3) This section also applies to an appeal against refusal of leave to enter the United Kingdom if—

- (a) at the time of the refusal the appellant is in the United Kingdom, and
- (b) on his arrival in the United Kingdom the appellant had entry clearance.

(3A) But this section does not apply by virtue of subsection (3) if subsection (3B) or (3C) applies to the refusal of leave to enter.

(3B) This subsection applies to a refusal of leave to enter which is a deemed refusal under paragraph 2A(9) of Schedule 2 to the Immigration Act 1971 (c. 77) resulting from cancellation of leave to enter by an immigration officer—

- (a) under paragraph 2A(8) of that Schedule, and
- (b) on the grounds specified in paragraph 2A(2A)[b] of that Schedule.

(3C) This subsection applies to a refusal of leave to enter which specifies that the grounds for refusal are that the leave is sought for a purpose other than that specified in the entry clearance.

(3D) This section also applies to an appeal against refusal of leave to enter the United Kingdom if at the time of the refusal the appellant—

- (a) is in the United Kingdom,
- (b) has a work permit, and
- (c) is any of the following (within the meaning of the British Nationality Act 1981 (c. 61))—
 - (i) a British overseas territories citizen,
 - (ii) a British Overseas citizen,
 - (iii) a British National (Overseas),
 - (iv) a British protected person, or
 - (v) a British subject.”

29 Entry clearance

(1) After section 88 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeal: ineligibility) insert—

“88A Ineligibility: entry clearance

(1) A person may not appeal under section 82(1) against refusal of entry clearance if the decision to refuse is taken on grounds which—

- (a) relate to a provision of immigration rules, and
- (b) are specified for the purpose of this section by order of the Secretary of State.

(2) Subsection (1)—

- (a) does not prevent the bringing of an appeal on either or both of the grounds referred to in section 84(1)(b) and (c), and
- (b) is without prejudice to the effect of section 88 in relation to an appeal under section 82(1) against refusal of entry clearance.”

(2) In section 112 of that Act (regulations, &c.) after subsection (3) insert—

“(3A) An order under section 88A—

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

30 Earlier right of appeal

(1) Section 96 of the Nationality, Immigration and Asylum Act 2002 (earlier right of appeal) shall be amended as follows.

(2) For subsections (1) to (3) substitute—

“(1) An appeal under section 82(1) against an immigration decision (“the new decision”) in respect of a person may not be brought if the Secretary of State or an immigration officer certifies—

- (a) that the person was notified of a right of appeal under that section against another immigration decision (“the old decision”) (whether or not an appeal was brought and whether or not any appeal brought has been determined),
- (b) that the claim or application to which the new decision relates relies on a matter that could have been raised in an appeal against the old decision, and
- (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in an appeal against the old decision.

(2) An appeal under section 82(1) against an immigration decision (“the new decision”) in respect of a person may not be brought if the Secretary of State or an immigration officer certifies—

- (a) that the person received a notice under section 120 by virtue of an application other than that to which the new decision relates or by virtue of a decision other than the new decision,
- (b) that the new decision relates to an application or claim which relies on a matter that should have been, but has not been, raised in a statement made in response to that notice, and
- (c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that matter not having been raised in a statement made in response to that notice.”

(3) In subsection (5) for “Subsections (1) to (3) apply to prevent or restrict” substitute “Subsections (1) and (2) apply to prevent”.

(4) At the end add—

“(7) A certificate under subsection (1) or (2) shall have no effect in relation to an appeal instituted before the certificate is issued.”

31 Seamen and aircrews: right of appeal

In section 82(2) of the Nationality, Immigration and Asylum Act 2002 (c. 41) after paragraph (i) insert—

“(ia) a decision that a person is to be removed from the United Kingdom by way of directions under paragraph 12(2) of Schedule 2 to the Immigration Act 1971 (c. 77) (seamen and aircrews),”.

32 Suspected international terrorist: bail

(1) At the end of section 24 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (suspected international terrorist: bail by Special Immigration Appeals Commission) add—

“(4) Where the Special Immigration Appeals Commission determines an application for bail, the applicant or a person who made representations to the Commission about the application may appeal on a question of law to the appropriate appeal court.

(5) Section 7(2) and (3) of the Special Immigration Appeals Commission Act 1997 (c. 68) (appeals from Commission) shall have effect for the purposes of an appeal under subsection (4) above.”

(2) In section 27(5) and (6) of the Anti-terrorism, Crime and Security Act 2001 (suspected international terrorist: Special Immigration Appeals Commission: procedure) for “section 25 or 26 of this Act” substitute “section 24, 25 or 26 of this Act”.

Removal and detention

33 Removing asylum seeker to safe country

(1) Schedule 3 (which concerns the removal of persons claiming asylum to countries known to protect refugees and to respect human rights) shall have effect.

(2) Sections 11 and 12 of the Immigration and Asylum Act 1999 (c. 33) (removal of asylum claimant to country under standing or other arrangements) shall cease to have effect.

(3) The following provisions of the Nationality, Immigration and Asylum Act 2002 (c. 41) shall cease to have effect—

- (a) section 80 (new section 11 of 1999 Act), and
- (b) section 93 (appeal from within United Kingdom: “third country” removal).

34 Detention pending deportation

(1) In paragraph 2(1) of Schedule 3 to the Immigration Act 1971 (c. 77) (detention pending deportation on recommendation by court) for the words “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” substitute “and that person is not detained in pursuance of the sentence or order of any court”.

(2) In paragraph 2(2) of that Schedule (detention following notice of deportation) for the words “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” substitute “and he is not detained in pursuance of the sentence or order of a court”.

35 Deportation or removal: cooperation

(1) The Secretary of State may require a person to take specified action if the Secretary of State thinks that—

- (a) the action will or may enable a travel document to be obtained by or for the person, and
- (b) possession of the travel document will facilitate the person’s deportation or removal from the United Kingdom.

(2) In particular, the Secretary of State may require a person to—

- (a) provide information or documents to the Secretary of State or to any other person;
- (b) obtain information or documents;
- (c) provide fingerprints, submit to the taking of a photograph or provide information, or submit to a process for the recording of information, about external physical characteristics (including, in particular, features of the iris or any other part of the eye);
- (d) make, or consent to or cooperate with the making of, an application to a person acting for the government of a State other than the United Kingdom;
- (e) cooperate with a process designed to enable determination of an application;
- (f) complete a form accurately and completely;
- (g) attend an interview and answer questions accurately and completely;
- (h) make an appointment.

(3) A person commits an offence if he fails without reasonable excuse to comply with a requirement of the Secretary of State under subsection (1).

(4) A person guilty of an offence under subsection (3) shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum or to both.

(5) If a constable or immigration officer reasonably suspects that a person has committed an offence under subsection (3) he may arrest the person without warrant.

(6) An offence under subsection (3) shall be treated as—

- (a) a relevant offence for the purposes of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and
- (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28(4), 28E, 28G and 28H (search after arrest, &c.) of that Act.

(7) In subsection (1)—

“travel document” means a passport or other document which is issued by or for Her Majesty’s Government or the government of another State and which enables or facilitates travel from the United Kingdom to another State, and

“removal from the United Kingdom” means removal under—

- (a) Schedule 2 to the Immigration Act 1971 (control on entry) (including a provision of that Schedule as applied by another provision of the Immigration Acts),
- (b) section 10 of the Immigration and Asylum Act 1999 (c. 33) (removal of person unlawfully in United Kingdom), or
- (c) Schedule 3 to this Act.

(8) While sections 11 and 12 of the Immigration and Asylum Act 1999 continue to have effect, the reference in subsection (7)(c) above to Schedule 3 to this Act shall be treated as including a reference to those sections.

(9) In so far as subsection (3) extends to England and Wales, subsection (4)(b) shall, until the commencement of section 154 of the Criminal Justice Act 2003 (c. 44) (increased limit on magistrates’ power of imprisonment), have effect as if the reference to twelve months were a reference to six months.

(10) In so far as subsection (3) extends to Scotland, subsection (4)(b) shall have effect as if the reference to twelve months were a reference to six months.

(11) In so far as subsection (3) extends to Northern Ireland, subsection (4)(b) shall have effect as if the reference to twelve months were a reference to six months.

36 Electronic monitoring

(1) In this section—

- (a) “residence restriction” means a restriction as to residence imposed under—
 - (i) paragraph 21 of Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry) (including that paragraph as applied by another provision of the Immigration Acts), or
 - (ii) Schedule 3 to that Act (deportation),
- (b) “reporting restriction” means a requirement to report to a specified person imposed under any of those provisions,
- (c) “employment restriction” means a restriction as to employment or occupation imposed under any of those provisions, and
- (d) “immigration bail” means—
 - (i) release under a provision of the Immigration

Acts on entry into a recognizance or bail bond,
 (ii) bail granted in accordance with a provision of the Immigration Acts by a court, a justice of the peace, the sheriff, the Asylum and Immigration Tribunal, the Secretary of State or an immigration officer (but not by a police officer), and

(iii) bail granted by the Special Immigration Appeals Commission.

(2) Where a residence restriction is imposed on an adult—

- (a) he may be required to cooperate with electronic monitoring, and
- (b) failure to comply with a requirement under paragraph (a) shall be treated for all purposes of the Immigration Acts as failure to observe the residence restriction.

(3) Where a reporting restriction could be imposed on an adult—

- (a) he may instead be required to cooperate with electronic monitoring, and
- (b) the requirement shall be treated for all purposes of the Immigration Acts as a reporting restriction.

(4) Immigration bail may be granted to an adult subject to a requirement that he cooperate with electronic monitoring; and the requirement may (but need not) be imposed as a condition of a recognizance or bail bond.

(5) In this section a reference to requiring an adult to cooperate with electronic monitoring is a reference to requiring him to cooperate with such arrangements as the person imposing the requirement may specify for detecting and recording by electronic means the location of the adult, or his presence in or absence from a location—

- (a) at specified times,
- (b) during specified periods of time, or
- (c) throughout the currency of the arrangements.

(6) In particular, arrangements for the electronic monitoring of an adult—

- (a) may require him to wear a device;
- (b) may require him to make specified use of a device;
- (c) may prohibit him from causing or permitting damage of or interference with a device;
- (d) may prohibit him from taking or permitting action that would or might prevent the effective operation of a device;
- (e) may require him to communicate in a specified manner and at specified times or during specified periods of time;
- (f) may involve the performance of functions by persons other than the person imposing the requirement to cooperate with electronic monitoring (and those functions may relate to any aspect or condition of a residence restriction, of a reporting restriction, of an employment restriction, of a requirement under this section or of immigration bail).

(7) In this section “adult” means an individual who is at least 18 years old.

(8) The Secretary of State—

- (a) may make rules about arrangements for electronic monitoring for the purposes of this section, and
- (b) when he thinks that satisfactory arrangements for electronic monitoring are available in respect of an area, shall notify persons likely to be in a position to exercise power under this section in respect of the area.

(9) Rules under subsection (8)(a) may, in particular, require that arrangements for electronic monitoring impose on a person of a specified description responsibility for specified aspects of the operation of the arrangements.

(10) A requirement to cooperate with electronic monitoring—

- (a) shall comply with rules under subsection (8)(a), and
- (b) may not be imposed in respect of an adult who is or is expected to be in an area unless the person imposing the requirement has received a notification from the Secretary of State under subsection (8)(b) in respect of that area.

(11) Rules under subsection (8)(a)—

- (a) may include incidental, consequential or transitional provision,
- (b) may make provision generally or only in relation to specified cases, circumstances or areas,
- (c) shall be made by statutory instrument, and
- (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(12) Before the commencement of section 26 a reference in this section to the Asylum and Immigration Tribunal shall be treated as a reference to—

- (a) a person appointed, or treated as if appointed, as an adjudicator under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (appeals), and
- (b) the Immigration Appeal Tribunal.

Immigration services

37 Provision of immigration services

(1) For section 84(2) and (3) of the Immigration and Asylum Act 1999 (c. 33) (person qualified to provide immigration services) substitute—

“(2) A person is a qualified person if he is—

- (a) a registered person,
 - (b) authorised by a designated professional body to practise as a member of the profession whose members the body regulates,
 - (c) the equivalent in an EEA State of—
 - (i) a registered person, or
 - (ii) a person within paragraph (b),
 - (d) a person permitted, by virtue of exemption from a prohibition, to provide in an EEA State advice or services equivalent to immigration advice or services, or
 - (e) acting on behalf of, and under the supervision of, a person within any of paragraphs (a) to (d) (whether or not under a contract of employment).
- (3) Subsection (2)(a) and (e) are subject to any limitation on the effect of a person’s registration imposed under paragraph 2(2) of Schedule 6.”

(2) In section 85(1) of that Act (registration by the Commissioner) omit “and (b)”.

(3) In section 89 of that Act (disciplinary charge upheld by Immigration Services Tribunal)—

- (a) for subsections (2) and (3) substitute—

“(2) If the person charged is a registered person or acts on behalf of a registered person, the Tribunal may—

 - (a) direct the Commissioner to record the charge and the Tribunal’s decision for consideration in connection with the registered person’s next application for continued registration;
 - (b) direct the registered person to apply for continued registration as soon as is reasonably practicable.”, and
- (b) in subsection (8) for “employed by him or working” substitute “acting on his behalf or”.

(4) In section 90(4) of that Act (orders by disciplinary bodies) for “works under the supervision of” substitute “is acting on behalf of”.

(5) In Schedule 5 to that Act (Immigration Services Commissioner)—

- (a) for paragraph 1(1)(b) substitute—

“(b) those acting on behalf of registered persons,”,
 - (b) for paragraph 1(3)(b) substitute—

“(b) any person acting on behalf of that person.”,
 - (c) for paragraph 3(3)(b) substitute—

“(b) a person who is acting on behalf of a person who is within paragraph (a);”,
 - (d) for paragraph 4(1)(b) substitute—

“(b) persons acting on behalf of persons who are within paragraph (a).”,
 - (e) in paragraph 5(3)(b) for “employed by, or working under the supervision of,” substitute “acting on behalf of”,
 - (f) for paragraph 5(3)(e) substitute—

“(e) an alleged breach of a rule of a relevant regulatory body,”,
 - (g) for paragraph 6(3)(c) substitute—

“(c) in any other case, refer the matter to any relevant regulatory body.”,
 - (h) in paragraphs 9(1)(a) and (b) for “or a person employed by, or working under the supervision of,” substitute “or is acting on behalf of”,
 - (i) for paragraph 9(1)(c) substitute—

“(c) refer the complaint and his decision on it to a relevant regulatory body;”,
 - (j) for paragraphs 9(3)(a) and (b) substitute—

“(a) imposing restrictions on the provision of immigration advice or immigration services by the relevant person or by a person acting on his behalf or under his supervision;

(b) prohibiting the provision of immigration advice or immigration services by the relevant person or a person acting on his behalf or under his supervision.”, and
 - (k) for paragraphs 9(4)(b) to (d) substitute—

“(b) a person acting on behalf of a registered person;”.
- (6) In Schedule 6 to that Act (registration)—
- (a) in paragraph 1(1) omit “or (b)”, and
 - (b) in paragraph 3(7)(a) for “section 89(3)(b)” substitute “section 89(2)(b)”.

38 Immigration Services Commissioner: power of entry

(1) After section 92 of the Immigration and Asylum Act 1999 (c. 33) (offences: enforcement) insert—

“92A Investigation of offence: power of entry

- (1) On an application made by the Commissioner a justice of the peace may issue a warrant authorising the Commissioner to enter and search premises.
- (2) A justice of the peace may issue a warrant in respect of premises only if satisfied that there are reasonable grounds for believing that—
 - (a) an offence under section 91 has been committed,
 - (b) there is material on the premises which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence, and
 - (c) any of the conditions specified in subsection (3) is satisfied.
- (3) Those conditions are—
 - (a) that it is not practicable to communicate with a person entitled to grant entry to the premises,
 - (b) that it is not practicable to communicate with a person entitled to grant access to the evidence,
 - (c) that entry to the premises will be prevented unless a warrant is produced, and

- (d) that the purpose of a search may be frustrated or seriously prejudiced unless the Commissioner can secure immediate entry on arrival at the premises.
- (4) The Commissioner may seize and retain anything for which a search is authorised under this section.
- (5) A person commits an offence if without reasonable excuse he obstructs the Commissioner in the exercise of a power by virtue of this section.
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to—
- imprisonment for a term not exceeding six months,
 - a fine not exceeding level 5 on the standard scale, or
 - both.
- (7) In this section—
- a reference to the Commissioner includes a reference to a member of his staff authorised in writing by him,
 - a reference to premises includes a reference to premises used wholly or partly as a dwelling, and
 - a reference to material—
 - includes material subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (c. 60),
 - does not include excluded material or special procedure material within the meaning of that Act, and
 - includes material whether or not it would be admissible in evidence at a trial.
- (8) In the application of this section to Scotland—
- a reference to a justice of the peace shall be taken as a reference to the sheriff,
 - for sub-paragraph (i) of subsection (7)(c) there is substituted—

“(i) includes material comprising items subject to legal privilege (as defined by section 412 of the Proceeds of Crime Act 2002 (c. 29)),” and
 - sub-paragraph (ii) of subsection (7)(c) shall be ignored.
- (9) In the application of this section to Northern Ireland the reference to the Police and Criminal Evidence Act 1984 shall be taken as a reference to the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).”
- (2) In paragraph 7 of Schedule 5 to the Immigration and Asylum Act 1999 (c. 33) (investigation of complaints, &c.: power of entry)—
- in sub-paragraph (1)(b) after “(b)” insert “, (c)”,
 - in sub-paragraph (1)(c) for “registered person.” substitute “registered or exempt person.”,
 - in sub-paragraph (1A)(a) after “(b)” insert “, (c)”,
 - in sub-paragraph (1A)(b) for “registered person.” substitute “registered or exempt person.”, and
 - after sub-paragraph (8) insert—

“(9) Sub-paragraphs (7) and (8) shall apply to an exempt person as they apply to a registered person, but with a reference to cancellation of registration being treated as a reference to withdrawal of exemption.
- (10) In this paragraph “exempt person” means a person certified by the Commissioner as exempt under section 84(4)(a).”

39 Offence of advertising services

After section 92A of the Immigration and Asylum Act 1999 (c. 33) (inserted by section 38 above) insert—

“92B Advertising

- A person commits an offence if—
 - he offers to provide immigration advice or immigration services, and
 - provision by him of the advice or services would constitute an offence under section 91.
- For the purpose of subsection (1) a person offers to provide advice or services if he—
 - makes an offer to a particular person or class of person,
 - makes arrangements for an advertisement in which he offers to provide advice or services, or
 - makes arrangements for an advertisement in which he is described or presented as competent to provide advice or services.
- A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- Subsections (3) to (7) of section 91 shall have effect for the purposes of this section as they have effect for the purposes of that section.
- An information relating to an offence under this section may in England and Wales be tried by a magistrates’ court if—
 - it is laid within the period of six months beginning with the date (or first date) on which the offence is alleged to have been committed, or
 - it is laid—
 - within the period of two years beginning with that date, and
 - within the period of six months beginning with a date certified by the Immigration Services Commissioner as the date on which the commission of the offence came to his notice.
- In Scotland, proceedings for an offence under this section may be commenced—
 - at any time within the period of six months beginning with the date (or first date) on which the offence is alleged to have been committed, or
 - at any time within both—
 - the period of two years beginning with that date, and
 - the period of six months beginning with a date specified, in a certificate signed by or on behalf of the procurator fiscal, as the date on which evidence sufficient in his opinion to warrant such proceedings came to his knowledge,

and any such certificate purporting to be so signed shall be deemed so signed unless the contrary is proved and be conclusive as to the facts stated in it.
- Subsection (3) of section 136 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (date on which proceedings are deemed commenced) has effect to the purposes of subsection (6) as it has effect for the purposes of that section.
- A complaint charging the commission of an offence under this section may in Northern Ireland be heard and determined by a magistrates’ court if—
 - it is made within the period of six months be-

- ginning with the date (or first date) on which the offence is alleged to have been committed, or
- (b) it is made—
- (i) within the period of two years beginning with that date, and
 - (ii) within the period of six months beginning with a date certified by the Immigration Services Commissioner as the date on which the commission of the offence came to his notice.”

40 Appeal to Immigration Services Tribunal

Section 87(3)(f) of the Immigration and Asylum Act 1999 (c. 33) (appeal to Tribunal against deferral of decision) shall cease to have effect.

41 Professional bodies

(1) Section 86 of the Immigration and Asylum Act 1999 (designated professional bodies) shall be amended as follows.

(2) For subsection (2) substitute—

“(2) The Secretary of State may by order remove a body from the list in subsection (1) if he considers that the body—

- (a) has failed to provide effective regulation of its members in their provision of immigration advice or immigration services, or
- (b) has failed to comply with a request of the Commissioner for the provision of information (whether general or in relation to a particular case or matter).”

(3) For subsection (9)(b) substitute—

“(b) report to the Secretary of State if the Commissioner considers that a designated professional body—

- (i) is failing to provide effective regulation of its members in their provision of immigration advice or immigration services, or
- (ii) has failed to comply with a request of the Commissioner for the provision of information (whether general or in relation to a particular case or matter).”

(4) After subsection (9) insert—

“(9A) A designated professional body shall comply with a request of the Commissioner for the provision of information (whether general or in relation to a specified case or matter).”

(5) In section 166(2) of the Immigration and Asylum Act 1999 (c. 33) (regulations and orders) after “in relation to” insert “orders made under section 90(1).”

(6) For paragraph 21(2) of Schedule 5 to the Immigration and Asylum Act 1999 (Commissioner: annual report) substitute—

“(2) The report must, in particular, set out the Commissioner’s opinion as to the extent to which each designated professional body has—

- (a) provided effective regulation of its members in their provision of immigration advice or immigration services, and
- (b) complied with requests of the Commissioner for the provision of information.”

Fees

42 Amount of fees

(1) In prescribing a fee for an application or process under a provision specified in subsection (2) the Secretary of State may, with the consent of the Treasury, prescribe an amount which is intended to—

- (a) exceed the administrative costs of determining the application or undertaking the process, and
 - (b) reflect benefits that the Secretary of State thinks are likely to accrue to the person who makes the application, to whom the application relates or by or for whom the process is undertaken, if the application is successful or the process is completed.
- (2) Those provisions are—
- (a) section 41(2) of the British Nationality Act 1981 (c. 61) (fees for applications, &c. under that Act),
 - (b) section 5(1)(a) and (b) of the Immigration and Asylum Act 1999 (fees for application for leave to remain, &c.), and
 - (c) sections 10 and 122 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (certificate of entitlement to right of abode; and fees for work permit, &c.).

(3) An Order in Council under section 1 of the Consular Fees Act 1980 (c. 23) (fees) which prescribes a fee in relation to an application for the issue of a certificate under section 10 of the Nationality, Immigration and Asylum Act 2002 (right of abode: certificate of entitlement) may prescribe an amount which is intended to—

- (a) exceed the administrative costs of determining the application, and
- (b) reflect benefits that in the opinion of Her Majesty in Council are likely to accrue to the applicant if the application is successful.

(4) Where an instrument prescribes a fee in reliance on this section it may include provision for the refund, where an application is unsuccessful or a process is not completed, of that part of the fee which is intended to reflect the matters specified in subsection (1)(b) or (3)(b).

(5) Provision included by virtue of subsection (4)—

- (a) may determine, or provide for the determination of, the amount to be refunded;
- (b) may confer a discretion on the Secretary of State or another person (whether in relation to determining the amount of a refund or in relation to determining whether a refund should be made).

(6) An instrument may not be made in reliance on this section unless the Secretary of State has consulted with such persons as appear to him to be appropriate.

(7) An instrument may not be made in reliance on this section unless a draft has been laid before and approved by resolution of each House of Parliament (and any provision making the instrument subject to annulment in pursuance of a resolution of either House of Parliament shall not apply).

(8) This section is without prejudice to the power to make an order under section 102 of the Finance (No. 2) Act 1987 (c. 51) (government fees and charges) in relation to a power under a provision specified in this section.

43 Transfer of leave stamps

(1) Section 5 of the Immigration and Asylum Act 1999 (c. 33) (charges) shall be amended as follows.

(2) For subsection (1)(c) (transfer of indefinite leave stamp to new document) substitute—

“(c) the fixing of a limited leave stamp or indefinite leave stamp on a passport or other document issued to the applicant where the stamp was previously fixed on another passport or document issued to the applicant.”

(3) For subsection (5) substitute—

“(5) In this section—

- (a) “limited leave stamp” means a stamp, sticker or other attachment which indicates that a person has

- been granted limited leave to enter or remain in the United Kingdom, and
- (b) “indefinite leave stamp” means a stamp, sticker or other attachment which indicates that a person has been granted indefinite leave to enter or remain in the United Kingdom.”

General

44 Interpretation: “the Immigration Acts”

- (1) A reference to “the Immigration Acts” is to—
- (a) the Immigration Act 1971 (c. 77),
 - (b) the Immigration Act 1988 (c. 14),
 - (c) the Asylum and Immigration Appeals Act 1993 (c. 23),
 - (d) the Asylum and Immigration Act 1996 (c. 49),
 - (e) the Immigration and Asylum Act 1999,
 - (f) the Nationality, Immigration and Asylum Act 2002 (c. 41), and
 - (g) this Act.
- (2) This section has effect in relation to a reference in this Act or any other enactment (including an enactment passed or made before this Act).
- (3) For section 158(1) and (2) of the Nationality, Immigration and Asylum Act 2002 (c. 41) substitute—
- “(1) A reference to “the Immigration Acts” shall be construed in accordance with section 44 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.”
- (4) In the following provisions for “section 158 of the Nationality, Immigration and Asylum Act 2002” substitute “section 44 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004”—
- (a) section 32(5) of the Immigration Act 1971 (c. 77), and
 - (b) section 167(1) of the Immigration and Asylum Act 1999 (c. 33).

45 Interpretation: immigration officer

In this Act “immigration officer” means a person appointed by the Secretary of State as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971.

46 Money

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown in connection with this Act, and
- (b) any increase attributable to this Act in the sums payable under any other enactment out of money provided by Parliament.

47 Repeals

The enactments listed in Schedule 4 are hereby repealed to the extent specified.

48 Commencement

(1) Sections 2, 32(2) and 35 shall come into force at the end of the period of two months beginning with the date on which this Act is passed.

(2) Section 32(1) shall have effect in relation to determinations of the Special Immigration Appeals Commission made after the end of the period of two months beginning with the date on which this Act is passed.

(3) The other preceding provisions of this Act shall come into force in accordance with provision made—

- (a) in the case of section 26 or Schedule 1 or 2, by order of the Lord Chancellor,
 - (b) in the case of sections 4 and 5 in so far as they extend to Scotland, by order of the Scottish Ministers, and
 - (c) in any other case, by order of the Secretary of State.
- (4) An order under subsection (3)—
- (a) may make transitional or incidental provision,
 - (b) may make different provision for different purposes, and
 - (c) shall be made by statutory instrument.
- (5) Transitional provision under subsection (4)(a) in relation to the commencement of section 26 may, in particular, make provision in relation to proceedings which, immediately before commencement—
- (a) are awaiting determination by an adjudicator appointed, or treated as if appointed, under section 81 of the Nationality, Immigration and Asylum Act 2002 (c. 41),
 - (b) are awaiting determination by the Immigration Appeal Tribunal,
 - (c) having been determined by an adjudicator could be brought before the Immigration Appeal Tribunal,
 - (d) are awaiting the determination of a further appeal brought in accordance with section 103 of that Act,
 - (e) having been determined by the Immigration Appeal Tribunal could be brought before another court by way of further appeal under that section,
 - (f) are or could be made the subject of an application under section 101 of that Act (review of decision on permission to appeal to Tribunal), or
 - (g) are or could be made the subject of another kind of application to the High Court or the Court of Session.
- (6) Provision made under subsection (5) may, in particular—
- (a) provide for the institution or continuance of an appeal of a kind not generally available after the commencement of section 26,
 - (b) provide for the termination of proceedings, or
 - (c) make any other provision that the Lord Chancellor thinks appropriate.

49 Extent

- (1) This Act extends (subject to subsection (2)) to—
- (a) England and Wales,
 - (b) Scotland, and
 - (c) Northern Ireland.
- (2) An amendment effected by this Act has the same extent as the enactment, or as the relevant part of the enactment, amended (ignoring extent by virtue of an Order in Council).
- (3) Her Majesty may by Order in Council direct that a provision of this Act is to extend, with or without modification or adaptation, to—
- (a) any of the Channel Islands;
 - (b) the Isle of Man.

50 Short title

This Act may be cited as the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.

.....
[a] Amended by Correction Slip. Page 27, inserted section 103E, subsection (8)(b), “paragraph 29(5)(b)” should read “paragraph 30(5)(b)”. back

[b] Amended by Correction Slip. Page 29, inserted subsection (3B), “paragraph 2A(2)” should read “paragraph 2A(2A)”. back

VI.2.2. Legislación de Escocia, Gales e Irlanda del Norte

ESCOCIA

The Prisons and Young Offenders Institutions (Scotland) Rules 2006

Prohibition of Female Genital Mutilation (Scotland) Act 2005

The Civil Legal Aid (Scotland) Amendment Regulations 2005

The Education (Student Fees and Support) Temporary Protection (Scotland) Amendment Regulations 2005

Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Asylum and Immigration (Treatment of Claimants, etc.) Act

Act of Sederunt (Rules of the Court of Session Amendment No. 3) (Applications under the Nationality, Immigration and Asylum Act

The Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2005

The Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (Commencement) (Scotland) Order 2004

The Education Maintenance Allowances (Scotland) Regulations 2004

Act of Sederunt (Rules of the Court of Session Amendment No. 5) (Miscellaneous) 2004

The Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003

The Homelessness etc. (Scotland) Act 2003 (Commencement No. 1) Order 2003

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Immigration and Asylum) 2003

The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003

The Adoption of Children from Overseas (Scotland) Regulations 2001

GALES

National assembly for wales statutory instruments 2005 no. 2929 (w. 214) fire and rescue services, wales The Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005

The Special Guardianship (Wales) Regulations 2005

- Welsh Statutory Instrument 2005 No. 1513 (W.117)

The Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005

The Allocation of Housing (Wales) Regulations 2003

- Welsh Statutory Instrument 2003 No. 239 (W.36)

Rheoliadau Gorchmynion Traffig yr Ysgrifennydd Gwladol (Gweithdrefn) (Cymru a Lloegr) 1990 22 .

The Education (Remission of Charges Relating to Residential Trips) (Wales) Regulations 2003

Welsh Statutory Instrument 2003 No. 860 (W.107)

Rheoliadau'r Gwasanaeth Iechyd Gwladol (Treuliau Teithio a Pheidio a Chodi Tal) (Diwygio) (Cymru) 2003

- Offerynnau Statudol 2003 Rhif 975 (Cy.134)

The National Health Service (Travelling Expenses and Remission of Charges) (Amendment) (Wales) Regulations 2003

- Welsh Statutory Instrument 2003 No. 975 (W.134)

Rheoliadau'r Gwasanaeth Iechyd Gwladol (Treuliau Teithio a Pheidio a Chodi Tal) (Diwygio) (Rhif 2) (Cymru) 2003

- Offerynnau Statudol 2003 Rhif 2561 (Cy.250)

The Education Act 2002 (Commencement No. 1) (Wales) Order 2002

- Welsh Statutory Instrument 2002 No. 3185 (W.301) (C.107)

The Homelessness Act 2002 (Commencement) (Wales) Order 2002

- Welsh Statutory Instrument 2002 No. 1736 (W.166) (C.53)

IRLANDA DEL NORTE

State Pension Credit Act (Northern Ireland) 2002.- Chapter 14

VI.3. El Tribunal de Asilo e Inmigración

Por la norma «Statutory Instruments 2005, nº 230» se crea el «Asylum and Immigration Tribunal» cuya función es oír y recurrir las decisiones dictadas por el Ministerio del Interior en materia de asilo, inmigración y nacionalidad.

Los miembros de este Tribunal son nombrados por el Lord Chancellor; y constituyen un cuerpo judicial independiente formado por jueces y personas no pertenecientes a la carrera judicial especializadas en materia de inmigración.

Cualquier persona que considere que han sido violados sus derechos, puede acudir a este Tribunal acompañado de un representante legal. Los recursos de apelación que se pueden presentar puede ser de varios tipos:

Asilo : Persona amenazada y perseguida en su propio país

Inmigración: Persona extranjera que desea vivir permanentemente en el Reino Unido

Visado: Persona a la que se niega seguir viviendo en el Reino Unido, después de permanecer más de tres meses

Derechos humanos: Persona lesionada en sus derechos humanos básicos.

STATUTORY INSTRUMENTS 2005

No. 230 (L.1)

IMMIGRATION

The Asylum and Immigration Tribunal (Procedure) Rules 2005

<i>Made</i>	<i>6th February 2005</i>
<i>Laid before Parliament</i>	<i>8th February 2005</i>
<i>Coming into force</i>	<i>4th April 2005</i>

ARRANGEMENT OF RULES

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Introduction

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3. Scope of these Rules
4. Overriding objective

PART 2

Appeals to the Tribunal

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6. Giving notice of appeal

7. Time limit for appeal
8. Form and contents of notice of appeal
9. Rejection of invalid notice of appeal
10. Late notice of appeal
11. Special provisions for imminent removal cases
12. Service of notice of appeal on respondent
13. Filing of documents by respondent
14. Variation of grounds of appeal
15. Method of determining appeal
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SCHEDULE Forms

The Lord Chancellor, in exercise of the powers conferred by sections 106(1)-(3) and 112(3) of the Nationality, Immigration and Asylum Act 2002[1] and section 40A(3) of the British Nationality Act 1981[2], after consulting with the Council on **Tribunals** in accordance with section 8 of the **Tribunals and Inquiries Act 1992**[3], makes the following Rules:

PART 1

Introduction

Citation and commencement

1. These Rules may be cited as the Asylum and Immigration (Procedure) Rules 2005 and shall come into force on 4th April 2005.

Interpretation

- 2.** In these Rules—
- “the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;
 - “the 2004 Act” means the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004[4];
 - “appellant” means a person who has given a notice of appeal to the **Tribunal** against a relevant decision in accordance with these Rules;
 - “appropriate appellate court” has the meaning given in sections 103B(5) and 103E(5) of the 2002 Act;
 - “appropriate court” has the meaning given in section 103A(9) of the 2002 Act;
 - “appropriate prescribed form” means the appropriate form in the Schedule to these Rules, or that form with any variations that the circumstances may require;
 - “asylum claim” has the meaning given in section 113(1) of the 2002 Act;
 - “business day” means any day other than a Saturday or Sunday, a bank holiday, 25th to 31st December or Good Friday;
 - “determination”, in relation to an appeal, means a decision by the **Tribunal** in writing to allow or dismiss the appeal, and does not include a procedural, ancillary or preliminary decision;
 - “the Immigration Acts” means the Acts referred to in section 44(1) of the 2004 Act;
 - “immigration decision” means a decision of a kind listed in section 82(2) of the 2002 Act;
 - “immigration rules” means the rules referred to in section 1(4) of the Immigration Act 1971[5];
 - “order for reconsideration” means an order under section 103A(1) or any other statutory provision requiring the **Tribunal** to reconsider its decision on an appeal;

“President” means the President of the **Tribunal**;
 “relevant decision” means a decision against which there is an exercisable right of appeal to the **Tribunal**;
 “respondent” means the decision maker specified in the notice of decision against which a notice of appeal has been given;
 “section 103A” means section 103A of the 2002 Act (Review of **Tribunal’s** decision) and “section 103A application” means an application under section 103A;
 “**Tribunal**” means the Asylum and Immigration **Tribunal**;
 “United Kingdom Representative” means the United Kingdom Representative of the United Nations High Commissioner for Refugees.

Scope of these Rules

3. (1) These Rules apply to the following proceedings
 - (a) appeals to the **Tribunal**;
 - (b) section 103A applications which are considered by a member of the **Tribunal** in accordance with paragraph 30 of Schedule 2 to the 2004 Act;
 - (c) reconsideration of appeals by the **Tribunal**;
 - (d) applications to the **Tribunal** for permission to appeal to the Court of Appeal, the Court of Session, or the Court of Appeal in Northern Ireland; and
 - (e) applications to the **Tribunal** for bail.
- (2) These Rules apply subject to any other Rules made under section 106 of the 2002 Act which apply to specific classes of proceedings.

Overriding objective

4. The overriding objective of these Rules is to secure that proceedings before the **Tribunal** are handled as fairly, quickly and efficiently as possible; and, where appropriate, that members of the **Tribunal** have responsibility for ensuring this, in the interests of the parties to the proceedings and in the wider public interest.

PART 2

Appeals to the Tribunal

Scope of this Part

5. This Part applies to appeals to the **Tribunal**.

Giving notice of appeal

6. - (1) An appeal to the **Tribunal** may only be instituted by giving notice of appeal against a relevant decision in accordance with these Rules.
 - (2) Subject to paragraphs (3) and (4), notice of appeal must be given by filing it with the **Tribunal** in accordance with rule 55(1).
 - (3) A person who is in detention under the Immigration Acts may give notice of appeal either—
 - (a) in accordance with paragraph (2); or
 - (b) by serving it on the person having custody of him.
 - (4) A person who is outside the United Kingdom and wishes to appeal against a decision of an entry clearance officer may give notice of appeal either
 - (a) in accordance with paragraph (2); or
 - (b) by serving it on the entry clearance officer.
 - (5) Where a notice of appeal is served on a custodian under paragraph (3)(b), that person must—
 - (a) endorse on the notice the date that it is served on him; and
 - (b) forward it to the **Tribunal** within 2 days.

- (6) Where a notice of appeal is served on an entry clearance officer under paragraph (4)(b), the officer must—
 - (a) endorse on the notice the date that it is served on him;
 - (b) forward it to the **Tribunal** as soon as reasonably practicable, and in any event within 10 days; and
 - (c) if it is practicable to do so within the time limit in sub-paragraph (b), send to the **Tribunal** with the notice of appeal a copy of the documents listed in rule 13(1).

Time limit for appeal

7. - (1) A notice of appeal by a person who is in the United Kingdom must be given—
 - (a) if the person is in detention under the Immigration Acts when he is served with notice of the decision against which he is appealing, not later than 5 days after he is served with that notice; and
 - (b) in any other case, not later than 10 days after he is served with notice of the decision.
- (2) A notice of appeal by a person who is outside the United Kingdom must be given—
 - (a) if the person—
 - (i) was in the United Kingdom when the decision against which he is appealing was made; and
 - (ii) may not appeal while he is the United Kingdom by reason of a provision of the 2002 Act, not later than 28 days after his departure from the United Kingdom; or
 - (b) in any other case, not later than 28 days after he is served with notice of the decision.
- (3) Where a person—
 - (a) is served with notice of a decision to reject an asylum claim; and
 - (b) on the date of being served with that notice does not satisfy the condition in section 83(1)(b) of the 2002 Act, but later satisfies that condition,
 paragraphs (1) and (2)(b) apply with the modification that the time for giving notice of appeal under section 83(2) runs from the date on which the person is served with notice of the decision to grant him leave to enter or remain in the United Kingdom by which he satisfies the condition in section 83(1)(b).

Form and contents of notice of appeal

8. - (1) The notice of appeal must be in the appropriate prescribed form and must—
 - (a) state the name and address of the appellant; and
 - (b) state whether the appellant has authorised a representative to act for him in the appeal and, if so, give the representative’s name and address;
 - (c) set out the grounds for the appeal;
 - (d) give reasons in support of those grounds; and
 - (e) so far as reasonably practicable, list any documents which the appellant intends to rely upon as evidence in support of the appeal.
- (2) The notice of appeal must if reasonably practicable be accompanied by the notice of decision against which the appellant is appealing, or a copy of it.

- (3) The notice of appeal must be signed by the appellant or his representative, and dated.
- (4) If a notice of appeal is signed by the appellant's representative, the representative must certify in the notice of appeal that he has completed it in accordance with the appellant's instructions.

Rejection of invalid notice of appeal

9. - (1) Where—
- (a) a person has given a notice of appeal to the **Tribunal**; and
 - (b) there is no relevant decision,
- the **Tribunal** shall not accept the notice of appeal.
- (2) Where the **Tribunal** does not accept a notice of appeal, it must—
- (a) notify the person giving the notice of appeal and the respondent; and
 - (b) take no further action.

Late notice of appeal

10. - (1) If a notice of appeal is given outside the applicable time limit, it must include an application for an extension of time for appealing, which must—
- (a) include a statement of the reasons for failing to give the notice within that period; and
 - (b) be accompanied by any written evidence relied upon in support of those reasons.
- (2) If a notice of appeal appears to the **Tribunal** to have been given outside the applicable time limit but does not include an application for an extension of time, unless the **Tribunal** extends the time for appealing of its own initiative, it must notify the person giving notice of appeal in writing that it proposes to treat the notice of appeal as being out of time.
- (3) Where the **Tribunal** gives notification under paragraph (2), if the person giving notice of appeal contends that—
- (a) the notice of appeal was given in time, or
 - (b) there were special circumstances for failing to give the notice of appeal in time which could not reasonably have been stated in the notice of appeal,
- he may file with the **Tribunal** written evidence in support of that contention.
- (4) Written evidence under paragraph (3) must be filed—
- (a) if the person giving notice of appeal is in the United Kingdom, not later than 3 days; or
 - (b) if the person giving notice of appeal is outside the United Kingdom, not later than 10 days,
- after notification is given under paragraph (2).
- (5) Where the notice of appeal was given out of time, the **Tribunal** may extend the time for appealing if satisfied that by reason of special circumstances it would be unjust not to do so.
- (6) The **Tribunal** must decide any issue as to whether a notice of appeal was given in time, or whether to extend the time for appealing, as a preliminary decision without a hearing, and in doing so may only take account of—
- (a) the matters stated in the notice of appeal;
 - (b) any evidence filed by the person giving notice of appeal in accordance with paragraph (1) or (3); and
 - (c) any other relevant matters of fact within the knowledge of the **Tribunal**.

- (7) Subject to paragraphs (8) and (9), the **Tribunal** must serve written notice of any decision under this rule on the parties.
- (8) Where—
 - (a) a notice of appeal under section 82 of the 2002 Act which relates in whole or in part to an asylum claim was given out of time;
 - (b) the person giving notice of appeal is in the United Kingdom; and
 - (c) the **Tribunal** refuses to extend the time for appealing,
 the **Tribunal** must serve written notice of its decision on the respondent, which must—
 - (i) serve the notice of decision on the person giving notice of appeal not later than 28 days after receiving it from the **Tribunal**; and
 - (ii) as soon as practicable after serving the notice of decision, notify the **Tribunal** on what date and by what means it was served.
- (9) Where paragraph (8) applies, if the respondent does not give the **Tribunal** notification under sub-paragraph (ii) within 29 days after the **Tribunal** serves the notice of decision on it, the **Tribunal** must serve the notice of decision on the person giving notice of appeal as soon as reasonably practicable thereafter.

Special provisions for imminent removal cases

11. - (1) This rule applies in any case in which the respondent notifies the **Tribunal** that removal directions have been issued against a person who has given notice of appeal, pursuant to which it is proposed to remove him from the United Kingdom within 5 calendar days of the date on which the notice of appeal was given.
- (2) The **Tribunal** must, if reasonably practicable, make any preliminary decision under rule 10 before the date and time proposed for his removal.
 - (3) Rule 10 shall apply subject to the modifications that the **Tribunal** may—
 - (a) give notification under rule 10(2) orally, which may include giving it by telephone;
 - (b) shorten the time for giving evidence under rule 10(3); and
 - (c) direct that any evidence under rule 10(3) is to be given orally, which may include requiring the evidence to be given by telephone, and hold a hearing or telephone hearing for the purpose of receiving such evidence.

Service of notice of appeal on respondent

12. - (1) Subject to paragraph (2), when the **Tribunal** receives a notice of appeal it shall serve a copy upon the respondent as soon as reasonably practicable.
- (2) Paragraph (1) does not apply where the notice of appeal was served on an entry clearance officer under rule 6(4)(b).

Filing of documents by respondent

13. - (1) When the respondent is served with a copy of a notice of appeal, it must (unless it has already done so) file with the **Tribunal** a copy of—
- (a) the notice of the decision to which the notice of appeal relates, and any other document served on the appellant giving reasons for that decision;
 - (b) any—
 - (i) statement of evidence form completed by the appellant; and
 - (ii) record of an interview with the appellant,

- in relation to the decision being appealed;
- (c) any other unpublished document which is referred to in a document mentioned in sub-paragraph (a) or relied upon by the respondent; and
- (d) the notice of any other immigration decision made in relation to the appellant in respect of which he has a right of appeal under section 82 of the 2002 Act.

(2) Subject to paragraph (3), the respondent must file the documents listed in paragraph (1)—

- (a) in accordance with any directions given by the **Tribunal**; and
- (b) if no such directions are given, as soon as reasonably practicable and in any event not later than 2.00 p.m. on the business day before the earliest date appointed for any hearing of or in relation to the appeal.

(3) If the **Tribunal** considers the timeliness of a notice of appeal as a preliminary issue under rule 10, the respondent must file the documents listed in paragraph (1) as soon as reasonably practicable after being served with a decision of the **Tribunal** allowing the appeal to proceed, and in any event not later than 2.00 p.m. on the business day before the earliest date appointed for any hearing of or in relation to the appeal following that decision.

(4) The respondent must, at the same time as filing them, serve on the appellant a copy of all the documents listed in paragraph (1), except for documents which the respondent has already sent to the appellant.

Variation of grounds of appeal

14. Subject to section 85(2) of the 2002 Act, the appellant may vary his grounds of appeal only with the permission of the **Tribunal**.

Method of determining appeal

15. - (1) Every appeal must be considered by the **Tribunal** at a hearing, except where—

- (a) the appeal—
 - (i) lapses pursuant to section 99 of the 2002 Act;
 - (ii) is treated as abandoned pursuant to section 104(4) of the 2002 Act;
 - (iii) is treated as finally determined pursuant to section 104(5) of the 2002 Act; or
 - (iv) is withdrawn by the appellant or treated as withdrawn in accordance with rule 17;
- (b) paragraph (2) of this rule applies; or
- (c) any other provision of these Rules or of any other enactment permits or requires the **Tribunal** to dispose of an appeal without a hearing.

(2) The **Tribunal** may determine an appeal without a hearing if—

- (a) all the parties to the appeal consent;
- (b) the appellant is outside the United Kingdom or it is impracticable to give him notice of a hearing and, in either case, he is unrepresented;
- (c) a party has failed to comply with a provision of these Rules or a direction of the **Tribunal**, and the **Tribunal** is satisfied that in all the circumstances, including the extent of the failure and any reasons for it, it is appropriate to determine the appeal without a hearing; or
- (d) subject to paragraph (3), the **Tribunal** is satisfied, having regard to the material before it and the nature of the issues raised, that the appeal can be justly determined without a hearing.

(3) Where paragraph (2)(d) applies, the **Tribunal** must not determine the appeal without a hearing without first giving the

parties notice of its intention to do so, and an opportunity to make written representations as to whether there should be a hearing.

Certification of pending appeal

16. - (1) If the Secretary of State or an immigration officer issues a certificate under section 97 or 98 of the 2002 Act which relates to a pending appeal, he must file notice of the certification with the **Tribunal**.

(2) Where a notice of certification is filed under paragraph (1), the **Tribunal** must—

- (a) notify the parties; and
- (b) take no further action in relation to the appeal.

Withdrawal of appeal

17. - (1) An appellant may withdraw an appeal—

- (a) orally, at a hearing; or
- (b) at any time, by filing written notice with the **Tribunal**.

(2) An appeal shall be treated as withdrawn if the respondent notifies the **Tribunal** that the decision (or, where the appeal relates to more than one decision, all of the decisions) to which the appeal relates has been withdrawn.

(3) If an appeal is withdrawn or treated as withdrawn, the **Tribunal** must serve on the parties a notice that the appeal has been recorded as having been withdrawn.

Abandonment of appeal

18. - (1) Any party to a pending appeal must notify the **Tribunal** if they are aware that an event specified in—

- (a) section 104(4) or (5) of the 2002 Act; or
 - (b) regulation 33(1A) of the Immigration (European Economic Area) Regulations 2000[6] (“the 2000 Regulations”),
- has taken place.

(2) Where an appeal is treated as abandoned pursuant to section 104(4) of the 2002 Act or regulation 33(1A) of the 2000 Regulations, or finally determined pursuant to section 104(5) of the 2002 Act, the **Tribunal** must—

- (a) serve on the parties a notice informing them that the appeal is being treated as abandoned or finally determined; and
- (b) take no further action in relation to the appeal.

Hearing appeal in absence of a party

19. - (1) The **Tribunal** must hear an appeal in the absence of a party or his representative, if satisfied that the party or his representative—

- (a) has been given notice of the date, time and place of the hearing, and
- (b) has given no satisfactory explanation for his absence.

(2) Where paragraph (1) does not apply, the **Tribunal** may hear an appeal in the absence of a party if satisfied that—

- (a) a representative of the party is present at the hearing;
- (b) the party is outside the United Kingdom;
- (c) the party is suffering from a communicable disease or there is a risk of him behaving in a violent or disorderly manner;
- (d) the party is unable to attend the hearing because of illness, accident or some other good reason;
- (e) the party is unrepresented and it is impracticable to give him notice of the hearing; or
- (f) the party has notified the **Tribunal** that he does not wish to attend the hearing.

Hearing two or more appeals together

20. Where two or more appeals are pending at the same time, the **Tribunal** may direct them to be heard together if it appears that—

- (a) some common question of law or fact arises in each of them;
- (b) they relate to decisions or action taken in respect of persons who are members of the same family; or
- (c) for some other reason it is desirable for the appeals to be heard together.

Adjournment of appeals

21. - (1) Where a party applies for an adjournment of a hearing of an appeal, he must—

- (a) if practicable, notify all other parties of the application;
- (b) show good reason why an adjournment is necessary; and
- (c) produce evidence of any fact or matter relied upon in support of the application.

(2) The **Tribunal** must not adjourn a hearing of an appeal on the application of a party, unless satisfied that the appeal cannot otherwise be justly determined.

(3) The **Tribunal** must not, in particular, adjourn a hearing on the application of a party in order to allow the party more time to produce evidence, unless satisfied that—

- (a) the evidence relates to a matter in dispute in the appeal;
- (b) it would be unjust to determine the appeal without permitting the party a further opportunity to produce the evidence; and
- (c) where the party has failed to comply with directions for the production of the evidence, he has provided a satisfactory explanation for that failure.

(4) Where the hearing of an appeal is adjourned, the **Tribunal** will fix a new hearing date which—

- (a) shall be not more than 28 days after the original hearing date, unless the **Tribunal** is satisfied that because of exceptional circumstances the appeal cannot justly be heard within that time; and
- (b) shall in any event be not later than is strictly required by the circumstances necessitating the adjournment.

Giving of determination

22. - (1) Except in cases to which rule 23 applies, where the **Tribunal** determines an appeal it must serve on every party a written determination containing its decision and the reasons for it.

- (2) The **Tribunal** must send its determination—
 - (a) if the appeal is considered at a hearing, not later than 10 days after the hearing finishes; or
 - (b) if the appeal is determined without a hearing, not later than 10 days after it is determined.

Special procedures and time limits in asylum appeals

23. - (1) This rule applies to appeals under section 82 of the 2002 Act where—

- (a) the appellant is in the United Kingdom; and
- (b) the appeal relates, in whole or in part, to an asylum claim.

(2) Subject to paragraph (3)—

- (a) where an appeal is to be considered by the **Tribunal** at a hearing, the hearing must be fixed for a date not more than 28 days after the later of—
 - (i) the date on which the **Tribunal** receives the notice of appeal; or
 - (ii) if the **Tribunal** makes a preliminary decision under rule 10 (late notice of appeal), the date on which notice of that decision is served on the appellant; and
- (b) where an appeal is to be determined without a hear-

ing, the **Tribunal** must determine it not more than 28 days after the later of those dates.

(3) If the respondent does not file the documents specified in rule 13(1) within the time specified in rule 13 or directions given under that rule—

- (a) paragraph (2) does not apply; and
- (b) the **Tribunal** may vary any hearing date that it has already fixed in accordance with paragraph (2)(a), if it is satisfied that it would be unfair to the appellant to proceed with the hearing on the date fixed.

(4) The **Tribunal** must serve its determination on the respondent—

- (a) if the appeal is considered at a hearing, by sending it not later than 10 days after the hearing finishes; or
- (b) if the appeal is determined without a hearing, by sending it not later than 10 days after it is determined.

(5) The respondent must—

- (a) serve the determination on the appellant—
 - (i) if the respondent makes a section 103A application or applies for permission to appeal under section 103B or 103E of the 2002 Act, by sending, delivering or personally serving the determination not later than the date on which it makes that application; and
 - (ii) otherwise, not later than 28 days after receiving the determination from the **Tribunal**; and
- (b) as soon as practicable after serving the determination, notify the **Tribunal** on what date and by what means it was served.

(6) If the respondent does not give the **Tribunal** notification under paragraph (5)(b) within 29 days after the **Tribunal** serves the determination on it, the **Tribunal** must serve the determination on the appellant as soon as reasonably practicable thereafter.

(7) In paragraph (2) of this rule, references to a hearing do not include a case management review hearing or other preliminary hearing.

PART 3

Reconsideration of Appeals etc.

Scope of this Part

24. - (1) Section 1 of this Part applies to section 103A applications made during any period in which paragraph 30 of Schedule 2 to the 2004 Act has effect, which are considered by an immigration judge in accordance with that paragraph.

(2) Section 2 of this Part applies to reconsideration of appeals by the **Tribunal** pursuant to—

- (a) an order under section 103A(1) made by—
 - (i) the appropriate court; or
 - (ii) an immigration judge in accordance with paragraph 30 of Schedule 2 to the 2004 Act; and
- (b) remittal by the appropriate appellate court under section 103B(4)(c), 103C(2)(c) or 103E(4)(c) of the 2002 Act.

(3) Section 3 of this Part applies to applications for permission to appeal to the appropriate appellate court.

SECTION 1

Section 103A applications considered by members of the Tribunal

Procedure for applying for review

25. Where paragraph 30 of Schedule 2 to the 2004 Act has effect in relation to a section 103A application, the application

must be made in accordance with relevant rules of court (including any practice directions supplementing those rules).

Deciding applications for review

26. - (1) A section 103A application shall be decided by an immigration judge authorised by the President to deal with such applications.

(2) The immigration judge shall decide the application without a hearing, and by reference only to the applicant's written submissions and the documents filed with the application notice.

(3) The immigration judge is not required to consider any grounds for ordering the **Tribunal** to reconsider its decision other than those set out in the application notice.

(4) The application must be decided not later than 10 days after the **Tribunal** receives the application notice.

(5) In deciding a section 103A application, the immigration judge may—

- (a) in relation to an application for permission under section 103A(4)(b), either—
 - (i) permit the application to be made outside the period specified in section 103A(3); or
 - (ii) record that he does not propose to grant permission; and
- (b) in relation to an application for an order under section 103A(1), either—
 - (i) make an order for reconsideration; or
 - (ii) record that he does not propose to make such an order.

(6) The immigration judge may make an order for reconsideration only if he thinks that—

- (a) the **Tribunal** may have made an error of law; and
- (b) there is a real possibility that the **Tribunal** would decide the appeal differently on reconsideration.

Form and service of decision

27. - (1) Where an immigration judge decides a section 103A application, he must give written notice of his decision, including his reasons which may be in summary form.

(2) Where an immigration judge makes an order for reconsideration—

- (a) his notice of decision must state the grounds on which the **Tribunal** is ordered to reconsider its decision on the appeal; and
- (b) he may give directions for the reconsideration of the decision on the appeal which may—
 - (i) provide for any of the matters set out in rule 45(4) which he considers appropriate to such reconsideration; and
 - (ii) specify the number or class of members of the **Tribunal** to whom the reconsideration shall be allocated.

(3) The **Tribunal** must, except in cases to which paragraph

(5) applies—

- (a) serve a copy of the notice of decision and any directions on every party to the appeal to the **Tribunal**; and
- (b) where the immigration judge makes an order for reconsideration, serve on the party to the appeal other than the party who made the section 103A application a copy of the application notice and any documents which were attached to it.

(4) Paragraph (5) applies to reviews of appeals under section 82 of the 2002 Act where—

- (a) the appellant is in the United Kingdom; and
- (b) the appeal relates, in whole or in part, to an asylum claim.

(5) In cases to which this paragraph applies—

- (a) the **Tribunal** must send to the respondent to the appeal—
 - (i) the notice of decision,
 - (ii) any directions, and
 - (iii) the application notice and any documents which were attached to it (unless the respondent to the appeal made the application for reconsideration);
- (b) the respondent must serve on the appellant—
 - (i) the notice of decision and any directions; and
 - (ii) the application notice and any documents which were attached to it (unless the appellant made the application for reconsideration), not later than 28 days after receiving them from the **Tribunal**;
- (c) the respondent must, as soon as practicable after serving the documents mentioned in sub-paragraph (b), notify the **Tribunal** on what date and by what means they were served; and
- (d) if the respondent does not give the **Tribunal** notification under sub-paragraph (c) within 29 days after the **Tribunal** serves the notice of decision on it, the **Tribunal** must serve the documents mentioned in sub-paragraph (b) on the appellant as soon as reasonably practicable thereafter.

Sending notice of decision to the appropriate court

28. The **Tribunal** must send to the appropriate court copies of—

- (a) the notice of decision; and
 - (b) the application notice and any documents which were attached to it,
- upon being requested to do so by the appropriate court.

SECTION 2

Reconsideration of appeals

Rules applicable on reconsideration of appeal

29. Rules 15 to 23, except for rule 23(2) and (3), and Part 5 of these Rules apply to the reconsideration of an appeal as they do to the initial determination of an appeal, and references in those rules to an appeal shall be interpreted as including proceedings for the reconsideration of an appeal.

Reply

30. - (1) When the other party to the appeal is served with an order for reconsideration, he must, if he contends that the **Tribunal** should uphold the initial determination for reasons different from or additional to those given in the determination, file with the **Tribunal** and serve on the applicant a reply setting out his case.

(2) The other party to the appeal must file and serve any reply not later than 5 days before the earliest date appointed for any hearing of or in relation to the reconsideration of the appeal.

(3) In this rule, "other party to the appeal" means the party other than the party on whose application the order for reconsideration was made.

Procedure for reconsideration of appeal

31. - (1) Where an order for reconsideration has been made, the **Tribunal** must reconsider an appeal as soon as reasonably practicable after that order has been served on both parties to the appeal.

(2) Where the reconsideration is pursuant to an order under section 103A—

- (a) the **Tribunal** carrying out the reconsideration must first decide whether the original **Tribunal** made a material error of law; and
 - (b) if it decides that the original **Tribunal** did not make a material error of law, the **Tribunal** must order that the original determination of the appeal shall stand.
- (3) Subject to paragraph (2), the **Tribunal** must substitute a fresh decision to allow or dismiss the appeal.
- (4) In carrying out the reconsideration, the **Tribunal**—
- (a) may limit submissions or evidence to one or more specified issues; and
 - (b) must have regard to any directions given by the immigration judge or court which ordered the reconsideration.
- (5) In this rule, a “material error of law” means an error of law which affected the **Tribunal’s** decision upon the appeal.

Evidence on reconsideration of appeal

32. - (1) The **Tribunal** may consider as evidence any note or record made by the **Tribunal** of any previous hearing at which the appeal was considered.

(2) If a party wishes to ask the **Tribunal** to consider evidence which was not submitted on any previous occasion when the appeal was considered, he must file with the **Tribunal** and serve on the other party written notice to that effect, which must—

- (a) indicate the nature of the evidence; and
- (b) explain why it was not submitted on any previous occasion.

(3) A notice under paragraph (2) must be filed and served as soon as practicable after the parties have been served with the order for reconsideration.

(4) If the **Tribunal** decides to admit additional evidence, it may give directions as to—

- (a) the manner in which; and
- (b) the time by which, the evidence is to be given or filed.

Orders for funding on reconsideration

33. - (1) This rule applies where—

- (a) the **Tribunal** has reconsidered an appeal following a section 103A application made by the appellant in relation to an appeal decided in England, Wales or Northern Ireland; and
- (b) the appellant’s representative has specified that he seeks an order under section 103D of the 2002 Act for his costs to be paid out of the relevant fund.

(2) The **Tribunal** must make a separate determination (“the funding determination”) stating whether it orders that the appellant’s costs—

- (a) in respect of the application for reconsideration; and
- (b) in respect of the reconsideration, are to be paid out of the relevant fund.

(3) The **Tribunal** must send the funding determination to—

- (a) the appellant’s representative; and
- (b) if the **Tribunal** has made an order under section 103D, the relevant funding body.

(4) Where the determination of the reconsidered appeal (“the principal determination”) is served in accordance with rule 23, the **Tribunal** must not send the funding determination to the appellant’s representative until—

- (a) the respondent has notified the **Tribunal** under rule 23(5)(b) that it has served the principal determination on the appellant; or
- (b) the **Tribunal** has served the principal determination on the appellant under rule 23(6).

(5) In this Rule—

- (a) “relevant fund” means—
 - (i) in relation to an appeal decided in England or Wales, the Community Legal Service Fund established under section 5 of the Access to Justice Act 1999[7];
 - (ii) in relation to an appeal decided in Northern Ireland, the fund established under paragraph 4(2)(a) of Schedule 3 to the Access to Justice (Northern Ireland) Order 2003[8]; and
- (b) “relevant funding body” means—
 - (i) in relation to an appeal decided in England or Wales, the Legal Services Commission;
 - (ii) in relation to an appeal decided in Northern Ireland, the Northern Ireland Legal Services Commission.

SECTION 3

Applications for permission to appeal to the appropriate appellate court

Applying for permission to appeal

34. - (1) An application to the **Tribunal** under this Section must be made by filing with the **Tribunal** an application notice for permission to appeal.

(2) The application notice for permission to appeal must—

- (a) be in the appropriate prescribed form;
- (b) state the grounds of appeal; and
- (c) be signed by the applicant or his representative, and dated.

(3) If the application notice is signed by the applicant’s representative, the representative must certify in the application notice that he has completed the application notice in accordance with the applicant’s instructions.

(4) As soon as practicable after an application notice for permission to appeal is filed, the **Tribunal** must notify the other party to the appeal to the **Tribunal** that it has been filed.

Time limit for application

35. - (1) In application notice for permission to appeal must be filed in accordance with rule 34—

- (a) if the applicant is in detention under the Immigration Acts when he is served with the **Tribunal’s** determination, not later than 5 days after he is served with that determination;
- (b) in any other case, not later than 10 days after he is served with the **Tribunal’s** determination.

(2) The **Tribunal** may not extend the time limits in paragraph (1).

Determining the application

36. - (1) An application for permission to appeal must be determined by a senior immigration judge without a hearing.

(2) The **Tribunal** may either grant or refuse permission to appeal.

(3) Where the **Tribunal** intends to grant permission to appeal it may, if it thinks that the **Tribunal** has made an administrative error in relation to the proceedings, instead set aside the **Tribunal’s** determination and direct that the proceedings be reheard by the **Tribunal**.

(4) The **Tribunal** must serve on every party written notice of its decision, including its reasons, which may be in summary form.

PART 4

*Bail***Scope of this Part and interpretation**

37. - (1) This Part applies to applications under the Immigration Acts to the **Tribunal**, by persons detained under those Acts, to be released on bail.

(2) In this Part, “applicant” means a person applying to the **Tribunal** to be released on bail.

(3) The parties to a bail application are the applicant and the Secretary of State.

Applications for bail

38. - (1) An application to be released on bail must be made by filing with the **Tribunal** an application notice in the appropriate prescribed form.

(2) The application notice must contain the following details—

- (a) the applicant’s—
 - (i) full name;
 - (ii) date of birth; and
 - (iii) date of arrival in the United Kingdom;
- (b) the address of the place where the applicant is detained;
- (c) whether an appeal by the applicant to the **Tribunal** is pending;
- (d) the address where the applicant will reside if his application for bail is granted, or, if he is unable to give such an address, the reason why an address is not given;
- (e) where the applicant is aged 18 or over, whether he will, if required, agree as a condition of bail to cooperate with electronic monitoring under section 36 of the 2004 Act;
- (f) the amount of the recognizance in which he will agree to be bound;
- (g) the full names, addresses, occupations and dates of birth of any persons who have agreed to act as sureties for the applicant if bail is granted, and the amounts of the recognizances in which they will agree to be bound;
- (h) the grounds on which the application is made and, where a previous application has been refused, full details of any change in circumstances which has occurred since the refusal; and
- (i) whether an interpreter will be required at the hearing, and in respect of what language or dialect.

(3) The application must be signed by the applicant or his representative or, in the case of an applicant who is a child or is for any other reason incapable of acting, by a person acting on his behalf.

Bail hearing

39. - (1) Where an application for bail is filed, the **Tribunal** must—

- (a) as soon as reasonably practicable, serve a copy of the application on the Secretary of State; and
- (b) fix a hearing.

(2) If the Secretary of State wishes to contest the application, he must file with the **Tribunal** and serve on the applicant a written statement of his reasons for doing so—

- (a) not later than 2.00 p.m. on the business day before the hearing; or
- (b) if he was served with notice of the hearing less than 24 hours before that time, as soon as reasonably practicable.

(3) The **Tribunal** must serve written notice of its decision on—

- (a) the parties; and
- (b) the person having custody of the applicant.

(4) Where bail is granted, the notice must include—

- (a) the conditions of bail; and
- (b) the amount in which the applicant and any sureties are to be bound.

(5) Where bail is refused, the notice must include reasons for the refusal.

Recognizances

40. - (1) The recognizance of an applicant or a surety must be in writing and must state—

- (a) the amount in which he agrees to be bound; and
- (b) that he has read and understood the bail decision and that he agrees to pay that amount of money if the applicant fails to comply with the conditions set out in the bail decision.

(2) The recognizance must be—

- (a) signed by the applicant or surety; and
- (b) filed with the **Tribunal**.

Release of applicant

41. The person having custody of the applicant must release him upon—

- (a) being served with a copy of the decision to grant bail; and
- (b) being satisfied that any recognizances required as a condition of that decision have been entered into.

Application of this Part to Scotland

42. This Part applies to Scotland with the following modifications—

- (a) in rule 38, for paragraph (2)(f) and (g) substitute—
“(f) the amount, if any, to be deposited if bail is granted;
(g) the full names, addresses and occupations of any persons offering to act as cautioners if the application for bail is granted.”;
- (b) in rule 39, for paragraph (4)(b) substitute—
“(b) the amount (if any) to be deposited by the applicant and any cautioners.”;
- (c) rule 40 does not apply; and
- (d) in rule 41, for sub-paragraph (b) substitute—
“(b) being satisfied that the amount to be deposited, if any, has been deposited.”.

PART 5

*General Provisions***Conduct of appeals and applications**

43. - (1) The **Tribunal** may, subject to these Rules, decide the procedure to be followed in relation to any appeal or application.

(2) Anything of a formal or administrative nature which is required or permitted to be done by the **Tribunal** under these Rules may be done by a member of the **Tribunal’s** staff.

Constitution of the Tribunal

44. - (1) The **Tribunal** shall be under no duty to consider any representations by a party about the number or class of members of the **Tribunal** which should exercise the jurisdiction of the **Tribunal**.

(2) Where the President directs that the **Tribunal’s** jurisdiction shall be exercised by more than one member, unless

the President's direction specifies otherwise a single immigration judge may—

- (a) conduct a case management review hearing;
- (b) give directions to the parties; and
- (c) deal with any other matter preliminary or incidental to the hearing of an appeal or application.

Directions

45. - (1) The **Tribunal** may give directions to the parties relating to the conduct of any appeal or application.

(2) The power to give directions is to be exercised subject to any specific provision of these Rules.

(3) Directions must be given orally or in writing to every party.

(4) Directions of the **Tribunal** may, in particular—

- (a) relate to any matter concerning the preparation for a hearing;
- (b) specify the length of time allowed for anything to be done;
- (c) vary any time limit in these Rules or in directions previously given by the **Tribunal** for anything to be done by a party;
- (d) provide for—
 - (i) a particular matter to be dealt with as a preliminary issue;
 - (ii) a case management review hearing to be held;
 - (iii) a party to provide further details of his case, or any other information which appears to be necessary for the determination of the appeal;
 - (iv) the witnesses, if any, to be heard;
 - (v) the manner in which any evidence is to be given (for example, by directing that witness statements are to stand as evidence in chief);
- (e) require any party to file and serve—
 - (i) statements of the evidence which will be called at the hearing;
 - (ii) a paginated and indexed bundle of all the documents which will be relied on at the hearing;
 - (iii) a skeleton argument which summarises succinctly the submissions which will be made at the hearing and cites all the authorities which will be relied on, identifying any particular passages to be relied on;
 - (iv) a time estimate for the hearing;
 - (v) a list of witnesses whom any party wishes to call to give evidence;
 - (vi) a chronology of events; and
 - (vii) details of whether an interpreter will be required at the hearing, and in respect of what language and dialect;
- (f) limit—
 - (i) the number or length of documents upon which a party may rely at a hearing;
 - (ii) the length of oral submissions;
 - (iii) the time allowed for the examination and cross-examination of witnesses; and
 - (iv) the issues which are to be addressed at a hearing; and
- (g) require the parties to take any steps to enable two or more appeals to be heard together under rule 20.
- (h) provide for a hearing to be conducted or evidence given or representations made by video link or by other electronic means; and
 - (i) make provision to secure the anonymity of a party or a witness.

(5) The **Tribunal** must not direct an unrepresented party to do something unless it is satisfied that he is able to comply with the direction.

(6) The President may direct that, in individual cases or in such classes of case as he shall specify, any time period in these Rules for the **Tribunal** to do anything shall be extended by such period as he shall specify.

Notification of hearings

46. - (1) When the **Tribunal** fixes a hearing it must serve notice of the date, time and place of the hearing on every party.

(2) The **Tribunal** may vary the date of a hearing, but must serve notice of the new date, time and place of the hearing on every party.

Adjournment

47. Subject to any provision of these Rules, the **Tribunal** may adjourn any hearing.

Representation

48. - (1) An appellant or applicant for bail may act in person or be represented by any person not prohibited from representing him by section 84 of the Immigration and Asylum Act 1999[9].

(2) A respondent to an appeal, the Secretary of State or the United Kingdom Representative may be represented by any person authorised to act on his behalf.

(3) If a party to whom paragraph (1) applies is represented by a person not permitted by that paragraph to represent him, any determination given or other step taken by the **Tribunal** in the proceedings shall nevertheless be valid.

(4) Where a representative begins to act for a party, he must immediately notify the **Tribunal** and the other party of that fact.

(5) Where a representative is acting for a party, he may on behalf of that party do anything that these Rules require or permit that party to do.

(6) Where a representative is acting for an appellant, the appellant is under a duty—

- (a) to maintain contact with his representative until the appeal is finally determined; and
- (b) to notify the representative of any change of address.

(7) Where a representative ceases to act for a party, the representative and the party must immediately notify the **Tribunal** and the other party of that fact, and of the name and address of any new representative (if known).

(8) Notification under paragraph (4) or (7)—

- (a) may be given orally at a hearing to the **Tribunal** and to any other party present at that hearing; but
- (b) must otherwise be given in writing.

(9) Until the **Tribunal** is notified that a representative has ceased to act for a party, any document served on that representative shall be deemed to be properly served on the party he was representing.

United Kingdom Representative

49. - (1) The United Kingdom Representative may give notice to the **Tribunal** that he wishes to participate in any proceedings where the appellant has made an asylum claim.

(2) Where the United Kingdom Representative has given notice under paragraph (1)—

- (a) rules 54(6) and 55(7) shall apply; and
- (b) the **Tribunal** must permit him to make representations in the proceedings if he wishes to do so, and may give directions for that purpose.

Summoning of witnesses

50. - (1) The **Tribunal** may, by issuing a summons ("a witness summons"), require any person in the United Kingdom—

- (a) to attend as a witness at the hearing of an appeal; and
- (b) subject to rule 51(2), at the hearing to answer any questions or produce any documents in his custody or under his control which relate to any matter in issue in the appeal.

(2) A person is not required to attend a hearing in obedience to a witness summons unless—

- (a) the summons is served on him; and
- (b) the necessary expenses of his attendance are paid or tendered to him.

(3) If a witness summons is issued at the request of a party, that party must pay or tender the expenses referred to in paragraph (2)(b).

Evidence

51. - (1) The **Tribunal** may allow oral, documentary or other evidence to be given of any fact which appears to be relevant to an appeal or an application for bail, even if that evidence would be inadmissible in a court of law.

(2) The **Tribunal** may not compel a party or witness to give any evidence or produce any document which he could not be compelled to give or produce at the trial of a civil claim in the part of the United Kingdom in which the hearing is taking place.

(3) The **Tribunal** may require the oral evidence of a witness to be given on oath or affirmation.

(4) Where the **Tribunal** has given directions setting time limits for the filing and serving of written evidence, it must not consider any written evidence which is not filed or served in accordance with those directions unless satisfied that there are good reasons to do so.

(5) Where a party seeks to rely upon a copy of a document as evidence, the **Tribunal** may require the original document to be produced.

(6) In an appeal to which section 85(5) of the 2002 Act applies, the **Tribunal** must only consider evidence relating to matters which it is not prevented by that section from considering.

(7) Subject to section 108 of the 2002 Act, the **Tribunal** must not take account of any evidence that has not been made available to all the parties.

Language of documents

52. - (1) Subject to paragraph (2)—

- (a) any notice of appeal or application notice filed with the **Tribunal** must be completed in English; and
- (b) any other document filed with the **Tribunal** must be in English, or accompanied by a translation into English signed by the translator to certify that the translation is accurate.

(2) In proceedings in or having a connection with Wales, a document may be filed with the **Tribunal** in Welsh.

(3) The **Tribunal** shall be under no duty to consider a document which is not in English (or, where paragraph (2) applies, in Welsh), or accompanied by a certified translation.

Burden of proof

53. - (1) If an appellant asserts that a relevant decision ought not to have been taken against him on the ground that the statutory provision under which that decision was taken does not apply to him, it is for that party to prove that the provision does not apply to him.

(2) If—

- (a) an appellant asserts any fact; and
- (b) by virtue of an Act, statutory instrument or immigration rules, if he had made such an assertion to the Secretary of State, an immigration officer or an entry clearance officer, it would have been for

him to satisfy the Secretary of State or officer that the assertion was true, it is for the appellant to prove that the fact asserted is true.

Admission of public to hearings

54. - (1) Subject to the following provisions of this rule, every hearing before the **Tribunal** must be held in public.

(2) Where the **Tribunal** is considering an allegation referred to in section 108 of the 2002 Act—

- (a) all members of the public must be excluded from the hearing, and
- (b) any party or representative of a party may be excluded from the hearing.

(3) The **Tribunal** may exclude any or all members of the public from any hearing or part of a hearing if it is necessary—

- (a) in the interests of public order or national security; or
- (b) to protect the private life of a party or the interests of a minor.

(4) The **Tribunal** may also, in exceptional circumstances, exclude any or all members of the public from any hearing or part of a hearing to ensure that publicity does not prejudice the interests of justice, but only if and to the extent that it is strictly necessary to do so.

(5) A member of the Council on **Tribunals** or of its Scottish Committee acting in that capacity is entitled to attend any hearing and may not be excluded pursuant to paragraph (2), (3) or (4) of this rule.

(6) The United Kingdom Representative, where he has given notice to the **Tribunal** under rule 49, is entitled to attend any hearing except where paragraph (2) applies, and may not be excluded pursuant to paragraph (3) or (4) of this rule.

Filing and service of documents

55. - (1) Any document which is required or permitted by these Rules or by a direction of the **Tribunal** to be filed with the **Tribunal**, or served on any person may be—

- (a) delivered, or sent by post, to an address;
- (b) sent via a document exchange to a document exchange number or address;
- (c) sent by fax to a fax number; or
- (d) sent by e-mail to an e-mail address, specified for that purpose by the **Tribunal** or person to whom the document is directed.

(2) A document to be served on an individual may be served personally by leaving it with that individual.

(3) Where a person has notified the **Tribunal** that he is acting as the representative of an appellant and has given an address for service, if a document is served on the appellant, a copy must also at the same time be sent to the appellant's representative.

(4) If any document is served on a person who has notified the **Tribunal** that he is acting as the representative of a party, it shall be deemed to have been served on that party.

(5) Subject to paragraph (6), any document that is served on a person in accordance with this rule shall, unless the contrary is proved, be deemed to be served—

- (a) where the document is sent by post or document exchange from and to a place within the United Kingdom, on the second day after it was sent;
- (b) where the document is sent by post or document exchange from or to a place outside the United Kingdom, on the twenty-eighth day after it was sent; and
- (c) in any other case, on the day on which the document was sent or delivered to, or left with, that person.

(6) Any notice of appeal which is served on a person under rule 6(3)(b) or 6(4)(b) shall be treated as being served on the day on which it is received by that person.

(7) Where the United Kingdom Representative has given notice to the **Tribunal** under rule 49 in relation to any proceedings, any document which is required by these Rules or by a direction of the **Tribunal** to be served on a party in those proceedings must also be served on the United Kingdom Representative.

Address for service

56. - (1) Every party, and any person representing a party, must notify the **Tribunal** in writing of a postal address at which documents may be served on him and of any changes to that address.

(2) Until a party or representative notifies the **Tribunal** of a change of address, any document served on him at the most recent address which he has notified to the **Tribunal** shall be deemed to have been properly served on him.

Calculation of time

57. - (1) Where a period of time for doing any act is specified by these Rules or by a direction of the **Tribunal**, that period is to be calculated—

- (a) excluding the day on which the period begins; and
- (b) where the period is 10 days or less, excluding any day which is not a business day (unless the period is expressed as a period of calendar days).

(2) Where the time specified by these Rules or by a direction of the **Tribunal** for doing any act ends on a day which is not a business day, that act is done in time if it is done on the next business day.

Signature of documents

58. Any requirement in these Rules for a document to be signed by a party or his representative shall be satisfied, in the case of a document which is filed or served electronically in accordance with these rules, by the person who is required to sign the document typing his name or producing it by computer or other mechanical means.

Errors of procedure

59. - (1) Where, before the **Tribunal** has determined an appeal or application, there has been an error of procedure such as a failure to comply with a rule—

- (a) subject to these Rules, the error does not invalidate any step taken in the proceedings, unless the **Tribunal** so orders; and
- (b) the **Tribunal** may make any order, or take any other step, that it considers appropriate to remedy the error.

(2) In particular, any determination made in an appeal or application under these Rules shall be valid notwithstanding that—

- (a) a hearing did not take place; or
- (b) the determination was not made or served, within a time period specified in these Rules.

Correction of orders and determinations

60. - (1) The **Tribunal** may at any time amend an order, notice of decision or determination to correct a clerical error or other accidental slip or omission.

(2) Where an order, notice of decision or determination is amended under this rule—

- (a) the **Tribunal** must serve an amended version on the party or parties on whom it served the original; and
- (b) if rule 10(8) and (9), rule 23(5) and (6) or rule

27(5)(b)-(d) applied in relation to the service of the original, it shall also apply in relation to the service of the amended version.

(3) The time within which a party may apply for permission to appeal against, or for a review of, an amended determination runs from the date on which the party is served with the amended determination.

PART 6

Revocation and Transitional Provisions

Revocation

61. The Immigration and Asylum Appeals (Procedure) Rules 2003[10] are revoked.

Transitional provisions

62. - (1) Subject to the following paragraphs of this rule, these Rules apply to any appeal or application to an adjudicator or the Immigration Appeal **Tribunal** which was pending immediately before 4th April 2005, and which continues on or after that date as if it had been made to the **Tribunal** by virtue of a transitional provisions order.

(2) Where a notice of a relevant decision has been served before 4th April 2005 and the recipient gives notice of appeal against the decision on or after 4th April 2005—

- (a) rules 6-8, 12 and 13 of these Rules shall not apply; and
- (b) rules 6-9 of the 2003 Rules shall continue to apply as if those Rules had not been revoked, but subject to the modifications in paragraph (4).

(3) Where a notice of appeal to an adjudicator has been given before 4th April 2005, but the respondent has not filed the notice of appeal with the appellate authority in accordance with rule 9 of the 2003 Rules—

- (a) rules 12 and 13 of these Rules shall not apply; and
- (b) rule 9 of the 2003 Rules shall continue to apply as if it had not been revoked, but subject to the modifications in paragraph (4).

(4) The modifications referred to in paragraphs (2)(b) and (3)(b) are that—

- (a) references to an adjudicator or the appellate authority shall be treated as referring to the **Tribunal**;
- (b) in rule 9(1) of the 2003 Rules—
 - (i) the words “Subject to rule 10” shall be omitted; and
 - (ii) for “together with” there shall be substituted “and must also when directed by the Asylum and Immigration **Tribunal** file”; and
- (c) for rule 9(2) of the 2003 Rules there shall be substituted—

“(2) The respondent must, as soon as practicable after filing the notice of appeal, serve on the appellant—

- (a) a copy of all the documents listed in paragraph (1), except for documents which the respondent has already sent to the appellant; and
- (b) notice of the date on which the notice of appeal was filed.”.

(5) Where, pursuant to a transitional provisions order, the **Tribunal** considers a section 103A application for a review of an adjudicator’s determination of an appeal, Section 1 of Part 3 of these Rules shall apply subject to the modifications that—

- (a) in rules 26(3) and 27(2), the references to “its decision” shall be interpreted as referring to the adjudicator’s decision; and
- (b) in rules 26(6)(a) and 27(3)(a), the references to “the

Tribunal” shall be interpreted as referring to the adjudicator.

(6) Where, pursuant to a transitional provisions order, the **Tribunal** reconsiders an appeal which was originally determined by an adjudicator, Section 2 of Part 3 shall apply to the reconsideration, subject to paragraph (7).

(7) Where—

- (a) a party has been granted permission to appeal to the Immigration Appeal **Tribunal** against an adjudicator’s determination before 4th April 2005, but the appeal has not been determined by that date; and
- (b) by virtue of a transitional provisions order the grant of permission to appeal is treated as an order for the **Tribunal** to reconsider the adjudicator’s determination,

the reconsideration shall be limited to the grounds upon which the Immigration Appeal **Tribunal** granted permission to appeal.

(8) Any time limit in these Rules for the **Tribunal** to do anything shall not apply in relation to proceedings to which these Rules apply by virtue of paragraph (1) of this rule.

(9) In relation to proceedings which were pending immediately before 4th April 2005—

- (a) unless the **Tribunal** directs otherwise—
 - (i) anything done or any directions given before 4th April 2005 under the 2003 Rules (including anything which, pursuant to rule 61(3) of those Rules, was treated as if done or given under those Rules) shall continue to have effect on and after that date;
 - (ii) anything done or any directions given by the appellate authority shall be treated as if done or given by the **Tribunal**; and
 - (iii) any document served on the appellate authority shall be treated as if served on the **Tribunal**;
- (b) unless the context requires otherwise, any reference in a document to an adjudicator, the Immigration Appeal **Tribunal** or the appellate authority shall, insofar as it relates to an event on or after 4th April 2005, be treated as a reference to the **Tribunal**.

(10) In this rule—

- (a) “the 2003 Rules” means the Immigration and Asylum Appeals (Procedure) Rules 2003;
- (b) “adjudicator” and “appellate authority” have the same meaning as in the 2003 Rules; and
- (c) “a transitional provisions order” means an order under section 48(3)(a) of the 2004 Act containing transitional provisions.

Falconer of Thoroton
Dated 6th February 2005

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules prescribe the procedure to be followed for appeals and applications to the Asylum and Immigration **Tribunal** created under section 81 of and Schedule 4 to the Nationality, Immigration and Asylum Act 2002, as substituted by section 26(1) of and Schedule 1 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. The Rules come into force on 4th April 2005.

Part 1 of these Rules contains introductory provisions.

Part 2 contains rules about appeals to the **Tribunal**. Subject to various exceptions and limitations in Part 5 of the 2002 Act, a right of appeal lies to the **Tribunal**—

- (a) under section 82 of the 2002 Act, against an immigration decision;
- (b) under section 83 of the 2002 Act, in certain circumstances, against a decision to reject an asylum claim; and
- (c) under section 40A of the British Nationality Act 1981, against a decision to make an order depriving a person of a British citizenship status.

Part 3 contains rules about—

- (a) applications under section 103A of the 2002 Act (as inserted by section 26(6) of the 2004 Act) for the review of a decision of the **Tribunal**, which are considered by a member of the **Tribunal** under the transitional filter provision in paragraph 30 of Schedule 2 to the 2004 Act;
- (b) reconsideration by the **Tribunal** of appeals pursuant to an order under section 103A of the 2002 Act or an order of an appellate court;
- (c) applications to the **Tribunal** for permission to appeal to the Court of Appeal, Court of Session or Court of Appeal in Northern Ireland.

Part 4 contains rules about applications to the **Tribunal** for bail. Such applications may be made under Schedule 2 to the Immigration Act 1971.

Part 5 contains general provisions which apply to proceedings under these Rules.

Part 6 revokes the Immigration and Asylum Appeals (Procedure) Rules 2003 and contains transitional provisions for appeals and applications to an adjudicator or the Immigration Appeal **Tribunal** which are pending immediately before 4th April 2005.

Notes:

[1] 2002 c. 41. Section 106 was amended by paragraph 21 of Schedule 2 to the 2004 Act.

[2] 1981 c. 61. Section 40A was inserted by section 4(1) of the 2002 Act and amended by paragraph 4 of Schedule 2 to the 2004 Act.

[3] 1992 c. 53.

[4] 2004 c. 19.

[5] 1971 c. 77.

[6] S.I. 2000/2326. There are relevant amendments in S.I. 2003/3188 and S.I. 2004/1236.

[7] 1999 c. 22.

[8] S.I. 2003/435 (N.I. 10).

[9] 1999 c. 33.

[10] S.I. 2003/652.

VI.4. Estadísticas

El informe 2004-based National Population projections for UK and constituent countries³⁹ indica que: “la población del Reino Unido ha aumentado de 59.8 millones en el año 2004 a 60 millones en el año 2005; la proyección de crecimiento pre-

³⁹ Office for National Statistics/Government Actuary’s Department. www.gad.gov.uk/Population/index.asp

vista para el año 2023 es de 65 millones y se estima alcanzar la cifra de 67 millones en el año 2031".

Este crecimiento se debe, en aparte, al constante flujo migratorio de personas que entran en el Reino Unido para buscar trabajo e iniciar una nueva vida, en el año 2004 se estima que más de 223.000 emigraron al UK, esta cifra es superior a la de 2003 en la que el número de nuevos emigrantes fue de 151.000. El promedio de entrada de emigrantes se ha incrementado en el periodo entre el año 1994 y el año 2004. Considerando una media de crecimiento de 145.000 emigrantes al año, se estima que la proyección de crecimiento de la población emigrante del año 2004 al año 2031 será de 3.9 millones de emigrantes; aunque esta cifra puede ser superior y alcanzar los 4.1 millones, si se mantienen las cifras de los años 2004-05 : 225.000 emigrantes; 2005-06 : 195.000 emigrantes.

El crecimiento de población previsto para el año 2031, se debe, en gran parte, a que la población emigrante está formada fundamentalmente por adultos jóvenes - (en el año 2003 los grupos de edad más grandes eran los de las edades comprendidas entre 15 a 24 y 25 a 44; representando el 84% del total de la población emigrante) - en edad de tener hijos y por tanto aumenta el número de nacimientos. Para el periodo 2004-2031 está previsto que la población del U.K. aumente 7.2 millones, y aproximadamente el 4.1 millones de este crecimiento corresponde directamente a la población emigrante, de lo que se deduce que el 57% del aumento de población se debe a la emigración.

POPULATION ESTIMATES

UK population approaches 60 million

In mid-2004 the UK was home to 59.8 million people, of which 50.1 million lived in England. The average age was 38.6 years,

an increase on 1971 when it was 34.1 years. In mid-2004 approximately one in five people in the UK were aged under 16 and one in six people were aged 65 or over.

The UK has a growing population. It grew by 280,600 people in the year to mid-2004, and the average growth per year has been 0.4 per cent since mid-2001. The UK population increased by 7.0 per cent since 1971, from 55.9 million. Growth has been faster in more recent years. Between mid-1991 and mid-2003 the population grew by an annual rate of 0.3 per cent.

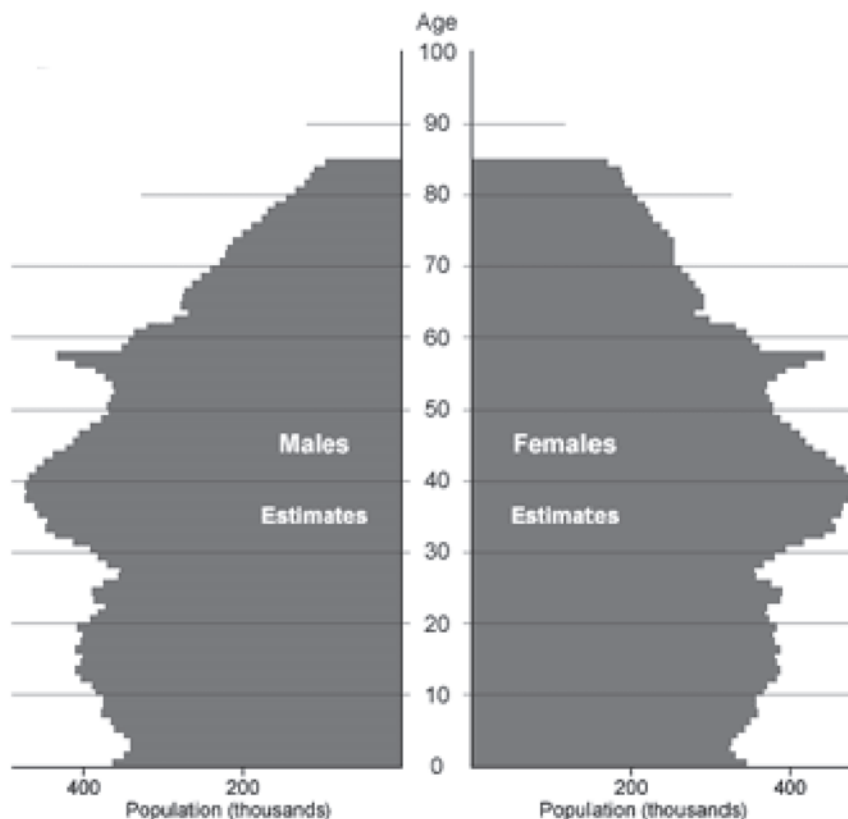
The mid-2004 population of the constituent countries of the United Kingdom is estimated as follows:

	Population	Percent of total UK population
England	50,093,100	83.7
Wales	2,952,500	4.9
Scotland	5,078,400	8.5
Northern Ireland	1,710,300	2.9
United Kingdom	59,834,300	

The UK has an ageing population. This is the result of declines both in fertility rates and in the mortality rate. This has led to a declining proportion of the population aged under 16 and an increasing proportion aged 65 and over.

In every year since 1901, with the exception of 1976, there have been more births than deaths in the UK and the population has grown due to natural change. Until the mid-1990s, this natural increase was the main driver of population growth. Since the late 1990s, although there has still been natural increase, net international migration into the UK from abroad has been an increasingly important factor in population change.

Sources: Mid-year population estimates: Office for National Statistics, General Register Office for Scotland and Northern Ireland Statistics and Research Agency.



Population: by gender and age, mid-2004

Notes:

The average age of the population has been estimated using the median value. The median is the mid-point age that separates the younger half of the population from the older half.

20/12/05 – Correction - ONS published a minor correction to the mid-2004 population estimates affecting the London Borough of Harrow and 'higher' geographical levels. As a result the following data in this nugget has changed: Growth of UK population in the year to mid-2004 was 280,600 people (original figure was 281,200).

Population of England in mid-2004 is 50,093,100 (original figure was 50,093,800).

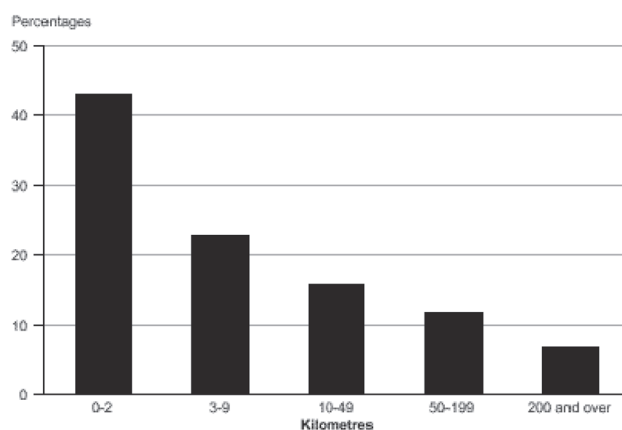
Population of United Kingdom is 59,834,300 (original figure was 59,834,900).

Published on 25 August 2005 at 9:30 am

People & Migration

MOVES WITHIN UK

1 in 9 moved in year to April 2001

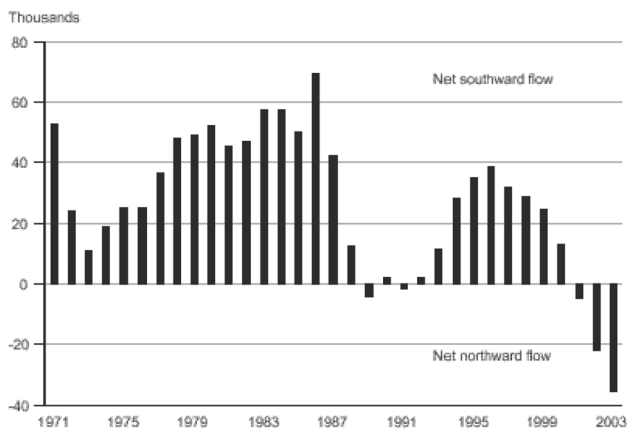


Distance moved by people changing address within the UK in the year prior to the 2001 Census

Around one in nine people (11 per cent) moved within the UK in the year before the 2001 Census.

Most within country moves are over a short distance. Over 40 per cent of migrants had moved no further than 2km. Another 23 per cent moved 3 to 9km from their previous address. Fewer than 7 per cent had moved 200km or more. Long distance moves were strongly associated with students moving to and from higher education institutions and members of the armed forces moving between bases.

Some types of people change address much more frequently than others. This is especially true for young adults, particularly the single and childless. Students moving to and from university and changing address while at university contribute



Net migration between the regions of the UK, 1971 to 2003

to the peak in migration at these ages, as do other young people leaving the family home.

With around 11 per cent of the population changing address each year, migration within the UK has the potential to cause large shifts in the geographical distribution of the population. An aspect of this which has changed in the last three years is a net northward flow.

A continuing pattern is the movement of people from urban areas to the suburbs and more rural areas. Traditional resort and retirement areas gained the most as a result of the moves out of London and the metropolitan districts. Shire-county districts, smaller towns and more rural areas also gained population from the metropolitan losses in the year leading up to the 2001 Census. This exodus from the cities included members of ethnic minority groups as well as White people.

Sources: 2001 Census, Individual Sample of Anonymised Records - Office for National Statistics; General Register Office for Scotland; Northern Ireland Statistics and Research Agency National Health Service Central Register, Office for National Statistics.

Notes:

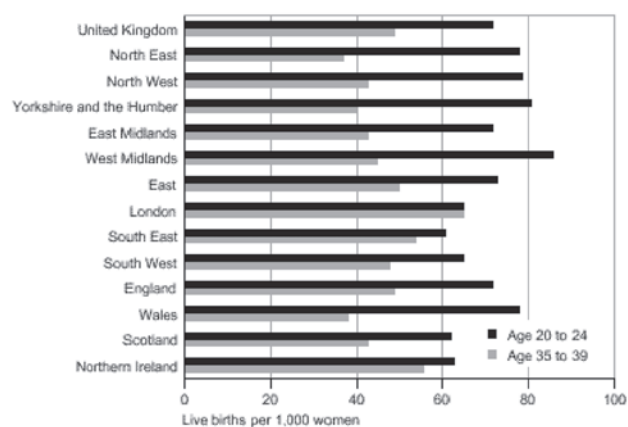
The second chart compares movement between the Government Office Regions of London, South East, South West, East of England and East Midlands combined with the remainder of the UK.

Published on 15 December 2005 at 9:30 am

Regional Trends

POPULATION & MIGRATION

Highlights



Live births per 1,000 women, 2004

In 2004, the overall birth rates for women of all ages were highest in London and lowest in Scotland (63 and 51 per 1,000 women respectively). The West Midlands had the highest number of births per 1,000 women aged 25 to 29 and London the lowest (112 and 79 respectively). However, London had the highest birth rate for women aged 35 to 39 at 65 per 1,000 women compared to the lowest of 37 in the North East.

During 1981, 1991, 2003 and 2004 the number of live births per thousand women tended to show a similar pattern; the highest numbers occurred to women between 25 to 29 and 30 to 34. The birth rate was lowest for those women aged 40 and over. Between 1981 and 2004, birth rates in the 35 to 39 age band have more than doubled in all regions except Northern Ireland and Wales. The highest birth rate in 2004 was 113 in Northern Ireland to women aged 30 to 34. The lowest was 7 in the North East to women aged 40 and over. By comparison, the highest number of live births overall in 1981 were for women aged 25 to 29 in Northern Ireland at 172 per 1,000 women.

Women aged 40 and over had the lowest number of live births at 3 per 1,000 women in the South West.

Total Fertility Rate (TFR) in the UK rose from 1.71 in 2003 to 1.77 in 2004. However, during the period from 1981 to 1991 the rate was higher at 1.82.

Northern Ireland had the highest TFR in 1981 (2.60) and 1991 (2.16) respectively but was replaced by the West Midlands in 2003 and 2004 with rates of 1.84 and 1.91 respectively. Scotland had the lowest TFR in 1991 (1.69), 2003 (1.54) and 2004 (1.60). London and the South West were the lowest in 1981 at 1.71 each. By 2004, Northern Ireland's TFR had declined by almost a quarter since 1981 (a reduction of 0.73). The rate in Scotland also showed a large decrease of 0.24. Small increases in the fertility rate were seen in the West Midlands (0.07), London (0.05), Yorkshire and the Humber (0.02), the East (0.01), and the South West (0.03). The South East and England were unchanged during the same period.

Note:

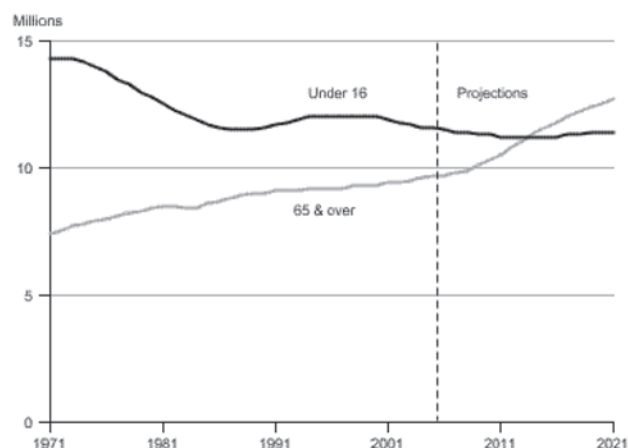
Total Fertility Rate is a measure of the average number of children a woman would bear if she continued to experience the current age-specific fertility rates throughout her childbearing years.

Published on 23 May 2006 at 0:01 am

Social Trends

POPULATION

Highlights



Under 16s and people aged 65 and over, UK.

- In 2004 there were 11.6 million people aged under 16 in the United Kingdom, a decline of 2.6 million since 1971, and 9.6 million people aged over 65, an increase of 2.2 million. (Table 1.2)
- The population of the United Kingdom has grown steadily between 1971 and 2001 to reach 59.8 million people in 2004, an increase of 3.9 million. (Table 1.1)
- In 2001, 38 million people (nearly seven in ten) in Great Britain described their ethnicity as White British and their religion as Christian. Other large faith groups were Pakistani Muslims (686,000), Indian Hindus (471,000), Black Caribbean Christians (417,000), Black African Christians (334,000) and Indian Sikhs (307,000). (Page 13)
- There were 716,000 live births in the United Kingdom in 2004 – an increase of 20,500 compared with 2003. (Figure 1.9)
- In 2004 nearly 222,600 more people migrated to the United Kingdom than left it. This was 71,600 greater than in 2003 and the highest net inflow since the present method of estimation began in 1991. (Page 17)

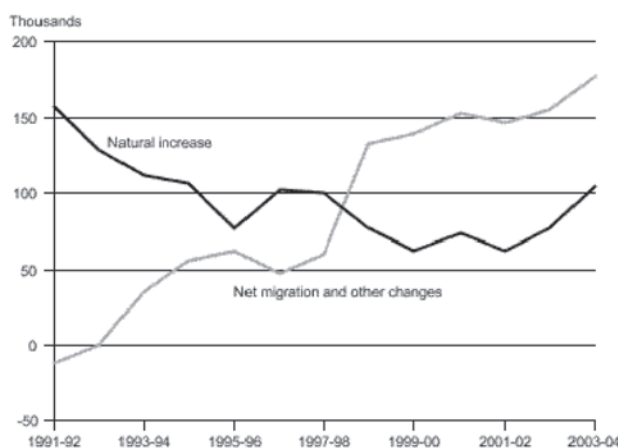
- The United Kingdom had a rate of 0.7 asylum seekers per 1,000 population in 2004, higher than the EU-25 average of 0.6 per 1,000 population. (Table 1.14).

Published on 21 February 2006 at 0:01 am

People & Migration

POPULATION

UK population grows to 59.8 million



Natural increase and net migration as components of population change, 1991-2004, UK.

In 2004 the UK was home to 59.8 million people. This represents a 19 per cent increase from its population of 50.3 million in 1951, and a 3.3 per cent increase over the last decade (1994 to 2004).

Until the mid-1990s, population growth in the UK was mainly due to natural increase – the number of births exceeding the number of deaths each year. Since the late 1990s, there has still been natural increase but net international migration into the UK from abroad has become an increasingly important driver of population growth. Between 2001 and 2004, almost two thirds of the increase in population in England and the UK was due to net in-migration.

The UK has experienced higher levels of both inward and outward migration in recent years than previously. Annual migration into the UK has increased between mid-1994 and mid-2004. Annual out-migration also increased over the same period but to a lesser extent. As a result, the contribution of net international in-migration to population growth has increased over the decade.

In 2004, 84 per cent of the UK population were living in England, 9 per cent in Scotland, 5 per cent in Wales and 3 per cent in Northern Ireland. Between mid-1994 and mid-2004, population growth was greatest in Northern Ireland (4.1 per cent). England's population grew by 3.9 per cent and the population of Wales grew by 2.3 per cent over the decade. In contrast, Scotland's population decreased by 0.5 per cent.

Northern Ireland's population grew faster than the rest of the UK because the number of births far outweighed the number of deaths each year. In contrast, both Wales and Scotland saw fewer births than deaths towards the end of the 1990s, a factor that contributes to population decrease.

The United Kingdom population is projected to continue to grow, increasing gradually to reach 67.0 million by 2031. Longer-term projections suggest the population will continue to rise until 2074, the end of the projection period.

	Thousands				
	1994	2004	2011	2021	2031
England	48,229	50,094	51,967	54,605	56,832
Wales	2,887	2,952	3,037	3,165	3,256
Scotland	5,102	5,078	5,120	5,127	5,065
Northern Ireland	1,644	1,710	1,767	1,830	1,860
United Kingdom	57,862	59,835	61,892	64,727	67,013

Population estimates and projections, 1994 to 2031, UK.

Projected trends differ for the four countries of the United Kingdom. The populations of England and Wales are projected to be still rising in 40 years' time, with Wales having a lower rate of growth than England. Scotland's population, which saw some decline in the 1990s, is projected to increase gradually, peaking around 2019, before resuming its decrease. The population of Northern Ireland is projected to peak around 2030 and then start to fall.

Sources: Population estimates: Mid-2004 Population Estimates, Office for National Statistics; General Register Office for Scotland; Northern Ireland Statistics and Research Agency

Components of population change and mid-1994 population estimates: Office for National Statistics; General Register Office for Scotland; Northern Ireland Statistics and Research Agency
Population projections: Government Actuary's Department

Notes:

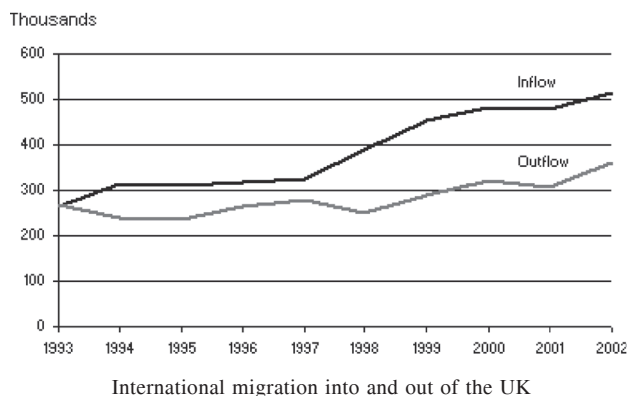
Natural increase refers to the excess of births over deaths in that year. Net migration and other changes refers mainly to international migration. Other small changes include changes in the numbers of armed forces.

Published on 15 December 2005 at 9:30 am

People & Migration - Archived in Dec 2005

INTERNATIONAL MIGRATION

Rose in last decade



The UK has experienced higher levels of both inward and outward international migration in recent years than previously. Migration into the country increased from 265,000 in 1993 to 513,000 in 2002. Out-migration also increased over the period, but to a lesser extent – from 266,000 in 1993 to 359,000 in 2002.

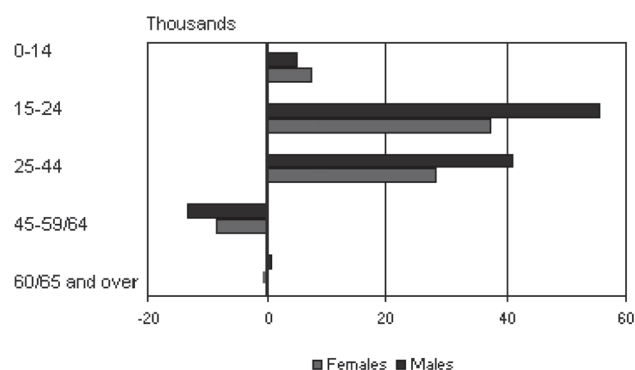
As a result, net international migration increased over the decade. In 1993, the UK experienced a small net outflow of migrants. Net inflows were recorded in each year from 1994 onwards. These increased in the late 1990s to 172,000 in 2001, but fell slightly to 153,000 in 2002.

Over the decade to 2002, 3.9 million people entered the country as migrants and 2.8 million left, giving a net inflow of over one million people. In contrast, during the years 1983 to 1992,

2.4 million people entered the country and 2.2 million left, a net in-migration of 240,000. In the previous decade (1973 to 1982) there was an overall net outflow of 430,000 people from the UK.

The recent increases in net international migration to the UK mean that migration became much more important in determining the country's population change in the late 1990s. In 2002, and each of the three preceding years, international migration contributed approximately 80 per cent of the UK's annual population increase.

In 2002, 125,000 people migrated from the UK to the European Union (EU), compared with 89,000 who migrated from the EU to the UK. This gives a net outflow of 36,000 to the EU. There was a net inflow of 69,000 from the Commonwealth, and a net inflow of 120,000 from countries other than the EU or the Commonwealth.



Net migration to the UK: by age and sex, 2002.

Around a half of the people migrating into and out of the UK in 2002 were aged between 25 and 44. Although the proportions of both in-migrants and out-migrants in this age group were very similar, there was a net inflow of 69 thousand in this age group because the total number of in-migrants was greater than the number of out-migrants.

A much higher proportion of out-migrants than in-migrants were aged between 45 and state pension age, resulting in a net outflow of 22,000 in this age group. Conversely, a higher proportion of in-migrants than out-migrants were aged 15 to 24, and there was a large net inflow of 93,000 people in this age group. In total, both in-migrants and out-migrants were slightly more likely to be male than female, with males making up around 55 per cent of both the inflows and outflows.

Sources: International migration, Office for National Statistics

Published on 24 June 2004

Population

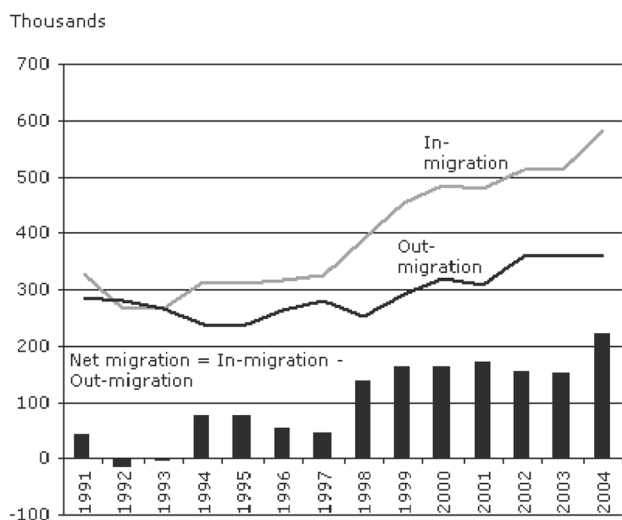
INTERNATIONAL MIGRATION 2004

Net in-migration rises

In 2004, an estimated 223,000 more people migrated to the UK than migrated abroad. This is 72,000 higher than 2003 and is the highest net in-migration since the present method of estimation began in 1991.

This rise in net in-migration was mainly due to the number of people arriving to live in the UK for at least a year increasing from 513,000 in 2003 to a record 582,000 in 2004. The number of people leaving the UK to live elsewhere in 2004 was similar to levels seen in the last two years.

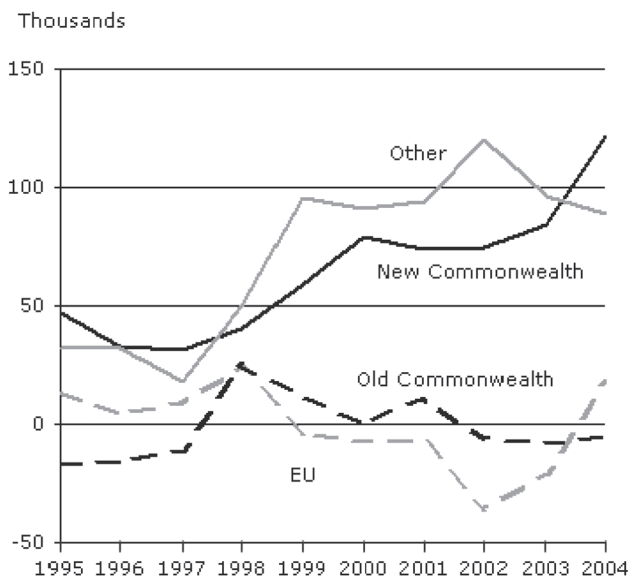
However, the number of British citizens migrating abroad continued to increase leading to a record net out-migration esti-



Total International Migration (TIM) to/from the UK 1991-2004.

mate of 120,000. There was also a record estimate of 342,000 for the net in-migration of non-British citizens.

Net in-migration of European Union (EU) citizens was 74,000 in 2004. Of this, 48,000 were citizens of the ten accession (A10) countries that joined the European Union in 2004.



Net migration by country of last or next residence (1995-2004)

Migrants are not necessarily citizens of their country of last/next residence. For example, a British citizen migrating to the EU becomes an EU resident but remains a British citizen.

In 2004 there was a net in-migration to the UK of 41,000 from residents of A10 countries. For the EU15 countries, the recent trend of net out-migration continued in 2004 (24,000). Combining these flows gives a net in-migration from the EU25 countries of 17,000.

Net in-migration of New Commonwealth residents increased by 45 per cent between 2003 and 2004. Within this group, net in-migration from Bangladesh, India and Sri Lanka rose from 38,000 in 2003 to 54,000 in 2004. For Pakistan the proportional increase was even higher rising from 9,000 in 2003 to over 25,000 in 2004.

Although in-migration has increased over the decade, migrants are intending to stay for shorter periods. In 1995, 42 per cent

intended to stay for more than four years compared with 34 per cent in 2004. Those intending to stay between one to two years increased from 36 per cent in 1995 to 50 per cent in 2004.

Notes:

All comparative statements about TIM are made solely with reference to the period 1991-2004. For details see annual reference volume MN 31.

International migrant: someone who changes his or her country of usual residence for a period of at least a year, so that the country of destination effectively becomes the country of usual residence.

Net in-migration: More people migrating into the UK than leaving.

Net out-migration: More people migrating out of the UK than are arriving.

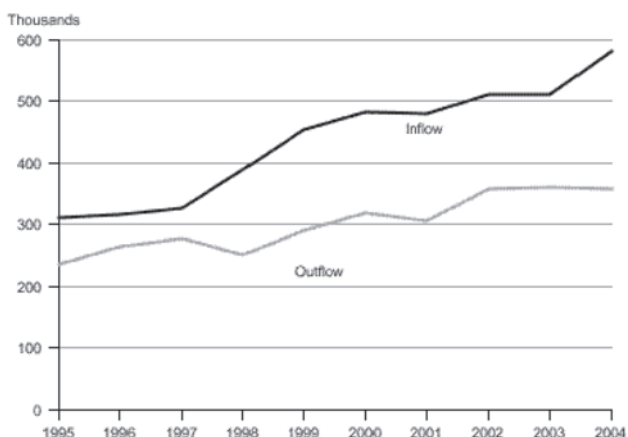
In 2004, A10 countries moved from 'Other' and New Commonwealth to EU grouping.

Net migration for citizens of A10 countries is set within the context of accession to the EU occurring in May 2004. Therefore, migration outflows will not feed through until future years. Fuller consideration of accession migration beyond 2004 is given as part of the National Population Projections.

Published on 20 April 2006 at 9:30 am

People & Migration

INTERNATIONAL MIGRATION
Net inflow rose in 2004



International migration into and out of the UK, 1995 to 2004.

In 2004 an estimated 223,000 more people migrated to the UK than migrated abroad. This estimated net inflow is much higher than for 2003 when 151,000 more people arrived to live in the UK than left to live abroad.

A key reason for this increase was the expansion of the EU in May 2004. Net inflows of non-British EU citizens to the UK increased from 14,000 in 2003 to 74,000 in 2004. Citizens of the ten EU accession countries made up an estimated four fifths of the increase between 2003 and 2004.

The UK has experienced increasing levels of both inward and outward international migration in recent years. Over the past decade migration into the country increased from 314,000 in 1994 to 582,000 in 2004, with most of the increase to inflows occurring after 1997. Out-migration increased more quickly than inflows but to a lesser extent, from 238,000 in 1994 to 360,000 in 2004. Between 1994 and 1997, net inflows of international migrants fell from 77,000 to 47,000, as outflows rose more quickly than inflows. During the years 1998 to 2003 net inflows fluctuated around a much higher level, with between 139,000 and 172,000 more people migrating to the UK than leaving. The net inflow of 223,000 in 2004 was the highest since the method of estimation began in 1991.

Migration is generally most common among younger adult age groups. In 2003 the 15 to 24 and the 25 to 44 age groups together accounted for the large majority of both in-migrants (84 per cent) and out-migrants (75 per cent). Both in-migrants and out-migrants were slightly more likely to be male than female. Study or work are the main reasons for migration. In 2003 more than one quarter of all in-migrants (135,000 people) came to study in the UK. More than one fifth (114,000 in-migrants) came for work-related reasons and had a specific job to go to. Over the decade, net inflows of non-British citizens increased substantially, from 127,000 in 1995 to 342,000 by 2004. At the same time, net outflows of British citizens have increased. Net losses of Britons from the UK grew rapidly over the decade, from 17,000 in 1994 to 120,000 in 2004. The largest numbers out-migrating are in the 25 to 44 age group, but since 1999 there has also been a net outflow of British citizens aged 45 to state pension age. In 2003, around two fifths of British citizens out-migrating were moving to other countries in the EU and over one quarter to Australia or New Zealand.

Source: International migration, Office for National Statistics

Notes:

Data on origin and destination countries by citizenship, and age by citizenship, are from the International Passenger Survey only and do not represent all categories of migrants.

Total International Migration data are produced using the latest methodology for estimating international migration and include adjustments for migrants who were not previously counted.

The ten countries that joined the EU in May 2004 were: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. International migration estimates up to and including 2003 do not include these countries in the EU. Citizens of these countries were first included as EU citizens in the international migration estimates for 2004.

Published on 15 December 2005 at 9:30 am

Ethnicity & Identity

POPULATION SIZE

7.9% from a non-White ethnic group

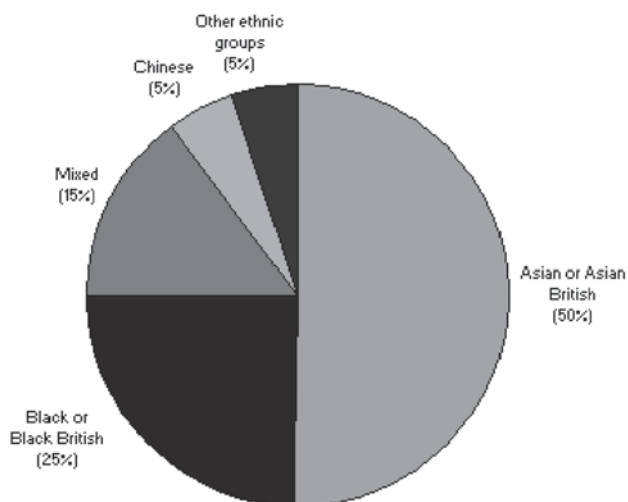
Population of the United Kingdom: by ethnic group, April 2001

United Kingdom

	Total population		Non-white population (Percentages)
	(Numbers)	(Percentages)	
White	54,153,898	92.1	-
Mixed	677,117	1.2	14.6
Indian	1,053,411	1.8	22.7
Pakistani	747,285	1.3	16.1
Bangladeshi	283,063	0.5	6.1
Other Asian	247,664	0.4	5.3
All Asian or Asian British	2,331,423	4.0	50.3
Black Caribbean	565,876	1.0	12.2
Black African	485,277	0.8	10.5
Black Other	97,585	0.2	2.1
All Black or Black British	1,148,738	2.0	24.8
Chinese	247,403	0.4	5.3
Other ethnic groups	230,615	0.4	5.0
All minority ethnic population	4,635,296	7.9	100.0
All population	58,789,194	100	-

The majority of the UK population in 2001 were White (92 per cent). The remaining 4.6 million (or 7.9 per cent) people belonged to other ethnic groups.

Indians were the largest of these groups, followed by Pakistanis, those of Mixed ethnic backgrounds, Black Caribbeans, Black Africans and Bangladeshis. The remaining minority ethnic groups each accounted for less than 0.5 per cent of the UK population and together accounted for a further 1.4 per cent.



The non-White population: by ethnic group, April 2001, UK

Around half of the non-White population were Asians of Indian, Pakistani, Bangladeshi or other Asian origin. A further quarter were Black, that is Black Caribbean, Black African or Other Black. Fifteen per cent of the non-White population were from the Mixed ethnic group. About a third of this group were from White and Black Caribbean backgrounds.

There were almost 691,000 White Irish people in Great Britain accounting for 1 per cent of the GB population.

In Great Britain the number of people who came from an ethnic group other than White grew by 53 per cent between 1991 and 2001, from 3.0 million in 1991 to 4.6 million in 2001. In 1991 ethnic group data were not collected on the Northern Ireland Census.

Correction Notice

On 11/08/2004, errors were found in the download data for Population Size under the 'Related Links'. The errors are small and do not affect the text of the article and have now been corrected. ONS apologises for any inconvenience caused.

Sources:

Census, April 1991 and 2001, Office for National Statistics;
Census, April 2001, General Register Office for Scotland;
Census, April 2001, Northern Ireland Statistics and Research Agency.

Notes:

Census ethnic group questions: In both 1991 and 2001 respondents were asked to which ethnic group they considered themselves to belong. The question asked in 2001 was more extensive than that asked in 1991, so that people could tick 'Mixed' for the first time. This change in answer categories may account for a small part of the observed increase in the minority ethnic population over the period. Different versions of the ethnic group question were asked in England and Wales, in Scotland and in Northern Ireland, to reflect local differences in the requirement for information. However, results are comparable across the UK as a whole.

In the table '.' means not applicable.

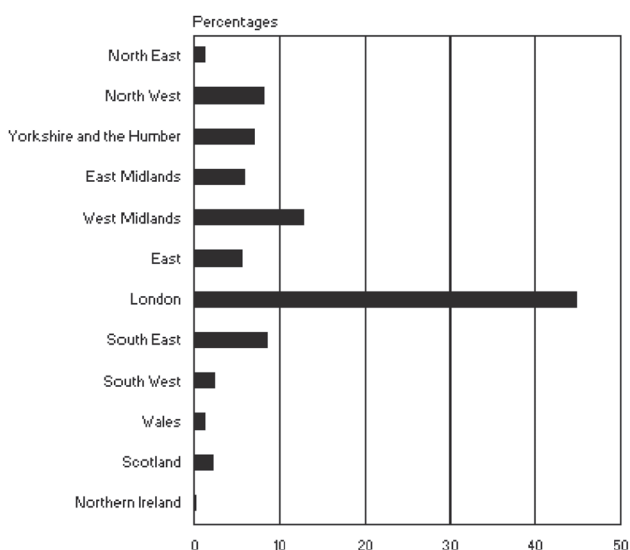
Non-White ethnic group includes all minority ethnic groups but not White Irish or Other White groups.

Published on 8 January 2004 at 0:01 am

Ethnicity & Identity

GEOGRAPHIC DISTRIBUTION

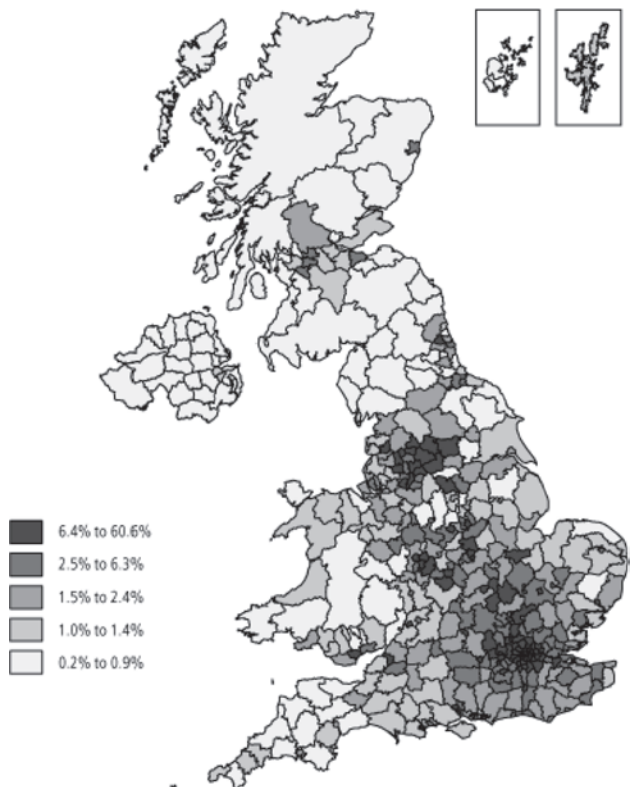
45% of non-White people live in London



Regional distribution of the non-White population, April 2001.

Non-White ethnic groups are considerably more likely to live in England than in the other countries of the UK. In 2001 they made up 9 per cent of the total population in England compared with only 2 per cent in both Scotland and Wales, and less than 1 per cent in Northern Ireland.

The non-White population of the UK is concentrated in the large urban centres. Nearly half (45 per cent) lived in the London region in 2001, where they comprised 29 per cent of all residents.



Non-White population: by area, April 2001

After London, the second largest proportion was in the West Midlands (with 13 per cent of the non-White population), followed by the South East (8 per cent), the North West (8 per cent), and Yorkshire and the Humber (7 per cent).

In contrast less than 4 per cent of those from non-White groups lived in the North East and the South West. Minority ethnic groups made up only 2 per cent of each of these regions' populations.

Seventy eight per cent of Black Africans and 61 per cent of Black Caribbeans lived in London. More than half of the Bangladeshi group (54 per cent) also lived in London. Other ethnic minority groups were more dispersed. Only 19 per cent of Pakistanis resided in London, while 21 per cent lived in the West Midlands, 20 per cent in Yorkshire and the Humber, and 16 per cent in the North West.

In Great Britain the highest concentration of White Irish people was in London. Almost a third (32 per cent) of the 691,000 White Irish people lived in London where they made up 3 per cent of the population. The English region with the lowest proportion of White Irish people was the North East, where they made up less than half a per cent of the population.

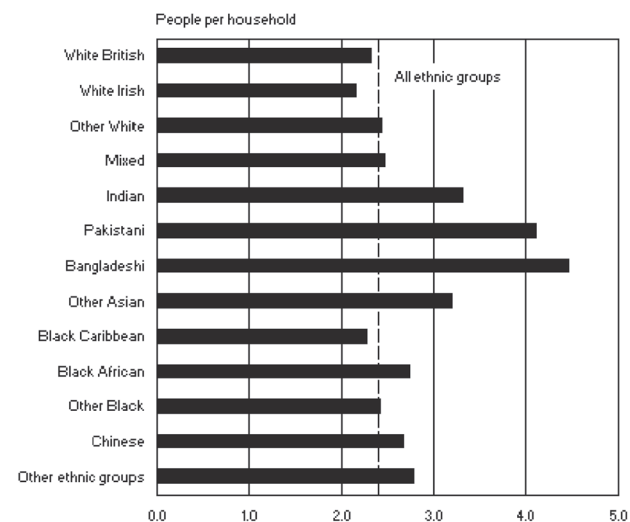
Sources:

- Census, April 2001, Office for National Statistics;
- Census, April 2001, General Register Office for Scotland;
- Census, April 2001, Northern Ireland Statistics and Research Agency. Published on 8 January 2004 at 0:01 am

Ethnicity & Identity

HOUSEHOLDS

Asians have largest households

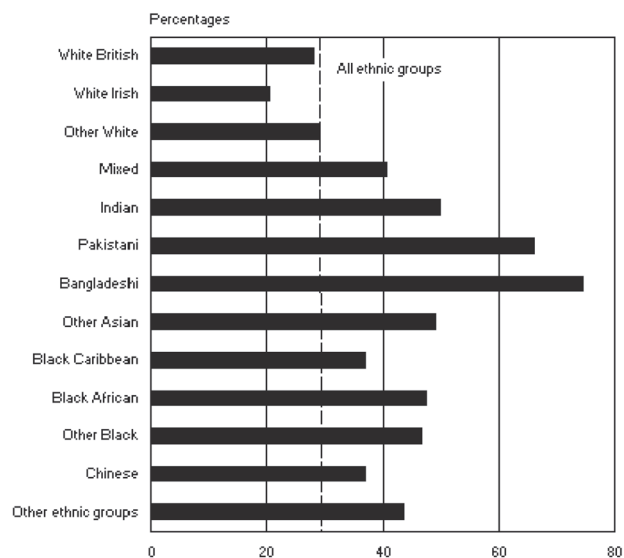


Average household size: by ethnic group of household reference person, April 2001, GB.

Household size

Asian households are larger than households of any other ethnic group. Households headed by a Bangladeshi person were the largest of all with an average size of 4.5 people in April 2001, followed by Pakistani households (4.1 people) and Indian households (3.3 people).

The smallest households were found among the White Irish (average size 2.1 people). Black Caribbean and White British households were the next smallest, both with an average size of 2.3 people. All these groups have an older age structure than



Households with dependent children as a proportion of all households, by ethnic group of household reference person, April 2001, GB

other ethnic groups, and contain a higher proportion of one-person households. Thirty-eight per cent of Black Caribbean households, 37 per cent of White Irish households and 31 per cent of White British households contained only one person. Only 9 per cent of Bangladeshi households contained just one person.

Types of household

Three quarters (74 per cent) of Bangladeshi households contained at least one dependent child. This was the highest proportion for any ethnic group and was nearly three times that of White British households (28 per cent). Households headed by a Pakistani or Indian person were also more likely than non-Asian households to contain at least one dependent child - 66 per cent of Pakistani and 50 per cent of Indian households did so.

Asians are least likely to live in lone parent households. Among households with dependent children, only 10 per cent of Indian households and 13 per cent of both Pakistani and Bangladeshi households contained a lone parent. In contrast, around half of Black Caribbean (48 per cent) and Other Black (52 per cent) households with dependent children were headed by a lone parent. The percentage for the White British group was 22 per cent.

The highest proportions of married couples under pension age, with or without children, were found in Asian households. Over half of Bangladeshi (54 per cent), Indian (53 per cent) and Pakistani (51 per cent) households contained a married couple, compared with 37 per cent of those headed by a White British person. Just one fifth (19 per cent) of Black Caribbean households contained a married couple, which was the lowest proportion of any ethnic group. Asian households were also the least likely to contain a cohabiting couple.

The proportion of pensioner households ranged from 2 per cent of Bangladeshi households to 27 per cent of White Irish households. Among the non-White ethnic groups, Black Caribbeans were most likely to live in households which only contained pensioners (13 per cent).

Households containing more than one family with dependent children are most likely to be headed by people from Asian ethnic groups. These types of households made up 2 per cent of all households in Great Britain whereas among the Bangladeshi community they made up 17 per cent of households.

Source:

Census, April 2001, Office for National Statistics;
Census, April 2001, General Register Office for Scotland.

Notes:

Household Reference Person was introduced in 2001 and replaces Head of Household. The Household Reference Person is used to assign the ethnic group of the household. It does not follow that everyone in the household will be of the same ethnic group as the Household Reference Person.

A dependent child is a person aged 0 to 15 in a household or aged 16 to 18 in full-time education and living with his or her parents.

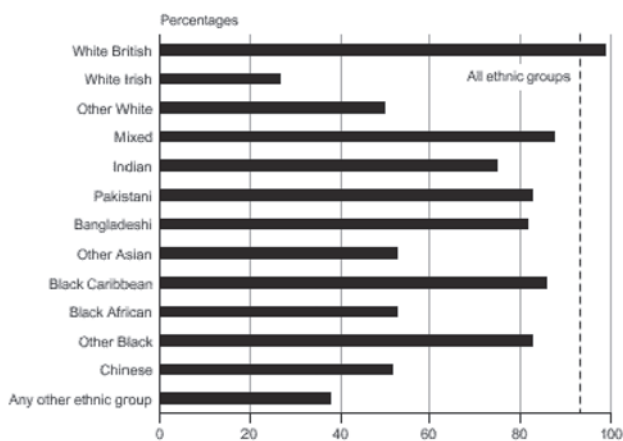
Married couple and lone parent households contain at least one person below pensionable age.

Published on 8 January 2004 at 0:01 am

Ethnicity & Identity

IDENTITY

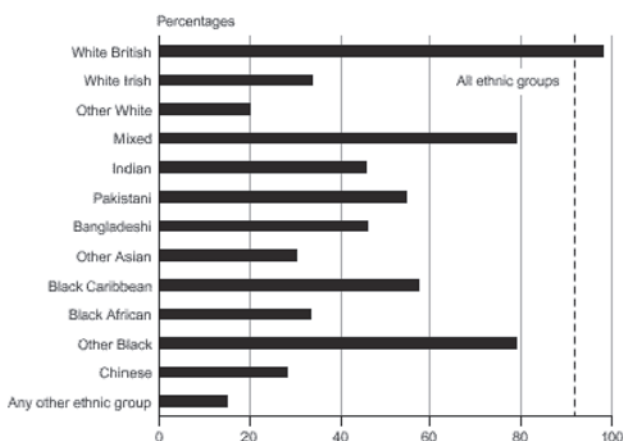
9 in 10 of Mixed group identify as British



Proportion who consider their identity to be British, English, Scottish or Welsh: by ethnic group, 2004, GB.

National identity

In most non-White ethnic groups in Britain in 2004, the majority of people described their national identity as British, English, Scottish or Welsh. This included almost nine in ten people from a Mixed (88 per cent) or Black Caribbean (86 per cent) group, around eight in ten people from a Pakistani (83 per cent), Bangladeshi (82 per cent) or Other Black (83 per cent) group, and three quarters (75 per cent) of the Indian group.



People living in Great Britain who were born in the United Kingdom: by ethnic group, April 2001

People from the White British group were more likely to describe their national identity as English (58 per cent) rather than British (36 per cent). However, the opposite was true of the non-White groups, who were more likely to identify themselves as British. For example, over three quarters (78 per cent) of Bangladeshis said they were British, while only 5 per cent said they were English, Scottish or Welsh. The non-White group with the largest proportion identifying as English was the Mixed group - 37 per cent identified as English and 52 per cent identified as British.

Country of Birth

Among people living in Great Britain in 2001, the proportion born in the UK (England, Wales, Scotland or Northern Ireland) varied markedly by ethnic group.

Other than the White British group, those most likely to be born in the UK were people from the Mixed ethnic group and from the Other Black group, 79 per cent in each. This reflects their younger age structure. A substantial proportion of the Other Black group were young people, who were born in Britain, and who chose to describe their ethnicity as Other Black and wrote in 'Black British' as their answer. Black Caribbeans were the next most likely group to be born in the UK.

Among the non-White ethnic groups the proportions born in the UK generally declined with age. For example, 83 per cent of Black Caribbeans aged 25 to 34 were born in the UK, but this fell sharply with age so that only 5 per cent of those aged 45 to 64 were born in the UK. For some other non-White ethnic groups (Black Africans, Chinese and Bangladeshis) this sharp decline occurred in younger age groups, reflecting their later immigration.

Sources: Annual Population Survey, January 2004 to December 2004, Office for National Statistics;

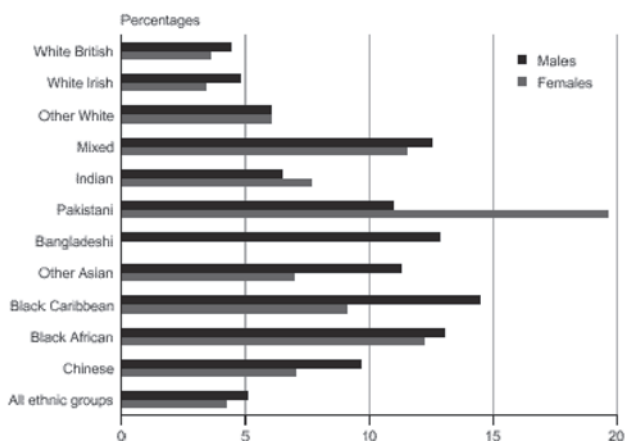
Census, April 2001, Office for National Statistics and General Register Office for Scotland.

Published on 21 February 2006 at 0:01 am

Ethnicity & Identity

LABOUR MARKET

Non-White unemployment highest



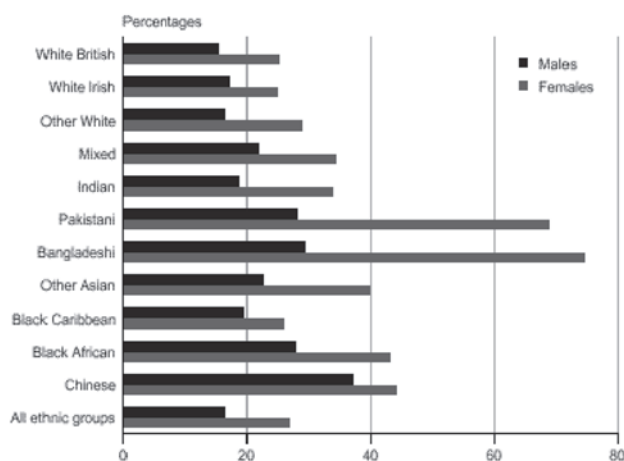
Unemployment: by ethnic group and sex, 2004, GB.

Unemployment rates for people from non-White ethnic groups were generally higher than those from White ethnic groups. However, Indian men had a similar level of unemployment to Other White men, at 7 per cent and 6 per cent respectively. In 2004 Pakistani women had the highest unemployment rates

in Great Britain, at 20 per cent. The next highest female rates were among women from the Black African or Mixed ethnic groups (each 12 per cent). These rates were around three times the rates for White British and White Irish women (4 per cent each). The unemployment rates for Black Caribbean (9 per cent), Indian (8 per cent) and Chinese (7 per cent) women were around twice the rates for White British and White Irish women.

Among men, those from Black Caribbean, Black African, Bangladeshi and Mixed ethnic groups had the highest unemployment rates (between 13 and 14 per cent). These rates were around three times the rates for White British and White Irish men (5 per cent in each case). The unemployment rates for Pakistani and Chinese men, 11 and 10 per cent, were around twice the rates for White British men or White Irish men.

The unemployment rate for Indian men (7 per cent) was similar to those for White British or White Irish men.



Economic inactivity rates for people of working age: by ethnic group and sex, 2004, GB

Economic inactivity

Working-age men and women from non-White ethnic groups were generally more likely than those from White groups to be economically inactive, that is, not available for work and/or not actively seeking work. Reasons include being a student, being disabled or looking after the family and home. Within each ethnic group, women were more likely than men to be economically inactive.

In 2004 Bangladeshi and Pakistani women had the highest working-age economic inactivity rates in Great Britain (75 per cent and 69 per cent respectively). These rates were up to three times the rates for White British, White Irish and Black Caribbean women (between 25 per cent and 26 per cent). The majority were looking after their family or home. Chinese men had the highest male economic inactivity rate, at 37 per cent, more than twice the rate for White British men (16 per cent). The vast majority of economically inactive Chinese men were students.

Sources: Annual Population Survey, January 2004 to December 2004, Office for National Statistics

Notes:

The unemployment rate is based on the ILO definition as a percentage of all economically active.

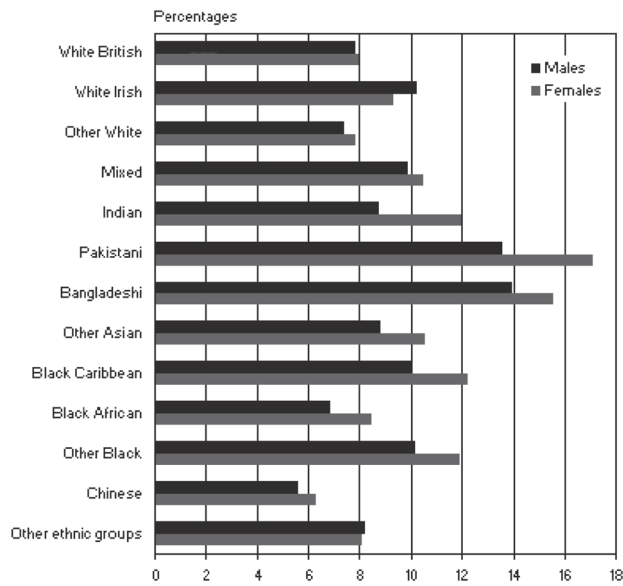
Economic inactivity rates are expressed as a proportion of the working age population.

Published on 21 February 2006 at 0:01 am

Ethnicity & Identity

HEALTH

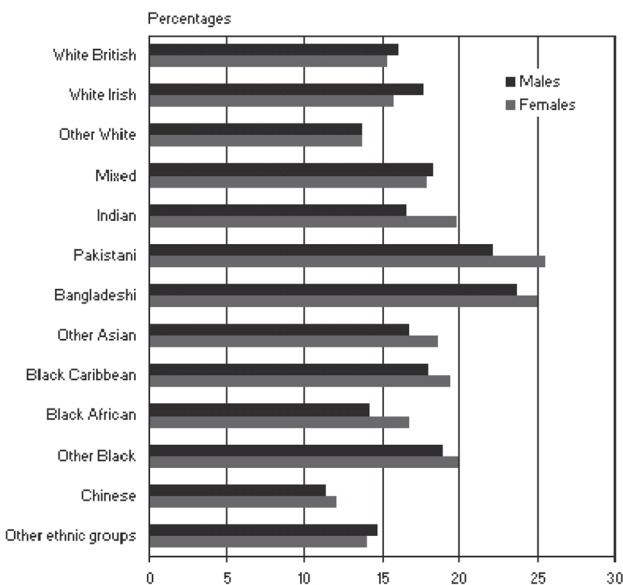
Asians have worst self-reported health



Age standardised 'not good' health rates: by ethnic group and sex, April 2001, England & Wales

Pakistani and Bangladeshi men and women in England and Wales reported the highest rates of 'not good' health in 2001. Pakistanis had age-standardised rates of 'not good' health of 13 per cent (men) and 17 per cent (women). The age-standardised rates for Bangladeshis were 14 per cent (men) and 15 per cent (women). These rates, which take account of the difference in age structures between the ethnic groups, were around twice that of their White British counterparts. Chinese men and women were the least likely to report their health as 'not good'. Women were more likely than men to rate their health as 'not good' across all groups, apart from the White Irish and those from Other ethnic groups.

Reporting poor health has been shown to be strongly associ-



Age standardised rates of long-term illness or disability which restricts daily activities: by ethnic group and sex, April 2001, England & Wales

ated with use of health services and mortality. White Irish and Pakistani women in England had higher GP contact rates than women in the general population. Bangladeshi men were three times as likely to visit their GP than men in the general population after standardising for age.

There were marked variations in rates of long-term illness or disability which restricted daily activities between different ethnic groups in England and Wales. After taking account of the different age structures of the groups, Pakistani and Bangladeshi men and women had the highest rates of disability. Rates were around 1.5 times higher than their White British counterparts. Chinese men and women had the lowest rates.

In some groups the difference between men and women in their rates of disability was much greater than in others. In the Indian, Pakistani, Black Caribbean and Black African groups, women had higher rates than men. In the White British and White Irish groups it was men who had higher rates than women.

Sources: Census, April 2001, Office for National Statistics; Health Survey for England, The Health of Minority Ethnic Groups, 1999. TSO (London 2001).

Notes:

The question in the 2001 Census was "Over the last twelve months would you say your health has on the whole been Good, Fairly Good, Not Good".

Age-standardised rates allow comparisons between populations with different age structures. The method used here is direct standardisation using the European Standard Population.

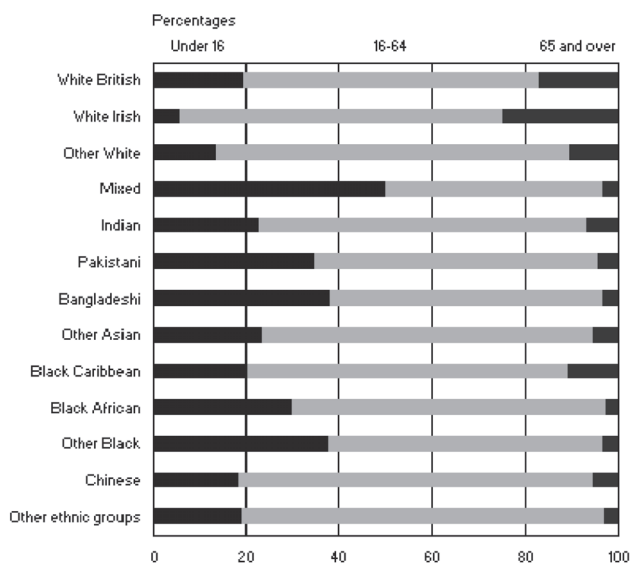
The term disability is used to refer to limiting long term illness or disability which restricts daily activities. It is calculated from a 'Yes' response to the question in the 2001 Census: "Do you have any long-term illness, health problem or disability which limits your activities or the work you can do?"

Published on 8 January 2004 at 0:01 am

Ethnicity & Identity

AGE/SEX DISTRIBUTION

Non-White groups are younger



Age distribution: by ethnic group, April 2001, GB

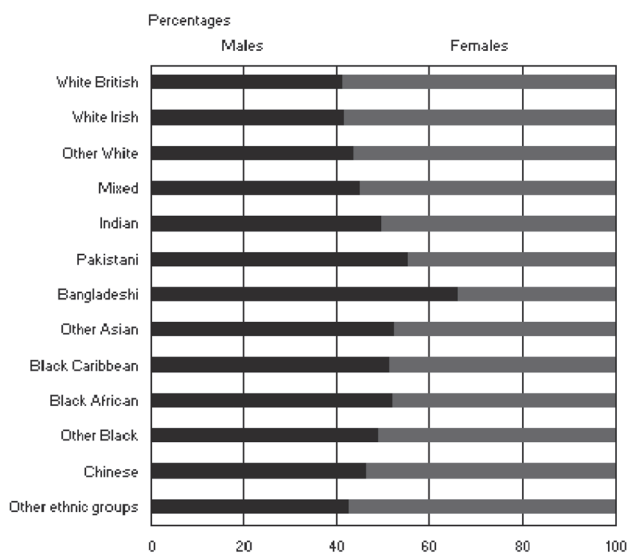
White groups have an older age structure than other ethnic groups, reflecting past immigration and fertility patterns.

The White Irish group had the oldest age structure of all in 2001,

with one in four people in Britain aged 65 and over. Among the non-White group, Black Caribbeans had the largest proportion of people aged 65 and over (11 per cent) reflecting the first large-scale migration of non-White groups to Britain back in the 1950s.

The Mixed group had the youngest age structure - half (50 per cent) were under the age of 16. The Bangladeshi, Other Black and Pakistani groups also had young age structures: 38 per cent of both the Bangladeshi and Other Black groups were aged under 16, and 35 per cent of Pakistanis also fell into this age group. This was almost double the proportion of the White British group where one in five (20 per cent) were under the age of 16.

Progressive ageing of the non-White ethnic groups is anticipated in the future, but this will depend on fertility levels, mortality rates and future net migration.



Sex distribution of people aged 65 and over: by ethnic group, April 2001, GB.

Differences in mortality rates mean that women aged 65 and over normally outnumber men. This can clearly be seen in the White (with 58 per cent women), Mixed (55 per cent) and Chinese ethnic groups (54 per cent). However for some ethnic groups this has been affected by differing immigration patterns. This is particularly evident in the Bangladeshi group where only one third (34 per cent) of those aged 65 and over were women. Similarly, for the Pakistani group, women made up 45 per cent of the 65 and over age group.

Sources: Census, April 2001, Office for National Statistics; Census, April 2001, General Register Office for Scotland. Published on 8 January 2004 at 0:01 am

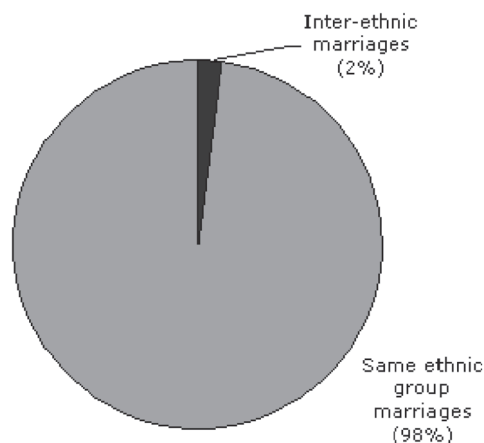
Ethnicity & Identity

INTER-ETHNIC MARRIAGE
2% of marriages are inter-ethnic

Inter-ethnic marriages form a very small proportion of all marriages in England and Wales as a whole - 2 per cent.

There were 10.3 million married couples in England and Wales on census day in 2001. The vast majority of these marriages, 98 per cent, were between people from the same ethnic background, where ethnic background is defined as White, Mixed, Asian, Black, Chinese, or Other ethnic group.

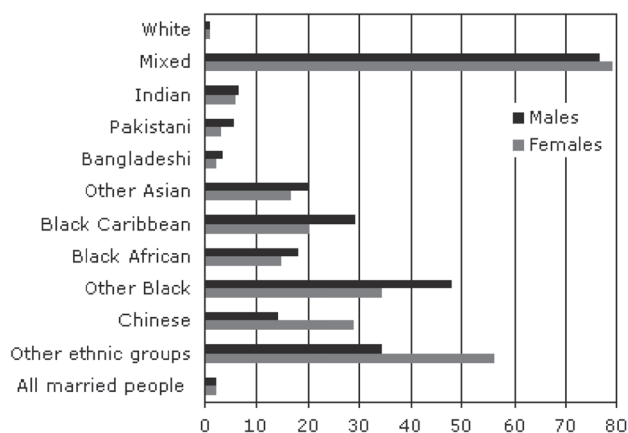
Two per cent of marriages were between people from differ-



Married couples: by whether or not they are in an inter-ethnic marriage, April 2001, England & Wales.

ent ethnic backgrounds (219,000). Of these inter-ethnic marriages, most (198,000) included a White person. In the remaining 21,000 inter-ethnic marriages both partners were from different minority ethnic backgrounds.

The most common inter-ethnic marriages were between White and Mixed race people, 26 per cent of all inter-ethnic marriages. Marriages between a White person and someone who described their ethnic group as 'Other' were the next most common (15 per cent), followed by White and Black Caribbean marriages (12 per cent), and White and Indian marriages (11 per cent).



Percentage of married people in inter-ethnic marriages, by ethnic group and sex, April 2001, England & Wales

People from the Mixed ethnic group were the most likely to be married to someone outside their ethnic group (78 per cent). The Mixed ethnic group is relatively small and there are limited opportunities to marry someone from the same ethnic group. However, mixed race people are often married to someone from a related ethnic group. For example, among men who described their own ethnic group as 'Mixed - White and Black Caribbean', 76 per cent were married to White women, 8 per cent to Black Caribbean women and 11 per cent to 'Mixed - White and Black Caribbean' women.

Among people who described their ethnic group as 'Other', 56 per cent of women and 34 per cent of men had married outside their ethnic group and most had married a White person. This Other group includes people from the Phillipine Islands, Malaysia, Japan, Vietnam and various middle-eastern countries. People who described their ethnic group as 'Other Black', large-

ly young Black people born in Britain, were the next most likely to be married to someone outside their ethnic group, followed by Black Caribbean people. Almost five in ten Other Black men (48 per cent) and three in ten Black Caribbean men (29 per cent) were married to women outside the Black ethnic group, in most cases White women.

People from South Asian backgrounds were the least likely of the minority ethnic groups to be married to someone from a different ethnic group. Only 6 per cent of Indians, 4 per cent of Pakistanis, and 3 per cent of Bangladeshis had married someone outside the Asian group. As well as cultural and racial differences, people from South Asian backgrounds generally have different religions to people from other ethnic groups which may explain their relatively low inter-marriage rate. People who described their ethnicity as 'Other Asian' were more likely to have married a non-Asian person (18 per cent).

Although most inter-ethnic marriages include a White person, White people are the least likely to be married to someone outside their ethnic group – only 1 per cent of White men or women had done so. White people form the majority population in England and Wales (91 per cent) and consequently there are limited opportunities to marry people from a minority ethnic group. This is particularly true for people living outside London, where the minority ethnic population is often very small.

Patterns of inter-ethnic marriage were similar for men and women. Exceptions were that Black women were less likely than Black men to have married outside their ethnic group, and Chinese women were more likely than Chinese men to have done so.

Source:

Census, April 2001, Office for National Statistics

Notes:

Inter-ethnic marriages are defined as marriages between people from different aggregate ethnic groups, where the ethnic group categories are: White, Mixed, Asian, Black, Chinese, Other ethnic group. For example, a White British person married to someone from a non-White ethnic group or a Pakistani person married to someone from a non-Asian ethnic group.

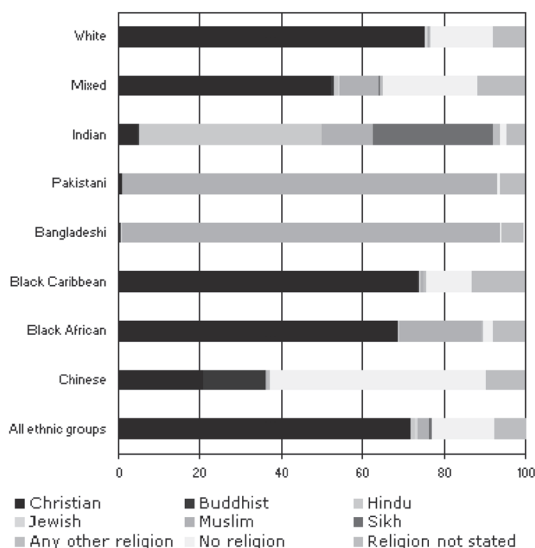
Only married couples are covered by this analysis. Co-habiting couples are excluded.

Published on 21 March 2005 at 9:30 am

Ethnicity & Identity

RELIGION

7 in 10 identify as White Christian



Religious composition of ethnic groups, April 2001, GB.

The 2001 Census collected information about ethnicity and religious identity. Combining these results shows that while the British population is more culturally diverse than ever before, White Christians remain the largest single group by far. In Great Britain, 40 million people (nearly seven in ten) described their ethnicity as White and their religion as Christian.

Majorities of Black people and those from Mixed ethnic backgrounds also identified as Christian (71 and 52 per cent respectively). In total there were 815,000 Black Christians and 353,000 Christians from Mixed ethnic backgrounds.

Among other faiths the largest groups were Pakistani Muslims (686,000) and Indian Hindus (471,000) followed by Indian Sikhs (307,000), Bangladeshi Muslims (261,000) and White Jews (259,000).

The Indian group was religiously diverse: 45 per cent of Indians were Hindu, 29 per cent Sikh and a further 13 per cent Muslim. In contrast the Pakistani and Bangladeshi groups were more homogeneous, Muslims accounting for 92 per cent of each ethnic group.

Some faith communities were concentrated in particular ethnic groups. For example, 91 per cent of Sikhs were Indian and 97 per cent of Jews described their ethnicity as White. Other faiths were more widely dispersed. Considerable proportions of Buddhists were found in the White, Chinese, Other Asian and Other ethnic groups.

Overall, 15 per cent of the British population reported having no religion although variation by ethnicity was marked. Just over half of all Chinese people (53 per cent), and just under one quarter of people from Mixed ethnic backgrounds (23 per cent), stated they had no religion. Asian, Black African and White Irish people were least likely to have no religious affiliation. Around 1 in 200 Pakistanis and Bangladeshis reported having no religion.

Fourteen per cent of people in the Other Black group chose not to answer the religion question, almost twice the average for Great Britain as a whole. Similar proportions of people in the Black Caribbean and Mixed ethnic groups also gave no answer.

Source:

Census, April 2001, Office for National Statistics

Census, April 2001, General Register Office for Scotland

Notes:

The Census question about religion was voluntary.

This page presents information with coverage for Great Britain. When it was originally published, in January 2004, it covered England and Wales only.

Published on 21 March 2005 at 0:01 am

Ethnicity & Identity

EMPLOYMENT PATTERNS

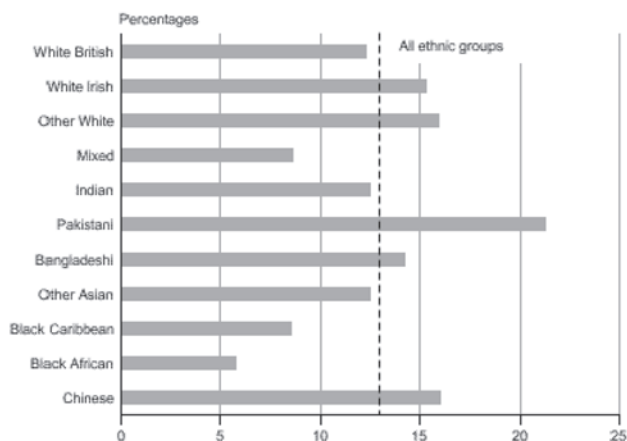
Pakistanis most likely to be self-employed

Self-employment

In 2004 people in employment from Pakistani, Chinese and White Irish groups were more likely to be self-employed than those in other ethnic groups in Great Britain. One in five Pakistanis in employment were self-employed (21 per cent), as were just under one in six Chinese (16 per cent) and White Irish (15 per cent) people. This compared with around one in ten (12 per cent) White British people and fewer than one in ten people from a Mixed or Black ethnic group.

Industry

Certain ethnic groups are concentrated in particular industries. In 2004, three fifths of Bangladeshi men and just under half



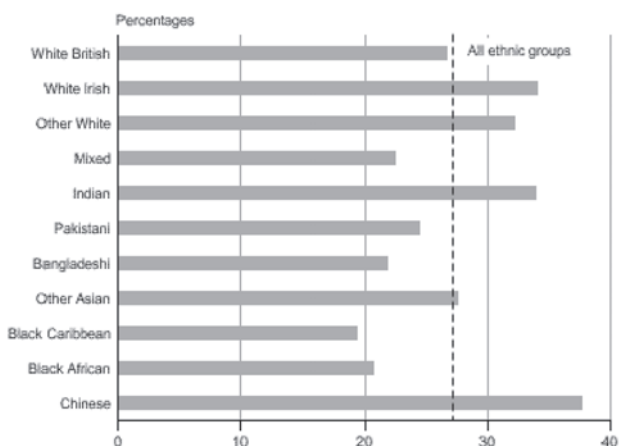
Self-employment as a percentage of all in employment: by ethnic group, 2004, GB

of Chinese men in employment worked in the distribution, hotel and restaurant industry, compared with one sixth of their White British counterparts.

Pakistani men were the group most likely to work in the transport and communication industry - 23 per cent of them worked in this sector compared with 10 per cent of employed men overall. White Irish men were more likely than other men to work in the construction industry - 20 per cent compared with 13 per cent overall.

Bangladeshi and Chinese women are also concentrated in the distribution, hotel and restaurant industry. Two in five Chinese women and one in three Bangladeshi women worked in this industry in 2004, compared with one in five of all women in employment. Half of Black Caribbean and Black African women (54 per cent and 52 per cent respectively) worked in the public administration, education or health sector.

Occupation



People in employment in managerial or professional occupations: by ethnic group, 2004, GB

Those most likely to be employed in managerial or professional occupations were from the Chinese, Indian, White Irish, and other non-British White groups (between 32 and 38 per cent). White British people had lower rates of people working in managerial or professional occupations (27 per cent) than those groups. The groups with the lowest proportions of managers or professionals were the Black Caribbeans, Black Africans and Bangladeshis (between 19 per cent and 22 per cent).

Looking at particular jobs, one in seven Pakistani men in em-

ployment was a taxi driver, cab driver or chauffeur, compared with 1 in 100 White British men. Over a quarter of Bangladeshi men were chefs, cooks or waiters compared with 1 in 100 White British men. The proportion of Indian men working as medical practitioners, at 4 per cent, was around 10 times higher than the rate for White British men.

Among women in employment, around one in ten women from the Black African group and one in seven women from the Other Asian group were working as nurses in 2004, compared with around 1 in 30 White British women. Indian, Pakistani and Black African women were around four times more likely than White British women to be working as packers, bottlers, canners and fillers. Pakistani and Indian women were respectively around six times and four times more likely than White British women to be working as sewing machinists.

Source: Annual Population Survey, January 2004 to December 2004, Office for National Statistics.

Notes:

The White Irish group has been derived using the Annual Population Survey national identity variables.

Self-employment, occupation and industry rates are as a proportion of all in employment.

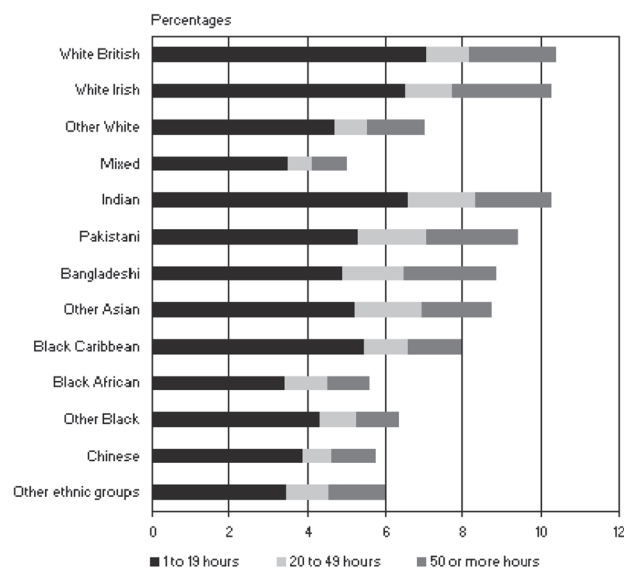
The Other Black group is omitted from the charts as the sample size is too small for reliable estimates.

Published on 21 February 2006 at 0:01 am

Ethnicity & Identity

CARE

1 in 10 White and Indian people provide unpaid care



Carers: by ethnic group and time spent caring per week, April 2001, GB

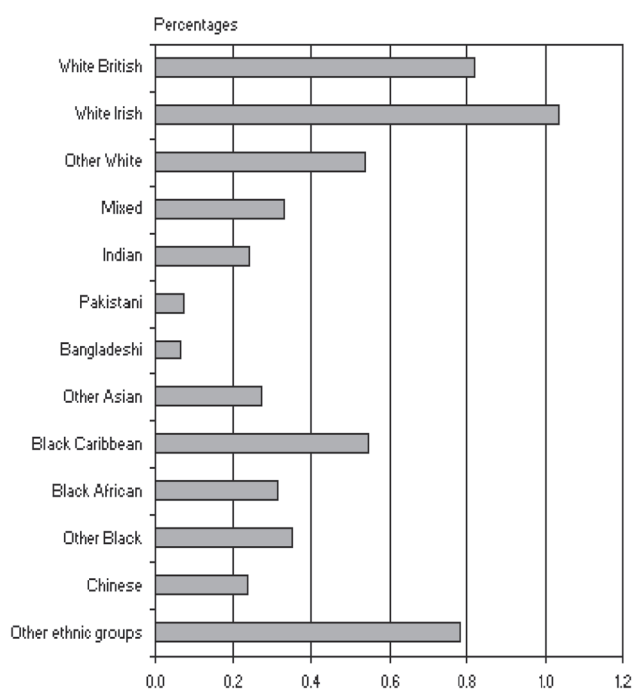
Informal care

People from White British and White Irish backgrounds together with Indian people are most likely to be providing informal care, that is unpaid care to relatives, friends or neighbours. Ten per cent of each of these groups in Great Britain provided informal care in April 2001. Those least likely to be providing informal care were people from Mixed backgrounds (5.1 per cent), Black Africans (5.6 per cent) and the Chinese (5.8 per cent). This pattern to some extent reflects the different age structures of the different ethnic groups, as informal care is most likely to be provided by people aged 50 to 60. The White groups have

older age structures and are therefore more likely to both provide and need care.

The amount of time that people spend caring differs by ethnic group. Groups most likely to provide very substantial amounts of care (50 hours per week or more) tend to be the same groups who provide care in the first place. The White Irish (2.5 per cent), Bangladeshi (2.4 per cent), Pakistani (2.4 per cent) and White British (2.2 per cent) groups had the highest rates of spending 50 hours a week or more caring. Indian, Pakistani, Bangladeshi and Other Asian groups had the highest rates of spending 20 to 49 hours a week caring (1.5 per cent or slightly more for each group).

In April 2001, 109,000 children under the age of 16 in Great Britain were providing some informal care. Indian, Bangladeshi and Pakistani children were the most likely to be carers, around 1.5 per cent of each group. Black African children were least likely to provide care, at 0.7 per cent. Among White British children, 0.9 per cent were providing some unpaid care.



Population in hospitals and other care establishments: by ethnic group, April 2001, GB.

Residential care

In April 2001, 0.8 per cent of the population of Great Britain were resident in hospitals or other care establishments. This percentage varied greatly by ethnic group from 0.1 per cent among Bangladeshis and Pakistanis to 1.0 per cent among the White Irish group.

Sources:

Census, April 2001, Office for National Statistics;
Census, April 2001, General Register Office for Scotland.

Notes:

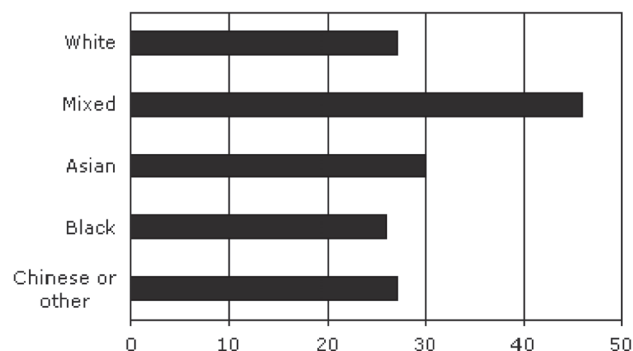
Hospitals and other care establishments are as classified as 'Medical and Care establishments' in the 2001 Census: NHS Psychiatric hospitals/homes, other NHS hospitals/homes, Local Authority children's homes, LA nursing homes, LA residential care homes, other LA homes, Housing association homes or hostels, other nursing homes, other residential care homes, other children's homes, other psychiatric hospitals/homes, other hospitals and other medical and care homes.

Published on 8 January 2004 at 0:01 am

Ethnicity & Identity

VICTIMS OF CRIME

Highest risk for Mixed race people



Proportion of adults who have experienced a crime in the last 12 months: by ethnic group, 2002/03, England & Wales

In 2002/03, adults from a Mixed race or Asian background were more likely than those from other ethnic groups to be victims of crime in England and Wales. Almost half (46 per cent) of adults of Mixed race had been the victim of a crime in the previous 12 months. This compared with 30 per cent of Asians. Black adults and those from the 'Chinese or other' group experienced similar levels of crime to White people.

Young adults are more likely than older people to be victims of crime and minority ethnic groups have a younger age structure than the White ethnic group. After allowing for their younger age structure, Asian adults were no more likely than those from other groups to be victims of crime. In contrast, Mixed race people still had higher risks of crime after allowing for age and the type of area in which they lived.

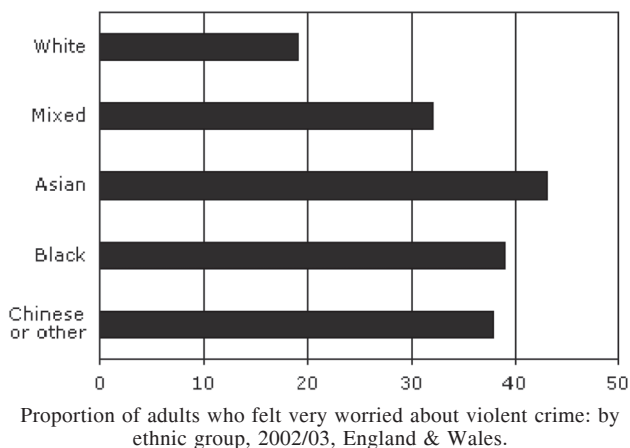
When overall crime is split between personal crime and household crime, adults from Mixed race backgrounds still had the highest risk of both types of crime. Seventeen per cent of Mixed race people had been the victim of a personal crime (common assault, robbery, theft from the person and other personal theft) compared with between 7 and 9 per cent of people from other ethnic groups. A third (34 per cent) of Mixed race people had experienced household crime (which includes vehicle theft, vandalism and burglary) compared with between 18 to 23 per cent of people from other ethnic groups.

In 2002/03 one in ten Mixed race households (10 per cent) had experienced a burglary in the previous 12 months compared with less than 1 in 20 of other households (between 3 and 4 per cent).

People from Mixed race backgrounds were also at greater risk than other ethnic groups of violence. Eleven per cent reported being the victim of a violent crime in the previous 12 months, compared with no more than 5 per cent in any other ethnic group.

In 2002/03, the risk of being the victim of a racially motivated incident was higher for members of minority ethnic groups than for White people. Four per cent of Mixed race people, 3 per cent of Asians, 2 per cent of Black people, and 2 per cent of those from a 'Chinese or other' background had experienced a crime they thought was racially motivated in the previous 12 months. This compared with less than 1 per cent of White people.

People from minority ethnic groups were much more likely than White people to report that they were 'very worried' about crime. For instance, 43 per cent of Asian people were very worried about violent crime compared with 19 per cent of White people. Levels of worry about crime are higher in inner-city



areas and for those who have experienced crime. Even after allowing for these factors, people from minority ethnic groups were still more likely than White people to be worried about crime.

Source: British Crime Survey, 2002/2003, Home Office

Notes:

All BCS crime includes: all personal crime and all household crime. All personal crime includes: assault; robbery; theft from the person; and other personal theft.

All household crime includes: bicycle theft; burglary; theft in a dwelling; other household theft, thefts of/from vehicles, and vandalism to household property/vehicles.

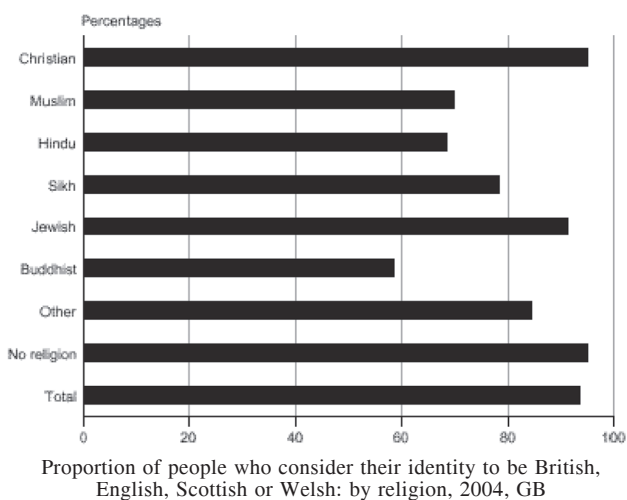
Racially motivated crime: British Crime Survey respondents are asked, in respect of all crimes of which they were victims, whether they thought the incident was racially motivated. Victims are defined as anyone who judged that racial motivation was present in any household or personal crime which they had experienced in the relevant year, including threats.

Violent crime: levels of worry about violent crime were calculated using four types of violence: mugging/robbery, rape, physical attack by a stranger and racially motivated assault.

Published on 21 March 2005 at 0:01 am

Religion

COUNTRY OF BIRTH & NATIONAL IDENTITY
Majority identify as British



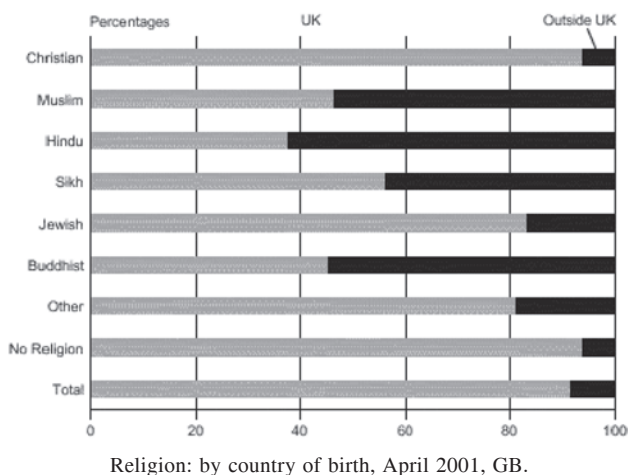
Identity

In every religious group the majority of people in Great Britain described their national identity as either British, English,

Scottish or Welsh. Around 95 per cent of Christians and those with no religion described themselves in this way. Seventy eight per cent of Sikhs, 70 per cent of Muslims and 69 per cent of Hindus gave one of these British identities.

National identity is strongly related to country of birth. People from all religious groups who were born in the UK were more likely than their foreign-born counterparts to give a British identity. Almost all (99 per cent) UK-born Jews, Christians and people with no religion had a British national identity. Nine out of ten UK-born Buddhists (93 per cent), Sikhs (93 per cent), Muslims (91 per cent) and Hindus (89 per cent) gave a British national identity.

More than half of Jewish, Muslim, Sikh and Hindu adults living in England and Wales in 2001 said that their religion was important to their self-identity. Among Christians, only a fifth mentioned religion as important, although this was much higher among Black Christians. After religion and ethnicity, being aged over 50 and being born outside the UK were also associated with rating religion as important to self-identity.



Country of birth

Hindus are the least likely of all the religious groups to have been born in the UK, followed by Muslims and Buddhists. The majority within each of these groups had been born outside the UK.

Less than four in ten Hindus (37 per cent) who were living in Great Britain in 2001 had been born in the UK. A similar proportion had been born in Asia (39 per cent), predominantly India (30 per cent), and 6 per cent had been born in Sri Lanka. A further 21 per cent of Hindus had been born in Africa, reflecting the 1970s migration to the UK of East African Asians, in particular from Kenya (10 per cent) and Uganda (4 per cent).

Just under half (46 per cent) of Muslims living in Great Britain in 2001 had been born in the UK, while 39 per cent had been born in Asia – mainly Pakistan (18 per cent), Bangladesh (9 per cent) and India (3 per cent). A further one in ten Muslims (9 per cent) had been born in Africa, including Somalia (2 per cent) and Kenya (1 per cent). Four per cent of Muslims were from parts of Europe outside the UK, including Turkey (3 per cent) and the former Yugoslavian countries (1 per cent). Just under half of Buddhists (45 per cent) living in Great Britain in 2001 had been born in the UK. A slightly higher proportion (49 per cent) had been born in Asia: Thailand (8 per cent), Japan (8 per cent), Vietnam (7 per cent), Hong Kong (6 per cent), Malaysia (6 per cent) and China (3 per cent).

Sikhs are the most likely of all the Asian religions to have been born in the UK. Over half (56 per cent) of the Sikh community in 2001 had been born in the UK. Thirty seven per cent had

been born in Asia, predominantly India (35 per cent), and 6 per cent had been born in Africa, mainly Kenya (4 per cent). The majority of Jewish people (83 per cent) had been born in the UK but 6 per cent had been born in another European country, reflecting migration from Germany and eastern Europe in the period before the Second World War. A further 3 per cent had been born in Israel, 2 per cent had been born in South Africa and 2 per cent in the USA.

Almost all of the Christian group (94 per cent) were born in the UK. Three per cent were born in another European country, including Ireland (1 per cent), and 1 per cent were born in each of Africa, Asia and North America. The countries of birth for people with no religion were very similar to those for the Christian group.

Sources: Country of birth: Census, April 2001, Office for National Statistics and General Register Office for Scotland; National identity: Annual Population Survey, January 2004 to December 2004, Office for National Statistics; Religious identity: Home Office Citizenship Survey 2001, Home Office.

Notes:

Former Yugoslavian countries mentioned here include Kosovo, Bosnia Herzegovina, Serbia or Yugoslavia.

The importance of religion to self-identity was measured by the question: 'Suppose you were describing yourself, which of the things on this card would say something important about you?' Figures represent the percentage of people who included religion in their answer. Published on 21 February 2006 at 0:01 am

Ethnicity

POPULATION SIZE

7.9% from a minority ethnic group

	Total population		Minority ethnic population	
	Count	%	Count	%
White	54153898	92.1		n/a
Mixed	677117	1.2		14.6
Asian or Asian British				
Indian	1053411	1.8		22.7
Pakistani	747285	1.3		16.1
Bangladeshi	283063	0.5		6.1
Other Asian	247664	0.4		5.3
Black or Black British				
Black Caribbean	565876	1.0		12.2
Black African	485277	0.8		10.5
Black Other	97585	0.2		2.1
Chinese	247403	0.4		5.3
Other	230615	0.4		5.0
<i>All minority ethnic population</i>	<i>4635296</i>	<i>7.9</i>		<i>100</i>
All population	58789194	100		n/a

The UK population: by ethnic group, April 2001.

The size of the minority ethnic population was 4.6 million in 2001 or 7.9 per cent of the total population of the United Kingdom.

Indians were the largest minority group, followed by Pakistanis, those of Mixed ethnic backgrounds, Black Caribbeans, Black Africans and Bangladeshis. The remaining minority ethnic groups each accounted for less than 0.5 per cent but together accounted for a further 1.4 per cent of the UK population.

Ethnic group data were not collected on the Northern Ireland Census in 1991. However, in Great Britain the minority ethnic population grew by 53 per cent between 1991 and 2001, from 3.0 million in 1991 to 4.6 million in 2001.

Half of the total minority ethnic population were Asians of Indian, Pakistani, Bangladeshi or other Asian origin. A quarter of minority ethnic people described themselves as Black, that is Black Caribbean, Black African or Other Black. Fifteen per cent of the minority ethnic population described their ethnic group as Mixed. About a third of this group were from White and Black Caribbean backgrounds.

Census Ethnic Group Questions: In both 1991 and 2001 respondents were asked to which ethnic group they considered themselves to belong. The question asked in 2001 was more extensive than that asked in 1991, so that people could tick "Mixed" for the first time. This change in answer categories may account for a small part of the observed increase in the minority ethnic population over the period.

Different versions of the ethnic group question were asked in England and Wales, in Scotland and in Northern Ireland, to reflect local differences in the requirement for information. However, results are comparable across the UK as a whole.

Sources:

Census, April 2001, Office for National Statistics.

Census, April 1991, Office for National Statistics.

Published on 13 February 2003 at 11:00 am

VI.5. Educación como factor de integración: Opiniones y Estadísticas

a) Textos

El gobierno del Reino Unido, consciente de la importancia que tiene la emigración, viene desarrollando permanentemente planes sobre ciudadanía y educación con el fin de fomentar la participación social y cívica de los emigrantes.

Así pues, desde 1998⁴⁰ los cuatro Países que forman el Reino Unido (Inglaterra, Irlanda del Norte, Escocia y País de Gales) están elaborando políticas educativas cuya prioridad es "Educar en ciudadanía". Para cumplir este proyecto en Inglaterra, desde el año 2000, la materia "ciudadanía" se imparte en los Centros docentes como asignatura obligatoria; en Irlanda del Norte la asignatura "Ciudadanía local y ciudadanía mundial" será obligatoria a partir del año 2007; en Escocia los principios sobre Valores y Ciudadanía están incluidos en las cinco prioridades nacionales que se deben fomentar a través de la educación; en el País de Gales la materia ciudadanía esta incluida en el programa obligatorio denominado "La educación personal y social"

Además, con el fin de construir una sociedad con igualdad de oportunidades para todos los ciudadanos incluida la población inmigrante el Secretario de Estado; Charles Clarke ha presentado el proyecto "A Points-Based System: Making Migration Work for Britain (March 2006)"⁴¹ en él expone las medidas para integrar el flujo de emigrantes que entran en el Reino Unido para trabajar o estudiar y hacer que la emigración sea beneficiosa a todos los sectores de la sociedad: trabajo, economía, cultura, educación, etc., del cual recogemos el siguiente texto:

"1. This document sets out the Government's proposals for a new points-based approach to managing the flow of migrants

⁴⁰ Fuente: www.coe.int/T/F/cooperation_culturelle/Education

⁴¹ Fuente: www.fco.gov.uk/files/kfiles/

coming to the UK to work or study. It forms part of the five year strategy for asylum and immigration published in February 2005: "*Controlling Our Borders: Making Migration Work for Britain, Five Year Strategy for Asylum and Immigration*".

2. These proposals have been subject to extensive consultation following the publication in July 2005 of the consultation document "*Selective Admission: Making Migration Work for Britain*." The proposals have been informed and enhanced by the contributions made to that consultation. A summary of the consultation responses is attached as an annex to this document. A summary of the responses for each sector is available on the Home Office website at www.ind.homeoffice.gov.uk.

Benefits

3. The key outcomes of the new system will be:

- Better identifying and attracting of migrants who have most to contribute to the UK;
- A more efficient, transparent and objective application process;
- Improved compliance and reduced scope for abuse.

These will help deliver high-level benefits for the UK including increased economic competitiveness and cultural exchange.

4. Applicants will find the system simpler to understand and the rules for entry clearer and more consistently applied. It will be quicker and simpler for employers and educational institutions to bring in the migrants they need, and there will be more certainty about whether prospective migrants will be able to come to the UK. The public will better be able to understand who we are allowing into the UK and why, and have confidence that the system is not being abused. It will also be more straightforward for entry clearance officers and caseworkers to administer.

Managing migration

5. All the main political parties, employers' organisations, trades unions and educational institutions agree that migration is vital for our economy. Migration makes a substantial contribution to economic growth, helps fill gaps in the labour market, including key public services such as health and education, and increases investment, innovation and entrepreneurship in the UK. Culturally, we are enriched by people with diverse backgrounds from other countries.

6. With an expanded European Union there is an accessible and mobile workforce already contributing to our growing economy, closing many gaps experienced by employers. In a changing environment where our European commitments provide many opportunities for the UK to benefit from this new source of labour, it is right that we look again at migration to the UK as a whole. Our starting point is that employers should look first to recruit from the UK and the expanded EU before recruiting migrants from outside the EU.

7. Migration needs to be properly managed.

It is understandable that people migrate to seek a better life for themselves and their families.

But this can leave settled populations, including many in the UK, concerned about the impact on jobs, public services and their way of life.

The system should therefore be focused primarily on bringing in migrants who are highly skilled or to do key jobs that cannot be filled from the domestic labour force or from the EU. It should also help facilitate the entry of international students who rightly see the UK as a world leader in the provision of higher and further education, and in the teaching of English.

8. It should also be robust against abuse. Only those of benefit to the UK should be admitted and once here they must comply with the conditions of their leave. Those who benefit from migration, employers and educational institutions, should work with Government to ensure this is the case. Strong action should be taken against those who seek to abuse the system.

A points-based system:

Five Tiers

9. Underpinning the new system will be a five Tier framework. This will help people understand how the system works and direct applicants to the category that is most appropriate for them.

- Tier 1: Highly skilled individuals to contribute to growth and productivity
- Tier 2: Skilled workers with a job offer to fill gaps in UK labour force
- Tier 3: Limited numbers of low skilled workers needed to fill specific temporary labour shortages
- Tier 4: Students
- Tier 5: Youth mobility and temporary workers: people allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives

Points and structured decision-making

10. For each Tier, applicants will need sufficient points to obtain entry clearance or leave to remain in the UK. Points will be scored for attributes which predict a migrant's success in the labour market, and/or control factors, relating to whether someone is likely to comply with the conditions of their leave.

11. Points will be awarded according to objective and transparent criteria in order to produce a structured and defensible decision-making process. Prospective migrants will, prior to making their application, be able to assess themselves against these criteria, reducing the number of speculative and erroneous applications.

Sponsorship

12. All applicants in Tiers 2-5 will need to provide a certificate of sponsorship from an approved sponsor when making their application. The certificate of sponsorship will act as an assurance that the migrant is able to do a particular job or course of study and intends to do so. The sponsor's rating, an expression of their track record or policies in sponsoring migrants, will determine whether applicants receive more or fewer points for their certificate.

13. In order to sponsor migrants, employers and educational institutions will need to make an application to the Home Office, satisfy the requirements for the particular Tier in which they wish to sponsor migrants, and accept certain responsibilities to help with immigration control.

Financial securities

14. In due course, financial securities will be required of those whose personal circumstances or route of migration suggests that they present a high risk of breaching the immigration rules.

Otros documentos de interés son:

La creación en el año 2006 de la página web “ Promiting integration education” www.nrif.org.uk, destinada a los refugiados que residen o entran en el Reino Unido y promover su integración

El proyecto “Improving Opportunity Strengthening Society: The Government’s strategy to increase race equality and community cohesion” (2005) .

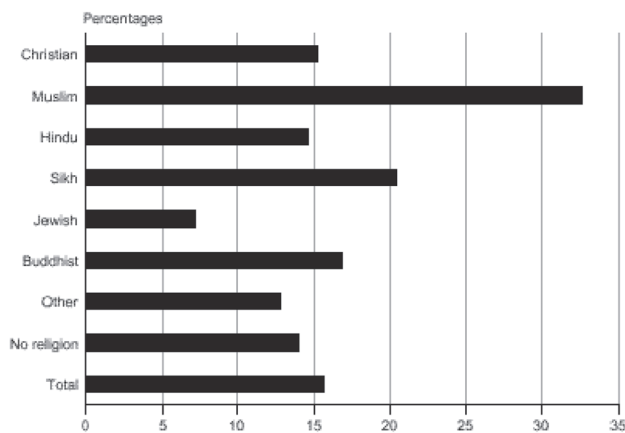
Fuente : www.Homeoffice.gov.uk

b) Estadísticas

Religion

EDUCATION

One in three Muslims have no qualifications



People of working age with no qualifications: by religion, 2004, GB

In 2004 a third (33 per cent) of Muslims of working age in Great Britain had no qualifications – the highest proportion for any religious group. They were also the least likely to have degrees or equivalent qualifications (12 per cent).

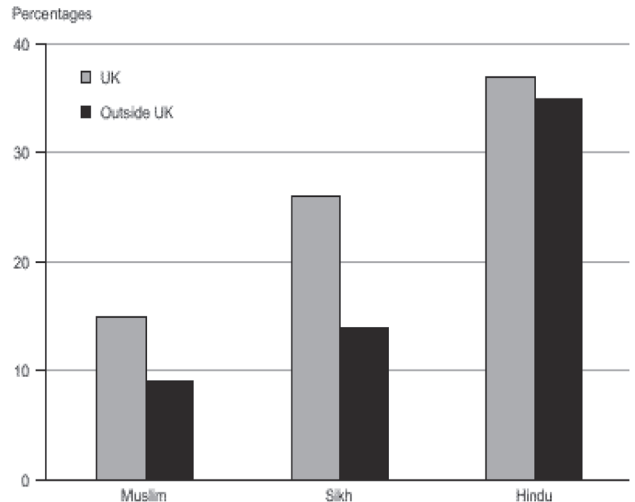
After Muslims, Sikhs are the next most likely to have no qualifications (20 per cent). Seventeen per cent of Buddhists and a similar proportion of Christians (15 per cent), Hindus (15 per cent) and people with no religion (14 per cent) had no qualifications. Jews were the least likely to have no qualifications (7 per cent).

Jews, Buddhists and Hindus were more likely than other groups to hold a degree. About four in ten Jews (44 per cent) and three in ten Buddhists (30 per cent) and Hindus (29 per cent) held a degree compared with 22 per cent of people with no religion, 20 per cent of Sikhs and 16 per cent of Christians.

Across all religions, the pattern for men and women of working age is similar but women are generally more likely than men to have no qualifications.

Muslims and Sikhs who were born in the UK are more likely than those born elsewhere to have a degree or equivalent qualification, irrespective of age. Among those under the age of 30, UK-born Sikhs and Muslims were almost twice as likely to have degrees in 2004 as those born elsewhere. In contrast, there was little difference in the likelihood of having a degree between Hindus born in the UK and those born elsewhere.

In January 2004 there were almost 7,000 state-maintained faith schools in England, making up 36 per cent of primary and 17 per cent of secondary schools. The overwhelming majority of these faith schools (99 per cent) were Christian. Christian schools had places for 1.7 million children and, in 2001, 5.1



Percentage of 16 to 30 year olds with a degree: by religion and country of birth, 2004, GB

million children aged 5 to 16 in England were described as Christian.

There were 371,000 school-aged (5 to 16 year old) Muslim children in England in 2001 and four Muslim state-maintained schools in 2004, catering for around 1,100 children. There were 64,000 school-aged Sikh children and two Sikh state-maintained schools, catering for around 600 children.

There were 33,000 Jewish school-aged children in England compared with 13,000 places in state-maintained Jewish schools.

Sources: Qualifications: Annual Population Survey, January 2004 to December 2004, Office for National Statistics Schools: Annual Schools Census, January 2004, Department for Education and Skills Number of children: Census, April 2001, Office for National Statistics.

Notes:

The working age population comprises males aged 16 to 64 and females aged 16 to 59.

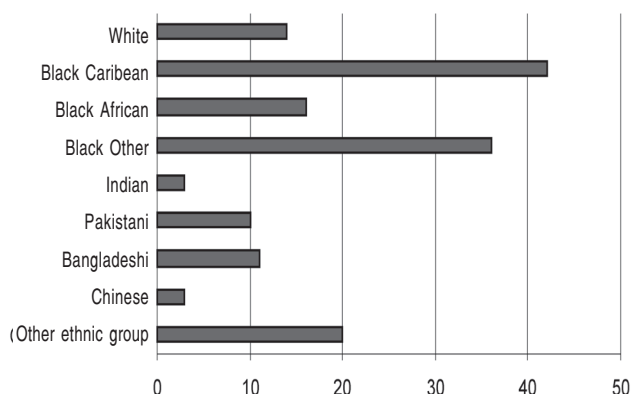
Published on 21 February 2006 at 0:01 am

Permanent exclusion rates¹: by ethnic group, 2001/02

England

Rate per 10,000 pupils

¹ The number of permanent exclusions per 10,000 pupils (headcount) in each ethnic group in primary, secondary and special schools (excluding dually registered pupils in special schools) for compulsory school age.



Permanent exclusion rates¹ by ethnic group, 2001/02

<i>England</i>	<i>Rate per 10,000 pupils</i>
White	14
Black Caribbean	42
Black African	16
Black Other	36
Indian	3
Pakistani	10
Bangladeshi	11
Chinese	3
Other ethnic group	20

¹ The number of permanent exclusions per 10,000 pupils (headcount) in each ethnic group in primary, secondary and special schools (excluding dually registered pupils in special schools) for compulsory school age and above.

Title:	Examination achievements of pupils in schools: by gender and ethnic origin, 1998: Social Trends 30
Last Updated:	9/5/02
Associated Web Links:	Department for Education and Skills - Statistical Website
For Linked Contacts and Documents:	—See Product details
Time Frame:	1998
Geographic Coverage:	England & Wales
Universe:	Pupils in schools
Measure:	Examination achievements by gender and ethnic origin
Units:	Percentages

Dimensions: Gender and ethnicity by Exam results

Dataset ^{1,2}			
	5 or more GCSEs grades A* to C	1-4 GCSEs grades A* to C	No graded GCSEs
Males: White	43	25	7
Males: Black	23	24	7
Males: Indian	52	23	2
Males: Pakistani/Bangladeshi	29	29	6
Males: Other groups ³	37	28	11
Males: All males	42	25	7
Females: White	51	25	6
Females: Black	35	42	7
Females: Indian	55	28	3
Females: Pakistani/Bangladeshi	32	45	6
Females: Other groups	52	31	3
Females: All females ³	51	26	6

1 - In England, Wales and Northern Ireland the main examination for school pupils at the minimum school leaving age is the General Certificate of Secondary Education (GCSE) which can be taken in a wide range of subjects. This replaced the GCE O Level and CSE examinations in 1987 (1988 in Northern Ireland). In England, Wales and Northern Ireland the GCSE is awarded in eight grades, A* to G, the highest four (A* to C) being regarded as equivalent to O Level grades A to C or CSE grade 1. In Scotland pupils study for the Scottish Certificate of Education (SCE) S (Standard) Grade, approximately equivalent to GCSE, in their third and fourth years of secondary schooling (roughly ages 14 and 15). Each subject has several elements, some of which are internally assessed in school, and an award is only made (on a scale of 1 to 7) if the whole course has been complete and examined. The SCE H (Higher) Grade requires one further year of study and for the more able candidates the range of subjects taken may be as wide as at S Grade with as many as five or six subjects spanning both arts and science. Three or more SCE Highers are regarded as being approximately the equivalent of two or more GCE A levels.

2 -Pupils aged 16.

3 -Includes those who did not state their ethnic group.

Dataset Name: ST30316

Type of Dataset: Cross-sectional

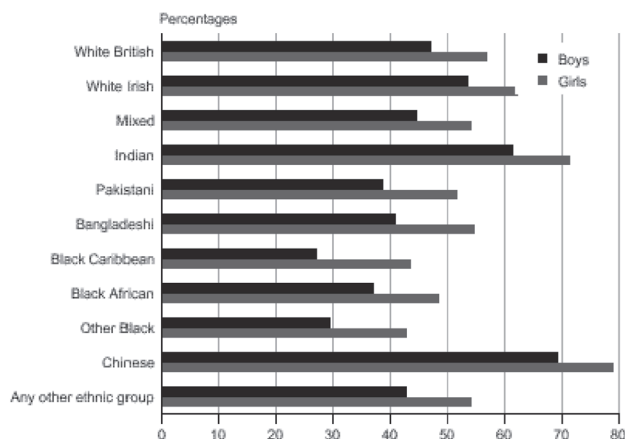
Description: The Youth Cohort Study, which is conducted by the Department for Education and Employment, shows that the proportion of final year pupils in England and Wales achieving five or more GCSE grades A* to C has increased over the last decade, and at a faster rate for girls than boys. The performance of Indian and Other Asian pupils outstrips that of other ethnic groups. In 1998, 54 per cent of Indian pupils and 61 per cent of Other Asian pupils achieved five or more GCSE grades A* to C, compared with 47 per cent of White pupils. The proportion achieving this is lowest among Black and Pakistani pupils at 29 per cent in 1998. In all ethnic groups, girls do as well as, or outperform, boys at GCSE level. In England and Wales, the greatest difference in performance between boys and girls in 1998 (excluding Other groups) was for pupils from the Black group. Twenty-four per cent of Black boys achieved one to four GCSE grades A* to C compared with 42 per cent of Black girls, while 23 per cent of Black boys achieved five or more GCSE grades A* to C compared with 35 per cent of Black girls. A greater proportion of Indian boys and girls achieved five or more GCSE grades A* to C than those in any other group. The performance of Indian pupils also outstripped that of other pupils at A level. In 1998, 36 per cent of Indian pupils achieved two or more A levels compared with 29 per cent of White pupils.

Source: Youth Cohort Study, Department for Education and Skills

Ethnicity & Identity

EDUCATION

Chinese pupils have best GCSE results



Pupils achieving 5 or more A*-C at GCSE/GNVQ: by sex and ethnic group, 2004, England

GCSE performance

In 2004 Chinese pupils were the most likely to achieve five or more GCSE grades A*-C in England, with 79 per cent of Chinese girls and 70 per cent of Chinese boys respectively. Indian pupils had the next highest achievement levels: 72 per cent of Indian girls and 62 per cent of Indian boys achieved these levels.

The lowest levels of GCSE attainment were among Black Caribbean pupils, particularly boys. Only 27 per cent of Black Caribbean boys and 44 per cent of Black Caribbean girls achieved five or more A*-C grade GCSEs. Pupils from the Black African, Other Black and Mixed White and Black Caribbean groups had the next lowest levels of attainment.

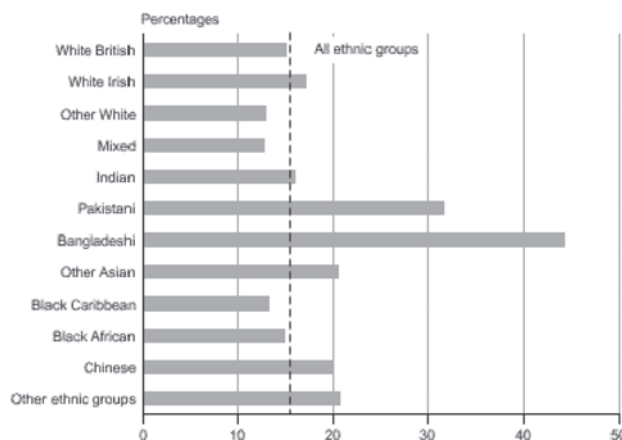
Within each ethnic group a higher proportion of girls than boys achieved five or more GCSE grades A*-C (or equivalent).

School exclusions

In 2003/04 pupils from Black Caribbean, Other Black and Mixed White and Black Caribbean groups were among the most likely to be permanently excluded from schools in England.

The permanent exclusion rates for pupils from the Other Black, Black Caribbean and Mixed White and Black Caribbean groups were 42 pupils per 10,000, 41 per 10,000 and 37 per 10,000 respectively. These were up to three times the rate for White pupils (14 pupils per 10,000). Chinese and Indian pupils had the lowest exclusion rates, at 2 or less pupils excluded per 10,000.

For all ethnic groups, the rate of permanent exclusions was higher for boys than girls, with boys representing around 80 per cent of the total number of permanent exclusions.



People of working age with no qualifications: by ethnic group, 2004, GB.

Highest qualification

In 2004 people from the Bangladeshi, Black Caribbean and Pakistani groups were less likely than White British people to have a degree (or equivalent). Among men, Bangladeshis and Black Caribbeans were the least likely to have a degree (11 per cent for each group). Among women, Bangladeshis and Pakistanis were the least likely to have a degree, 5 and 10 per cent respectively.

The groups most likely to have degrees were Chinese (31 per cent), Indian (25 per cent) and White Irish (24 per cent). These compared with 17 per cent of White British people. However, a relatively high proportion of Chinese people had no qualifications – 20 per cent, compared with 15 per cent of White British people.

Bangladeshis and Pakistanis were the most likely to be unqualified. Five in ten (49 per cent) Bangladeshi women and four in ten (40 per cent) Bangladeshi men had no qualifications. Among Pakistanis, 35 per cent of women and 29 per cent of men had no qualifications.

Sources: Department for Education and Skills, National Curriculum Assessment, GCSE and Equivalent Attainment and Post-16 Attainment by Pupil Characteristics in England 2004, Statistical First Release 08/2005.

Pupil Level Annual Schools Census (PLASC) and Termly Exclusions Survey, Department for Education and Skills Annual Population Survey, January 2004 to December 2004, Office for National Statistics.

Notes:

The chart showing people with no qualification is shown as a proportion of all the working age population (males aged 16-64, females aged 16-59).

Published on 21 February 2009 at 0:01 am

SCOTTISH EXECUTIVE STATISTICS**Analysis of Ethnicity in the 2001 Census - Summary Report**

5. EDUCATION

Highest level of qualification

Table 5.1 shows the highest level of qualification by ethnic group where the highest level of qualification is defined as:

Group 1: 'O' Grade, Standard Grade, Intermediate 1, Intermediate 2, City and Guilds Craft, SVQ Level 1 or 2 or equivalent.

Group 2: Higher Grade, CSYS, ONC, OND, City and Guilds Advanced Craft, RSA Advanced Diploma, SVQ Level 3 or equivalent.

Group 3: HND, HNC, RSA Higher Diploma, SVQ Level 4 or 5 or equivalent.

Group 4: First Degree, Higher Degree, Professional qualification.

Table 5.1: Highest level of qualification by ethnic group - All People aged 16-74 years
Percentages

Ethnic Group	No qualifications or qualifications outwith these groups	Group 1	Group 2	Group 3	Group 4	Base
White Scottish	35	26	15	7	17	3,249,488
Other White British	18	20	18	7	37	307,071
White Irish	32	14	16	6	31	41,402
Other White	23	11	16	6	44	62,158
Indian	24	15	15	6	40	11,335
Pakistani	43	19	14	8	17	21,070
Bangladeshi	33	19	14	6	29	1,354
Other South Asian	27	15	15	8	34	4,365
Chinese	38	13	16	6	27	12,548
Caribbean	17	25	18	10	30	1,398
African	15	15	14	9	47	3,880
Black Scottish or Other Black	30	21	16	9	23	736
Any Mixed Background	21	19	24	7	30	6,851
Other ethnic group	29	10	12	7	42	7,423
All People aged 16-74 years	33	25	16	7	19	3,731,079

• All minority ethnic groups in Scotland are at least as or more likely to have degrees (or equivalent) than White Scottish people. Those most likely to have degrees from ethnic minority groups are Africans, people from 'Other' ethnic groups and Indians.

• People from the White Scottish group and Pakistanis are the least likely to have degrees (17%).

• Pakistanis are also the most likely to have no qualifications (43%) followed by Chinese people (38%) and White Scottish people (35%). In contrast, only 15% of African people aged 16-74 years have no qualifications.

Tables 5.2-5.4 provide a breakdown of qualifications by ethnic group for different age groups.

Table 5.2: Highest level of qualification by ethnic group - All People aged 16-34 years
Percentages

Ethnic Group	No qualifications or qualifications outwith these groups	Group 1	Group 2	Group 3	Group 4	Base
White Scottish	14	36	24	10	16	1,079,218
Other White British	6	23	31	7	33	103,374
White Irish	7	15	30	9	38	13,407
Other White	18	11	22	6	43	31,330
Indian	12	17	22	7	41	6,013
Pakistani	26	24	20	11	19	11,699
Bangladeshi	26	22	21	6	25	765
Other South Asian	24	17	22	8	29	2,214
Chinese	17	16	27	8	32	6,557
Caribbean	12	26	25	11	26	620
African	13	19	20	10	38	2,172
Black Scottish or Other Black	23	27	24	9	17	351
Any Mixed Background	13	21	32	8	26	4,291
Other ethnic group	27	12	18	6	37	3,863
All People aged 16-34 years	14	33	25	10	18	1,265,874

- 'Other White' people aged 16-34 years are most likely to have degrees (43%) and the White Scottish group are the least likely to have degrees (16%).
- 'People from Other Ethnic Group (27%), Pakistani (26%) and Bangladeshi (26%) people are the most likely to have no qualifications in this age group.

Table 5.3: Highest level of qualification by ethnic group - All People aged 35-54 years
Percentages

Ethnic Group	No qualifications or qualifications outwith these groups	Group 1	Group 2	Group 3	Group 4	Base
White Scottish	33	25	14	7	20	1,280,088
Other White British	15	21	13	8	43	128,124
White Irish	26	16	13	7	38	15,035
Other White	20	11	11	7	51	21,366
Indian	35	14	8	6	38	3,803
Pakistani	59	15	7	4	15	6,990
Bangladeshi	43	17	4	5	31	456
Other South Asian	26	14	9	10	42	1,693
Chinese	55	11	5	4	25	4,661
Caribbean	16	26	14	9	34	595
African	16	9	5	8	61	1,484
Black Scottish or Other Black	26	19	10	11	34	273
Any Mixed Background	25	17	11	8	40	1,785
Other ethnic group	30	8	6	7	48	3,087
All People aged 34-54 years	31	24	14	7	23	1,469,440

- Again, the Pakistani group has the highest proportion of people in this age group with no qualifications (59%). The second highest proportion (55%) is for Chinese people.
- The third highest proportion is in the Indian group: 35% of people aged 35-54 have no qualifications. However, Indian people have one of the higher proportions of people educated to degree level or above (38%).
- The Pakistani group has the lowest proportion of people aged 35-54 years educated to degree level and above (15%). The second lowest proportion (20%) is for White Scottish people.
- The group with the highest proportion of people educated to degree level or above is African (61%). This is consistent with the result shown in table 3.1 that 31% of Africans aged over 18 years are full time students.

Table 5.4: Highest level of qualification by ethnic group - All People aged 55-74 years
Percentages

Ethnic Group	No qualifications or qualifications outwith these groups	Group 1	Group 2	Group 3	Group 4	Base
White Scottish	63	14	7	3	14	890,182
Other White British	38	15	8	5	34	75,573
White Irish	65	11	6	2	16	12,960
Other White	46	9	8	3	35	9,462
Indian	45	8	3	3	42	1,519
Pakistani	76	8	3	1	12	2,381
Bangladeshi	40	10	2	3	45	133
Other South Asian	49	12	3	4	32	458
Chinese	82	5	2	1	10	1,330
Caribbean	39	16	11	4	30	183
African	32	10	6	4	47	224
Black Scottish or Other Black	63	11	5	4	17	112
Any Mixed Background	55	12	5	1	27	775
Other ethnic group	43	7	5	4	41	473
All People aged 55-74 years	61	14	7	3	16	995,765

- The proportion of people who have no qualifications is considerably higher across all ethnic groups than for the younger age bands; in most cases the proportion is double that for 35-54 year olds.
- The Chinese group is the most likely to have no qualifications (82%) and it has the lowest proportion of people educated to degree level and above (10%).
- The group with the highest proportion of people educated to degree level is the African group (47%) but the qualification profile is more polarised than for the younger age groups and 32% of the population has no qualifications. The next highest is the Bangladeshi group (45%) followed by

VI.6. Bibliografía

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VI.7. Direcciones web

VI.7.1. Estado, Ministerios y Autoridades públicas

United Kingdom's official web site
<http://www.ukonline.gov.uk>

Commission for Racial Equality
 CRE - <http://www.cre.gov.uk>

Convention of Scottish Local Authorities
 COSLA - <http://www.cosla.gov.uk>

Department for Trade & Industry – (co-ordinates Ethnic Minority Business Forum)
 DTI - <http://www.dti.gov.uk>

Department for Education & Skills and
 DfES - <http://www.dfes.gov.uk>

Department of Work & Pensions (Co-ordinate European Social Fund and EQUAL)
 DWP - <http://dwp.gov.uk>

Equality Commission for Northern Ireland – Race Equality Division
 ECNI - <http://www.equalityni.org>

Equality Direct
<http://www.equalitydirect.org.uk>

Greater London Authority – Data Management and Analysis Group
 GLA - <http://www.london.gov.uk>

Home Office (Race Equality Unit)
 REU - <http://www.homeoffice.gov.uk>

Local Authorities Race Relations Information Exchange
 LARRIE - <http://www.lg-emöloyers.gov.uk>

Local Government Association
 LGA - <http://www.lga.gov.uk>

Office of the Deputy Prime Minister (covers local government, housing, social exclusion, planning)
 ODPM - <http://www.wales.gov.uk>

Office for National Statistics
 ONS - <http://www.statistics.gov.uk>

Scottish Executive Equality Unit
<http://www.scotland.gov.uk>

Scottish Parliament
<http://scottish.parliament.uk>

The National Assembly for Wales
<http://www.wales.gov.uk>

VI.7.2. Institutos de investigación, Universidades, Centros de Documentación

Commonwealth Institute
<http://www.commonwealth.org.uk>

Economic and Social Research Council
 ESRC - <http://www.esrec.ac.uk>

Institute for Jewish Policy Research
 JPR - <http://www.jpr.org.uk>

Institute for Public Policy Research
 IPPR - <http://www.ippr.org.uk>

Institute of Race Relations
 IRR - <http://irr.org.uk>

Institute of Social Science Research – Centre for Racial Equality Studies
 ISSR - <http://www.mdx.ac.uk/www/issr/research/racial.htm>

Joseph Rowntree Foundation
 JRF - <http://www.jrf.org.uk>

Royal Holloway College, University of London – Centre for Ethnic Minority Studies
<http://web.rhul.ac.uk/EthnicMinority-Studies/>

University of Bradford – The Ethnicity and Social Policy Research Unit
 ESPR - <http://www.brad.ac.uk/research/espr/>

University of Bristol – Centre for the Study of Ethnicity and Citizenship
 CSEC - <http://www.bris.ac.uk/depts/sociology>

University of Leeds – Centre for Ethnicity & Racism Studies
<http://www.leeds.ac.uk>

University of Warwick – Centre for Research in Ethnic Relations
 CRER - <http://www.warwick.ac.uk/fac/soc/crer-rc/>

VI.7.3. Organizaciones no gubernamentales

Amnesty International, Refugee Team
 AI - <http://www.amnesty.org.uk>

Anti Nazi League
 ANL - <http://www.anl.org.uk>

Asylum Aid
<http://www.asylumaid.org.uk>

Black Development Agency
 BDA - <http://www.blackdeva.org.uk>

Black Londoners Forum
 BLF - <http://www.blacklondon.org.uk>

Board of Deputies of British Jews
 BOD - <http://www.bod.org.uk>

Campaign Against Racism and Fascism
 CARF - <http://www.carf.demon.co.uk>

Churches' Commission for Racial Justice
 CCRJ - <http://www.ctbi.org.uk/ccrj/welcome.htm>

Council for Ethnic Minority Voluntary Sector Organisations
 CEMVO - <http://www.emf-cemvo.co.uk>

European Federation of Black Women Business Owners
 EFBWBO - <http://www.blackbritain.co.uk/efbwbo>

Football Supporters' Association – Anti-Racism Officer
 FSA - <http://www.fsa.org.uk>

Forum Against Islamophobia & Racism
 FAIR - <http://www.fairuk.org>

Friends, Families and Travellers
<http://www.gypsy-traveller.org>

Immigration Advisory Service
 IAS - <http://www.ias.org.uk>

Institute of Race Relations
 IRR - <http://www.irr.org.uk>

Islamic Human Rights Commission
 IHRC - <http://www.ihrc.org>

Kick It Out
<http://www.kickitout.org>

National Assembly Against Racism
 NAAR - http://www.ourworld.compuserve.com/homepages/aa_r

Liberty
<http://liberty-human-rights.org.uk>

Muslim Council of Britain
 MCB - <http://www.mcb.org.uk>

Northern Ireland Council for Ethnic
 NICEM - <http://www.nicem.org.uk>

Northern Ireland Human Rights Commission
 NIHRC - <http://www.nihrc.org>

Operation Black Vote
 OBV - <http://www.obv.org.uk>

Race for Opportunity
 RfO - <http://www.raceforopportunity.org.uk>

Race on the Agenda
 ROTA - <http://www.rota.org.uk>

Racial Equality Councils
 RECs - <http://www.cre.gov.uk/about/recs.html>

Refugee Council
<http://www.refugee.org.uk/>

Runnymede Trust
<http://www.runnymedetrust.org>

Scottish Council for Minorities
 SCM - <http://www.scmonline.net>

Scottish Refugee Council
<http://www.scottishrefugeecouncil.org.uk>

Show Racism the Red Card
 SRTRC - <http://www.srtrc.org>

The Gypsy Council
<http://www.thegypsycouncil.org>

Traveller Movement Northern Ireland
 TMNI - <http://www.cinni.org/tm>

Union Of Jewish Students, UK & Ireland
 UJS - <http://www.ujs.org.uk/>

VI.7.4. Otros

Irish Congress of Trade Unions (Northern Ireland Committee)
 ICTU - <http://www.ictu.ie>

Scottish Trade Union Congress
 STUC - <http://www.stuc.org.uk>

Trade Union Congress
 TUC - <http://www.tuc.org.uk>

Wales Trade Union Congress
 Wales TUC - <http://www.wtuc.org.uk>