
STATES OF JERSEY



CONSOLIDATED IMMIGRATION LAWS

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by the Chief Minister

STATES GREFFE

Consolidated Immigration Laws

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74	The Immigration Act 1988	
78	The Immigration and Asylum Act 1999	
100	The Immigration Asylum and Nationality Act 2006	
108	The Immigration Act 2014	

The Immigration Act 1971

as amended by:

The Asylum and Immigration Act 1996;

The Immigration and Asylum Act 1999;

The Immigration Asylum and Nationality Act 2006;

The Immigration Act 2014.

IMMIGRATION ACT 1971

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PART I

Regulation of Entry Into and Stay in the United Kingdom

1. General Principles

- (1) All those who are in this Act expressed to have the right of abode in the [Bailiwick of Jersey] shall be free to live in, and to come and go into and from, the [Bailiwick of Jersey] without let or hindrance except such as may be required under and in accordance with this Act to enable their right to be established or as may be otherwise lawfully imposed on any person.
- (2) Those not having that right may live, work and settle in the [Bailiwick of Jersey] by permission and subject to such regulation and control of their entry into, stay in and departure from the [Bailiwick of Jersey] as is imposed by this Act; and indefinite leave to enter or remain in the [Bailiwick of Jersey] shall, by virtue of this provision, be treated as having been given under this Act to those in the [Bailiwick of Jersey] at its coming into force, if they are then settled there (and not exempt under this Act from the provisions relating to leave to enter or remain).
- (3) Arrival in and departure from the [Bailiwick of Jersey] on a local journey from or to [the United Kingdom, the Bailiwick of Guernsey, the Isle of Man] or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the [Bailiwick of Jersey] on so arriving, except insofar as any of those places is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act the [Bailiwick of Jersey] and those places, or such of them as are not so excluded, are collectively referred to as “the common travel area”.
- |(4) The Committee Minister may make rules as to the practice to be followed in the administration of this Act for regulating the taking of employment by persons not having the right of abode who are given leave to enter the Bailiwick and the Subordinate Legislation (Jersey) Law 1960 shall apply to such rules.
- |(4A) The Lieutenant-Governor Minister shall give directions as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the Bailiwick of persons not having the right of abode and such directions shall include provision for admitting (in such cases and subject to such restrictions as may be provided by the directions and subject or not to conditions as to length of stay or otherwise) persons coming for the purpose of taking employment, or for the purposes of study, or as visitors, or as dependants of persons lawfully in or entering the Bailiwick.].

2. Statement of Right of Abode in [Bailiwick of Jersey]

- (1) A person is under this Act to have the right of abode in the [Bailiwick of Jersey] if-

- (a) he is a British citizen; or
 - (b) he is a Commonwealth citizen who -
 - (i) immediately before the commencement of the British Nationality Act 1981 was a Commonwealth citizen having the right of abode in the [Bailiwick of Jersey] by virtue of section 2(1)(d) or section 2(2) of this Act as then in force; and
 - (ii) has not ceased to be a Commonwealth citizen in the meanwhile.
- (2) In relation to Commonwealth citizens who have the right of abode in the [Bailiwick of Jersey] by virtue of subsection (1)(b) above, this Act, except this section and section <5(2)>, shall apply as if they were British citizens; and in this Act (except as aforesaid) "British citizen" shall be construed accordingly.>

3. General Provisions for Regulation and Control

- (1) Except as otherwise provided by or under this Act, where a person is not <a British citizen> -
- (a) he shall not enter the [Bailiwick of Jersey] unless given leave to do so in accordance with the provisions of, or made under this Act;
 - (b) he may be given leave to enter the [Bailiwick of Jersey] (or, when already there, leave to remain in the [Bailiwick of Jersey]) either for a limited or for an indefinite period;
 - (c) if he is given limited leave to enter or remain in the [Bailiwick of Jersey], it may be given subject to all or any of the following conditions, namely -
 - (i) a condition restricting his employment or occupation in the [Bailiwick of Jersey];
 - (ii) a condition requiring him to maintain and accommodate himself, and any dependants of his, without recourse to public funds; and
 - (iii) a condition requiring him to register [as provided by an order made under section 4(3) below].
- [(2) Section 1(4) and (4A) of this Act shall not be taken to require uniform provision to be made as regards admission of persons for a purpose or in a capacity specified in the said section (and, in particular, for this as well as other purposes of this Act, account may be taken of citizenship or nationality).]
- (3) In the case of a limited leave to enter or remain in the [Bailiwick of Jersey] -
- (a) a person's leave may be varied, whether by restricting, enlarging or removing the limit on its duration, or by adding, varying or revoking conditions, but if the

limit on its duration is removed, any conditions attached to the leave shall cease to apply; and

- (b) the limitation on and any conditions attached to a person's leave <(whether imposed (originally or on a variation) shall>, if not superseded, apply also to any subsequent leave he may obtain after an absence from the [Bailiwick of Jersey] within the period limited for the duration of the earlier leave.
- (4) A person's leave to enter or remain in the [Bailiwick of Jersey] shall lapse on his going to a country or territory outside the common travel area (whether or not he lands there), unless within the period for which he had leave he returns to the [Bailiwick of Jersey] in circumstances in which he is not required to obtain leave to enter; but, if he does so return, his previous leave (and any limitation on it or conditions attached to it) shall continue to apply.
 - (5) A person who is not a British citizen is liable to deportation from the [Bailiwick of Jersey] if –
 - (a) the [~~Lieutenant Governor~~ Minister] deems his deportation to be conducive to the public good; or
 - (b) another person to whose family he belongs is or has been ordered to be deported.
 - (6) Without prejudice to the operation of subsection (5) above, a person who is not <a British citizen> shall also be liable to deportation from the [Bailiwick of Jersey] if, after he has attained the age of seventeen, he is convicted of an offence for which he is punishable with imprisonment and on his conviction is recommended for deportation by a court empowered by this Act to do so.
 - (7) Where it appears to Her Majesty proper so to do by reason of restrictions or conditions imposed on <British citizens, British Dependent Territories citizens or British Overseas citizens> when leaving or seeking to leave any country or the territory subject to the government of any country, Her Majesty may by Order in Council make provision for prohibiting persons who are nationals or citizens of that country and are not <British citizens> from embarking in the [Bailiwick of Jersey], or from doing so elsewhere than at a port of exit, or for imposing restrictions or conditions on them when embarking or about to embark in the [Bailiwick of Jersey]; and Her Majesty may also make provision by Order in Council to enable those who are not <British citizens> to be, in such cases as may be prescribed by the Order, prohibited in the interests of safety from so embarking on a ship or aircraft specified or indicated in the prohibition.
 - (8) When any question arises under this Act whether or not a person is <a British citizen> or is entitled to any exemption under this Act, it shall lie on the person asserting it to prove that he is.
 - (9) A person seeking to enter the [Bailiwick of Jersey] and claiming to have the right of abode there shall prove that he has that right by means of either –

- (a) a United Kingdom passport describing him as a British citizen or as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom; or
- (b) a certificate of entitlement issued by or on behalf of the Government of the United Kingdom certifying that he has such a right of abode.>

3A Further Provision as to Leave to Enter

- (1) The [~~Lieutenant Governor~~ Minister] may give directions] with respect to the giving, refusing or varying of leave to enter the [Bailiwick of Jersey].
- (2) [Directions] under subsection (1) may, in particular, provide for –
 - (a) leave to be given or refused before the person concerned arrives in the [Bailiwick of Jersey];
 - (b) the form or manner in which leave may be given, refused or varied;
 - (c) the imposition of conditions;
 - (d) a person's leave to enter not to lapse on his leaving the common travel area.
- (3) The [~~Lieutenant Governor~~ Minister] may give directions] that, in such circumstances as may be prescribed –
 - (a) an entry visa, or
 - (b) such other form of entry clearance as may be prescribed, is to have effect as leave to enter the [Bailiwick of Jersey].
- (4) [Directions] under subsection (3) may, in particular –
 - (a) provide for a clearance to have effect as leave to enter –
 - (i) on a prescribed number of occasions during the period for which the clearance has effect;
 - (ii) on an unlimited number of occasions during that period;
 - (iii) subject to prescribed conditions; and
 - (b) provide for a clearance which has the effect referred to in paragraph (a)(i) or (ii) to be varied by the [~~Lieutenant Governor~~ Minister] or an immigration officer so that it ceases to have that effect.
- (5) Only conditions of a kind that could be imposed on leave to enter given under section 3 may be prescribed.
- (6) In subsections (3), (4) and (5) “prescribed” means prescribed in [directions given] under subsection (3).

- (7) The [~~Lieutenant Governor~~ Minister] may, in such circumstances as may be prescribed in [directions given] by him, give or refuse leave to enter the [Bailiwick of Jersey].
- (8) [Directions] under subsection (7) may provide that, in such circumstances as may be prescribed by [the directions], paragraphs 2, 4, 6, 7, 8, 9 and 21 of Part I of Schedule 2 to this Act are to be read, in relation to the exercise by the [~~Lieutenant Governor~~ Minister] of functions which he has as a result of [the directions], as if references to an immigration officer included references to the [~~Lieutenant Governor~~ Minister].
- (9) Subsection (8) is not to be read as affecting any power conferred by subsection (10).
- (10) [Directions] under this section may –
 - (a) contain such incidental, supplemental, consequential and transitional provision as the [~~Lieutenant Governor~~ Minister] considers appropriate; and
 - (b) make different provision for different cases.
- (11) This Act and any provision made under it has effect subject to any [directions given] under this section.
- (12) * * * * *
- (13) * * * * *

3B Further Provision as to Leave to Remain

- (1) The [~~Lieutenant Governor~~ Minister may give directions] with respect to the giving, refusing or varying of leave to remain in the [Bailiwick of Jersey].
- (2) [Directions] under subsection (1) may, in particular, provide for –
 - (a) the form or manner in which leave may be given, refused or varied;
 - (b) the imposition of conditions;
 - (c) a person’s leave to remain in the [Bailiwick of Jersey] not to lapse on his leaving the common travel area.
- (3) [Directions] under this section may –
 - (a) contain such incidental, supplemental, consequential and transitional provision as the [~~Lieutenant Governor~~ Minister] considers appropriate; and
 - (b) make different provision for different cases.

(4) This Act and any provision made under it has effect subject to any [directions given] under this section.

(5) * * * * *

(6) * * * * *

4. Administration of Control

(1) [The following powers under this Act shall be exercised as hereinafter provided, that is to say -

(a) the power to give or refuse leave to enter the Bailiwick of Jersey shall be exercised by immigration officers,

(b) the power to give leave to remain in the Bailiwick of Jersey, and the power under section 3(3)(a) to vary any leave as regards duration, shall be exercised by the ~~Lieutenant-Governor~~ Minister, and

(c) the power under section 3(3)(a) to vary any leave otherwise than as regards duration shall be exercised by the ~~Committee~~ Minister];

and, unless otherwise allowed by or under this Act, those powers should be exercised by notice in writing given to the person affected, except that the powers under section 3(3)(a) may be exercised generally in respect of any class of persons by order * * *.

(2) The provisions of Schedule 2 to this act shall have effect with respect to -

(a) the appointment and powers of immigration officers and medical inspectors for purposes of this Act;

(b) the examination of persons arriving in or leaving the [Bailiwick of Jersey] by ship or aircraft * * *, and the special powers exercisable in the case of those who arrive as, or with a view to becoming, members of the crews of ships and aircraft; and

(c) the exercise by immigration officers of their powers in relation to entry into the [Bailiwick of Jersey], and the removal from the [Bailiwick of Jersey] of persons refused leave to enter or entering or remaining unlawfully; and

(d) the detention of persons pending examination or pending removal from the [Bailiwick of Jersey];

and for other purposes supplementary to the foregoing provisions of this Act.

(3) [The ~~Committee~~ Minister may by order] make provision as to the effect of a condition under this Act requiring a person to register * * *; and the [order] may include provision -

- (a) as to the [body or person] by whom registers are to be maintained, and as to the form and content of the registers;
- (b) [as to the body or person with whom and as to the place] and manner in which anyone is to register and as to the documents and information to be furnished by him, whether on registration or on any change of circumstances;
- (c) as to the issue of certificates of registration and as to the payment of fees for certificates of registration;

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

- (4) [The ~~Committee~~ Minister may by order make such provision as appears to ~~it~~ him] to be expedient in connexion with this Act for records to be made and kept of persons staying at hotels and other premises where lodging or sleeping accommodation is provided, and for persons (whether <British citizens> or not) who stay at any such premises to supply the necessary information.

5. Procedure for, and Further Provisions as to Deportation

- (1) Where a person is under section 3(5) or (6) above liable to deportation, then subject to the following provisions of this Act the [~~Lieutenant-Governor~~ Minister] may make a deportation order against him, that is to say an order requiring him to leave and prohibiting him from entering the [Bailiwick of Jersey]; and a deportation order against a person shall invalidate any leave to enter or remain in the [Bailiwick of Jersey] given him before the order is made or while it is in force.
- (2) A deportation order against a person may at any time be revoked by a further order of the [~~Lieutenant-Governor~~ Minister], and shall cease to have effect if he becomes <a British citizen>.
- (3) A deportation order shall not be made against a person as belonging to the family of another person if more than eight weeks have elapsed since the other person left the [Bailiwick of Jersey] after the making of the deportation order against him; and a deportation order made against a person on that ground shall cease to have effect if he ceases to belong to the family of the other person, or if the deportation order made against the other person ceases to have effect.
- (4) For purposes of deportation the following shall be those who are regarded as belonging to another person's family -
 - (a) where that other person is a man, his wife or civil partner and his or her children under the age of eighteen; and
 - (b) where that other person is a woman, her husband or civil partner and her or his children under the age of eighteen;

and for purposes of this subsection an adopted child, whether legally adopted or not, may be treated as the child of the adopter and, if legally adopted shall be regarded as the child only of the adopter; an illegitimate child (subject to the foregoing rule as to adoptions) shall be regarded as the child of the mother; and "wife" includes each of two or more wives.

- (5) The provisions of Schedule 3 to this Act shall have effect with respect to the removal from the [Bailiwick of Jersey] of persons against whom deportation orders are in force and with respect to the detention or control of persons in connexion with deportation.
- (6) Where a person is liable to deportation under section 3(5)< * * * > or (6) above but without a deportation order being made against him, leaves the [Bailiwick of Jersey] to live permanently abroad, the [Committee Minister] may make payments of such amounts as he may determine to meet that person's expenses in so leaving the [Bailiwick of Jersey], including travelling expenses for members of his family or household.

6. Recommendations by Court for Deportation

- (1) Where under section 3(6) above a person convicted of an offence is liable to deportation on the recommendation of a court, he may be recommended for deportation by any court having power to sentence him for the offence. * * *

<* * * * *

- (2) A court shall not recommend a person for deportation unless he has been given not less than seven days notice in writing stating that a person is not liable to deportation if he is <a British citizen>, describing the persons who are <British citizens> and stating (so far as material) the effect of section 3(8) above and section 7 below; but the powers of [a court to adjourn] shall include power to adjourn, after convicting an offender, for the purpose of enabling a notice to be given to him under this subsection or, if a notice was so given to him less than seven days previously, for the purpose of enabling the necessary seven days to elapse.

- (3) For purposes of section 3(6) above -
 - (a) a person shall be deemed to have attained the age of seventeen at the time of his conviction if, on consideration of any available evidence, he appears to have done so to the court making or considering a recommendation for deportation; and
 - (b) the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any enactment restricting the imprisonment of young offenders or <persons who have not previously been sentenced to imprisonment>;

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

be regarded as a person convicted of the offence, and references to conviction shall be construed accordingly.

- (4) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.
- (5) Where a court recommends or purports to recommend a person for deportation, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or against the conviction on which it is made; but -
 - (a) < * * * > the recommendation shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence;
 - (b) < * * * >.
- (6) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the conviction on which it was made; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal. * * *
- (7) * * * * *

7. Exemption from Deportation for Certain Existing Residents

- (1) Notwithstanding anything in section 3(5) or (6) above but subject to the provisions of this section a Commonwealth citizen or citizen of the Republic of Ireland who was such a citizen at the coming into force of this Act and was then ordinarily resident in the [Bailiwick of Jersey] -
 - (a) shall not be liable to deportation under section 3(5)(a); if at the time of the [~~Lieutenant-Governor's~~ Minister's] decision he had at all times since the coming into force of this Act been ordinarily resident in the United Kingdom and Islands; and
 - (b) shall not be liable to deportation under section 3(5)(a), or (b) or 10 of the Immigration and Asylum Act 1999 if at the time of the [~~Lieutenant-Governor's~~ Minister's] decision he had for the last five years been ordinarily resident in the United Kingdom and Islands; and
 - (c) shall not on conviction of an offence be recommended for deportation under section 3(6) if at the time of the conviction he had for the last five years been ordinarily resident in the United Kingdom and Islands.
- (2) A person who has at any time become ordinarily resident in the United Kingdom or in any of the Islands shall not be treated for the purposes of this section as having ceased to be so by reason only of his having remained there in breach of the immigration laws.

- (3) The “last five years” before the material time under subsection (1)(b) or (c) above is to be taken as a period amounting in total to five years exclusive of any time during which the person claiming exemption under this section was undergoing imprisonment or detention by virtue of a sentence passed for an offence on a conviction in the United Kingdom and Islands, and the period for which he was imprisoned or detained by virtue of the sentence amounted to six months or more.
- (4) For purposes of subsection (3) above -
 - (a) “sentence” includes any order made on conviction of an offence; and
 - (b) two or more sentences for consecutive (or partly consecutive) terms shall be treated as a single sentence; and
 - (c) a person shall be deemed to be detained by virtue of a sentence -
 - (i) at any time when he is liable to imprisonment or detention by virtue of the sentence, but is unlawfully at large * * *.
- (5) Nothing in this section shall be taken to exclude the operation of section 3(8) above in relation to an exemption under this section.

8. Exceptions for Seamen, Aircrews and Other Special Cases

- (1) Where a person arrives at a place in the [Bailiwick of Jersey] as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either -
 - (a) there is in force a deportation order made against him; or
 - (b) he has at any time been refused leave to enter the [Bailiwick of Jersey] and has not since then been given leave to enter or remain in the [Bailiwick of Jersey]; or
 - (c) an immigration officer requires him to submit to examination in accordance with Schedule 2 to this Act;

he may without leave enter the [Bailiwick of Jersey] at that place and remain until the departure of the ship or aircraft on which he is required by his engagement to leave.
- [(2) The ~~Committee~~ The Committee The Minister may direct that any particular person or class of persons shall be exempt either unconditionally or subject to such conditions as the ~~Committee~~ Minister may impose from all or any of the provisions of this Act relating to those who are not British citizens. ~~insofar as those provisions apply to the taking of employment; and the Lieutenant-Governor may direct that any particular person or class of persons shall be exempt either unconditionally or~~

~~subject to such conditions as the Lieutenant-Governor may impose from all or any of the remaining provisions of this Act relating to those who are not British citizens.]~~

(2A) A direction under this subsection, if made with respect to a class of persons, shall be made by Order to which the Subordinate Legislation (Jersey) Law 1960(a) shall apply.

- (3) <Subject to subsection 3A below> the provisions of this Act relating to those who are not <British citizens> shall not apply to any person so long as he is a member of a mission (within the meaning of the Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998. Diplomatic Privileges Act 1964), a person who is a member of the family and forms part of the household of such a member, or a person otherwise entitled [within the United Kingdom] to the like immunity from jurisdiction as is conferred on a diplomatic agent.
- (3A) For the purposes of subsection (3) a member of a mission other than a diplomatic agent (as defined by the 1998 Law) is not to count as a member of a mission unless –
- (a) he was resident outside the Bailiwick of Jersey, and was not in the Bailiwick of Jersey, when he was offered a post as such a member; and
 - (b) he has not ceased to be such a member after having taken up the post.]
- (4) The provisions of this Act relating to those who are not <British citizens>, other than the provisions relating to deportation, shall also not apply to any person so long as either –
- (a) he is subject, as a member of the home forces, to service law; or
 - (b) being a member of a Commonwealth force or of a force raised under the law of any associated state, colony, protectorate or protected state, is undergoing or about to undergo training in the [Bailiwick of Jersey] with any body, contingent or detachment of the home forces; or
 - (c) he is serving or posted for service in the United Kingdom as a member of a visiting force or of any force raised as aforesaid or as a member of an international headquarters or defence organisation designated for the time being by an Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964.
- (5) Where a person having a limited leave to enter or remain in the [Bailiwick of Jersey] becomes entitled to an exemption under this section, that leave shall continue to apply after he ceases to be entitled to the exemption, unless it has by then expired; and a person is not to be regarded for purposes of this Act as having been <settle in the [Bailiwick of Jersey] at any time when he was entitled under the former immigration laws to any exemption corresponding to any of those afforded by subsection (3) or (4)(b) or (c) above or by any [direction] under subsection (2) above>.

<(5A)A [direction] under subsection (2) above may, as regards any person or class of persons to whom it applies, provide for that person or class to be in specified circumstances regarded (notwithstanding the [direction]) as settled in the [Bailiwick of Jersey] for the purposes of section 1(1) of the British Nationality Act 1981.>¹

(6) In this section “the home forces” means any of her Majesty’s forces other than a Commonwealth force or a force raised under the law of any associated state, colony, protectorate or protected state; “Commonwealth force” means a force of any country to which provisions of the Visiting Forces Act 1952 apply without an Order in Council under section 1 of the Act; and “visiting force” means a body, contingent or detachment of the forces of a country to which any of those provisions apply, being a body, contingent or detachment for the time being present in the [Bailiwick of Jersey] on the invitation of Her Majesty’s Government in the [Bailiwick of Jersey].

8A Persons Ceasing to be Exempt

(1) A person is exempt for the purposes of this section if he is exempt from provisions of this Act as a result of section 8(2) or (3).

(2) If a person who is exempt –

(a) ceases to be exempt, and

(b) requires leave to enter or remain in the [Bailiwick of Jersey] as a result,

he is to be treated as if he had been given leave to remain in the [Bailiwick of Jersey] for a period of 90 days beginning on the day on which he ceased to be exempt.

(3) If –

(a) a person who is exempt ceases to be exempt, and

(b) there is in force in respect of him leave for him to enter or remain in the [Bailiwick of Jersey] which expires before the end of the period mentioned in subsection (2), his leave is to be treated as expiring at the end of that period.

8B Persons Excluded from the United Kingdom under International Obligations

(1) An excluded person must be refused –

(a) leave to enter the [Bailiwick of Jersey];

(b) leave to remain in the [Bailiwick of Jersey].

(2) A person’s leave to enter or remain in the [Bailiwick of Jersey] is cancelled on his becoming an excluded person.

(3) A person’s exemption from the provisions of this Act as a result of section 8(1), (2) or (3) ceases on his becoming an excluded person.

¹ Page 371 of this Volume.

- (4) “Excluded person” means a person –
 - (a) named by or under, or
 - (b) of a description specified in,
a designated instrument.
- (5) The [~~Committee Minister~~] may by order designate an instrument if it is a resolution of the Security Council of the United Nations or an instrument made by the Council of the European Union and it –
 - (a) requires that a person is not to be admitted to the United Kingdom (however that requirement is expressed); or
 - (b) recommends that a person should not be admitted to the United Kingdom (however that recommendation is expressed).
- (6) Subsections (1) to (3) are subject to such exceptions (if any) as may specified in the order designating the instrument in question.
- (7) * * * * *
- (8) * * * * *

9. Further Provisions as to Common Travel Area

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

if they are not <British citizens> (and are not to be regarded under Schedule 4 to this Act as having leave to enter the [Bailiwick of Jersey]), shall be subject in the [Bailiwick of Jersey] to such restrictions on the period for which they may remain, and such conditions restricting their employment or occupation or requiring them to register [as provided under section 4(3) above or both, as may be imposed by an Order of the Minister and may be applicable to them. ~~by order and may be applicable to them; and the power to make an order under this subsection shall be exercised-~~

~~(a) as respects the period for which persons may remain, by the Lieutenant-Governor, and~~

~~(b) as respects other conditions, by the Committee.]~~

(3) Any provision of this Act applying to a limited leave or to conditions attached to a limited leave shall, unless otherwise provided, have effect in relation to a person subject to any restriction or condition by virtue of an order under subsection (2) above as if the provisions of the order applicable to him were terms on which he had been given leave under this Act to enter the [Bailiwick of Jersey].

(4) Section 1(3) above shall not be taken to affect the operation of a deportation order; and, subject to Schedule 4 to this Act, a person who is not <a British citizen> may not by virtue of section 1(3) enter the [Bailiwick of Jersey] without leave on a local journey from a place in the common travel area if either -

(a) he is on arrival in the [Bailiwick of Jersey] given written notice by an immigration officer stating that, the [~~Lieutenant-Governor~~ Minister] having issued directions for him not to be given entry to the [Bailiwick of Jersey] on the ground that his exclusion is conducive to the public good as being in the interests of national security, he is accordingly refused leave to enter the [Bailiwick of Jersey]; or

(b) he has at any time been refused leave to enter the [Bailiwick of Jersey] and has not since then been given leave to enter or remain in the [Bailiwick of Jersey].

(5) * * * * *

(6) The [~~Lieutenant-Governor~~ Minister] shall also have power by order to exclude the Republic of Ireland from section 1(3) for such purposes as may be specified in the order.

(7) * * * * *

10. * * * * *

11. Construction of References to Entry, and Other Phrases Relating to Travel

(1) A person arriving in the [Bailiwick of Jersey] by ship or aircraft shall for purposes of this Act be deemed not to enter the [Bailiwick of Jersey] unless and until he disembarks, and on disembarkation at a port shall further be deemed not to enter the [Bailiwick of Jersey] so long as he remains in such area (if any) at the port as may be approved for this purpose by an immigration officer; and a person who has not otherwise entered the [Bailiwick of Jersey] shall be deemed not to do so as long as he is detained, or temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act.

- (1A) * * * * *
- (2) In this Act “disembark” means disembark from a ship or aircraft, and “embark” means embark in a ship or aircraft; and, except in subsection (1) above -
- (a) references to disembarking in the [Bailiwick of Jersey] do not apply to disembarking after a local journey from a place in the [Bailiwick of Jersey] or elsewhere in the common travel area; and
 - (b) references to embarking in the [Bailiwick of Jersey] do not apply to embarking for a local journey to a place in the [Bailiwick of Jersey] or elsewhere in the common travel area.
- (3) Except insofar as the context otherwise requires, references in this Act to arriving in the [Bailiwick of Jersey] by ship shall extend to arrival by any floating structure, and “disembark” shall be construed accordingly; but the provisions of this Act specially relating to members of the crew of a ship shall not by virtue of this provision apply in relation to any floating structure not being a ship.
- (4) For purposes of this Act “common travel area” has the meaning given by section 1(3), and a journey is, in relation to the common travel area, a local journey if but only if it begins and ends in the common travel area and is not made by a ship or aircraft which -
- (a) in the case of a journey to a place in the [Bailiwick of Jersey], began its voyage from, or has during its voyage called at, a place not in the common travel area; or
 - (b) in the case of a journey from a place in the [Bailiwick of Jersey], is due to end its voyage in, or call in the course of its voyage at, a place not in the common travel area.
- (5) A person who enters the [Bailiwick of Jersey] lawfully by virtue of section 8(1) above, and seeks to remain beyond the time limited by section 8(1), shall be treated for purposes of this Act as seeking to enter the [Bailiwick of Jersey].

PART II

* * * * *

PART III

CRIMINAL PROCEEDINGS

24. Illegal Entry and Similar Offences

- (1) A person who is not <a British citizen> shall be guilty of an offence punishable [with a fine] or with imprisonment for not more than six months, or with both, in any of the following cases -
- (a) if contrary to this Act he knowingly enters the [Bailiwick of Jersey] in breach of a deportation order or without leave;
 - (b) if, having only a limited leave to enter or remain in the [Bailiwick of Jersey], he knowingly either -
 - (i) remains beyond the time limited by the leave; or
 - (ii) fails to observe a condition of the leave;
 - (c) if, having lawfully entered the [Bailiwick of Jersey] without leave by virtue of section 8(1) above, he remains without leave, beyond the time allowed by section 8(1);
 - (d) if, without reasonable excuse, he fails to comply with any requirement imposed on him under Schedule 2 to this Act to report to a medical officer of health, or to attend, or submit to a test or examination, as required by such an officer;
 - (e) if, without reasonable excuse, he fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence <, as to his employment or occupation> or as to reporting to the police or to an immigration officer;
 - (f) if he disembarks in the [Bailiwick of Jersey] from a ship or aircraft after being placed on board under Schedule 2 or 3 to this Act with a view to his removal from the [Bailiwick of Jersey];
 - (g) if he embarks in contravention of a restriction imposed by or under an Order in Council under section 3(7) of this Act.
- (1A) A person commits an offence under subsection (1)(b)(i) above on the day when he first knows that the time limited by his leave has expired and continues to commit it throughout any period during which he is in the [Bailiwick of Jersey] thereafter; but a person shall not be prosecuted under that provision more than once in respect of the same limited leave.>

(2)* * * * *

(3)* * * * *

- (4) In proceedings for an offence against subsection (1)(a) above of entering the [Bailiwick of Jersey] without leave -
- (a) any stamp purporting to have been imprinted on a passport or other travel document by an immigration officer on a particular date for the purpose of giving leave shall be presumed to have been duly so imprinted, unless the contrary is proved;
 - (b) proof that a person had leave to enter the [Bailiwick of Jersey] shall lie on the defence, if, but only if, he is shown to have entered within six months before the date when the proceedings were commenced.

24A Deception

- (1) A person who is not a British citizen is guilty of an offence if, by means which include deception by him –
- (a) obtains or seeks to obtain leave to enter or remain in the [Bailiwick of Jersey]; or
 - (b) he secures or seeks to secure the avoidance, postponement or revocation of enforcement action against him.
- (2) “Enforcement action”, in relation to a person, means –
- (a) the giving of directions for his removal from the [Bailiwick of Jersey] (“directions”) under Schedule 2 to this Act or section 10 of the Immigration and Asylum Act 1999;
 - (b) the making of a deportation order against him under section 5 of this Act; or
 - (c) his removal from the [Bailiwick of Jersey] in consequence of directions or a deportation order.
- [(3) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding two years or to a fine, or to both.]
- (4) * * * * *

25. Assisting Illegal Entry, and Harboursing

- (1) Any person knowingly concerned in making or carrying out arrangements for securing or facilitating.
- (a) the entry into the [Bailiwick of Jersey] of anyone whom he knows or has reasonable cause for believing to be an illegal entrant;
 - (b) the entry into the [Bailiwick of Jersey] of anyone whom he knows or has reasonable cause for believing to be an asylum claimant; or

(c) the obtaining by anyone of leave to remain in the [Bailiwick of Jersey] by means which he knows or has reasonable cause for believing to include deception shall be guilty of an offence, punishable * * * with a fine or with imprisonment for not more than ten years, or with both.

(1A) Nothing in subsection (1)(b) applies to anything done in relation to a person who –

(a) has been detained under paragraph 16 of Schedule 2 to this Act; or

(b) has been granted temporary admission under paragraph 21 of that Schedule.

(1B) Nothing in subsection (1)(b) applies to anything done by a person otherwise than for gain.

(1C) Nothing in subsection (1)(b) applies to anything done to assist an asylum claimant by a person in the course of his employment by a bona fide organisation, if the purposes of that organisation include assistance to persons in the position of the asylum claimant.

(1D) "Asylum claimant" means a person who intends to make a claim that it would be contrary to the United Kingdom's obligations [in respect of the Bailiwick of Jersey] under the Refugee Convention or the Human Rights Convention for him to be removed from, or required to leave, the [Bailiwick of Jersey].

(1E) "Refugee Convention" and "Human Rights Convention" have the meaning given in the Immigration and Asylum Act 1999.

(2) Without prejudice to subsection (1) above a person knowingly harbouring anyone whom he knows or has reasonable cause for believing to be either an illegal entrant or a person who has committed an offence under section 24(1)(b) or (c) above, shall be guilty of an offence, punishable [with a fine] or with imprisonment for not more than six months, or with both.

(3) * * * * *

(4) * * * * *

(5) ~~Subsection (1) above applies to things done whether inside or outside the Bailiwick of Jersey. Paragraphs (a) and (b) of subsection (1) above shall apply to things done outside as well as to things done in the [Bailiwick of Jersey] where they are done—~~

~~<(a) by a British citizen, a British Dependent Territories citizen, or a British Overseas citizen;~~

~~(b) by a person who under the British Nationality Act 1981 is a British subject; or~~

~~(c) by a British protected person (within the meaning of that Act)>.~~

² Page 371 of this Volume.

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

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

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

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

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

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

25A Detention of Ships, Aircraft and Vehicles in Connection with Offences Under Section 25(1)

- (1) If a person has been arrested for an offence under section 25(1)(a) or (b), a senior officer or a [police officer] may detain a relevant ship, aircraft or vehicle –
 - (a) until a decision is taken as to whether or not to charge the arrested person with that offence; or
 - (b) if the arrested person has been charged –
 - (i) until he is acquitted, the charge against him is dismissed or the proceedings are discontinued; or
 - (ii) if he has been convicted, until the court decides whether or not to order forfeiture of the ship, aircraft or vehicle.
- (2) A ship, aircraft or vehicle is a relevant ship, aircraft or vehicle, in relation to an arrested person, if it is one which the officer or [police officer] concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under section 25(6).
- (3) A person (other than the arrested person) who claims to be the owner of a ship, aircraft or vehicle which has been detained under this section may apply to the court for its release.
- (4) The court to which an application is made under subsection (3) may, on such security or surety being tendered as it considers satisfactory, release the ship, aircraft or vehicle on condition that it is made available to the court if –
 - (a) the arrested person is convicted; and
 - (b) an order for its forfeiture is made under section 25(6).
- (5) * * * * *
- [(6) “Court” means –
 - (a) if the arrested person has not been charged, the Magistrate’s Court;
 - (b) if he has been charged, but proceedings for the offence have not begun to be heard, the Magistrate’s Court;
 - (c) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings.]
- (7) “Owner” has the same meaning as it has in section 25(6).
- (8) “Senior officer” means an immigration officer not below the rank of chief immigration officer.

26. General Offences in Connexion with Administration of Act

- (1) A person shall be guilty of an offence punishable [with a fine] or with imprisonment for not more than six months, or with both, in any of the following cases -
 - (a) if, without reasonable excuse, he refuses or fails to submit to examination under Schedule 2 to this Act;
 - (b) if, without reasonable excuse, he refuses or fails to furnish or produce any information in his possession, or any documents in his possession or control, which he is on an examination under that Schedule required to furnish or produce;
 - (c) if on any such examination or otherwise he makes or causes to be made to an immigration officer or other person lawfully acting in the execution of a relevant enactment a return, statement or representation which he knows to be false or does not believe to be true;
 - (d) if, without lawful authority, he alters any <certificate of entitlement>, entry clearance, work permit or other document issued or made under or for the purposes of this Act, or uses for the purposes of this Act, or has in his possession for such use, any passport, <certificate of entitlement>, entry clearance, work permit or other document which he knows or has reasonable cause to believe to be false;
 - (e) if, without reasonable excuse, he fails to complete and produce a landing or embarkation card in accordance with any [direction] under Schedule 2 to this Act;
 - (f) if, without reasonable excuse, he fails to comply with any requirement of [an order under section 4(3) or (4)] above;
 - (g) if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this Act.

(2) * * * * *

(3) "Relevant enactment" means –

- (a) this Act;
- (b) the Immigration Act 1988;
- (c) * * * * *
- (d) the Immigration and Asylum Act 1999* * *

27. Offences by Persons Connected with Ships or Aircraft or with Ports

A person shall be guilty of an offence punishable [with a fine] or with imprisonment for not more than six months, or with both, in any of the following cases -

- (a) if, being the captain of a ship or aircraft, -
 - (i) he knowingly permits a person to disembark in the [Bailiwick of Jersey] when required under Schedule 2 or 3 to this Act to prevent it, or fails without reasonable excuse to take any steps he is required by or under Schedule 2 to take in connexion with the disembarkation or examination of passengers or for furnishing a passenger list or particulars of members of the crew; or
 - (ii) he fails, without reasonable excuse, to comply with any directions given him under Schedule 2 or 3 or under the Immigration and Asylum Act 1999 with respect to the removal of a person from the [Bailiwick of Jersey];
- (b) if, as owner or agent of a ship or aircraft, -
 - (i) he arranges, or is knowingly concerned in any arrangements, for the ship or aircraft to call at a port other than a port of entry contrary to any provision of Schedule 2 to this Act; or
 - (ii) he fails, without reasonable excuse, to take any steps required by [a direction] under Schedule 2 for the supply to passengers of landing or embarkation cards; or
 - (iii) he fails, without reasonable excuse, to make arrangements for or in connection with the removal of a person from the [Bailiwick of Jersey] when required to do so by directions given under Schedule 2 or 3 to this Act or under the Immigration and Asylum Act 1999; or
 - (iiia) he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2; or
 - (iv) he fails, without reasonable excuse, to comply with any other requirement imposed by or under Schedule 2, and
- (c) if, as owner or agent of a ship or aircraft or as a person concerned in the management of a port, he fails, without reasonable excuse, to take any steps required by Schedule 2 in relation to the embarkation or disembarkation of passengers where a control area is designated.
- (ca) if a person concerned in the management of a port he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2.
- (d) * * * * *

28. Proceedings

- (1) * * * * *
- (2) * * * * *
- (3) * * * * *
- (4) Any powers exercisable under this Act in the case of any person may be exercised notwithstanding that proceedings for an offence under this Part of this Act have been taken against him.

28A Arrest without Warrant

- (1) A [police officer] or immigration officer may arrest without warrant a person –
 - (a) who has committed or attempted to commit an offence under section 24 or 24A; or
 - (b) whom he has reasonable grounds for suspecting has committed or attempted to commit such an offence.
- (2) But subsection (1) does not apply in relation to an offence under section 24(1)(d).
- (3) An immigration officer [or police officer] may arrest without warrant a person –
 - (a) who has committed an offence under section 25(1); or
 - (b) whom he has reasonable grounds for suspecting has committed that offence.
- (4) An immigration officer [or police officer] may arrest without warrant a person –
 - (a) who has committed or attempted to commit an offence under section 25(2); or
 - (b) whom he has reasonable grounds for suspecting has committed or attempted to commit that offence.
- (5) An immigration officer [or police officer] may arrest without warrant a person (“the suspect”) who, or whom he has reasonable grounds for suspecting –
 - (a) has committed or attempted to commit an offence under section 26(1)(g); or
 - (b) is committing or attempting to commit that offence.
- (6) The power conferred by subsection (5) is exercisable only if either the first or the second condition is satisfied.
- (7) The first condition is that it appears to the officer that service of a summons * * * is impracticable or inappropriate because –

- (a) he does not know, and cannot readily discover, the suspect's name;
 - (b) he has reasonable grounds for doubting whether a name given by the suspect as his name is his real name;
 - (c) the suspect has failed to give him a satisfactory address for service; or
 - (d) he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service.
- (8) The second condition is that the officer has reasonable grounds for believing that arrest is necessary to prevent the suspect –
- (a) causing physical injury to himself or another person;
 - (b) suffering physical injury; or
 - (c) causing loss of or damage to property.
- (9) For the purposes of subsection (7), an address is a satisfactory address for service if it appears to the officer –
- (a) that the suspect will be at that address for a sufficiently long period for it to be possible to serve him with a summons (or copy complaint); or
 - (b) that some other person specified by the suspect will accept service of a summons (or copy complaint) for the suspect at that address.
- (10) In relation to the exercise of the powers conferred by subsections (3)(b), (4)(b) and (5), it is immaterial that no offence has been committed.
- (11) * * * * *

28B Search and Arrest by Warrant

- (1) Subsection (2) applies if [the Bailiff] is, by written information on oath, satisfied that there are reasonable grounds for suspecting that a person (“the suspect”) who is liable to be arrested for a relevant offence is to be found on any premises.
- (2) The [Bailiff] may grant a warrant authorising any immigration officer or [police officer] to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting the suspect.
- (3) * * * * *
- (4) * * * * *
- (5) “Relevant offence” means an offence under section 24(1)(a), (b), (c), (d), (e) or (f), section 24A or section 25(2).

28C Search and Arrest without Warrant

- (1) An immigration officer [or police officer] may enter and search any premises for the purpose of arresting a person for an offence under section 25(1).
- (2) The power may be exercised –
 - (a) only to the extent that it is reasonably required for that purpose; and
 - (b) only if the officer has reasonable grounds for believing that the person whom he is seeking is on the premises.
- (3) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching –
 - (a) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any such other dwelling; and
 - (b) any such dwelling in which the officer has reasonable grounds for believing that the person whom he is seeking may be.
- (4) The power may be exercised only if the officer produces identification showing that he is an immigration officer [or police officer] (whether or not he is asked to do so).

28D Entry and Search of Premises

- (1) If, on an application made by an [immigration officer or a police officer, the Bailiff] is satisfied that there are reasonable grounds for believing that –
 - (a) a relevant offence has been committed,
 - (b) there is material on premises specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence,
 - (c) the material is likely to be relevant evidence,
 - (d) the material does not consist of or include items subject to legal privilege,
* * *, and
 - (e) any of the conditions specified in subsection (2) applies,he may issue a warrant authorising an [immigration officer or a police officer to enter] and search the premises.
- (2) The conditions are that –
 - (a) it is not practicable to communicate with any person entitled to grant entry to the premises;

- (b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
 - (c) entry to the premises will not be granted unless a warrant is produced;
 - (d) the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry to them.
- (3) An immigration officer may seize and retain anything for which a search has been authorised under subsection (1).
- (4) “Relevant offence” means an offence under section 24(1)(a), (b), (c), (d), (e) or (f), section 24A or section 25.
- (5) * * * * *
- (6) * * * * *
- (7) * * * * *

28E Entry and Search of Premises Following Arrest

- (1) This section applies if a person is arrested for an offence under this Part at a place other than a police station.
- (2) An immigration officer may enter and search any premises –
 - (a) in which the person was when arrested, or
 - (b) in which he was immediately before he was arrested,for evidence relating to the offence for which the arrest was made (“relevant evidence”).
- (3) The power may be exercised –
 - (a) only if the officer has reasonable grounds for believing that there is relevant evidence on the premises; and
 - (b) only to the extent that it is reasonably required for the purpose of discovering relevant evidence.
- (4) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching –
 - (a) any dwelling in which the arrest took place or in which the arrested person was immediately before his arrest; and

- (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.
- (5) An officer searching premises under subsection (2) may seize and retain anything he finds which he has reasonable grounds for believing is relevant evidence.
- (6) Subsection (5) does not apply to items which the officer has reasonable grounds for believing are items subject to legal privilege.

28F Entry and Search of Premises Following Arrest under Section 25(1)

- (1) An immigration officer may enter and search any premises occupied or controlled by a person arrested for an offence under section 25(1).
- (2) The power may be exercised –
 - (a) only if the officer has reasonable grounds for suspecting that there is relevant evidence on the premises;
 - (b) only to the extent that it is reasonably required for the purpose of discovering relevant evidence; and
 - (c) subject to subsection (3), only if a senior officer has authorised it in writing.
- (3) The power may be exercised –
 - (a) before taking the arrested person to a place where he is to be detained; and
 - (b) without obtaining an authorisation under subsection (2)(c),

if the presence of that person at a place other than one where he is to be detained is necessary for the effective investigation of the offence.
- (4) An officer who has relied on subsection (3) must inform a senior officer as soon as is practicable.
- (5) The officer authorising a search, or who is informed of one under subsection (4), must make a record in writing of –
 - (a) the grounds for the search; and
 - (b) the nature of the evidence that was sought.
- (6) An officer searching premises under this section may seize and retain anything he finds which he has reasonable grounds for suspecting is relevant evidence.
- (7) “Relevant evidence” means evidence, other than items subject to legal privilege, that relates to the offence in question.

- (8) “Senior officer” means an immigration officer not below the rank of chief immigration officer.

28G Searching Arrested Persons

- (1) This section applies if a person is arrested for an offence under this Part at a place other than a police station.
- (2) An immigration officer may search the arrested person if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (3) The officer may search the arrested person for –
- (a) anything which he might use to assist his escape from lawful custody; or
 - (b) anything which might be evidence relating to the offence for which he has been arrested.
- (4) The power conferred by subsection (3) may be exercised –
- (a) only if the officer has reasonable grounds for believing that the arrested person may have concealed on him anything of a kind mentioned in that subsection; and
 - (b) only to the extent that it is reasonably required for the purpose of discovering any such thing.
- (5) A power conferred by this section to search a person is not to be read as authorising an officer to require a person to remove any of his clothing in public other than an outer coat, jacket or glove; but it does authorise the search of a person’s mouth.
- (6) An officer searching a person under subsection (2) may seize and retain anything he finds, if he has reasonable grounds for believing that that person might use it to cause physical injury to himself or to another person.
- (7) An officer searching a person under subsection (3) may seize and retain anything he finds, if he has reasonable grounds for believing –
- (a) that that person might use it to assist his escape from lawful custody; or
 - (b) that it is evidence which relates to the offence in question.
- (8) Subsection (7)(b) does not apply to an item subject to legal privilege.

28H Searching Persons in Police Custody

- (1) This section applies if a person –
- (a) has been arrested for an offence under this Part; and

- (b) is in custody at a police station or in police detention at a place other than a police station.
- (2) An immigration officer may, at any time, search the arrested person in order to see whether he has with him anything –
- (a) which he might use to –
 - (i) cause physical injury to himself or others;
 - (ii) damage property;
 - (iii) interfere with evidence; or
 - (iv) assist his escape; or
 - (b) which the officer has reasonable grounds for believing is evidence relating to the offence in question.
- (3) The power may be exercised only to the extent that the custody officer concerned considers it to be necessary for the purpose of discovering anything of a kind mentioned in subsection (2).
- (4) An officer searching a person under this section may seize anything he finds, if he has reasonable grounds for believing that –
- (a) that person might use it for one or more of the purposes mentioned in subsection (2)(a); or
 - (b) it is evidence relating to the offence in question.
- (5) Anything seized under subsection (4)(a) may be retained by the police.
- (6) Anything seized under subsection (4)(b) may be retained by an immigration officer.
- (7) The person from whom something is seized must be told the reason for the seizure unless he is –
- (a) violent or appears likely to become violent; or
 - (b) incapable of understanding what is said to him.
- (8) An intimate search may not be conducted under this section.
- (9) The person carrying out a search under this section must be of the same sex as the person searched.
- [(10) “Custody officer” means the officer in charge of a police station.]
- [(11) “Intimate search” means a search which consists of the physical examination of a person’s body orifices other than the mouth.]

[(12) A person is in police detention if –

- (a) he has been taken to a police station after being arrested for an offence or after being arrested under Article 13 of the Prevention of Terrorism (Jersey) Law 1996,¹ or under paragraph 6 of the Fifth Schedule to that Law² by an examining officer who is a police officer; or
- (b) he is arrested at a police station after attending voluntarily at the station or accompanying a police officer to it,

and is detained there or is detained elsewhere in the charge of a police officer, but is not in police detention if he is in court after being charged.]

28I Seized Material: Access and Copying

(1) If a person showing himself –

- (a) to be the occupier of the premises on which seized material was seized, or
- (b) to have had custody or control of the material immediately before it was seized,

asks the immigration officer who seized the material for a record of what he seized, the officer must provide the record to that person within a reasonable time.

(2) If a relevant person asks an immigration officer for permission to be granted access to seized material, the officer must arrange for him to have access to the material under the supervision –

- (a) in the case of seized material within subsection (8)(a), of an immigration officer;
- (b) in the case of seized material within subsection (8)(b), of a [police officer].

(3) An immigration officer may photograph or copy, or have photographed or copied, seized material.

(4) If a relevant person asks an immigration officer for a photograph or copy of seized material, the officer must arrange for –

- (a) that person to have access to the material for the purpose of photographing or copying it under the supervision –
 - (i) in the case of seized material within subsection (8)(a), of an immigration officer;
 - (ii) in the case of seized material within subsection (8)(b), of a [police officer];
or
- (b) the material to be photographed or copied.

- (5) A photograph or copy made under subsection (4)(b) must be supplied within a reasonable time.
- (6) There is no duty under this section to arrange for access to, or the supply of a photograph or copy of, any material if there are reasonable grounds for believing that to do so would prejudice –
 - (a) the exercise of any functions in connection with which the material was seized; or
 - (b) an investigation which is being conducted under this Act, or any criminal proceedings which may be brought as a result.
- (7) “Relevant person” means –
 - (a) a person who had custody or control of seized material immediately before it was seized, or
 - (b) someone acting on behalf of such a person.
- (8) “Seized material” means anything –
 - (a) seized and retained by an immigration officer, or
 - (b) seized by an immigration officer and retained by the police, under this Part.

28J Search Warrants: Safeguards

- (1) The entry or search of premises under a warrant is unlawful unless it complies with this section and section 28K.
- (2) If an immigration officer applies for a warrant, he must –
 - (a) state the ground on which he makes the application and the provision of this Act under which the warrant would be issued;
 - (b) specify the premises which it is desired to enter and search; and
 - (c) identify, so far as is practicable, the persons or articles to be sought.
- [(3) An application for a warrant is to be made ex parte and supported by an information in writing.
- (4) * * * * *
- (5) The officer must answer on oath any question that the [Bailiff when] hearing the application asks him.
- (6) A warrant shall authorise an entry on one occasion only.

- (7) A warrant must specify –
 - (a) the name of the person applying for it;
 - (b) the date on which it is issued;
 - (c) the premises to be searched; and
 - (d) the provision of this Act under which it is issued.
- (8) A warrant must identify, so far as is practicable, the persons or articles to be sought.
- (9) Two copies of a warrant must be made.
- (10) The copies must be clearly certified as copies.
- (11) “Warrant” means a warrant to enter and search premises issued to an immigration officer under this Part or under paragraph 17(2) of Schedule 2.

28K Execution of Warrants

- (1) A warrant may be executed by any immigration officer.
- (2) A warrant may authorise persons to accompany the officer executing it.
- (3) Entry and search under a warrant must be –
 - (a) within one month from the date of its issue; and
 - (b) at a reasonable hour, unless it appears to the officer executing it that the purpose of a search might be frustrated.
- (4) If the occupier of premises which are to be entered and searched is present at the time when an immigration officer seeks to execute a warrant, the officer must –
 - (a) identify himself to the occupier and produce identification showing that he is an immigration officer;
 - (b) show the occupier the warrant; and
 - (c) supply him with a copy of it.
- (5) If –
 - (a) the occupier is not present, but
 - (b) some other person who appears to the officer to be in charge of the premises is present,

subsection (4) has effect as if each reference to the occupier were a reference to that other person.

- (6) If there is no person present who appears to the officer to be in charge of the premises, the officer must leave a copy of the warrant in a prominent place on the premises.
- (7) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.
- (8) An officer executing a warrant must make an endorsement on it stating –
 - (a) whether the persons or articles sought were found; and
 - (b) whether any articles, other than articles which were sought, were seized.
- (9) A warrant which has been executed, or has not been executed within the time authorised for its execution, must be returned [to the Bailiff’s Secretary].
- (10) A warrant returned under [subsection (9)] must be retained for 12 months by the [Bailiff’s Secretary].
- (11) * * * * *
- (12) * * * * *
- (13) If during that 12 month period the occupier of the premises to which it relates asks to inspect it, he must be allowed to do so.
- (14) “Warrant” means a warrant to enter and search premises issued to an immigration officer under this Part or under paragraph 17(2) of Schedule 2.

28L Interpretation of Part III

- [(1) In this Part, “premises” includes any place and, in particular, includes –
 - (a) any vehicle, vessel, aircraft or hovercraft; and
 - (b) any tent or moveable structure.
- (2) In this Part, subject to subsection (3) below, “items subject to legal privilege” means –
 - (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
 - (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and

- (c) items enclosed with or referred to in such communications and made –
- (i) in connection with the giving of legal advice; or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,
- when they are in the possession of a person who is entitled to possession of them.
- (3) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.]

PART IV

SUPPLEMENTARY

29. Contribution for Expenses of Persons Returning Abroad

- (1) The [~~Committee Minister~~] may, in such cases [as it may with the approval of the ~~Finance and Economics Committee of the States Minister for Treasury and Resources~~] determine, make payments of such amount as may be so determined to meet or provide for expenses of persons who are not <British citizens> in leaving the [Bailiwick of Jersey] for a country or territory where they intend to reside permanently, including travelling expenses for members of their families or households.
- (2) The [~~Committee Minister~~] shall, so far as practicable, administer this section so as to secure that a person's expenses in leaving the [Bailiwick of Jersey] are not met by or out of a payment made by the [~~Committee Minister~~] unless it is shown that it is in that person's interest to leave the [Bailiwick of Jersey] and that he wishes to do so.

30. * * * * *

31. * * * * *

32. General Provision as to Orders, etc.

- (1) Any power conferred by Part I of this Act to make an Order in Council or order (other than a deportation order) or to give any directions includes power to revoke or vary the Order in Council, order or directions.
- (2) Any document purporting to be an order, notice or direction made or given by [~~the Lieutenant-Governor or the Committee the Minister~~] for the purposes of the Immigration Acts and to be signed by him or on his behalf [~~or, as the case may be, on behalf of the Committee~~] and any document purporting to be a certificate of [~~the Lieutenant-Governor or the Committee the Minister~~] so given and to be signed by him or on his behalf [~~or, as the case may be, on behalf of the Committee~~] shall be

received in evidence, and shall, until the contrary is proved, be deemed to be made or issued by him [~~or, as the case may be, by the Committee~~].

- (3) Prima facie evidence of any such order, notice, direction or certificate as aforesaid may, in any legal proceedings * * *, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of [~~the Lieutenant-Governor or the Committee~~ the Minister] and stating that the document is a true copy of the order, notice, direction or certificate.
- (4) Where an order under section 8(2) above applies to persons specified in a schedule to the order, or any directions of [~~the Lieutenant-Governor or the Committee~~ the Minister] given for the purposes of the Immigration Acts apply to persons specified in a schedule to the directions, prima facie evidence of the provisions of the order or directions other than the schedule of any entry contained in the schedule may, in any legal proceedings * * *, be given by the production of a document purporting to be signed by or on behalf of [~~the Lieutenant-Governor or the Committee~~ the Minister] and stating that the document is a true copy of the said provisions and of the relevant entry.
- (5) "Immigration Acts" has the same meaning as in the Immigration and Asylum Act 1999.

33. Interpretation

- (1) For purposes of this Act, except in so far as the context otherwise requires -

"aircraft" includes hovercraft, "airport" includes hoverport and "port" includes airport;

"captain" means master (of a ship) or commander (of an aircraft);

"certificate of <entitlement>" means such a certificate as is referred to in section 3(9) above;

[~~"Committee" means the Home Affairs Committee of the States~~];

* * * * *

"crew", in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the captain, and "member of the crew" shall be construed accordingly;

'entrant' means a person entering or seeking to enter the [Bailiwick of Jersey] and 'illegal entrant' means a person -

- (a) unlawfully entering or seeking to enter in breach of a deportation order or of the immigration laws, or
- (b) entering or seeking to enter by means which include deception by another person,

and includes also a person who has entered as mentioned in paragraph (a) or (b) above;

“entry clearance” means a visa, entry certificate or other document which, in accordance with the immigration rules, is to be taken as evidence <or the requisite evidence> of a person’s eligibility, though not <a British citizen>, for entry into the [Bailiwick of Jersey] (but does not include a work permit);

“immigration laws” means this Act and any law for purposes similar to this Act which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands;

* * * * *

“the Islands” means the Channel Islands and the Isle of Man, and “the United Kingdom and Islands” means the United Kingdom and the Islands taken together;

[“legally adopted” means adopted in pursuance of an order made by a court in the United Kingdom and Islands];

[“Lieutenant-Governor” means the person for the time being holding the office of Lieutenant-Governor and Commander-in-Chief of the Island of Jersey and its Dependencies];

“Minister” means the Minister for Home Affairs;

“limited leave” and “indefinite leave” mean respectively leave under this Act to enter or remain in the [Bailiwick of Jersey] which is, and one which is not, limited as to duration;

“settled” shall be construed in accordance <with subsection (2A) below>;

“ship” includes every description of vessel used in navigation;

[“the States” means the States of Jersey];

* * * * *

<“United Kingdom passport” means a current passport issued by the Government of the United Kingdom, or by the Lieutenant-Governor of any of the Islands or by the Government of any territory which is for the time being a dependent territory within the meaning of the British Nationality Act 1981;>

[“work permit” means a permit issued by the Committee Minister to a specific employer in respect of a specific post;]

- (2) It is hereby declared that, except as otherwise provided in this Act, a person is not to be treated for the purposes of any provision of this Act as ordinarily resident in the United Kingdom or in any of the Islands at a time when he is there in breach of the immigration laws.

<(2A)Subject to section 8(5) above, references to a person being settled in the [Bailiwick of Jersey] are references to his being ordinarily resident there without being subject under the immigration laws to any restriction on the period for which he may remain.>

[(3) The ports of entry for the purposes of this Act and the ports of exit for the purposes of any Order in Council made under section 3(7) above shall be the approved ports set out in the Schedule to the Loi (1937) sur les Etrangers³ or such places as the States may by Act designate].

(4) * * * * *

(5) This Act shall not be taken to supersede or impair any power exercisable by Her Majesty in relation to aliens by virtue of Her prerogative.

34. * * * * *

35. * * * * *

36. * * * * *

37. Short title and extent

(1) This Act may be cited as the Immigration Act 1971.

(2) * * * * *

³ Tome VII, page 207.

SCHEDULES

SCHEDULE 1

* * * * *

SCHEDULE 2

(Section 4)

**ADMINISTRATIVE PROVISIONS AS TO CONTROL
ON ENTRY, ETC.**

PART I

GENERAL PROVISIONS

1. Immigration Officers and Medical Inspectors

- [(1) Immigration officers for the purposes of this Act shall be appointed in accordance with the Employment of States of Jersey Employees (Jersey) Law 2005(a). ~~by the Committee with the concurrence of the Lieutenant-Governor and, with such concurrence, the Committee may arrange for the employment of officers of customs as immigration officers under this Act and aliens officers appointed in pursuance of the Loi (1937) sur les Etrangers 4 shall be deemed to have been duly appointed immigration officers under this paragraph for the purposes of this Act.~~
- (2) The medical officer of health and his deputy shall be medical inspectors for the purposes of this Act.
- (3) In the exercise of their functions under this Act, immigration officers and medical inspectors shall act in accordance with such directions as may be given them by the Minister.-
- ~~(a) by the Lieutenant-Governor, as respects the entry of persons into the Bailiwick, the period for which such persons may remain and matters incidental thereto;~~
- ~~(b) by the Committee as respects any other matters;~~
- ~~and medical officers shall act in accordance with such instructions as may be given them by the Committee.]~~
- (4) An immigration officer or medical inspector may board any ship [or aircraft] for the purpose of exercising his functions under this Act.
- (5) An immigration officer, for the purpose of satisfying himself whether there are persons he may wish to examine under paragraph 2 below, may search any ship [or aircraft] and anything on board it, or any vehicle taken off a ship or aircraft in which it has been brought to the [Bailiwick of Jersey].

2. Examination by Immigration Officers, and Medical Examination

- (1) An immigration officer may examine any persons who have arrived in the [Bailiwick of Jersey] by ship [or aircraft] (including transit passengers, members of the crew and others not seeking to enter the [Bailiwick of Jersey]) for the purpose of determining -
 - (a) whether any of them is or is not <a British citizen>; and
 - (b) whether, if he is not, he may or may not enter the [Bailiwick of Jersey] without leave; and
 - (c) whether, if he may not –
 - (i) he has been given leave which is still in force,
 - (ii) he should be given leave and for what period or on what conditions (if any), or
 - (iii) he should be refused leave.
- (2) Any such person, if he is seeking to enter the [Bailiwick of Jersey], may be examined also by a medical inspector or by any qualified person carrying out a test or examination required by a medical inspector.
- (3) A person, on being examined under this paragraph by an immigration officer or medical inspector, may be required in writing by him to submit to further examination; but a requirement under this sub-paragraph shall not prevent a person who arrives as a transit passenger, or as a member of the crew of a ship or aircraft, or for the purpose of joining a ship or aircraft as a member of the crew, from leaving by his intended ship or aircraft.

2A Examination of Persons who arrive with Continuing Leave

- (1) This paragraph applies to a person who has arrived in the [Bailiwick of Jersey] with leave to enter which is in force but which was given to him before his arrival.
- (2) He may be examined by an immigration officer for the purpose of establishing –
 - (a) whether there has been such a change in the circumstances of his case, since that leave was given, that it should be cancelled;
 - (b) whether that leave was obtained as a result of false information given by him or his failure to disclose material facts; or
 - (c) whether there are medical grounds on which that leave should be cancelled.
- (3) He may also be examined by an immigration officer for the purpose of determining whether it would be conducive to the public good for that leave to be cancelled.

- (4) He may also be examined by a medical inspector or by any qualified person carrying out a test or examination required by a medical inspector.
 - (5) A person examined under this paragraph may be required by the officer or inspector to submit to further examination.
 - (6) A requirement under sub-paragraph (5) does not prevent a person who arrives –
 - (a) as a transit passenger,
 - (b) as a member of the crew of a ship or aircraft, or
 - (c) for the purpose of joining a ship or aircraft as a member of the crew, from leaving by his intended ship or aircraft.
 - (7) An immigration officer examining a person under this paragraph may by notice suspend his leave to enter until the examination is completed.
 - (8) An immigration officer may, on the completion of any examination of a person under this paragraph, cancel his leave to enter.
 - (9) Cancellation of a person's leave under sub-paragraph (8) is to be treated for the purposes of this Act * * * as if he had been refused leave to enter at a time when he had a current entry clearance.
 - (10) A requirement imposed under sub-paragraph (5) and a notice given under sub-paragraph (7) must be in writing.”
- 3.**
- (1) An immigration officer or designated person may examine any person who is embarking or seeking to embark in the Bailiwick of Jersey for the purpose of determining whether he is a British citizen and, if he is not a British citizen, for the purpose of establishing-
 - (a) his identity
 - (b) whether he entered Jersey lawfully;
 - (c) whether he has complied with any conditions of leave to enter or remain in Jersey;
 - (d) whether his return to Jersey is prohibited or restricted.
 - (1A) If a person is examined under sub-paragraph (1) (whether by an immigration officer or designated person), an immigration officer may require the person, by notice in writing, to submit to further examination by the immigration officer for a purpose specified in that sub-paragraph.
 - (2) So long as any Order in Council is in force under section 3(7) of this Act, an immigration officer may examine any person who is embarking or seeking to embark in the Bailiwick of Jersey for the purpose of determining -

- (a) whether any of the provisions of the Order apply to him; and
- (b) whether, if so, any power conferred by the Order should be exercised in relation to him and in what way.

4. Information and Documents

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

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

- (3) Where under sub-paragraph (2)(b) above a person has been required to declare whether or not he is carrying or conveying or has carried or conveyed documents of any description,
 - (a) he and any baggage or vehicle belonging to him or under his control; and
 - (b) any ship, aircraft or vehicle in which he arrived in the [Bailiwick of Jersey] may be searched with a view to ascertaining whether he is doing or, as the case may be, has done so by an immigration officer or a person acting under the directions of an immigration officer:

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

- (4) Where a passport or other document is produced to or found by an immigration officer in accordance with this paragraph the 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 Bailiwick of Jersey 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 offence.
- (4A) Where a passport or other document is produced to a designated person in accordance with this paragraph, the designated person-
- (a) may examine it and detain it; and
 - (b) must deliver any detained passport or document to an immigration officer as soon as reasonably practicable
- (4B) If a passport or document is delivered to an immigration officer in accordance with sub-paragraph (4A)(b), sub-paragraph (4) applies as if the immigration officer had detained the document and accordingly, the immigration officer may continue to detain it in accordance with sub-paragraph (4)(a),(b) or (c)
- (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, or any immigration officer or designated person, 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 any other part of the eye).

5. [The ~~Lieutenant-Governor~~ Minister may by direction] make provision for requiring:

- (a) passengers disembarking or embarking in the [Bailiwick of Jersey], or any class of such passengers, to produce to an immigration officer, if so required, landing or embarkation cards, and
- (b) passengers embarking in the Bailiwick of Jersey, or any class of such passengers, to produce to a designated person, if so required, embarkation cards, in such form as the [~~Lieutenant-Governor~~ Minister] may direct, and for requiring the owners or agents of ships and aircraft to supply such cards to those passengers. ⁵

5A. Designated persons

- (1) In this Schedule “designated person” means a person designated by the Minister for the purposes of this Schedule.

⁵ Note the transitional provision in Part 10 of Schedule 9 to the Immigration Act 2014 (as extended) in relation to directions made under this paragraph before the coming into force of Part 1 of Schedule 8 to that Act (as extended).

- (2) A designation under this paragraph is subject to such limitations as may be specified in the designation.
- (3) A limitation under sub-paragraph (2) may, in particular, relate to the functions that are exercisable by virtue of the designation (and, accordingly, the exercise of functions under this Schedule by a designated person is subject to any such limitations specified in the person's designation).
- (4) A designation under this paragraph—
 - (a) may be permanent or for a specified period,
 - (b) may (in either case) be withdrawn, and
 - (c) may be varied, and
- (5) The power to designate, or to withdraw or vary a designation, is exercised by the Minister.
- ~~(5A) When the Minister makes, withdraws or varies a designation under this paragraph, he shall inform the Lieutenant-Governor.~~
- (6) The Minister may designate a person under this paragraph only if the Minister is satisfied that the person—
 - (a) is capable of effectively carrying out the functions that are exercisable by virtue of the designation,
 - (b) has received adequate training in respect of the exercise of those functions, and
 - (c) is otherwise a suitable person to exercise those functions.
- (7) In this Schedule "Minister" means the Minister for Home Affairs.

5B. Directions to carriers and operators of ports etc

- (1) The Minister may direct—
 - (a) an owner or agent of a ship or aircraft, or
 - (b) a person concerned in the management of a port, to make arrangements for designated persons to exercise a specified function, or a function of a specified description, in relation to persons of a specified description.
- (2) A direction under this paragraph must specify—
 - (a) the port where, and

- (b) the date (or dates) and time (or times) when, a function is to be exercised under the arrangements.
- (3) A direction under this paragraph must be in writing.
- (4) A direction under this paragraph may specify a description of persons by reference, in particular, to—
 - (a) the destination to which persons are travelling;
 - (b) the route by which persons are travelling;
 - (c) the date and time when the persons are travelling.
- (2) In this paragraph—
 - “function” means a function under this Schedule;
 - “specified” means specified in a direction under this paragraph.

6. Notice of Leave to Enter or of Refusal of Leave

- (1) Subject to sub-paragraph (3) below, where a person examined by an immigration officer under paragraph 2 above is to be given a limited leave to enter the [Bailiwick of Jersey] or is to be refused leave, the notice giving or refusing leave shall be given not later than <twenty-four hours> after the conclusion of his examination (including any further examination) in pursuance of that paragraph; and if notice giving or refusing leave is not given him before the end of those <twenty-four hours>, he shall (if not <a British citizen>) be deemed to have been given <leave to enter the [Bailiwick of Jersey] for a period of six months subject to a condition prohibiting his taking employment> and the immigration officer shall as soon as may be give him written notice of that leave.
- (2) Where on a person’s examination under paragraph 2 above he is given notice of leave to enter the [Bailiwick of Jersey], then at any time before the end of <twenty-four hours> from the conclusion of the examination he may be given a further notice in writing by an immigration officer cancelling the earlier notice and refusing him leave to enter.
- (3) Where in accordance with this paragraph a person is given notice refusing him leave to enter the [Bailiwick of Jersey], that notice may at any time be cancelled by notice in writing given him by an immigration officer; and where a person is given a notice of cancellation under this sub-paragraph <and the immigration officer does not at the same time give him indefinite or limited leave to enter, he shall be deemed to have been given leave to enter for a period of six months subject to a condition prohibiting his taking employment and the immigration officer shall as soon as may be give him written notice of that leave.>
- (4) Where an entrant is a member of a party in charge of a person appearing to the immigration officer to be a responsible person, any notice to be given in relation to

that entrant in accordance with this paragraph shall be duly given if delivered to the person in charge of the party.

7. Power to Require Medical Examination After Entry

- (1) This paragraph applies if an immigration officer examining a person under paragraph 2 decides –
 - (a) that he may be given leave to enter the [Bailiwick of Jersey]; but
 - (b) that a further medical test or examination may be required in the interests of public health.
- (2) This paragraph also applies if an immigration officer examining a person under paragraph 2A decides –
 - (a) that his leave to enter the [Bailiwick of Jersey] should not be cancelled; but
 - (b) that a further medical test or examination may be required in the interests of public health.
- (3) The immigration officer may give the person concerned notice in writing requiring him –
 - (a) to report his arrival to such medical officer of health as may be specified in the notice; and
 - (b) to attend at such place and time and submit to such test or examination (if any), as that medical officer of health may require.
- (4) In reaching a decision under paragraph (b) of sub-paragraph (1) or (2), the immigration officer must act on the advice of –
 - (a) a medical inspector; or
 - (b) if no medical inspector is available, a fully qualified medical practitioner.”

8. Removal of Persons Refused Leave to Enter and Illegal Entrants

- (1) Where a person arriving in the [Bailiwick of Jersey] is refused leave to enter, an immigration officer may, subject to sub-paragraph (2) below -
 - (a) give the captain of the ship or aircraft in which he arrives directions requiring the captain to remove him from the [Bailiwick of Jersey] in that ship or aircraft; or
 - (b) give the owners or agents of that ship or aircraft directions requiring them to remove him from the [Bailiwick of Jersey] in any ship or aircraft specified or

indicated in the directions, being a ship or aircraft of which they are the owners or agents; or

(c) give those owners or agents * * * directions requiring them to make arrangements for his removal from the [Bailiwick of Jersey] in any ship or aircraft specified or indicated in the direction to a country or territory so specified, being either -

(i) a country of which he is a national or citizen; or

(ii) a country or territory in which he has obtained a passport or other document of identity; or

(iii) a country or territory in which he embarked for the [Bailiwick of Jersey]; or

(iv) a country or territory to which there is reason to believe that he will be admitted.

(2) No directions shall be given under this paragraph in respect of anyone after the expiration of two months beginning with the date on which he was refused leave to enter the [Bailiwick of Jersey] <except that directions may be given under subparagraph (1)(b) or (c) after the end of that period if the immigration officer has within that period given written notice to the owners or agents in question of his intention to give directions to them in respect of that person>.

9.

(1) Where an illegal entrant is not given leave to enter or remain in the [Bailiwick of Jersey], an immigration officer may give any such directions in respect of him as in a case within paragraph 8 above are authorised by paragraph 8(1).

(2) Any leave to enter the [Bailiwick of Jersey] which is obtained by deception shall be disregarded for the purposes of this paragraph.

10.

(1) Where it appears to the [~~Lieutenant-Governor~~ Minister] either -

(a) that directions might be given in respect of a person under paragraph 8 or 9 above, but that it is not practicable for them to be given or that, if given, they would be ineffective; or

(b) that directions might have been given in respect of a person under paragraph 8 above <but that the requirements of paragraph 8(2) have not been complied with>;

then the [~~Lieutenant-Governor~~ Minister] may give to the owners or agents of any ship or aircraft any such directions in respect of that person as are authorised by paragraph 8(1)(c).

- (2) Where the [~~Lieutenant-Governor~~ Minister] may give directions for a person's removal in accordance with sub-paragraph (1) above, he may instead give directions for his removal in accordance with arrangements to be made by the [~~Lieutenant-Governor~~ Minister] to any country or territory to which he could be removed under sub-paragraph (1).
- (3) The costs of complying with any directions given under this paragraph shall be defrayed by the [~~Committee~~ Minister].

11. A person in respect of whom directions are given under any of paragraphs 8 to 10 above may be placed, under the authority of an immigration officer or the ~~Lieutenant-Governor~~ Minister, on board any ship or aircraft in which he is to be removed in accordance with the directions.

12. Seamen and Aircrews

- (1) If, on a person's examination by an immigration officer under paragraph 2 above, the immigration officer is satisfied that he has come to the [Bailiwick of Jersey] for the purpose of joining a ship or aircraft as a member of the crew, then the immigration officer may limit the duration of any leave he gives that person to enter the [Bailiwick of Jersey] by requiring him to leave the [Bailiwick of Jersey] in a ship or aircraft specified or indicated by the notice giving leave.
- (2) Where a person (not being <a British citizen>) arrives in the [Bailiwick of Jersey] for the purpose of joining a ship or aircraft as a member of the crew and, having been given leave to enter as mentioned in sub-paragraph (1) above, remains beyond the time limited by that leave, or is reasonably suspected by an immigration officer of intending to do so, an immigration officer may -
 - (a) give the captain of that ship or aircraft directions requiring the captain to remove him from the [Bailiwick of Jersey] in that ship or aircraft; or
 - (b) give the owners or agents of that ship or aircraft directions requiring them to remove him from the [Bailiwick of Jersey] in any ship or aircraft specified or indicated in the directions, being a ship or aircraft of which they are owners or agents; or
 - (c) give those owners or agents directions requiring them to make arrangements for his removal from the [Bailiwick of Jersey] in any ship or aircraft specified or indicated in the directions to a country or territory so specified, being either -
 - (i) a country of which he is a national or citizen; or
 - (ii) a country or territory in which he has obtained a passport or other document of identity; or
 - (iii) a country or territory in which he embarked for the [Bailiwick of Jersey]; or

- (iv) a country or territory where he was engaged as a member of the crew of the ship or aircraft which he arrived in the [Bailiwick of Jersey] to join; or
- (v) a country or territory to which there is reason to believe that he will be admitted.

13.

- (1) Where a person being a member of the crew of a ship or aircraft is examined by an immigration officer under paragraph 2 above, the immigration officer may limit the duration of any leave he gives that person to enter the [Bailiwick of Jersey] -
 - (a) in the manner authorised by paragraph 12(1) above; or
 - (b) if that person is to be allowed to enter the [Bailiwick of Jersey] in order to receive hospital treatment, by requiring him, on completion of that treatment, to leave the [Bailiwick of Jersey] in accordance with arrangements to be made for his repatriation; or
 - (c) by requiring him to leave the [Bailiwick of Jersey] within a specified period in accordance with arrangements to be made for his repatriation.

- (2) Where a person (not being <a British citizen>) arrives in the [Bailiwick of Jersey] as a member of the crew of a ship or aircraft, and either -
 - (A) having lawfully entered the [Bailiwick of Jersey] without leave by virtue of section 8(1) of this Act, he remains without leave beyond the time allowed by section 8(1), or is reasonably suspected by an immigration officer of intending to do so; or
 - (B) having been given leave limited as mentioned in sub-paragraph (1) above, he remains beyond the time limited by that leave, or is reasonably suspected by an immigration officer of intending to do so;

an immigration officer may -

- (a) give the captain of the ship or aircraft in which he arrived directions requiring the captain to remove him from the [Bailiwick of Jersey] in that ship or aircraft; or
- (b) give the owners or agents of that ship or aircraft directions requiring them to remove him from the [Bailiwick of Jersey]; being a ship or aircraft specified or indicated in the directions, being a ship or aircraft of which they are the owners or agents; or
- (c) give those owners or agents directions requiring them to make arrangements for his removal from the [Bailiwick of Jersey] in any ship or aircraft specified or indicated in the directions to a country or territory so specified, being either -
 - (i) a country of which he is a national or citizen; or

- (ii) a country or territory in which he has obtained a passport or other document of identity; or
- (iii) a country in which he embarked for the [Bailiwick of Jersey]; or
- (iv) a country or territory in which he was engaged as a member of the crew of the ship or aircraft in which he arrived in the [Bailiwick of Jersey]; or
- (v) a country or territory to which there is reason to believe that he will be admitted.

14.

- (1) Where it appears to the [~~Lieutenant-Governor~~ Minister] that directions might be given in respect of a person under paragraph 12 or 13 above, but that it is not practicable for them to be given or that, if given, they would be ineffective, then the [~~Lieutenant-Governor~~ Minister] may give to the owners or agents of any ship or aircraft any such directions in respect of that person as are authorised by paragraph 12(2)(c) or 13(2)(c).
- (2) Where the [~~Lieutenant-Governor~~ Minister] may give directions for a person's removal in accordance with sub-paragraph (1) above, he may instead give directions for his removal in accordance with arrangements to be made by the [~~Lieutenant-Governor~~ Minister] to any country or territory to which he could be removed under sub-paragraph (1).
- (3) The costs of complying with any directions given under this paragraph shall be defrayed by the [~~Committee~~ Minister].

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

16. Detention of Persons Liable to Examination or Removal

- (1) A person who may be required to submit to examination under paragraph 2 above may be detained under the authority of an immigration officer pending his examination and pending a decision to give or refuse him leave to enter.
- (1A) A person whose leave to enter has been suspended under paragraph 2A may be detained under the authority of an immigration officer pending –
 - (a) completion of his examination under that paragraph; and
 - (b) a decision on whether to cancel his leave to enter.”
- (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.

- (2) If there are reasonable grounds for suspecting that a person is someone in respect of whom directions may be given under any of paragraphs 8 to 10 or 12 to 14, that person may be detained under the authority of an immigration officer pending –
 - (a) a decision whether or not to give such directions;
 - (b) his removal in pursuance of such directions.
- (3) A person on board a ship or aircraft may, under the authority of an immigration officer, be removed from the ship or aircraft for detention under this paragraph; but if an immigration officer so requires the captain of a ship or aircraft shall prevent from disembarking in the [Bailiwick of Jersey] any person who has arrived in the [Bailiwick of Jersey] in the ship or aircraft and been refused leave to enter, and the captain may for that purpose detain him in custody on board the ship or aircraft.
- (4) The captain of a ship or aircraft, if so required by an immigration officer, shall prevent from disembarking in the [Bailiwick of Jersey] or before the directions for his removal have been fulfilled any person placed on board the ship or aircraft under paragraph 11 or 15 above, and the captain may for that purpose detain him in custody on board the ship or aircraft.
- (4A) * * * * *

17.

- (1) A person liable to be detained under paragraph 16 above may be arrested without warrant by a [police officer] or by an immigration officer.
- (2) [If the Bailiff is by written information on oath satisfied that there is reasonable ground for suspecting that a person liable to be arrested under this paragraph is to be found on any premises, he may grant a warrant authorising any immigration officer or [police officer] to enter, if need be by force, the premises named in the warrant for the purposes of searching for and arresting that person.

18.

- (1) Persons may be detained under paragraph 16 above in such places as the [Attorney General for Jersey] may direct (when not detained in accordance with paragraph 16 on board a ship or aircraft).
- (2) Where a person is detained under paragraph 16, any immigration officer [police officer] or prison officer, or any other person authorised by the [Attorney General for Jersey], may take all such steps as may be reasonably necessary for photographing, measuring or otherwise identifying
- (2A) The power conferred by sub-paragraph (2) includes power to take fingerprints

- (3) Any person detained under paragraph 16 may be taken in the custody of a [police officer], or of any person acting under the authority of an immigration officer, to and from any place where his attendance is required for the purpose of ascertaining his citizenship or nationality or of making arrangements for his admission to a country or territory other than the [Bailiwick of Jersey], or where he is required to be for any other purpose connected with the operation of this Act.
- (4) A person shall be deemed to be in legal custody at any time when he is detained under paragraph 16 or is being removed in pursuance of sub-paragraph (3) above.

19.

- (1) Where a person is refused leave to enter the [Bailiwick of Jersey] and directions are given in respect of him under paragraph 8 or 10 above, then subject to the provisions of this paragraph the owners or agents of the ship or aircraft in which he arrived * * * shall be liable to pay the [~~Committee~~ Minister] on demand any expenses incurred by the latter in respect of the custody, accommodation or maintenance of that person for any period (not exceeding 14 days) after his arrival while he was detained or liable to be detained under paragraph 16 above.
- (2) Sub-paragraph (1) above shall not apply to expenses in respect of a person who, when he arrived in the [Bailiwick of Jersey], held a <certificate of entitlement> or a current entry clearance or was the person named in a current work permit; and for this purpose a document purporting to be a <certificate of entitlement> entry clearance or work permit is to be regarded as being one unless its falsity is reasonably apparent.
- (3) If, before the directions for a person's removal under paragraph 8 or 10 above have been carried out, he is given leave to enter the [Bailiwick of Jersey], no sum shall be demanded under sub-paragraph (1) above for expenses incurred in respect of that person and any sum already demanded and paid shall be refunded.
- [(4) The expenses to which sub-paragraph (1) above applies include expenses in conveying the person in question to and from the place where he is detained or accommodated.]

20.

- (1) Subject to the provisions of this paragraph, in either of the following cases, that is to say, -
 - (a) where directions are given in respect of an illegal entrant under paragraph 9 or 10 above; and
 - (b) where a person has lawfully entered the [Bailiwick of Jersey] without leave by virtue of section 8(1) of this Act, but directions are given in respect of him under paragraph 13(2)(A) above or, in a case within paragraph 13(2)(A), under paragraph 14;

the owners or agents of the ship or aircraft in which he arrived in the [Bailiwick of Jersey] * * * shall be liable to pay the [~~Committee~~ Minister] on demand any expenses incurred by the latter in respect of the custody, accommodation or maintenance of that person for any period (not exceeding 14 days) at any time after his arrival while he was detained or liable to be detained under paragraph 16 above.

(1A) Sub-paragraph (1) above shall not apply to expenses in respect of an illegal entrant if he obtained leave to enter by deception and the leave has not been cancelled under paragraph 6(2) above.

(2) If, before the directions for a person's removal from the [Bailiwick of Jersey] have been carried out, he is given leave to remain in the [Bailiwick of Jersey], no sum shall be demanded under sub-paragraph (1) above for expenses and incurred in respect of that person and any sum already demanded and paid shall be refunded.

[(3) The expenses to which sub-paragraph (1) above applies include expenses in conveying the person concerned to and from the place where he is detained or accommodated.]

21. Temporary Admission or Release of Persons Liable to Detention

(1) A person liable to detention or detained under paragraph 16 above may under the written authority of an immigration officer, be temporarily admitted to the [Bailiwick of Jersey] without being detained or be released from detention; but this shall not prejudice a later exercise of the power to detain him.

(2) So long as a person is at large in the [Bailiwick of Jersey] by virtue of this paragraph, he shall be subject to such restrictions as to residence <, as to his employment or occupation> and as to reporting to the police or an immigration officer as may from time to time be notified to him in writing by an immigration officer.

(2A) The provisions that may be included in restrictions as to residence imposed under sub-paragraph (2) include provisions of such a description as [the ~~Lieutenant Governor~~ Minister may direct].

(2B) The [directions] may, among other things, provide for the inclusion of provisions –

(a) prohibiting residence in one or more particular areas;

(b) * * * * *

(2C) The [directions] may provide that a particular description of provision may be imposed only for prescribed purposes.

[(2D) The power to give directions conferred by this paragraph includes a power to make different provision for different cases.]

(3) Sub-paragraph (4) below applies where a person who is at large in the [Bailiwick of Jersey] by virtue of this paragraph is subject to a restriction as to reporting to an

immigration officer with a view to the conclusion of his examination under paragraph 2 or 2A above.

- (4) If the person fails at any time to comply with that restriction -
- (a) an immigration officer may direct that the person's examination shall be treated as concluded at that time; but
 - (b) nothing in paragraph 6 above shall require the notice giving or refusing him leave to enter the [Bailiwick of Jersey] to be given within twenty-four hours after that time.

22.* * * *

23.* * * *

24.* * * *

25.* * * *

25A Entry and Search of Premises

- (1) This paragraph applies if –
- (a) a person is arrested under this Schedule; or
 - (b) a person who was arrested by a [police officer] (other than under this Schedule) is detained by an immigration officer under this Schedule.
- (2) An immigration officer may enter and search any premises –
- (a) occupied or controlled by the arrested person, or
 - (b) in which that person was when he was arrested, or immediately before he was arrested,
- for relevant documents.
- (3) The power may be exercised –
- (a) only if the officer has reasonable grounds for believing that there are relevant documents on the premises;
 - (b) only to the extent that it is reasonably required for the purpose of discovering relevant documents; and

- (c) subject to sub-paragraph (4), only if a senior officer has authorised its exercise in writing.
- (4) An immigration officer may conduct a search under sub-paragraph (2) –
 - (a) before taking the arrested person to a place where he is to be detained; and
 - (b) without obtaining an authorisation under sub-paragraph (3)(c),
if the presence of that person at a place other than one where he is to be detained is necessary to make an effective search for any relevant documents.
- (5) An officer who has conducted a search under sub-paragraph (4) must inform a senior officer as soon as is practicable.
- (6) The officer authorising a search, or who is informed of one under sub-paragraph (5), must make a record in writing of –
 - (a) the grounds for the search; and
 - (b) the nature of the documents that were sought.
- (7) An officer searching premises under sub-paragraph (2) –
 - (a) may seize and retain any documents he finds which he has reasonable grounds for believing are relevant documents; but
 - (b) may not retain any such document for longer than is necessary in view of the purpose for which the person was arrested.
- (8) But sub-paragraph (7)(a) does not apply to documents which the officer has reasonable grounds for believing are items subject to legal privilege.
- (9) “Relevant documents” means any documents which might –
 - (a) establish the arrested person’s identity, nationality or citizenship; or
 - (b) indicate the place from which he has travelled to the [Bailiwick of Jersey] or to which he is proposing to go.
- (10) “Senior officer” means an immigration officer not below the rank of chief immigration officer.

25B Searching Persons Arrested by Immigration Officers

- (1) This paragraph applies if a person is arrested under this Schedule.
- (2) An immigration officer may search the arrested person if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (3) The officer may search the arrested person for –

- (a) anything which he might use to assist his escape from lawful custody; or
 - (b) any document which might –
 - (i) establish his identity, nationality or citizenship; or
 - (ii) indicate the place from which he has travelled to the [Bailiwick of Jersey] or to which he is proposing to go.
- (4) The power conferred by sub-paragraph (3) may be exercised –
- (a) only if the officer has reasonable grounds for believing that the arrested person may have concealed on him anything of a kind mentioned in that sub-paragraph; and
 - (b) only to the extent that it is reasonably required for the purpose of discovering any such thing.
- (5) A power conferred by this paragraph to search a person is not to be read as authorising an officer to require a person to remove any of his clothing in public other than an outer coat, jacket or glove; but it does authorise the search of a person's mouth.
- (6) An officer searching a person under sub-paragraph (2) may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to another person.
- (7) An officer searching a person under sub-paragraph (3)(a) may seize and retain anything he finds, if he has reasonable grounds for believing that he might use it to assist his escape from lawful custody.
- (8) An officer searching a person under sub-paragraph (3)(b) may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing that it might be a document falling within that sub-paragraph.
- (9) Nothing seized under sub-paragraph (6) or (7) may be retained when the person from whom it was seized –
- (a) is no longer in custody, or
 - (b) is in the custody of a court but has been released on bail.

25C Searching Persons in Police Custody

- (1) This paragraph applies if a person –
- (a) has been arrested under this Schedule; and
 - (b) is in custody at a police station.

- (2) An immigration officer may, at any time, search the arrested person in order to ascertain whether he has with him –
 - (a) anything which he might use to –
 - (i) cause physical injury to himself or others;
 - (ii) damage property;
 - (iii) interfere with evidence; or
 - (iv) assist his escape; or
 - (b) any document which might –
 - (i) establish his identity, nationality or citizenship; or
 - (ii) indicate the place from which he has travelled to the [Bailiwick of Jersey] or to which he is proposing to go.
- (3) The power may be exercised only to the extent that the officer considers it to be necessary for the purpose of discovering anything of a kind mentioned in sub-paragraph (2).
- (4) An officer searching a person under this paragraph may seize and retain anything he finds, if he has reasonable grounds for believing that –
 - (a) that person might use it for one or more of the purposes mentioned in sub-paragraph (2)(a); or
 - (b) it might be a document falling within sub-paragraph (2)(b).
- (5) But the officer may not retain anything seized under sub-paragraph (2)(a) –
 - (a) for longer than is necessary in view of the purpose for which the search was carried out; or
 - (b) when the person from whom it was seized is no longer in custody or is in the custody of a court but has been released on bail.
- (6) The person from whom something is seized must be told the reason for the seizure unless he is –
 - (a) violent or appears likely to become violent; or
 - (b) incapable of understanding what is said to him.
- (7) An intimate search may not be conducted under this paragraph.
- (8) The person carrying out a search under this paragraph must be of the same sex as the person searched.

- (9) “Intimate search” has the same meaning as in section 28H(11).

25D Access and Copying

- (1) If a person showing himself –
- (a) to be the occupier of the premises on which seized material was seized, or
 - (b) to have had custody or control of the material immediately before it was seized,
- asks the immigration officer who seized the material for a record of what he seized, the officer must provide the record to that person within a reasonable time.
- (2) If a relevant person asks an immigration officer for permission to be granted access to seized material, the officer must arrange for that person to have access to the material under the supervision of an immigration officer.
- (3) An immigration officer may photograph or copy, or have photographed or copied, seized material.
- (4) If a relevant person asks an immigration officer for a photograph or copy of seized material, the officer must arrange for –
- (a) that person to have access to the material under the supervision of an immigration officer for the purpose of photographing or copying it; or
 - (b) the material to be photographed or copied.
- (5) A photograph or copy made under sub-paragraph (4)(b) must be supplied within a reasonable time.
- (6) There is no duty under this paragraph to arrange for access to, or the supply of a photograph or copy of, any material if there are reasonable grounds for believing that to do so would prejudice –
- (a) the exercise of any functions in connection with which the material was seized; or
 - (b) an investigation which is being conducted under this Act, or any criminal proceedings which may be brought as a result.
- (7) “Relevant person” means –
- (a) a person who had custody or control of seized material immediately before it was seized, or
 - (b) someone acting on behalf of such a person.

- (8) "Seized material" means anything which has been seized and retained under this Schedule.

25E Section 28L applies for the purposes of this Schedule as it applies for the purposes of Part III.

26. Supplementary Duties of those Connected with Ships or Aircraft or with Ports

- (1) The owners or agents of a ship or aircraft employed to carry passengers for reward shall not, without the approval of the [~~Lieutenant-Governor~~ Minister], arrange for the ship or aircraft to call at a port in the [Bailiwick of Jersey] other than a port of entry for the purpose of disembarking passengers, if any of the passengers on board may not enter the [Bailiwick of Jersey] without leave or for the purpose of embarking passengers unless the owners or agents have reasonable cause to believe all of them to be <British citizens>.
- (1A) Sub-paragraph (1) does not apply in such circumstances, if any, as the [~~Lieutenant-Governor~~ Minister] may direct].
- (2) The [~~Lieutenant-Governor~~ Minister] may from time to time give written notice to the owners or agents of any ships or aircraft designating control areas for the embarkation or disembarkation of passengers in any port in the [Bailiwick of Jersey] and specifying the conditions and restrictions (if any) to be observed in any control area; and where by notice given to any owners or agents a control area is for the time being designated for the embarkation or disembarkation of passengers at any port, the owners or agents shall take all reasonable steps to secure that, in the case of their ships or aircraft, passengers do not embark or disembark, as the case may be, at the port outside the control area and that any conditions or restrictions notified to them are observed.
- (3) The [~~Lieutenant-Governor~~ Minister] may also from time to time give to any persons concerned with the management of a port in the [Bailiwick of Jersey] written notice designating control areas in the port and specifying conditions or restrictions to be observed in any control area; and any such person shall take all reasonable steps to secure that any conditions or restrictions as notified to him are observed.

27.

- (1) The captain of a ship of aircraft arriving in the Bailiwick of Jersey -
- (a) shall take such steps as may be necessary to secure that persons on board do not disembark there unless either they have been examined by an immigration officer, or they disembark in accordance with arrangements approved by an immigration officer, or they are members of the crew who may lawfully enter the Bailiwick of Jersey without leave by virtue of section 8(1) of this Act; and
- (b) where the examination of persons on board is to be carried out on the ship or aircraft, shall take such steps as may be necessary to secure that those to be examined are presented for the purpose in an orderly manner.

- (2) The ~~Lieutenant-Governor~~ Minister may by Direction 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) Directions under sub-paragraph (2) may relate—
- (a) to all ships or aircraft arriving or expected to arrive in the Bailiwick of Jersey;
 - (b) to all ships or aircraft leaving or expected to leave the Bailiwick of Jersey
 - (c) to ships or aircraft arriving or expected to arrive in the Bailiwick of Jersey from or by way of a specified country;
 - (d) to ships or aircraft leaving or expected to leave the Bailiwick of Jersey 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) Directions 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, and
 - (c) may require information to be provided to the immigration officer or as the immigration officer directs

27A. * * * * *

27B Passenger information or service information

- (1) This paragraph applies to ships or aircraft –
- (a) which have arrived, or are expected to arrive, in the [Bailiwick of Jersey]; or
 - (b) which have left, or are expected to leave, the [Bailiwick of Jersey].

- (2) If an immigration officer asks the owner or agent (“the carrier”) of a ship or aircraft for passenger information or service information, the carrier must provide that information to the officer or as the officer directs.
- (3) The officer may ask for passenger information or service information relating to –
 - (a) a particular ship or particular aircraft of the carrier;
 - (b) particular ships or aircraft (however described) of the carrier; or
 - (c) all of the carrier’s ships or aircraft.
- (4) The officer may ask for –
 - (a) all passenger information or service information in relation to the ship or aircraft concerned; or
 - (b) particular passenger information or service information in relation to that ship or aircraft.
- (5) A request under sub-paragraph (2) –
 - (a) must be in writing;
 - (b) must state the date on which it ceases to have effect; and
 - (c) continues in force until that date, unless withdrawn earlier by written notice by an immigration officer.
- (6) The date may not be later than six months after the request is made.
- (7) The fact that a request under sub-paragraph (2) has ceased to have effect as a result of sub-paragraph (5) does not prevent the request from being renewed.
- (8) The information must be provided –
 - (a) in such form and manner as the [~~Lieutenant Governor~~ Minister] may direct; and
 - (b) at such time as may be stated in the request.
- (9) “Passenger information or service information” means such information relating to the passengers carried, or expected to be carried, by the ship or aircraft as may be specified [by the ~~Lieutenant Governor~~ Minister].
- (9A) “Service Information” means such information relating to the voyage or flight undertaken by the ship or aircraft as may be specified by the ~~Lieutenant Governor~~ Minister.
- (10) * * * * *
- (11) * * * * *

27C. Notification of Non-EEA Arrivals

- (1) If a senior officer, or an immigration officer authorised by a senior officer, gives written notice to the owner or agent (“the carrier”) of a ship or aircraft, the carrier must inform a relevant officer of the expected arrival in the [Bailiwick of Jersey] of any ship or aircraft –
 - (a) of which he is the owner or agent; and
 - (b) which he expects to carry a person who is not an EEA national.
- (2) The notice may relate to –
 - (a) a particular ship or particular aircraft of the carrier;
 - (b) particular ships or aircraft (however described) of the carrier; or
 - (c) all of the carrier’s ships or aircraft.
- (3) The notice –
 - (a) must state the date on which it ceases to have effect; and
 - (b) continues in force until that date, unless withdrawn earlier by written notice given by a senior officer.
- (4) The date may not be later than six months after the notice is given.
- (5) The fact that a notice under sub-paragraph (1) has ceased to have effect as a result of sub-paragraph (3) does not prevent the notice from being renewed.
- (6) The information must be provided –
 - (a) in such form and manner as the notice may require; and
 - (b) before the ship or aircraft concerned departs for the [Bailiwick of Jersey].
- (7) If a ship or aircraft travelling to the [Bailiwick of Jersey] stops at one or more places before arriving in the [Bailiwick of Jersey], it is to be treated as departing for the [Bailiwick of Jersey] when it leaves the last of those places.
- (8) “Senior officer” means an immigration officer not below the rank of chief immigration officer.
- (9) “Relevant officer” means –
 - (a) the officer who gave the notice under sub-paragraph (1); or
 - (b) any immigration officer at the port at which the ship or aircraft concerned is expected to arrive.

(10) "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 for the time being.

28.	*	*	*	*	*
29.	*	*	*	*	*
30.	*	*	*	*	*
31.	*	*	*	*	*
32.	*	*	*	*	*
33.	*	*	*	*	*

SCHEDULE 3

(Section 5)

SUPPLEMENTARY PROVISIONS AS TO DEPORTATION

1. Removal of Persons Liable to Deportation

- (1) Where a deportation order is in force against any person, the [~~Lieutenant-Governor~~ Minister] may give directions for his removal to a country or territory specified in the directions being either -
- (a) a country of which he is a national or citizen; or
 - (b) a country or territory to which there is reason to believe that he will be admitted.
- (2) The directions under sub-paragraph (1) above may be either -
- (a) directions given to the captain of a ship or aircraft about to leave the [Bailiwick of Jersey] requiring him to remove the person in question in that ship or aircraft; or

(b) directions given to the owners or agents of any ship or aircraft requiring them to make arrangements for his removal in a ship or aircraft specified or indicated in the directions; or

(c) directions for his removal in accordance with arrangements to be made by the [~~Lieutenant-Governor~~ Minister].

(3) In relation to directions given under this paragraph, paragraphs 11 and 16(4) of Schedule 2 to this Act shall apply, with the substitution of references to the [~~Lieutenant-Governor~~ Minister] for references to an immigration officer, as they apply in relation to directions for removal given under paragraph 8 of that Schedule.

(4) The [~~Committee, if it~~ Minister, if he] thinks fit, may apply in or towards payment of the expenses of or incidental to the voyage from the [Bailiwick of Jersey] of a person against whom a deportation order is in force, or the maintenance until departure of such a person and his dependants, if any, any money belonging to that person; and except so far as they are paid as aforesaid, those expenses shall be defrayed by the Secretary of State Minister.

2. Detention or Control Pending Deportation

(1) Where a recommendation for deportation made by a court is in force in respect of any person, and that person is neither detained in pursuance of the sentence or order of any court nor for the time being released on bail by any court having power so to release him, he shall, unless the court by which the recommendation is made otherwise directs, <or a direction is given under sub-paragraph (IA) below,> be detained pending the making of a deportation order in pursuance of the recommendation, unless the [~~Lieutenant-Governor~~ Minister] directs him to be released pending further consideration of his case.

<(1A) Where -

(a) a recommendation for deportation made by a court on a conviction of a person is in force in respect of him; and

(b) he appeals against his conviction or against that recommendation,

the powers that the court determining the appeal may exercise include power to direct him to be released without setting aside the recommendation.>

(2) * * * * *

(3) Where a deportation order is in force against any person, he may be detained under the authority of the [~~Lieutenant-Governor~~ Minister] pending his removal or departure from the [Bailiwick of Jersey] (and if already detained by virtue of sub-paragraph (1) * * * * * above when the order is made, shall continue to be detained unless the [~~Lieutenant-Governor~~ Minister] directs otherwise).

- (4) In relation to detention under sub-paragraph * * * (3) above, paragraphs 17, 18 and 25A to 25E of Schedule 2 to this Act shall apply as they apply in relation to detention under paragraph 16 of that Schedule.
- (5) A person to whom this sub-paragraph applies shall be subject to such restrictions as to residence, as to his employment or occupation and as to reporting to the police or an immigration officer as may from time to time be notified to him in writing by the [~~Lieutenant-Governor~~ Minister].
- (6) The persons to whom sub-paragraph (5) above applies are -
 - (a) a person liable to be detained under sub-paragraph (1) above, while by virtue of a direction of the [~~Lieutenant-Governor~~ Minister] he is not so detained; and
 - (b) a person liable to be detained under sub-paragraph * * * (3) above, while he is not so detained.>

3. * * * * *

4. Powers of Courts Pending Deportation

Where the release of a person recommended for deportation is directed by a court, he shall be subject to such restrictions as to residence as to his employment or occupation and as to reporting to the police as the court may direct.

5.

- (1) On an application made -
 - (a) by or on behalf of a person recommended for deportation whose release was so directed; or
 - (b) by a [police officer]; or
 - (c) by an immigration officer,the appropriate court shall have the powers specified in sub-paragraph (2) below.
- (2) The powers mentioned in sub-paragraph (1) above are -
 - (a) if the person to whom the application relates is not subject to any such restrictions imposed by a court as are mentioned in paragraph 4 above, to order that he shall be subject to any such restrictions as the court may direct; and
 - (b) if he is subject to such restrictions imposed by a court by virtue of that paragraph or this paragraph -
 - (i) to direct that any of them shall be varied or shall cease to have effect; or

(ii) to give further directions as to his residence and reporting.

6.

(1) In this Schedule "the appropriate court" means the court which directed release].

7.

(1) A [police officer] or immigration officer may arrest without warrant any person who is subject to restrictions imposed by a court under this Schedule and who at the time of the arrest is in the [Bailiwick of Jersey] -

(a) if he has reasonable grounds to suspect that that person is contravening or has contravened any of those restrictions; or

(b) if he has reasonable grounds for believing that that person is likely to contravene any of them.

(2) * * * * *

[8.

(1) A person arrested in the Bailiwick of Jersey in pursuance of paragraph 7 above shall be brought before a Jurat as soon as practicable and in any event within 24 hours after his arrest].

(2) In reckoning for the purposes of this paragraph any period of 24 hours, no account shall be taken of Christmas Day. Good Friday or any Sunday.

9. * * * * *

10. [Any Jurat] before whom a Person is Brought by Virtue of Paragraph 8 * * * above

-

(a) if of the opinion that that person is contravening, has contravened or is likely to contravene any restriction imposed on him by a court under this Schedule, may direct -

(i) that he be detained; or

(ii) that he be released subject to such restrictions as to his residence and reporting to the police as [the Jurat] may direct; and

(b) if not of that opinion, shall release him without altering the restrictions as to his residence and his reporting to the police.>

SCHEDULE 4

(Section 9)

**[INTEGRATION WITH JERSEY LAW OF IMMIGRATION
LAWS OF THE UNITED KINGDOM, GUERNSEY AND
THE ISLE OF MAN]**

1. Leave to Enter

- (1) Where under the immigration laws of [the United Kingdom, the Bailiwick of Guernsey or the Isle of Man] a person is or has been given leave to enter or remain in the island, [or, as the case may be, the United Kingdom], or is or has been refused leave, this Act shall have effect in relation to him, if he is not <a British citizen>, as if the leave were leave (of like duration) given under this Act to enter or remain in the [Bailiwick of Jersey], or, as the case may be, as if he had under this Act been refused leave to enter the [Bailiwick of Jersey].
- (2) Where under the immigration laws of [the United Kingdom, the Bailiwick of Guernsey or the Isle of Man] a person has a limited leave to enter or remain in the island [or, as the case may be the United Kingdom] subject to any such conditions as are authorised in the [Bailiwick of Jersey] by section 3(1) of this Act (being conditions imposed by notice given to him, whether the notice of leave or a subsequent notice), then on his coming to the [Bailiwick of Jersey] this Act shall apply, if he is not <a British citizen>, as if those conditions related to his stay in the [Bailiwick of Jersey] and had been imposed by notice under this Act [; and for the purposes of this sub-paragraph a condition requiring a person to register with the police or any other body or person shall be treated as a condition requiring him to register under section 4(3) of this Act].
- (3) Without prejudice to the generality of sub-paragraphs (1) and (2) above, anything having effect in the [Bailiwick of Jersey] by virtue of either of those sub-paragraphs may in relation to the [Bailiwick of Jersey] be varied or revoked under this Act in like manner * * * as if it had originated under this Act as mentioned in that sub-paragraph.
- (4) Where anything having effect in the [Bailiwick of Jersey] by virtue of sub-paragraph (1) or (2) above ceases to have effect or is altered in effect as mentioned in sub-paragraph (3) or otherwise by anything done under this Act, sub-paragraph (1) or (2) shall not thereafter apply to it or, as the case may be, shall apply to it as so altered in effect.
- (5) * * * * *

2. Notwithstanding section 3(4) of this Act, leave given to a person under this Act to enter or remain in the [Bailiwick of Jersey] shall not continue to apply on his return to the [Bailiwick of Jersey] after an absence if he has during that absence entered [the United Kingdom, the Bailiwick of Guernsey or the Isle of Man] in circumstances in which he is required

under the immigration laws of that island [or as the case may be the United Kingdom] to obtain leave to enter.

3. Deportation

- (1) Subject to sub-paragraph (2) below, where under the immigration laws of [the United Kingdom, the Bailiwick of Guernsey or the Isle of Man], a person is or has been ordered to leave the island [or, as the case may be, the United Kingdom,] and forbidden to return, then, if he is not <a British citizen>, this Act shall have effect in relation to him as if the order were a deportation order made against him under this Act.
- (2) The [~~Lieutenant-Governor~~ Minister] shall not by virtue of sub-paragraph (1) above have power to revoke a deportation order made in [the United Kingdom, the Bailiwick of Guernsey or the Isle of Man], but may in any particular case direct that sub-paragraph (1) shall not apply in relation to an order so made; and nothing in this paragraph shall render it unlawful for a person in respect of whom such an order is in force in [the United Kingdom, the Bailiwick of Guernsey or the Isle of Man], to enter the [Bailiwick of Jersey] on his way from that island [or, as the case may be, the United Kingdom,] to a place outside the [Bailiwick of Jersey].

4. Illegal Entrants

Notwithstanding anything in section 1(3) of this Act, it shall not be lawful for a person who is not <a British citizen> to enter the [Bailiwick of Jersey] from [the United Kingdom, the, Bailiwick of Guernsey or the Isle of Man] where his presence was unlawful under the immigration laws of that island [or, as the case may be, the United Kingdom,] unless he is given leave to enter.

SCHEDULE 5

* * * * *

¹ Volume 1996-1997, page 194.

² Volume 1996-1997, page 239.

BRITISH NATIONALITY ACT 1981

CHAPTER 31

ARRANGEMENT OF SECTIONS

PART I

BRITISH CITIZENSHIP

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PART II

BRITISH DEPENDENT TERRITORIES CITIZENSHIP

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PART III

BRITISH OVERSEAS CITIZENSHIP

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PART IV

BRITISH SUBJECTS

* * * * *

PART V

MISCELLANEOUS AND SUPPLEMENTARY

* * * * *

Section

36.-38.

* * * * *

39.

Amendment of Immigration Act 1971.

SCHEDULES

* * * * *

ELIZABETH II

1981 CHAPTER 61

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 [Bailiwick of Jersey].

[30th October 1981]

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 follows⁶ -

PART V

MISCELLANEOUS AND SUPPLEMENTARY

* * * * *

Amendment of Immigration Act 1971

39. (1)-(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.

⁶ Deletions and words in square brackets indicate adaptations and modifications made by the Immigration (Jersey) Order 1993. For the application of the British Nationality Act 1981 see Section 53 of that Act.

The Immigration Act 1988

IMMIGRATION ACT 1988

CHAPTER 14

ARRANGEMENT OF SECTIONS

Section

1.	*	*	*	*	*	*	*
2.	Restriction on exercise of right of abode in cases of polygamy						
3.	*	*	*	*	*	*	*
4.	*	*	*	*	*	*	*
5.	*	*	*	*	*	*	*
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7.	Persons exercising Community rights and nationals of member States						
8.	***						
9.	***						
10.	*	*	*	*	*	*	*
11.	Expenses and receipts						
12.	Short title, interpretation, commencement and extent						
Schedule	*	*	*	*	*	*	*

AN ACT to make further provision for the regulation of immigration into the United Kingdom; and for connected purposes.

[10th May 1988]

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 follows⁷ -

2. Restriction on Exercise of Right of Abode in Cases of Polygamy

- (1) This section applies to any woman who -
- (a) has the right of abode in the [Bailiwick of Jersey] under section 2(1)(b) of the principal Act as, or as having been, the wife of a man ("the husband") -
 - (i) to whom she is or was polygamously married; and
 - (iii) who is or was such a citizen of the United Kingdom and Colonies, Commonwealth citizen or British subject as is mentioned in section 2(2)(a) or (b) of that Act as in force immediately before the commencement of the British Nationality Act 1981;
- and
- (b) has not before the coming into force of this section and since her marriage to the husband been in the [Bailiwick of Jersey].
- (2) A woman to whom this section applies shall not be entitled to enter the [Bailiwick of Jersey] in the exercise of the right of abode mentioned in subsection (1)(a) above or to be granted a certificate of entitlement in respect of that right if there is another woman living (whether or not one to whom this section applies) who is the wife or widow of the husband and who -
- (a) is, or at any time since her marriage to the husband has been, in the [Bailiwick of Jersey]; or
 - (b) has been granted a certificate of entitlement in respect of the right of abode mentioned in subsection (1)(a) above or an entry clearance to enter the [Bailiwick of Jersey] as the wife of the husband.
- (3) So long as the woman is precluded by subsection (2) above from entering the [Bailiwick of Jersey] in the exercise of her right of abode or being granted a certificate of entitlement in respect of that right the principal Act shall apply to her as it applies to a person not having a right of abode.

⁷ Deletions and words in square brackets indicate adaptations and modifications made by the Immigration (Jersey) Order 1993 and those in angle brackets indicate amendments made by Orders in Council listed in the Schedules to the Immigration (Jersey) Order 1993.

- (4) Subsection (2) above shall not preclude a woman from re-entering the [Bailiwick of Jersey] if since her marriage to the husband she has at any time previously been in the [Bailiwick of Jersey] and there was at that time no such other woman living as is mentioned in that subsection.
- (5) Where a woman claims that this section does not apply to her because she had been in the [Bailiwick of Jersey] before the coming into force of this section and since her marriage to the husband it shall be for her to prove that fact.
- (6) For the purposes of this section a marriage may be polygamous although at its inception neither party has any spouse additional to the other.
- (7) For the purpose of subsections (1)(b), (2)(a), (4) and (5) above there shall be disregarded presence in the [Bailiwick of Jersey] as a visitor or an illegal entrant and presence in circumstances in which a person is deemed by section 11(1) of the principal Act not to have entered the [Bailiwick of Jersey].
- (8) In subsection (2)(b) above the reference to a certificate of entitlement includes a reference to a certificate treated as such a certificate by virtue of section 39(8) of the British Nationality Act 1981.
- (9) No application by a woman for a certificate of entitlement in respect of such a right of abode as is mentioned in subsection (1)(a) above or for an entry clearance shall be granted if another application for such a certificate or clearance is pending and that application is made by a woman as the wife or widow of the same husband.
- (10) For the purposes of subsection (9) above an application shall be regarded as pending so long as it [has] not been finally determined.

[(11) This section does not apply to a woman who has made an application for a certificate of entitlement in respect of the right of abode mentioned in subsection (1)(a) before 1st August 1993].

3. * * * * *

4. * * * * *

5. * * * * *

6. * * * * *

7. Persons Exercising Community Rights and Nationals of Member States

- (1) A person shall not under the principal Act require leave to enter or remain in the [Bailiwick of Jersey in circumstances in which he would be entitled to enter or remain in the United Kingdom] by virtue of an enforceable Community right or of any provision made under section 2(2) of the European Communities Act 1972.

- (2) [The ~~Lieutenant-Governor~~ Minister may by directions] give leave to enter the [Bailiwick of Jersey] for a limited period to any class of persons who are nationals of member States but who [would not be entitled] to enter the United Kingdom as mentioned in subsection (1) above; and any such [directions] may give leave subject to such conditions as may be imposed by the [directions].
- (3) References in the principal Act to limited leave shall include reference to leave given by [directions] under subsection (2) above and a person having leave by virtue of such [directions] shall be treated as having been given that leave by a notice given to him by an immigration officer within the period specified in paragraph 6(1) of Schedule 2 to that Act.

8. Examination of Passengers Prior to Arrival

9. Charges

10. * * * * *

11. Expenses and Receipts

(1) * * * * *

- (2) Any sums received by the [~~Committee~~ Minister] by virtue of this Act shall be paid [to the Treasurer of the States and credited to the annual income of the States].

12. Short title, Interpretation, Commencement and Extent

- (1) This Act may be cited as the Immigration Act 1988.
- (2) In this Act “the principal Act” means the Immigration Act 1971 and any expression which is also used in that Act has the same meaning as in that Act.
- (3) [This Act shall come into force on 1st August 1993].

The Immigration and Asylum Act **1999**

JERSEY IMMIGRATION AND ASYLUM ACT 1999

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Removal of certain persons unlawfully in the United Kingdom.

Proof of identity of persons to be removed or deported.

Escorts for persons removed from the United Kingdom under directions.

Protection of claimants from removal or deportation.

Provision of facilities for immigration control at ports.

Charges: immigration control.

Defences based on Article 31(1) of the Refugee Convention.

Penalty for carrying clandestine entrants.

Code of practice.

Defences to claim that penalty is due under section 32.

Procedure.

Power to detain vehicles etc. in connection with penalties under section 32.

Effect of detention.

Charges in respect of passengers without proper documents.

Power to detain vehicles etc. in connection with charges under section 40.

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10 Removal of certain persons unlawfully in the Bailiwick of Jersey

- (1) A person who is not a British citizen may be removed from the [Bailiwick of Jersey], in accordance with directions given by an immigration officer, if –
 - (a) having only a limited leave to enter or remain, he does not observe a condition attached to the leave or remains beyond the time limited by the leave;
 - (b) he has obtained leave to remain by deception; or
 - (c) directions (“the first directions”) have been given for the removal, under this section, of a person (“the other person”) to whose family he belongs.
- (3) Directions may not be given under subsection (1)(c) unless the [~~Lieutenant Governor~~ Minister] has given the person concerned written notice, not more than eight weeks after the other person left the [Bailiwick of Jersey] in accordance with the first directions, that he intends to remove the person concerned from the [Bailiwick of Jersey].
- (4) If such a notice is sent by the [~~Lieutenant Governor~~ Minister] by first class post, addressed to the person concerned’s last known address, it is to be taken to have been received by that person on the second day after the day on which it was posted.
- (5) Directions for the removal of a person under subsection (1)(c) cease to have effect if he ceases to belong to the family of the other person.
- (6) Directions under this section –
 - (a) may be given only to persons falling within a prescribed class;
 - (b) may impose any requirements of a prescribed kind.
- (7) In relation to any such directions, paragraphs 10, 11, 16 to 18, [and 21] of Schedule 2 to the 1971 Act (administrative provisions as to control of entry), apply as they apply in relation to directions given under paragraph 8 of that Schedule.
- (8) Directions for the removal of a person given under this section invalidate any leave to enter or remain in the [Bailiwick of Jersey] given to him before the directions are given or while they are in force.
- (9) The costs of complying with a direction given under this section (so far as reasonably incurred) must be met by the [~~Committee~~ Minister].

13 Proof of identity of persons to be removed or deported

- (1) This section applies if a person –
 - (a) is to be removed from the [Bailiwick of Jersey] to a country of which he is a national or citizen; but
 - (b) does not have a valid passport or other document establishing his identity and nationality or citizenship and permitting him to travel.
- (2) If the country to which the person is to be removed indicates that he will not be admitted to it unless identification data relating to him are provided by the [~~Lieutenant Governor~~ Minister], he may provide them with such data.
- (3) In providing identification data, the [~~Lieutenant Governor~~ Minister] must not disclose whether the person concerned has made a claim for asylum.

- (5) "Identification data" means –
 - (a) fingerprints taken under section 141; or
 - (b) data collected in accordance with [directions] made under section 144.
- (6) "Removed" means removed as a result of directions given under section 10 or under Schedule 2 or 3 to the 1971 Act.

14 Escorts for persons removed from the Bailiwick of Jersey under directions

- (1) Directions for, or requiring arrangements to be made for, the removal of a person from the [Bailiwick of Jersey] may include or be amended to include provision for the person who is to be removed to be accompanied by an escort consisting of one or more persons specified in the directions.
- (2) The [~~Committee~~ Minister] may by order] make further provision supplementing subsection (1).
- (3) [Such order] may, in particular, include provision –
 - (a) requiring the person to whom the directions are given to provide for the return of the escort to the [Bailiwick of Jersey];
 - (b) requiring him to bear such costs in connection with the escort (including, in particular, remuneration) as may be prescribed;
 - (c) as to the cases in which the [~~Committee~~ Minister] is to bear those costs;
 - (d) prescribing the kinds of expenditure which are to count in calculating the costs incurred in connection with escorts.

15 Protection of claimants from removal or deportation

- (1) During the period beginning when a person makes a claim for asylum and ending when the [~~Lieutenant Governor~~ Minister] gives him notice of the decision on the claim, he may not be removed from, or required to leave, the [Bailiwick of Jersey].
- (2) Subsection (1) does not prevent –
 - (a) directions for his removal being given during that period;
 - (b) a deportation order being made against him during that period.
- (3) But no such direction or order is to have effect during that period.

25 Provision of facilities for immigration control at ports

- (1) The person responsible for the management of a control port ("the manager") must provide the [~~Committee~~ Minister] free of charge with such facilities at the port as the [Committee] may direct as being reasonably necessary for, or in connection with, the operation of immigration control there.
- (6) "Control port" means a port in which a control area is designated under paragraph 26(3) of Schedule 2 to the 1971 Act.
- (7) "Facilities" means accommodation, facilities, equipment and services of a class or description specified in an order made by the [~~Committee~~ Minister].

26 Charges: immigration control

- (1) The [~~Committee Minister~~] may, at the request of any person and in consideration of such charges as [it] may determine, make arrangements –
 - (a) for the provision at any control port of immigration officers or facilities in addition to those (if any) needed to provide a basic service at the port;
 - (b) for the provision of immigration officers or facilities for dealing with passengers of a particular description or in particular circumstances.
- (2) “Control port” has the same meaning as in section 25.
- (3) “Facilities” includes equipment.
- (4) “Basic service” has such meaning as may be prescribed.

31 Defences based on Article 31(1) of the Refugee Convention

- (1) It is a defence for a refugee charged with an offence to which this section applies to show that, having come to the [Bailiwick of Jersey] directly from a country where his life or freedom was threatened (within the meaning of the Refugee Convention), he –
 - (a) presented himself to the authorities in the [Bailiwick of Jersey] without delay;
 - (b) showed good cause for his illegal entry or presence; and
 - (c) made a claim for asylum as soon as was reasonably practicable after his arrival in the [Bailiwick of Jersey].
- (2) If, in coming from the country where his life or freedom was threatened, the refugee stopped in another country outside the [Bailiwick of Jersey], subsection (1) applies only if he shows that he could not reasonably have expected to be given protection under the Refugee Convention in that other country.
- [(3) The offences to which this section applies are those –
 - (a) of fraud,
 - (b) of uttering a forged document,
 - (c) under section 24A of the 1971 Act (deception), or
 - (d) under section 26(1)(d) of the 1971 Act (falsification of documents),and any attempt to commit any of those offences.
- (5) A refugee who has made a claim for asylum is not entitled to the defence provided by subsection (1) in relation to any offence committed by him after making that claim.
- (6) “Refugee” has the same meaning as it has for the purposes of the Refugee Convention.
- (7) If the [~~Lieutenant Governor Minister~~] has refused to grant a claim for asylum made by a person who claims that he has a defence under subsection (1), that person is to be taken not to be a refugee unless he shows that he is.
- [(10)The States may by Regulations amend subsection (3) by adding offences to those for the time being listed there.]

32. Penalty for carrying clandestine entrants

- (1) A person is a clandestine entrant if –
 - (a) he arrives in the [Bailiwick of Jersey] concealed in a vehicle, ship or aircraft,
 - (b) he passes, or attempts to pass, through immigration control concealed in a vehicle, or
 - (c) he arrives in the [Bailiwick of Jersey] on a ship or aircraft, having embarked –
 - (i) concealed in a vehicle; and
 - (ii) at a time when the ship or aircraft was outside the [Bailiwick of Jersey],and claims, or indicates that he intends to seek, asylum in the [Bailiwick of Jersey] or evades, or attempts to evade, immigration control.
- (2) The person (or persons) responsible for a clandestine entrant is (or are together) liable to –
 - (a) a penalty of the prescribed amount in respect of the clandestine entrant; and
 - (b) an additional penalty of that amount in respect of each person who was concealed with the clandestine entrant in the same transporter.
- (3) A penalty imposed under this section must be paid to the [Committee Minister] before the end of the prescribed period.
- (4) Payment of the full amount of a penalty by one or more of the persons responsible for the clandestine entrant discharges the liability of each of the persons responsible for that entrant.
- (5) In the case of a clandestine entrant to whom subsection (1)(a) applies, each of the following is a responsible person –
 - (a) if the transporter is a ship or aircraft, the owner or captain;
 - (b) if it is a vehicle (but not a detached trailer), the owner, hirer or driver of the vehicle;
 - (c) if it is a detached trailer, the owner, hirer or operator of the trailer.
- (6) In the case of a clandestine entrant to whom subsection (1)(b) or (c) applies, each of the following is a responsible person –
 - (a) if the transporter is a detached trailer, the owner, hirer or operator of the trailer;
 - (b) if it is not, the owner, hirer or driver of the vehicle.
- (7) Subject to any defence provided by section 34, it is immaterial whether a responsible person knew or suspected –
 - (a) that the clandestine entrant was concealed in the transporter; or
 - (b) that there were one or more other persons concealed with the clandestine entrant in the same transporter.
- (8) Subsection (9) applies if a transporter (“the carried transporter”) is itself being carried in or on another transporter.
- (9) If a person is concealed in the carried transporter, the question whether any other person is concealed with that person in the same transporter is to be determined by reference to the carried transporter and not by reference to the transporter in or on which it is carried.

- (10) “Immigration control” means [Bailiwick of Jersey] immigration control and includes any [Bailiwick of Jersey] immigration control operated in a prescribed control zone outside the [Bailiwick of Jersey].

33 Code of practice

- (1) The [Committee Minister] must issue a code of practice to be followed by any person operating a system for preventing the carriage of clandestine entrants.
- [(2) Before issuing the code, the Committee Minister must consult such persons as it considers appropriate.]
- (5) The [Committee Minister] may from time to time revise the whole or any part of the code and issue the code as revised.
- (6) [Subsection (2) also applies] to any revision, or proposed revision, of the code.

34 Defences to claim that penalty is due under section 32

- (1) This section applies if it is alleged that a person (“the carrier”) is liable to a penalty under section 32.
- (2) It is a defence for the carrier to show that he, or an employee of his who was directly responsible for allowing the clandestine entrant to be concealed, was acting under duress.
- (3) It is also a defence for the carrier to show that –
- (a) he did not know, and had no reasonable grounds for suspecting, that a clandestine entrant was, or might be, concealed in the transporter;
 - (b) an effective system for preventing the carriage of clandestine entrants was in operation in relation to the transporter; and
 - (c) that on the occasion in question the person or persons responsible for operating that system did so properly.
- (4) In determining, for the purposes of this section, whether a particular system is effective, regard is to be had to the code of practice issued by the [Committee Minister] under section 33.
- (5) If there are two or more persons responsible for a clandestine entrant, the fact that one or more of them has a defence under subsection (3) does not affect the liability of the others.
- (6) But if a person responsible for a clandestine entrant has a defence under subsection (2), the liability of any other person responsible for that entrant is discharged.

35 Procedure

- (1) If the [Committee Minister] decides that a person (“P”) is liable to one or more penalties under section 32, he must notify P of his decision.
- (2) A notice under subsection (1) (a “penalty notice”) must –
- (a) state the [Committee Minister]’s reasons for deciding that P is liable to the penalty (or penalties);
 - (b) state the amount of the penalty (or penalties) to which P is liable;

- (c) specify the date before which, and the manner in which, the penalty (or penalties) must be paid; and
 - (d) include an explanation of the steps –
 - (i) that P must take if he objects to the penalty;
 - (ii) that the [Committee Minister] may take under this Part to recover any unpaid penalty.
- (3) Subsection (4) applies if more than one person is responsible for a clandestine entrant.
 - (4) If a penalty notice is served on one of the responsible persons, the [Committee Minister] is to be taken to have served the required penalty notice on each of them.
 - (5) The [Committee Minister] must nevertheless take reasonable steps, while the penalty remains unpaid, to secure that the penalty notice is actually served on each of those responsible persons.
 - (6) If a person on whom a penalty notice is served, or who is treated as having had a penalty notice served on him, alleges that he is not liable for one or more, or all, of the penalties specified in the penalty notice, he may give written notice of his allegation to the [Committee Minister].
 - (7) Notice under subsection (6) (“a notice of objection”) must –
 - (a) give reasons for the allegation; and
 - (b) be given before the end of such period as may be prescribed.
 - (8) If a notice of objection is given before the end of the prescribed period, the [Committee Minister] must consider it and determine whether or not any penalty to which it relates is payable.
 - (9) The [Committee Minister] may by [order] provide, in relation to detached trailers, for a penalty notice which is served in such manner as may be prescribed to have effect as a penalty notice properly served on the responsible person or persons concerned under this section.
 - (10) Any sum payable to the [Committee Minister] as a penalty under section 32 may be recovered by the [Committee Minister] as a debt due to [it].

36 Power to detain vehicles etc. in connection with penalties under section 32

- (1) If a penalty notice has been given under section 35, a senior officer may detain any relevant –
 - (a) vehicle,
 - (b) small ship, or
 - (c) small aircraft,
 until all penalties to which the notice relates, and any expenses reasonably incurred by the [Committee Minister] in connection with the detention, have been paid.
- (2) That power –
 - (a) may be exercised only if, in the opinion of the senior officer concerned, there is a significant risk that the penalty (or one or more of the penalties) will not be paid before the end of the prescribed period if the transporter is not detained; and

- (b) may not be exercised if alternative security which the [Committee Minister] considers is satisfactory, has been given.
- (3) If a transporter is detained under this section, the owner, consignor or any other person who has an interest in any freight or other thing carried in or on the transporter may remove it, or arrange for it to be removed, at such time and in such way as is reasonable.
- (4) The detention of a transporter under this section is lawful even though it is subsequently established that the penalty notice on which the detention was based was ill-founded in respect of all or any of the penalties to which it related.
- (5) But subsection (4) does not apply if the [Committee Minister] was acting unreasonably in issuing the penalty notice.

37 Effect of detention

- (1) This section applies if a transporter is detained under section 36.
- (2) The person to whom the penalty notice was addressed, or the owner or any other person claiming an interest in the transporter, may apply to the [Royal Court] for the transporter to be released.
- (3) The [Royal Court] may release the transporter if it considers that –
 - (a) satisfactory security has been tendered in place of the transporter for the payment of the penalty alleged to be due and connected expenses;
 - (b) there is no significant risk that the penalty (or one or more of the penalties) and any connected expenses will not be paid; or
 - (c) there is a significant doubt as to whether the penalty is payable and the applicant has a compelling need to have the transporter released.
- (4) If the [Royal Court] has not ordered the release of the transporter, the [Committee Minister] may sell it if the penalty in question and connected expenses are not paid before the end of the period of 84 days beginning with the date on which the detention began.
- (5) “Connected expenses” means expenses reasonably incurred by the [Committee Minister] in connection with the detention.
- (6) Schedule 1 applies to the sale of transporters under this section.
- (3) Subsection (1) has effect in relation to offences committed after the coming into force of that subsection.
- (4) Subsection (2) has effect in relation to persons arrested for offences alleged to have been committed after the coming into force of that subsection.

40 Charges in respect of passengers without proper documents

- (1) This section applies if a person requiring leave to enter the [Bailiwick of Jersey] arrives in the [Bailiwick of Jersey] by ship, aircraft, [or road passenger vehicle] and, on being required to do so by an immigration officer, fails to produce –
 - (a) a valid passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship; and
 - (b) if he requires a visa, a valid visa of the required kind.

- (2) The [Committee Minister] may charge the owner of the ship, aircraft or vehicle * * *, in respect of that person, the sum of £2,000 or such other sum as may be prescribed.
- (3) The charge is payable to the [Committee Minister] on demand.
- (4) No charge is payable in respect of any person who is shown by the owner * * * to have produced the required document or documents to him or his representative when embarking –
 - (a) on the ship or aircraft for the voyage or flight to the [Bailiwick of Jersey]; or
 - (b) on the vehicle * * * for the journey to the [Bailiwick of Jersey].
- (5) No charge is payable * * * by the owner of a road passenger vehicle, in respect of a person (“A”), if he shows that –
 - (a) neither he nor his representative was permitted, under the law applicable to the place where A embarked on the journey to the [Bailiwick of Jersey], to require A to produce to him when embarking the required document or documents;
 - (b) he had in place satisfactory arrangements (including, where appropriate, arrangements with other persons) designed to ensure that he did not carry passengers who did not, or might not, have documents of the required kind;
 - (c) all such steps as were practicable were taken in accordance with the arrangements to establish whether A had the required document or documents; and
 - (d) all such steps as were practicable were taken in accordance with the arrangements to prevent A’s arrival in the [Bailiwick of Jersey] where –
 - (i) A refused to produce the required document or documents to a person acting in accordance with the arrangements; or
 - (ii) for other reasons it appeared to that person that A did not, or might not, have the required document or documents.
- (6) For the purposes of subsections (4) and (5), a document –
 - (a) is to be regarded as being what it purports to be unless its falsity is reasonably apparent; and
 - (b) is to be regarded as relating to the person producing it unless it is reasonably apparent that it relates to another person.
- (7) Subsection (8) applies if –
 - (a) a person arrives in the [Bailiwick of Jersey] in circumstances in which the [Committee Minister] is entitled to impose on the owner of a road passenger vehicle a charge under this section in respect of that person; and
 - (b) the vehicle arrived in the [Bailiwick of Jersey] in a ship or aircraft.
- (8) The [Committee Minister] may impose a charge in respect of the arrival of the vehicle, or a charge in respect of the arrival of the ship or aircraft, but not in respect of both.
- (11) “Road passenger vehicle” means a vehicle –
 - (a) which is adapted to carry more than eight passengers and is being used for carrying passengers for hire or reward; or
 - (b) which is not so adapted but is being used for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers.

(13) “Representative”, in relation to a person, means an employee or agent of his.

42 Power to detain vehicles etc. in connection with charges under section 40

- (1) A senior officer may, pending payment of any charge imposed under section 40, detain –
 - (a) the transporter in which the person in respect of whom the charge was imposed was carried; or
 - (b) any other transporter used (on any route) in the course of providing a service of carriage of passengers by [sea or air] by the person on whom the charge was imposed.
- (2) If a transporter is detained under subsection (1) it may continue to be detained pending payment of any connected expenses.
- (3) The [Royal Court] may release the transporter if it considers that –
 - (a) satisfactory security has been tendered in place of the transporter for the payment of the charge alleged to be due and connected expenses;
 - (b) there is no significant risk that the charge and any connected expenses will not be paid; or
 - (c) there is a significant doubt as to whether the charge is payable and the applicant has a compelling need to have the transporter released.
- (4) If the [Royal Court] has not ordered the release of the transporter, the [Committee Minister] may sell it if the charge in question and connected expenses are not paid before the end of the period of 84 days beginning with the date on which the detention began.
- (5) The detention of a transporter under this section is lawful even though it is subsequently established that the imposition of the charge on which the detention was based was ill-founded.
- (6) But subsection (5) does not apply if the [Committee Minister] was acting unreasonably in imposing the charge.
- (7) “Connected expenses” means expenses reasonably incurred by the [Committee Minister] in connection with the detention.
- (8) Schedule 1 applies to the sale of transporters under this section.

43 Interpretation of Part II

In this Part –

“aircraft” includes hovercraft;

“captain” means the master of a ship or commander of an aircraft;

“concealed” includes being concealed in any freight, stores or other thing carried in or on the vehicle, ship or aircraft concerned;

“detached trailer” means a trailer, semi-trailer, caravan or any other thing which is designed or adapted for towing by a vehicle but which has been detached for transport –

- (a) in or on the vehicle concerned; or
- (b) in the ship or aircraft concerned (whether separately or in or on a vehicle);

“equipment”, in relation to an aircraft, includes –

- (a) any certificate of registration, maintenance or airworthiness of the aircraft;
- (b) any log book relating to the use of the aircraft; and
- (c) any similar document;

“hirer”, in relation to a vehicle, means any person who has hired the vehicle from another person;

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

“owner” includes –

- (a) in relation to a ship or aircraft, the agent or operator of the ship or aircraft; and
- (b) in relation to a road passenger vehicle, the operator of the vehicle; and

in relation to a transporter which is the subject of a hire-purchase agreement, includes the person in possession of it under that agreement;

“penalty notice” has the meaning given in section 35(2);

“senior officer” means an immigration officer not below the rank of chief immigration officer;

“ship” includes every description of vessel used in navigation;

“small aircraft” means an aircraft which has an operating weight of less than 5,700 kilogrammes;

“small ship” means a ship which has a gross tonnage of less than 500 tonnes;

“transporter” means a vehicle, ship or aircraft together with –

- (a) its equipment; and
- (b) any stores for use in connection with its operation;

“vehicle” includes a trailer, semi-trailer, caravan or other thing which is designed or adapted to be towed by another vehicle.

141 Fingerprinting

- (1) Fingerprints may be taken by an authorised person from a person to whom this section applies.
- (2) Fingerprints may be taken under this section only during the relevant period.
- (3) Fingerprints may not be taken under this section from a person under the age of sixteen (“the child”) except in the presence of a person of full age who is –
 - (a) the child’s parent or guardian; or
 - (b) a person who for the time being takes responsibility for the child.
- (4) The person mentioned in subsection (3)(b) may not be –
 - (a) an officer of the [Committee Minister] who is not an authorised person;
 - (b) an authorised person.
- (5) “Authorised person” means –
 - (a) a [police officer];

- (b) an immigration officer;
 - (c) a prison officer;
 - (d) an officer of the [~~Committee~~ Minister] authorised for the purpose; or
- (7) This section applies to –
- (a) any person (“A”) who, on being required to do so by an immigration officer on his arrival in the [Bailiwick of Jersey], fails to produce a valid passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship;
 - (b) any person (“B”) who has been refused leave to enter the [Bailiwick of Jersey] but has been temporarily admitted under paragraph 21 of Schedule 2 to the 1971 Act if an immigration officer reasonably suspects that B might break any condition imposed on him relating to residence or as to reporting to the police or an immigration officer;
 - (c) any person (“C”) in respect of whom –
 - (i) an immigration officer has given directions under paragraph 9(1) of Schedule 2 to the 1971 Act or under section 10;
 - (ii) the [~~Lieutenant-Governor~~ Minister] has given directions under paragraph 10(1) of Schedule 2 to the 1971 Act (but only in a case where it appears to the [~~Lieutenant-Governor~~ Minister] that the person is a person in respect of whom directions under paragraph 9 of that Schedule might be given); or
 - (iii) the [~~Lieutenant-Governor~~ Minister] has given directions under paragraph 1(1) of Schedule 3 to that Act;
 - (d) any person (“D”) who has been arrested under paragraph 17 of Schedule 2 to the 1971 Act;
 - (e) any person (“E”) who has made a claim for asylum;
 - (f) any person (“F”) who is a dependant of any of those persons.
- (8) “The relevant period” begins –
- (a) for A, on his failure to produce the passport or other document;
 - (b) for B, on the decision to admit him temporarily;
 - (c) for C, on the direction being given;
 - (d) for D, on his arrest;
 - (e) for E, on the making of his claim for asylum; and
 - (f) for F, at the same time as for the person whose dependant he is.
- (9) “The relevant period” ends on the earliest of the following –
- (a) the grant of leave to enter or remain in the [Bailiwick of Jersey];
 - (b) for A, B, C or D, his removal or deportation from the [Bailiwick of Jersey];
 - (c) for C, if a deportation order has been made against him, its revocation or otherwise ceasing to have effect;
 - (d) for D, his release if he is no longer liable to be detained under paragraph 16 of Schedule 2 to the 1971 Act;
 - (e) for E, the final determination or abandonment of his claim for asylum; and
 - (f) for F, at the same time as for the person whose dependant he is.

- (10) No fingerprints may be taken from A if the immigration officer considers that A has a reasonable excuse for the failure concerned.
- (11) No fingerprints may be taken from B unless the decision to take them has been confirmed by a chief immigration officer.
- (12) An authorised person may not take fingerprints from a person under the age of sixteen unless his decision to take them has been confirmed –
 - (a) if he is a [police officer], by a person designated for the purpose by [the Chief Officer of the States of Jersey Police Force];
 - (b) if he is a person mentioned in subsection (5)(b) or (e), by a chief immigration officer;
 - (c) if he is a prison officer, by a person designated for the purpose by the governor of the prison;
 - (d) if he is an officer of the [~~Committee Minister~~], by a person designated for the purpose by the [~~Committee Minister~~].
- (13) Neither subsection (3) nor subsection (12) prevents an authorised person from taking fingerprints if he reasonably believes that the person from whom they are to be taken is aged sixteen or over.
- (14) For the purposes of subsection (7)(f), a person is a dependant of another person if –
 - (a) he is that person’s spouse or civil partner or child under the age of eighteen; and
 - (b) he does not have a right of abode in the [Bailiwick of Jersey] or indefinite leave to enter or remain in the [Bailiwick of Jersey].
- [(15) “Claim for asylum” means a claim that it would be contrary to the United Kingdom’s obligations in respect of the Bailiwick of Jersey under the Refugee Convention or under Article 3 of the Human Rights Convention for the claimant to be removed from, or required to leave, the Bailiwick of Jersey.]

142 Attendance for fingerprinting

- (1) The [~~Lieutenant Governor Minister~~] may, by notice in writing, require a person to whom section 141 applies to attend at a specified place for fingerprinting.
- (2) The notice –
 - (a) must give the person concerned a period of at least seven days within which to attend, beginning not earlier than seven days after the date of the notice; and
 - (b) may require him to attend at a specified time of day or during specified hours.
- (3) A [police officer] or immigration officer may arrest without warrant a person who has failed to comply with a requirement imposed on him under this section (unless the requirement has ceased to have effect).
- (4) Before a person arrested under subsection (3) is released –
 - (a) he may be removed to a place where his fingerprints may conveniently be taken; and
 - (b) his fingerprints may be taken (whether or not he is so removed).
- (5) A requirement imposed under subsection (1) ceases to have effect at the end of the relevant period (as defined by section 141).

143 Destruction of fingerprints

- (1) If they have not already been destroyed, fingerprints must be destroyed before the end of the specified period beginning with the day on which they were taken.
- (2) If a person from whom fingerprints were taken proves that he is –
 - (a) a British citizen, or
 - (b) a Commonwealth citizen who has a right of abode in the [Bailiwick of Jersey] as a result of section 2(1)(b) of the 1971 Act,the fingerprints must be destroyed as soon as reasonably practicable.
- (3) If a person from whom fingerprints were taken –
 - (a) in the case of E, is given indefinite leave to enter or remain in the [Bailiwick of Jersey], or
 - (b) in any other case, is given leave to enter or remain in the [Bailiwick of Jersey],the fingerprints must be destroyed as soon as reasonably practicable.
- (4) Fingerprints taken from B must be destroyed as soon as reasonably practicable after his removal from the [Bailiwick of Jersey].
- (5) But subsection (4) does not apply if it appears to the [~~Lieutenant Governor~~ Minister] that B has failed to comply with a restriction imposed on him under paragraph 21(2) of Schedule 2 to the 1971 Act.
- (6) Fingerprints taken from C must, if the directions cease to have effect, be destroyed as soon as reasonably practicable.
- (7) If a deportation order made against C is revoked, any fingerprints taken from him must be destroyed as soon as reasonably practicable.
- (8) If D ceases to be liable to be detained under paragraph 16 of Schedule 2 to the 1971 Act, fingerprints taken from him must be destroyed as soon as reasonably practicable.
- (9) Fingerprints taken from F must be destroyed when fingerprints taken from the person whose dependant he is have to be destroyed.
- (10) The obligation to destroy fingerprints under this section applies also to copies of fingerprints.
- (11) The [~~Lieutenant Governor~~ Minister] must take all reasonably practicable steps to secure –
 - (a) that data which are held in electronic form and which relate to fingerprints which have to be destroyed as a result of this section are destroyed or erased; or
 - (b) that access to such data is blocked.
- (12) The person to whom the data relate is entitled, on request, to a certificate issued by the [~~Lieutenant Governor~~ Minister] to the effect that he has taken the steps required by subsection (11).
- (13) A certificate under subsection (12) must be issued within three months of the date of the request for it.
- (14) “Fingerprints” means fingerprints taken under section 141 and references to B, C, D, E and F are to the persons so described in that section.
- (15) “Specified period” means –

- (a) such period as the [~~Lieutenant Governor~~ Minister may specify];
- (b) if no period is so specified, ten years.

144 Other methods of collecting data about physical characteristics

The [~~Lieutenant Governor~~ Minister may give directions] containing provisions equivalent to sections 141, 142 and 143 in relation to such other methods of collecting data about external physical characteristics as may be prescribed.

146 Use of force

- (1) An immigration officer exercising any power conferred on him by the 1971 Act or this Act may, if necessary, use reasonable force.
- (2) Any person exercising a power conferred by section 141 or 142 or [directions] under section 144 may, if necessary, use reasonable force.

166 Regulations and orders

- (3) Any [order made under this Act] may –
 - (a) contain such incidental, supplemental, consequential and transitional provision as the person making it considers appropriate;
 - (b) make different provision for different cases or descriptions of case; and
 - (c) make different provision for different areas.
- [(4) The Subordinate Legislation (Jersey) Law 1960⁸ shall apply to orders made by the ~~Committee~~ Minister under this Act as though this Act were an enactment within the meaning of that Law.

167 Interpretation

- (1) In this Act –
 - “the 1971 Act” means the Immigration Act 1971 [as extended to the Bailiwick of Jersey by the Immigration (Jersey) Order 1993,⁹ the Asylum and Immigration Act 1996 (Jersey) Order 1998¹⁰ and the Immigration and Asylum Act 1999 (Jersey) Order 2003¹¹];
 - [“Attorney General” means Her Majesty’s Attorney General for Jersey;]
 - [“claim for asylum” (except in section 5 and section 141) means a claim that it would be contrary to the United Kingdom’s obligations in respect of the Bailiwick of Jersey under the Refugee Convention for the claimant to be removed from, or required to leave, the Bailiwick of Jersey;]
 - ~~–[“Committee” means the Home Affairs Committee of the States of Jersey;]~~
 - “country” includes any territory;
 - “EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as it has effect for the time being;

⁸ Tome VIII, page 849, Volume 2001, page 3 and Volume 2003, page 159.

⁹ Volume 1992-1993, page 289 and Volume 1998, page 293.

¹⁰ Volume 1998, page 287.

¹¹ Page 267 of this Volume.

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

“the Immigration Acts” means –

- (a) the 1971 Act;
- (b) the Immigration Act 1988;
- (d) the Asylum and Immigration Act 1996; and
- (e) this Act;

“Minister” means Minister for Home Affairs

[“prescribed” means prescribed by order made by the Committee Minister;

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

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

“certificate of entitlement”;

“entry clearance”;

“illegal entrant”;

“immigration officer”;

“port”;

“United Kingdom passport”;

“work permit”.

170 Short title, commencement and extent

(1) This Act may be cited as the Immigration and Asylum Act 1999.

[(2) This Act shall come into force on 5th June 2003.

SCHEDULES

SCHEDULE 1

SALE OF TRANSPORTERS

Leave of court required

- 1(1) The sale of a transporter requires the leave of the [Royal Court].
- (2) The [Royal Court] is not to give its leave except on proof –
 - (a) that the penalty or charge is or was due;
 - (b) that the person liable to pay it or any connected expenses has failed to do so; and
 - (c) that the transporter which the [Committee Minister] seeks leave to sell is liable to sale.

Notice of proposed sale

- 2 Before applying for leave to sell a transporter, the [Committee] must take such steps as may be prescribed –
 - (a) for bringing the proposed sale to the notice of persons whose interests may be affected by a decision of the court to grant leave; and
 - (b) for affording to any such person an opportunity of becoming a party to the proceedings if the [Committee Minister] applies for leave.

Duty to obtain best price

- 3 If leave for sale is given, the [Committee Minister] must secure that the transporter is sold for the best price that can reasonably be obtained.

Effect of failure to comply with paragraph 2 or 3

- 4 Failure to comply with any requirement of paragraph 2 or 3 in respect of any sale –
 - (a) is actionable against the [Committee Minister] at the suit of any person suffering loss in consequence of the sale; but
 - (b) after the sale has taken place, does not affect its validity.

Application of proceeds of sale

- 5(1) Any proceeds of sale arising from a sale under section * * * 42 must be applied –
 - (a) in making prescribed payments; and
 - (b) in accordance with such provision as to priority of payments as may be prescribed.
- (2) [An order] may, in particular, provide for proceeds of sale to be applied in payment –
 - (a) of customs or excise duty,

- (c) of expenses incurred by the [~~Committee~~ Minister],
 - (d) of any penalty or charge which the court has found to be due,
 - (f) of any surplus to or among the person or persons whose interests in the transporter have been divested as a result of the sale,
- but not necessarily in that order of priority.

SCHEDULE 15

TRANSITIONAL PROVISIONS AND SAVINGS

Leave to enter or remain

- 1(1) [Directions given] under section 3A of the 1971 Act may make provision with respect to leave given before the commencement of section 1.
- (2) [Directions given] under section 3B of the 1971 Act may make provision with respect to leave given before the commencement of section 2.

Immigration Asylum and Nationality **Act 2006**

Immigration, Asylum and Nationality Act 2006,

CHAPTER 13

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Schedule 2 *****
Schedule 3 *****

Immigration, Asylum and Nationality Act 2006

2006 CHAPTER 13

An Act to make provision about immigration, asylum and nationality; and for connected purposes. [30th March 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:—

Appeals

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Employment

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Information

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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 Bailiwick of Jersey, or
 - (b) leaving, or expected to leave, the Bailiwick of Jersey.
- (2) The owner or agent of a ship or aircraft shall comply with any requirement imposed by a police officer of rank of Chief Inspector 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 police officer may impose a requirement under subsection (2) only if he thinks it necessary for police purposes —
- (5) In this section—
 - (a) “passenger or service information” means information which is of a kind specified by Order of the Minister for Home Affairs and which relates to
 - (i) passengers,
 - (ii) members of crew, or
 - (iii) a voyage or flight,
 - (b) “police purposes” means any of the following
 - (i) the prevention, detection, investigation or prosecution of criminal offences;
 - (ii) safeguarding national security;
 - (iii) such other purposes as may be specified by Order of the Minister for Home Affairs
 - (c) “police officer” means a member of the States of Jersey Police Force, and
 - (d) “ship” includes
 - (i) every description of vessel used in navigation, and

- (ii) hovercraft
- (3) 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.
- (4) The Minister for Home Affairs 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 (Jersey) Law 2000).
- (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, and
 - (c) may specify the form and manner in which information is to be, and provided,
- (9) The Subordinate (Legislation Jersey) Law 1960 shall apply to Orders under subsection (5).

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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).
- (2)
- (3) A person who is guilty of an offence under subsection (1) shall be liable to—
 - (a) imprisonment for a term not exceeding 6 months,
 - (b) a fine not exceeding level 3 on the standard scale, or
 - (c) both.

(4) In subsection (3) the reference to the standard scale means the standard scale for the time being in the Schedule to the Criminal Justice (Standard Scale of Fines)(Jersey) Law 1993.

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39 Disclosure to law enforcement agencies

(1) A Chief Officer of the States of Jersey Police Force may disclose information obtained in accordance with section 32 to—

- (a) a police force in the United Kingdom;
- (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 British Islands with functions similar to functions of—

- (a) a police force in the British Islands, or
- (b) the Serious Organised Crime Agency.

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Claimants and applicants

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SCHEDULE 2 *****
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Immigration Act 2014

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[67A Fees (the Minister)
67B Fees order (the Minister): supplemental
67C Power to charge fees for attendance services in particular cases]

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An Act to make provision about immigration law; to limit, or otherwise make provision about, access to services, facilities and employment by reference to immigration status; to make provision about marriage and civil partnership involving certain foreign nationals; to make provision about the acquisition of citizenship by persons unable to acquire it because their fathers and mothers were not married to each other and provision about the removal of citizenship from persons whose conduct is seriously prejudicial to the United Kingdom's vital interests; and for connected purposes.

[14th May 2014]

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 –

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PART 2

APPEALS ETC

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PART 3

ACCESS TO SERVICES ETC

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PART 4
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PART 5
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PART 6
MISCELLANEOUS

Citizenship

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Embarkation checks

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67A Fees (the Minister)

(1) The Minister may by Order provide for fees to be charged in respect of the exercise of any function in connection with immigration or nationality exercised by –

- (a) the Lieutenant-Governor;
- (b) a Minister (within the meaning of Article 1(1) of the States of Jersey Law 2005),
- (c) an immigration officer or any other States' employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005,

other than a function exercised by the Lieutenant-Governor under arrangements made with the Secretary of State under section 43 of the British Nationality Act 1981.

(2) An Order under subsection (1) may not provide for a fee to be charged in respect of the exercise of a function otherwise than in connection with an application or claim, or on request.

(3) An Order under subsection (1) may set fees –

- (a) of a fixed amount; or
- (b) of an amount calculated by reference to an hourly rate or other factor.

(4) In respect of any fee set by an Order under subsection (1), the Order may –

- (a) provide for exceptions;
- (b) provide for the reduction, waiver or refund of part or all of a fee (whether by conferring a discretion or otherwise);

(c) make provision about –

- (i) the consequences of failure to pay a fee;
- (ii) enforcement;
- (iii) when a fee may or must be paid.

(5) This section is without prejudice to any other power to charge a fee.

(6) The Subordinate Legislation (Jersey) Law 19606 shall apply to Orders made under this section.

(7) In this section and sections 67B and 67C –

“enactment” includes an enactment of the United Kingdom having effect in Jersey;

“function” includes a power or a duty;

“function in connection with immigration or nationality” includes a function in connection with an enactment that relates wholly or partly to immigration or nationality;

“Jersey” means the Bailiwick of Jersey;

“Minister” means Minister for Home Affairs.

(8) Any reference in this section and in section 67C to the exercise of a function includes a reference to its exercise in particular circumstances, including its exercise –

(a) at particular times or in a particular place;

(b) under particular arrangements;

(c) otherwise in particular ways,

and, for this purpose, “arrangements” includes arrangements for the convenience of applicants, claimants or persons making requests for the exercise of a function.

67B Fees orders (the Minister): supplemental

(1) A fee under section 67A may relate to something done outside Jersey.

(2) Fees payable by virtue of section 67A may be recovered as a debt due to the Minister.

(3) Fees charged under an Order made under section 67A shall form part of the annual income of the States.

67C Power to charge fees for attendance services in particular cases

(1) This section applies where a person exercises a function in connection with immigration or nationality in respect of which a fee is chargeable by virtue of an Order made under section 67A (a “chargeable function”) in a particular case and –

(a) in doing so attends at a place outside Jersey, and time, agreed with a person (“the client”); and

(b) does so at the request of the client.

It is immaterial whether or not the client is a person in respect of whom the chargeable function is exercised.

(2) In this section “attendance service” means the service described in subsection (1) except so far as it consists of the exercise of a chargeable function.

(3) The following are to be disregarded in determining whether a fee is chargeable in respect of a function by virtue of an Order made under section 67A –

(a) any exception provided for by the Order;

(b) any power so provided to waive or refund a fee.

- (4) The person exercising the chargeable function may charge the client such fee for the purposes of recovering the costs of providing the attendance service as the person may determine.
- (5) Fees payable by virtue of subsection (4) may be recovered as a debt due to the States.
- (6) Fees charged under subsection (4) shall form part of the annual income of the States.
- (7) This section is without prejudice to section 67A or any other power to charge a fee.

68 Fees

- (1) The Secretary of State may provide, in accordance with this section, for fees to be charged in respect of the exercise of functions in connection with immigration or nationality, other than functions for which a fee may be charged by virtue of an Order made by the Minister under section 67A or by virtue of section 67C.
- (2) The functions in respect of which fees are to be charged are to be specified by the Secretary of State by order (“a fees order”).
- (3) A fees order –
 - (a) must specify how the fee in respect of the exercise of each specified function is to be calculated, and
 - (b) may not provide for a fee to be charged in respect of the exercise of a function otherwise than in connection with an application or claim, or on request.
- (4) For any specified fee, a fees order must provide for it to comprise one or more amounts each of which is –
 - (a) a fixed amount, or
 - (b) an amount calculated by reference to an hourly rate or other factor.
- (5) Where a fees order provides for a fee (or part of a fee) to be a fixed amount, it –
 - (a) must specify a maximum amount for the fee (or part), and
 - (b) may specify a minimum amount.
- (6) Where a fees order provides for a fee (or part of a fee) to be calculated as mentioned in subsection (4)(b), it –
 - (a) must specify –
 - (i) how the fee (or part) is to be calculated, and
 - (ii) a maximum rate or other factor, and
 - (b) may specify a minimum rate or other factor.

(7) For any specified fee, the following are to be set by the Secretary of State by regulations (“fees regulations”) –

(a) if the fee (or any part of it) is to be a fixed amount, that amount;

(b) if the fee (or any part of it) is to be calculated as mentioned in subsection (4)(b), the hourly rate or other factor by reference to which it (or that part) is to be calculated.

(8) An amount, or rate or other factor, set by fees regulations for a fee in respect of the exercise of a specified function –

(a) must not –

(i) exceed the maximum specified for that amount, or rate or other factor;

(ii) be less than the minimum, if any, so specified;

(b) subject to that, may be intended to exceed, or result in a fee which exceeds, the costs of exercising the function.

(9) In setting the amount of any fee, or rate or other factor, in fees regulations, the Secretary of State may have regard only to –

(a) the costs of exercising the function;

(b) benefits that the Secretary of State thinks are likely to accrue to any person in connection with the exercise of the function;

(c) the costs of exercising any other function in connection with immigration or nationality;

(d) the promotion of economic growth;

(e) fees charged by or on behalf of governments of other countries in respect of comparable functions;

(f) any international agreement.

This is subject to section 69(5).

(10) In respect of any fee provided for under this section, fees regulations may –

(a) provide for exceptions;

(b) provide for the reduction, waiver or refund of part or all of a fee (whether by conferring a discretion or otherwise);

(c) make provision about –

(i) the consequences of failure to pay a fee;

(ii) enforcement;

(iii) when a fee may or must be paid.

(11) Any provision that may be made by fees regulations by virtue of subsection (10) may be included instead in a fees order (and any provision so included may be amended or revoked by fees regulations).

(12) In this section and sections 69 and 70 –

“costs” includes –

(a) the costs of the Secretary of State, and

(b) the costs of any other person (whether or not funded from public money) “fees order” has the meaning given by subsection (2);

“fees regulations” has the meaning given by subsection (7);

“function” includes a power or a duty; “function in connection with immigration or nationality” includes a function in connection with an enactment (including an enactment of a jurisdiction outside Jersey) that relates wholly or partly to immigration or nationality;

“Jersey” means the Bailiwick of Jersey;

“Minister” means Minister for Home Affairs;

“specified” means specified in a fees order.

(13) Any reference in this section or section 70 to the exercise of a function includes a reference to its exercise in particular circumstances, including its exercise –

(a) at particular times or in a particular place;

(b) under particular arrangements;

(c) otherwise in particular ways, and, for this purpose, “arrangements” includes arrangements for the convenience of applicants, claimants or persons making requests for the exercise of a function.

69 Fees orders and fees regulations: supplemental

(1) A fees order or fees regulations may be made only with the consent of the Treasury.

(2) A fee under section 68 may relate to something done outside Jersey.

(3) Fees payable by virtue of section 68 may be recovered as a debt due to the Secretary of State.

(4) Fees paid to the Secretary of State by virtue of section 68 must –

(a) be paid into the Consolidated Fund, or

(b) be applied in such other way as the relevant order may specify.

(4A) Notwithstanding subsections (3) and (4), in relation to a function exercised by the Lieutenant-Governor under arrangements made with the Secretary of State under section 43 of the British Nationality Act 1981 –

(a) fees payable by virtue of section 68 may be recovered as a debt due to the Minister;

(b) fees paid by virtue of section 68 shall form part of the annual income of the States.

(5) Section 68 is without prejudice to –

(a) section 1 of the Consular Fees Act 1980 (fees for consular acts, etc.);

(b) section 102 of the Finance (No. 2) Act 1987 (government fees and charges); or

(c) any other power to charge a fee.

70 Power to charge fees for attendance services in particular cases

(1) This section applies where a person exercises a function in connection with immigration or nationality in respect of which a fee is chargeable by virtue of a fees order (a “chargeable function”) in a particular case and –

(a) in doing so attends at a place outside Jersey, and time, agreed with a person (“the client”), and

(b) does so at the request of the client. It is immaterial whether or not the client is a person in respect of whom the chargeable function is exercised.

(2) In this section “attendance service” means the service described in subsection (1) except so far as it consists of the exercise of a chargeable function.

(3) The following are to be disregarded in determining whether a fee is chargeable in respect of a function by virtue of a fees order –

(a) any exception provided for by a fees order or fees regulations;

(b) any power so provided to waive or refund a fee.

(4) The person exercising the chargeable function may charge the client such fee for the purposes of recovering the costs of providing the attendance service as the person may determine.

(5) Fees paid to the Secretary of State by virtue of this section must be paid into the Consolidated Fund.

(6) A fee payable by virtue of this section may be recovered as a debt due to the Secretary of State.

(6A) Notwithstanding subsections (5) and (6), in relation to a function exercised by the Lieutenant-Governor under arrangements made with the Secretary of State under section 43 of the British Nationality Act 1981 –

- (a) fees paid by virtue of this section shall form part of the annual income of the States; and
- (b) a fee payable by virtue of this section may be recovered as a debt due to the Minister.

(7) This section is without prejudice to –

- (a) section 68;
- (b) section 1 of the Consular Fees Act 1980 (fees for consular acts, etc.);
- (c) section 102 of the Finance (No.2) Act 1987 (government fees and charges); or
- (d) Any other power to charge a fee

Welfare of children

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FINAL PROVISIONS

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