



Immigration Appeals Act 1969

CHAPTER 21

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ELIZABETH II



1969 CHAPTER 21

An Act to confer rights of appeal against the exercise by the Secretary of State and officers acting under his instructions of their powers in respect of the admission into and removal from the United Kingdom of persons to whom section 1 or 6 of the Commonwealth Immigrants Act 1962 applies, and to enable provision to be made by Order in Council for conferring corresponding rights of appeal on aliens; to enable deportation orders to be made without the recommendation of a court in the case of persons to whom the said section 6 applies who fail to comply with conditions subject to which they have been admitted into the United Kingdom; to make provision as respects the holding of entry certificates by certain persons to whom the said section 1 applies who seek admission into the United Kingdom; to make the owners or agents of ships and aircraft liable for certain expenses incurred in respect of persons to whom the said section 1 applies who are directed to be removed from the United Kingdom; and for purposes connected with the matters aforesaid. [16th May 1969]

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

PART I

IMMIGRATION APPEALS

The appellate authorities

1.—(1) For the purposes of this Part of this Act there shall be—
 (a) adjudicators appointed by the Secretary of State ; and

The
 adjudicators
 and the
 Tribunal.

PART I

(b) an Immigration Appeal Tribunal (hereafter in this Act referred to as “the Tribunal”) whose members shall be appointed by the Lord Chancellor.

(2) Schedule 1 to this Act shall have effect in relation to the adjudicators and the Tribunal.

Rights of appeal

Appeal
against
exclusion
from United
Kingdom.

2.—(1) Subject to the provisions of this Part of this Act, a person may appeal to an adjudicator against—

- (a) a refusal under section 2(1) of the Act of 1962 to admit him into the United Kingdom ;
- (b) a prohibition on his landing imposed under paragraph 8(1) of Schedule 1 to that Act (prohibition on member of ship’s crew landing without authority) ;
- (c) a refusal of an application for the grant to him of an entry certificate, being an application duly made to a person having authority to grant such a certificate on behalf of the Government of the United Kingdom.

(2) The adjudicator shall dismiss any appeal under subsection (1) of this section if it appears to him that, at the time of the refusal or prohibition, a deportation order was in force in respect of the appellant ; and he shall dismiss any appeal under paragraph (a) of that subsection if it appears to him that the appellant has landed in the United Kingdom in contravention of section 4A of the Act of 1962 (landing without fulfilling conditions as to examination).

(3) Schedule 2 to this Act shall have effect for suspending the enforcement of any such refusal as is mentioned in subsection (1)(a) of this section while an appeal against it is pending under this Part of this Act.

Appeal against
conditions of
admission.

3.—(1) Subject to the provisions of this Part of this Act, a person may appeal to an adjudicator against—

- (a) the imposition in his case of any condition of admission restricting the period for which he may remain in the United Kingdom to less than seven or such other number of days as may be prescribed for the purposes of this paragraph by an order made by the Secretary of State ;
- (b) the variation by a notice under paragraph 2(5) of Schedule 1 to the Act of 1962 of any condition of admission which has been imposed in his case ;
- (c) a refusal to revoke or vary, by such a notice as aforesaid, any condition of admission which has been imposed in his case.

(2) The power to make orders for the purposes of subsection (1)(a) of this section shall be exercisable by statutory instrument and shall include power to revoke or vary any previous order so made.

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(3) Where an appeal is duly brought under subsection (1)(a) or (c) of this section the appellant shall not, so long as the appeal is pending, be required to leave the United Kingdom by reason of any condition restricting the period for which he may remain there; and where an appeal is duly brought under subsection (1)(b) of this section the variation which is the subject of the appeal shall not take effect so long as the appeal is pending.

(4) In this section "condition of admission" means a condition subject to which a person is admitted into the United Kingdom under section 2(1) of the Act of 1962, and in subsection (1)(b) and (c) includes any condition so far as it has effect in the United Kingdom by virtue of paragraph 2 of Schedule 3 to that Act (conditions imposed in the Channel Islands or Isle of Man).

4.—(1) Subject to subsection (2) of this section and to the other provisions of this Part of this Act, a person may appeal to an adjudicator against—

Appeal
against
deportation
orders.

- (a) a decision of the Secretary of State to make a deportation order in respect of him under Part II of this Act;
- (b) a refusal by the Secretary of State to revoke a deportation order made in respect of him under the said Part II or under Part II of the Act of 1962.

(2) A person shall not be entitled to appeal under subsection (1)(b) of this section until he has complied with the requirement in the order in question that he should leave the United Kingdom or while he is in breach of the prohibition in it against returning there.

(3) A deportation order shall not be made under Part II of this Act so long as an appeal may be brought against the decision to make that order and, if such an appeal is duly brought, so long as the appeal is pending.

5.—(1) Subject to the provisions of this Part of this Act, a person may appeal to an adjudicator against the giving of directions for his removal from the United Kingdom in any case where the directions are given—

Appeal
against
directions for
removal from
United
Kingdom.

- (a) on the ground that he is to be treated by virtue of paragraph 8(2) or 9 of Schedule 1 to the Act of 1962 as having been refused admission into the United Kingdom (member of ship's crew landing or remaining illegally and person arriving as stowaway); or

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(b) on the ground that he has returned to the United Kingdom in breach of a deportation order.

(2) In any appeal under subsection (1) of this section against the giving of any directions, the only question for the determination of the adjudicator shall be whether the facts of the case are such that there was in law power to give the directions on the ground on which they were given or, in the case of an appeal under paragraph (a) of that subsection, either on that ground or on the ground that a deportation order was in force in respect of the appellant; and if the adjudicator determines that question in the affirmative he shall dismiss the appeal.

(3) Subject to subsection (4) of this section and to the other provisions of this Part of this Act, where directions are given for the removal of a person from the United Kingdom he may appeal to an adjudicator against the giving of the directions on the ground that he ought not to be removed to the country or territory to which he would be removed if the directions were carried out.

(4) Where a person appeals against the giving of any directions both under subsection (1) and under subsection (3) of this section the appeals shall be heard together; and where a person appeals under section 2(1)(a) or section 4 of this Act, then, if the Secretary of State or an immigration officer has served on him (whether before or after the appeal is brought) a notice stating that any directions for his removal from the United Kingdom which may be given by virtue of the refusal or deportation order which is the subject of the appeal will be such as to effect his removal to a country or territory, or one of several countries or territories, specified in the notice—

(a) the appellant shall be entitled in that appeal to object that he ought not to be removed to the country or territory, or to any of the countries or territories, specified in the notice; and

(b) no appeal shall lie under subsection (3) of this section against any directions which are subsequently given by virtue of the refusal or deportation order in question if their effect would be his removal to a country or territory to which he has not objected as aforesaid or as respects which his objection has not been sustained.

(5) Where before a person appeals under section 2(1)(a) of this Act directions have been given for his removal and those directions cease to have effect in consequence of the bringing of the appeal, the appellant shall be treated as having been served with a notice under subsection (4) of this section specifying the country or territory to which he would have been removed if those directions had been carried out.

(6) Schedule 2 to this Act shall have effect as respects the suspension of any directions while an appeal in respect of them is pending under this Part of this Act.

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- 6.—(1) The Secretary of State may by regulations provide—
- (a) for a notice in writing of any decision or action against which an appeal can be brought under this Part of this Act to be given to the person by whom such an appeal can be brought ;
 - (b) for any such notice to include a statement of the reasons for the decision or action and, where the action is the giving of directions for the removal of any person from the United Kingdom, of the country or territory to which he is to be removed ;
 - (c) for any such notice to be accompanied by a statement containing particulars of the rights of appeal available under this Part of this Act and of the procedure by which those rights may be exercised ;
 - (d) for the form of any such notice or statement.

Notice of matters in respect of which there are rights of appeal.

(2) The power to make regulations under this section shall be exercisable by statutory instrument, and any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Further appeal from adjudicator to Tribunal

7.—(1) Subject to subsection (2) of this section, any party to an appeal to an adjudicator may, if dissatisfied with his determination thereon, appeal to the Tribunal.

Review by Tribunal of determination of adjudicator.

(2) Rules of procedure may provide that, in such cases as may be specified in the rules, an appeal shall lie under this section only with the leave of the adjudicator or the Tribunal, or only with the leave of the Tribunal ; but—

- (a) an appeal shall lie under this section without leave where the adjudicator has allowed an appeal under section 2(1)(a) of this Act and the Secretary of State certifies that he considers it desirable in the public interest that the case should be decided by the Tribunal ; and
- (b) if leave to appeal under this section is by virtue of the rules required in a case where the adjudicator has dismissed an appeal under the said section 2(1)(a) the authority having power under the rules to grant leave shall grant it if satisfied that the person who was the appellant before the adjudicator held an entry certificate at the time of the refusal which was the subject of the appeal.

PART I

Proceedings on appeal

Determination
of appeals.

8.—(1) Subject to sections 2(2) and 5(2) of this Act, an adjudicator who hears an appeal under this Part of this Act—

(a) shall allow the appeal if he considers—

(i) that the decision or action against which the appeal is brought was not in accordance with the law or with any immigration rules applicable to the case ; or

(ii) where the decision or action involved the exercise of a discretion by the Secretary of State or an officer, that the discretion should have been exercised differently ; and

(b) in any other case, shall dismiss the appeal.

(2) For the purposes of paragraph (a) of the foregoing subsection the adjudicator may review any determination of a question of fact on which the decision or action was based ; and for the purposes of paragraph (a)(ii) of that subsection no decision or action which is in accordance with the immigration rules shall be treated as having involved the exercise of a discretion by the Secretary of State by reason only of the fact that he has been requested by or on behalf of the appellant to depart, or to authorise an officer to depart, from the rules and has refused to do so.

(3) In relation to an appeal which under section 9 of this Act is heard at first instance by the Tribunal, the foregoing provisions of this section shall apply to the Tribunal as they apply to an adjudicator.

(4) On an appeal under this Part of this Act to the Tribunal from the determination of an adjudicator, the Tribunal may affirm the determination or make any other determination which could have been made by the adjudicator.

(5) Where an adjudicator or the Tribunal allows an appeal, the adjudicator or Tribunal shall give such directions for giving effect to the determination as the adjudicator or Tribunal thinks requisite, and may also make recommendations with respect to any other action which the adjudicator or Tribunal considers should be taken in the case under the Act of 1962.

(6) Subject to section 9(2) of this Act, it shall be the duty of the Secretary of State and of any officer to whom directions are given under subsection (5) of this section to comply therewith, except that directions given by an adjudicator need not be complied with so long as an appeal can be brought against his determination and, if such an appeal is duly brought, so long as the appeal is pending.

9.—(1) Where a person appeals to an adjudicator against any decision or action and it appears to the Secretary of State that the decision or action was taken in the interests of national security, the Secretary of State may direct that the appeal shall be referred to and heard by the Tribunal instead of by an adjudicator; and for the purpose of hearing appeals referred to it under this section the Tribunal shall be constituted by a special panel of its members nominated by the Lord Chancellor and the Secretary of State acting jointly.

PART I
Special procedure in cases involving national security or forgery of documents.

(2) Section 8(6) of this Act shall not apply to a case which is dealt with in accordance with directions given under subsection (1) of this section.

(3) If—

- (a) in the case of an appeal which is dealt with in accordance with directions given under subsection (1) of this section, the Secretary of State certifies that the disclosure to the appellant of any matters relevant to the case would be contrary to the interests of national security; or
- (b) in the case of any appeal under this Part of this Act in which it is alleged that a passport, entry certificate or employment voucher (or any part thereof or entry therein) on which a party relies is a forgery, the adjudicator or Tribunal hearing the appeal determines that the disclosure to that party of any matters relating to the method of detection would be contrary to the public interest,

those matters shall be presented to the adjudicator or Tribunal without being disclosed as aforesaid; and for the purposes of this subsection any part of the proceedings may take place in the absence of the appellant or that party, as the case may be, and of his representatives.

10.—(1) Where in any case—

- (a) an appeal to an adjudicator (or an appeal referred to the Tribunal under section 9 of this Act) has been dismissed; or
- (b) the Tribunal has affirmed the determination of an adjudicator dismissing an appeal,

Reference of cases for further consideration.

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

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

PART I
Rules of
procedure.

11.—(1) The Secretary of State may make rules (in this Act referred to as “ rules of procedure ”) with respect to the bringing of appeals and the making of applications under this Part of this Act to appellate authorities, that is to say adjudicators and the Tribunal, and with respect to the proceedings of such authorities and matters incidental to or consequential on such proceedings.

(2) Rules made under this section may in particular make provision—

- (a) as to the manner in which and the time within which appeals are to be brought and applications made for leave to appeal ;
- (b) as to the persons who are to be parties to proceedings before an appellate authority and for treating the Secretary of State (either generally or in such circumstances as may be prescribed by the rules) as a party to such proceedings where he would not otherwise be a party to them, and enabling him to appear and to be heard accordingly ;
- (c) for enabling any party to be represented before an appellate authority by any person whether having professional qualifications or not ;
- (d) for requiring persons to attend to give evidence and produce documents, and for authorising the administration of oaths to witnesses ;
- (e) with respect to the mode and burden of proof and admissibility of evidence ;
- (f) in the case of an appeal to the Tribunal under section 7 of this Act, for enabling evidence to be given otherwise than orally and for an appeal to be remitted to an adjudicator for further evidence to be obtained ;
- (g) for enabling an appellate authority to exclude members of the public from proceedings of such an authority ;
- (h) for enabling an appeal to be heard in the absence of the appellant in cases where the appellant is outside the United Kingdom ;
- (i) for enabling an appellate authority to dispose of an appeal without a formal hearing where the appellant is outside the United Kingdom or does not request such a hearing or the authority has decided to allow the appeal ;
- (j) for enabling an appellate authority to determine an appeal in a summary way where it appears that the issues raised on the appeal have been determined in previous proceedings under this Part of this Act and the circumstances do not materially differ from those subsisting at the time of the previous proceedings ;

- (k) for requiring the matters put forward in support of an appeal under section 5(3) of this Act to be submitted in writing and for enabling an appellate authority to dismiss the appeal without a formal hearing if of opinion that those matters do not warrant one ;
- (l) as to the procedure to be followed under section 5(4) of this Act ;
- (m) as to the procedure to be followed in cases where the Secretary of State has given a direction or certificate under section 9 of this Act ;
- (n) for any functions of the Tribunal which relate to matters ancillary or antecedent to an appeal, or which are conferred by Schedule 3 to this Act, to be performed by a single member of the Tribunal ;
- (o) conferring on appellate authorities such ancillary powers as the Secretary of State thinks necessary for the purposes of the exercise of their functions ;
- (p) for the recording and proof of decisions of the appellate authorities.

PART I

(3) A person who without reasonable excuse fails to comply with any requirement imposed by rules under subsection (2)(d) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(4) The power to make rules under this section shall be exercisable by statutory instrument, and any statutory instrument containing such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

12. Schedule 3 to this Act shall have effect as respects the release on bail of appellants who are in detention.

Release of
appellants
pending
hearing.

13.—(1) If a person who has appealed under section 2(1)(b) of this Act is authorised by an immigration officer to land for the purpose of prosecuting his appeal he may, while on shore for that purpose, be detained under the authority of an immigration officer or constable: and section 13(1) and (4) of the Act of 1962 (provisions as to detained persons) shall have effect as if this subsection were contained in that Act.

Members of
ships' crews.

(2) If while an appeal under the said section 2(1)(b) is pending the appellant's ship leaves the port in question but the appellant remains on shore with the authority of an immigration officer, the appellant shall thereafter be treated for the purposes of the Act of 1962 as if he had been refused admission into the United Kingdom and the appeal shall thereafter be treated for the purposes of this Act as if it were an appeal under section 2(1)(a) of this Act.

PART I

Provision of corresponding rights of appeal for aliens

Rights of
appeal for
aliens.
1914 c. 12.

14.—(1) Her Majesty may by Order in Council under section 1 of the Aliens Restriction Act 1914 make such provision for appeals in connection with the powers for the time being exercisable in respect of the admission into and removal from the United Kingdom of aliens as appears to Her Majesty to be appropriate having regard to the provision made by this Part of this Act for appeals in connection with the powers conferred by the Act of 1962.

(2) Any Order made under section 1 of the said Act of 1914 by virtue of this section may provide for appeals under the Order to lie to the appellate authorities constituted for the purposes of this Part of this Act, and may apply any of the provisions of this Act for the purposes of the Order subject to such modifications as may be specified therein.

Advice and assistance for persons with rights of appeal

Financial support
for organisations
providing advice
and assistance
for persons with
rights of appeal.

15. The Secretary of State may with the consent of the Treasury make grants to any voluntary organisation which provides advice or assistance for, or other services for the welfare of, persons who have rights of appeal under this Part of this Act or any Order made in pursuance of section 14 thereof.

PART II

DEPORTATION OF COMMONWEALTH CITIZENS FOR BREACH OF CONDITIONS OF ADMISSION

Power to
deport
Common-
wealth citizens
for breach of
conditions of
admission.

16.—(1) If the Secretary of State is satisfied that a Commonwealth citizen to whom section 6 of the Act of 1962 applies has failed to comply with a condition imposed on him under section 2(1) of that Act or Schedule 1 thereto he may, subject to the provisions of this section, make an order requiring him to leave the United Kingdom and prohibiting him from returning there so long as the order is in force.

(2) An order shall not be made under this section in respect of a person who—

(a) was ordinarily resident in the United Kingdom on the date on which, in accordance with regulations under section 6 of this Act, he was given notice of the decision to make the order ; and

(b) had been continuously so resident for a period of at least five years ending with that date ;

and for the purpose of calculating the period for which a person had been so resident (but not of determining whether he had been continuously so resident) no account shall be

taken of any continuous period of six months or more during which he was detained under a sentence or order passed or made by any court on a conviction of an offence.

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(3) Subsections (3) and (4) of section 6 of the Act of 1962 (application to British protected persons and citizens of Republic of Ireland and onus of proof) shall have effect in relation to this section, and to the said section 6 as applied for the purposes of this section, as they have effect in relation to Part II of that Act and to that section as originally enacted.

17.—(1) The following provisions of the Act of 1962, that is to say—

Revocation
and
enforcement
of orders.

section 9(3) (revocation of deportation orders) ;

section 10 and Schedule 2 (removal and detention of persons subject to deportation orders) except paragraph 2(1) of that Schedule ;

section 11(1), (3) and (4) (offences in connection with deportation orders),

shall have effect in relation to a deportation order under this Part of this Act as they have effect in relation to a deportation order under Part II of that Act ; and in section 2(5) of that Act (refusal of admission to person in respect of whom a deportation order under Part II of that Act is in force) the reference to a deportation order under the said Part II shall include a reference to a deportation order under this Part of this Act.

(2) Where a person who, in accordance with regulations under section 6 of this Act, has been given notice of a decision to make a deportation order in respect of him under this Part of this Act 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 may be detained under the authority of the Secretary of State until the deportation order—

(a) is made ; or

(b) by reason of the final determination of an appeal under Part I of this Act in favour of that person, cannot be made.

(3) Instead of detaining or continuing to detain a person under subsection (2) of this section, the Secretary of State may by order impose on him such restrictions as to his place of residence, and such requirements as to reporting to the police, as the Secretary of State thinks fit.

(4) Section 11(2) of the Act of 1962 (offence of failing to comply with restrictions or requirements imposed under paragraph 2 of Schedule 2 to that Act) shall have effect as if the

PART II

reference therein to that paragraph included a reference to subsection (3) of this section ; and section 13 of that Act (provisions as to detained persons) shall have effect as if subsection (2) of this section were contained in that Act.

(5) If a justice of the peace is satisfied by written information substantiated on oath that there is reasonable ground for suspecting that a person who is liable to be arrested under section 13 of the Act of 1962 by reason of his being liable to detention—

- (a) under paragraph 2(2) of Schedule 2 to that Act as applied by subsection (1) of this section ; or
- (b) under subsection (2) of this section,

is to be found on any premises, he may grant a warrant authorising any constable acting for the police area in which the premises are situated, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting that person.

(6) Subsection (5) of this section shall, in its application to premises in Scotland, have effect subject to the following modifications, namely—

- (a) for the reference to a justice of the peace there shall be substituted a reference to the sheriff, or a magistrate or justice of the peace, having jurisdiction in the place where the premises are situated ;
- (b) for the reference to written information substantiated on oath there shall be substituted a reference to evidence on oath ;

and that subsection shall, in its application to premises in Northern Ireland, have effect with the omission of the words “ acting for the police area in which the premises are situated ”.

Disqualifica-
tion for
citizenship by
registration.
1948 c. 56.

18.—(1) A person in respect of whom a deportation order is in force under this Part of this Act shall not be entitled to be registered as a citizen of the United Kingdom and Colonies under section 6(1) of the British Nationality Act 1948 (registration of certain Commonwealth citizens and citizens of the Republic of Ireland).

(2) Where, in accordance with regulations under section 6 of this Act, a person has been given notice of a decision to make a deportation order in respect of him under this Part of this Act, he shall not be entitled to be registered as a citizen of the United Kingdom and Colonies under the said section 6(1) unless and until an appeal by him under Part I of this Act against the decision has been finally determined in his favour or the Secretary of State notifies him that the order will not be made.

19.—(1) In subsection (1) of section 16 of this Act the reference to a condition imposed under section 2(1) of the Act of 1962 includes a reference to a condition imposed under the said section 2(1) as extended under section 18 of that Act so far as the condition has effect in the United Kingdom by virtue of paragraph 2 of Schedule 3 to that Act (conditions imposed in the Channel Islands or Isle of Man).

PART II
Application
to Channel
Islands and
Isle of Man.

(2) Subsection (2) of the said section 16 shall have effect as if the Channel Islands and the Isle of Man (in this section collectively referred to as the Islands) were included in the United Kingdom.

(3) Her Majesty may by Order in Council direct that all or any of the provisions of this Part of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the Islands.

(4) The power to make an Order in Council under subsection (3) of this section shall include power to revoke or vary a previous Order so made.

(5) Subject to subsection (6) of this section, a deportation order made in any of the Islands under this Part of this Act as extended under this section shall have effect, in the United Kingdom, as if it were a deportation order made by the Secretary of State under this Part of this Act requiring the person to whom it relates to leave the United Kingdom and prohibiting him from returning there; and section 10 of the Act of 1962 and Schedule 2 thereto, as applied by section 17 of this Act, shall apply accordingly with the necessary modifications.

(6) The Secretary of State may in any particular case direct that subsection (5) of this section shall not apply in relation to a deportation order made in any of the Islands; and nothing in that subsection shall render it unlawful for a person in respect of whom a deportation order made in any of the Islands is in force to enter the United Kingdom on his way from that Island to a place outside the United Kingdom.

(7) The Secretary of State may defray or contribute towards expenses incurred by the governments of the Islands in connection with the removal of persons under this Part of this Act as extended under this section.

PART III

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

20.—(1) In subsection (2)(b) of section 2 of the Act of 1962 (under which a woman may not be refused admission into the United Kingdom if she satisfies an immigration officer as to the matters there specified) after the words “satisfies an immigration officer” there shall be inserted the words “that she holds admission to wives and children under 16 if they do not hold entry certificates.”

PART III a current entry certificate granted for the purposes of this paragraph and ”.

(2) In subsection (2A) of the said section 2 (under which a person under the age of 16 may not be refused admission into the United Kingdom if he satisfies an immigration officer as to the matters there specified) after the words “satisfies an immigration officer” there shall be inserted the words “that he holds a current entry certificate granted for the purposes of this subsection and”.

(3) The Secretary of State shall make arrangements for securing that the persons having authority to grant entry certificates on behalf of the Government of the United Kingdom shall, on due application, grant such a certificate for the purposes of the said subsection (2)(b) or (2A) on being satisfied that, apart from the foregoing provisions of this section, the applicant would be entitled to admission into the United Kingdom under the said subsection (2)(b) or (2A) or would be so entitled if the applicant’s husband, parent or parents were admitted with the applicant.

Liability of owners or agents of ships and aircraft for expenses incurred in respect of persons directed to be removed from the United Kingdom.

21.—(1) Subject to the provisions of this section, where directions are given under paragraph 3 of Schedule 1 to the Act of 1962 for the removal of a person from the United Kingdom the owners or agents of the ship or aircraft in which he arrived shall be liable to pay to the Secretary of State, on demand, any expenses incurred by the latter in respect of the custody, accommodation or maintenance of that person at any time after his arrival while he was detained or liable to be detained under paragraph 4(1) of that Schedule.

(2) The foregoing subsection shall not apply to expenses in respect of a person who, when he arrived in the United Kingdom, held a current entry certificate or was the person described in a current employment voucher; and for the purposes of this subsection a document purporting to be such a certificate or voucher shall be treated as genuine unless its falsity is reasonably apparent.

(3) If a person is admitted into the United Kingdom before the directions for his removal have been carried out, or he is so admitted thereafter in consequence of the determination in his favour of an appeal under Part I of this Act (being an appeal against a refusal of admission by virtue of which the directions were given or against the directions themselves), no sum shall be demanded under subsection (1) of this section for expenses incurred in respect of that person and any such sum already demanded and paid shall be refunded.

(4) In subsection (1) of this section “directions” does not include directions which by virtue of Schedule 2 to this Act have

ceased to have effect or are for the time being of no effect ; and the expenses to which that subsection applies include expenses in conveying the person in question to and from the place where he is detained or accommodated unless the journey is made for the purpose of attending an appeal by him under Part I of this Act.

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(5) Her Majesty may by Order in Council under section 1 of the Aliens Restriction Act 1914 make provision in relation to 1914 c. 12. aliens for purposes corresponding to the purposes of this section.

22.—(1) Any document purporting to be a notice, certificate or direction given by the Secretary of State for the purposes of any provision of Part I of this Act or an order or direction made or given by him under Part II thereof, and to be signed by him or on his behalf, shall be received in evidence, and shall, until the contrary is proved, be deemed to be made or given by him. Proof of certificates etc.

(2) Prima facie evidence of any such notice, certificate, direction or order as aforesaid may, in any legal proceedings or in any proceedings under this Act, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the notice, certificate, direction or order.

(3) In section 15(3) of the Act of 1962 (proof of orders etc. under that Act) the reference to legal proceedings shall include a reference to proceedings under this Act.

23. There shall be defrayed out of moneys provided by Parliament any expenditure of the Secretary of State under or in consequence of any provision of this Act. Expenses.

24.—(1) This Act may be cited as the Immigration Appeals Act 1969. Short title, interpretation and commencement.

(2) In this Act—

“ the Act of 1962 ” means the Commonwealth Immigrants Act 1962 ; 1962 c. 21.

“ deportation order ” means, except where the context otherwise requires, an order under Part II of the Act of 1962 or Part II of this Act ;

“ employment voucher ” means a voucher of the kind described in section 2(3)(a) of the Act of 1962 ;

“ entry certificate ” means a certificate which, in accordance with immigration rules, is to be taken as evidence of eligibility for admission into the United Kingdom ;

PART III

“immigration officer” has the same meaning as in the Act of 1962 ;

“immigration rules” means rules made by the Secretary of State for the administration of—

(a) the control of entry into the United Kingdom of persons to whom the Act of 1962 applies ; and

(b) the control of such persons after entry,

being rules which have been published and laid before Parliament ;

“rules of procedure” means rules made under section 11 of this Act ;

“ship” includes every description of vessel used in navigation and a hovercraft as defined in section 4(1) of the Hovercraft Act 1968.

1968 c. 59.

(3) For the purposes of this Act an appeal under Part I of this Act shall be treated as pending during the period beginning when notice of appeal is duly given and ending when the appeal is finally determined or withdrawn ; and in the case of an appeal to an adjudicator, the appeal shall not be treated as finally determined so long as a further appeal can be brought by virtue of section 7 of this Act and, if such an appeal is duly brought, until it is determined or withdrawn.

(4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

(5) Sections 20 and 21 shall come into operation on the passing of this Act and the other provisions of this Act shall come into operation on such date as the Secretary of State may by order made by statutory instrument appoint ; and different dates may be appointed by order under this subsection for different purposes of this Act.

(6) No provision of Part I of this Act shall be construed as conferring a right of appeal against any decision or action which was taken before the coming into operation of that provision.

SCHEDULES

SCHEDULE 1

Section 1.

THE ADJUDICATORS AND THE TRIBUNAL

PART I

THE ADJUDICATORS

1. There shall be such number of adjudicators as the Secretary of State may with the consent of the Treasury determine, and the Secretary of State shall appoint one of them as chief adjudicator.

2.—(1) An adjudicator shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.

(2) An adjudicator may at any time by notice in writing to the Secretary of State resign his office.

3. The Secretary of State shall pay—

(a) to the adjudicators, such remuneration and allowances as he may, with the approval of the Treasury, determine ;

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

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

4. In Part III of Schedule 1 to the House of Commons Disqualification Act 1957 (which lists offices the holders of which are disqualified for membership of the House of Commons), and in the said Part III as it applies by virtue of Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland, there shall be inserted at the appropriate point the words “ Adjudicator appointed for the purposes of Part I of the Immigration Appeals Act 1969 ”.

5. The adjudicators shall sit at such times and in such places as the Secretary of State may direct ; and the chief adjudicator shall allocate duties among the adjudicators and have such other functions as may be conferred on him by the Secretary of State.

PART II

THE TRIBUNAL

Members

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

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

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

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

9. The Secretary of State shall pay—

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

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

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

1957 c. 20.

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

Proceedings

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

12. Subject to section 9 of this Act and to rules of procedure, the Tribunal shall be deemed to be duly constituted if it consists of three members (or a greater uneven number of members) of whom at least one is qualified as mentioned in paragraph 7 of this Schedule ; and the determination of any question before the Tribunal shall be according to the opinion of the majority of the members hearing the case.

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

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

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PART III

STAFF AND EXPENSES

15. The Secretary of State may appoint such officers and servants for the adjudicators and the Tribunal as he may, with the approval of the Treasury as to remuneration and numbers, determine.

16. The remuneration of officers and servants appointed as aforesaid, and such expenses of the adjudicators and the Tribunal as the Secretary of State may with the approval of the Treasury determine, shall be defrayed by the Secretary of State.

SCHEDULE 2

Sections 2 and 5.

SUSPENSION OF DIRECTIONS FOR REMOVAL PENDING APPEAL

*Directions following a refusal of admission
which is under appeal*

1. Subject to the provisions of this Schedule, where an appeal is duly brought under section 2(1)(a) of this Act—

- (a) no directions for the removal of the appellant from the United Kingdom shall, so long as the appeal is pending, be given by virtue of the refusal which is the subject of the appeal; and
- (b) except so far as already carried out, any directions which have been so given before the appeal was brought shall cease to have effect.

Directions which are under appeal

2. Subject to the provisions of this Schedule, where an appeal is duly brought under section 5 of this Act against the giving of any directions, those directions, except so far as already carried out, shall be of no effect so long as the appeal is pending.

Members of ship's crew and stowaways

3.—(1) The foregoing provisions of this Schedule shall not prevent—

- (a) the giving of directions for the removal of an appellant who has arrived in the United Kingdom as a member of the crew of a ship or as a stowaway; or
- (b) the continuance in force of directions for the removal of any such person which have already been given.

(2) In this paragraph "member of the crew" has the same meaning as in Schedule 1 to the Act of 1962.

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Removal where adjudicator dismisses appeal

4.—(1) Where an appeal under section 2(1)(a) or section 5 of this Act has been dismissed by an adjudicator, then, unless forthwith after the appeal has been dismissed—

- (a) the appellant duly gives notice of appeal against the determination of the adjudicator ; or
- (b) in a case in which leave to appeal against that determination is required and the adjudicator has power to grant leave, the appellant duly applies for and obtains the leave of the adjudicator,

paragraph 1 of this Schedule shall not prevent the giving of directions for the removal of the appellant, and for the purposes of paragraph 2 of this Schedule the appeal shall be treated as if it were no longer pending.

(2) Where a person who has been removed from the United Kingdom under directions given or in force by virtue of subparagraph (1) of this paragraph subsequently appeals successfully to the Tribunal against the determination of the adjudicator, the Tribunal may order the Secretary of State to pay to that person such sum as the Tribunal may direct in respect of any expenses incurred by that person in consequence of his having been removed as aforesaid.

Detention

5. The foregoing provisions of this Schedule shall not affect the powers of detention conferred by paragraph 4 of Schedule 1 to the Act of 1962 except that a person shall not be detained on board a ship or aircraft so as to compel him to leave the United Kingdom in it at a time when by virtue of those provisions no directions for his removal can be given or any such directions have ceased to have effect or are for the time being of no effect.

Time limit for giving of directions

6. In calculating the period of two months referred to in paragraph 3(3) of Schedule 1 to the Act of 1962 (being the time limit for giving directions for the removal of a person from the United Kingdom) there shall be disregarded, in the case of a person who duly brings an appeal under Part I of this Act, the period during which the appeal is pending.

Section 12.

SCHEDULE 3

RELEASE OF APPELLANTS PENDING APPEAL

Preliminary

1. This Schedule applies to any person (in this Schedule referred to as an appellant) who has an appeal pending under Part I of this Act and is for the time being detained under paragraph 4 of Schedule 1 to the Act of 1962 or Part II of this Act.

Bail by immigration officer or police officer

2. An immigration officer not below the rank of chief immigration officer or a police officer not below the rank of inspector may release an appellant on his entering into a recognizance, with or without sureties, conditioned for his appearance before an adjudicator or the Tribunal at a time and place named in the recognizance.

Bail by adjudicator

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3.—(1) An adjudicator may release an appellant on his entering into a recognizance, with or without sureties, conditioned for his appearance before that or any other adjudicator or the Tribunal at a time and place named in the recognizance.

(2) Where an adjudicator dismisses an appeal but—

- (a) grants leave to the appellant to appeal to the Tribunal ; or
 - (b) in a case in which leave to appeal is not required, the appellant has duly given notice of appeal to the Tribunal,
- the adjudicator shall, if the appellant so requests, exercise his powers under this paragraph.

Bail by Tribunal

4.—(1) Where an appellant has duly applied for leave to appeal to the Tribunal, the Tribunal may release him on his entering into a recognizance, with or without sureties, conditioned for his appearance before the Tribunal at a time and place named in the recognizance.

(2) Where—

- (a) the Tribunal grants leave to an appellant to appeal to the Tribunal ; or
 - (b) in a case in which leave to appeal is not required, the appellant has duly given notice of appeal to the Tribunal,
- the Tribunal shall, if the appellant so requests, release him as aforesaid.

Restrictions on grant of bail

5.—(1) Notwithstanding the foregoing provisions of this Schedule, an appellant shall not be released under this Schedule without the consent of the Secretary of State—

- (a) if directions for the removal of the appellant from the United Kingdom are for the time being in force, or the power to give such directions is for the time being exercisable ; or
- (b) if the Secretary of State has given a certificate under section 7(2)(a) of this Act in relation to the case of the appellant.

(2) Notwithstanding paragraph 3(2) or 4(2) of this Schedule, an adjudicator and the Tribunal shall not be obliged to release an appellant unless the appellant enters into a proper recognizance and produces sufficient and satisfactory sureties, if required to do so ; and an adjudicator and the Tribunal shall not be obliged to release an appellant if it appears to the adjudicator or the Tribunal, as the case may be—

- (a) that the appellant, having on any previous occasion been released on bail (whether under this Schedule or under any other provision), has failed to comply with the conditions of any recognizance entered into by him on that occasion ;
- (b) that the appellant is likely to commit an offence unless he is retained in detention ;

- Sch. 3
- (c) that the release of the appellant is likely to cause danger to public health ;
 - (d) that the decision or action which is the subject of the appeal was based on the ground that the presence of the appellant in the United Kingdom would be contrary to the interests of national security ;
 - (e) that the appellant is suffering from mental disorder and that his continued detention is necessary in his own interests or for the protection of any other person ; or
 - (f) that the appellant is under the age of seventeen, that arrangements ought to be made for his care in the event of his release and that no satisfactory arrangements for that purpose have been made.

Postponement of taking recognizance

6. In any case in which an adjudicator or the Tribunal has power or is required by the foregoing provisions of this Schedule to release an appellant on his entering into a recognizance, the adjudicator or Tribunal may, instead of taking a recognizance, fix the amount of the recognizance in which the appellant and his sureties, if any, are to be bound, with a view to its being taken subsequently by any such person as may be specified by the adjudicator or the Tribunal, and on the recognizance being so taken the appellant shall be released.

Conditions

7. The conditions of a recognizance taken under this Schedule may include conditions appearing to the person taking the recognizance (or, where the taking of the recognizance is postponed under paragraph 6 of this Schedule, to the adjudicator or the Tribunal) to be likely to result in the appearance of the appellant at the time and place named in the recognizance.

Forfeiture of recognizances

8.—(1) Where a recognizance entered into under this Schedule conditioned for the appearance of an appellant before an adjudicator or the Tribunal appears to the adjudicator or the Tribunal, as the case may be, to be forfeited, the adjudicator or Tribunal may by order declare it to be forfeited and adjudge the persons bound thereby, whether as principal or sureties, or any of them, to pay the sum in which they are respectively bound or such part of it, if any, as the adjudicator or Tribunal thinks fit.

(2) An order under this paragraph shall, for the purposes of this sub-paragraph, specify a magistrates' court ; and the recognizance shall be treated for the purposes of collection, enforcement and remission of the sum forfeited as having been forfeited by the court so specified.

(3) Where an adjudicator or the Tribunal makes an order under this paragraph the adjudicator or Tribunal shall, as soon as practicable, give particulars of the recognizance to the clerk of the court

specified in the order in pursuance of the last foregoing sub-paragraph. SCH. 3

(4) Any sum the payment of which is enforceable by a magistrates' court by virtue of this paragraph shall be treated for the purposes of the Justices of the Peace Act 1949 and, in particular, section 27 thereof as being due under a recognizance forfeited by such a court and as being Exchequer moneys. 1949 c. 101.

Arrest of appellants released on bail

9.—(1) An immigration officer or constable may arrest without warrant a person who has been released by virtue of this Schedule—

- (a) if he has reasonable grounds for believing that that person is likely to break the condition that he will appear at the time and place required or any other condition on which he was so released, or has reasonable cause to suspect that that person is breaking or has broken any such other condition ; or
- (b) on being notified in writing by any surety for that person that the surety believes that that person is likely to break the first-mentioned condition and for that reason the surety wishes to be relieved of his obligations as a surety.

(2) If a justice of the peace is satisfied by written information substantiated on oath that there is reasonable ground for suspecting that a person who is liable to be arrested under this paragraph is to be found on any premises, he may grant a warrant authorising any constable acting for the police area in which the premises are situated, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting that person.

(3) A person arrested under this paragraph shall—

- (a) except where he was so arrested within the period of twenty-four hours immediately preceding an occasion on which he is required by virtue of a condition on which he was released to appear before an adjudicator or the Tribunal, be brought as soon as practicable and, in any event, within twenty-four hours after his arrest before an adjudicator, or, if that is not practicable, before a justice of the peace acting for the petty sessions area in which he was arrested ; and
- (b) in the said excepted case, if he is required to appear as aforesaid before an adjudicator, shall be brought before that adjudicator, or, if he is required as aforesaid to appear before the Tribunal, shall be brought before the Tribunal.

(4) An adjudicator or justice of the peace before whom a person is brought by virtue of paragraph (a) of the last foregoing sub-paragraph may, if of the opinion that that person has broken or is likely to break any condition on which he was released, direct that he be detained under the authority of the person by whom he

- SCH. 3 was arrested or alternatively release him on his original recognizance or on a new recognizance, with or without sureties, and, if not of that opinion, shall release him on his original recognizance.

Application to Scotland

10. This Schedule shall apply to Scotland with the following modifications—

- (a) in paragraphs 2, 3 and 4, for the words “on his entering into a recognizance, with or without sureties” there shall be substituted the words “on bail, the bail bond being” and for the word “recognizance” (where second occurring) there shall be substituted the words “bail bond”;
- (b) in paragraph 5(2), for the words from “unless the appellant” to “to do so” there shall be substituted the words “unless sufficient and satisfactory bail is found, if so required”, and in paragraph 5(2)(a) for the word “recognizance” there shall be substituted the words “bail bond”;
- (c) for paragraphs 6 to 8 there shall be substituted the following—

“Postponement of taking bail

6. In any case in which an adjudicator or the Tribunal has power or is required by the foregoing provisions of this Schedule to release any person on bail, the adjudicator or Tribunal may, instead of taking the bail, fix the amount of the bail with a view to its being taken subsequently by any such person as may be specified by the adjudicator or the Tribunal, and on the bail being so taken the appellant shall be released.

Conditions

7. The conditions of a bail bond taken under this Schedule may include conditions appearing to the person granting bail (or, where the taking of the bail is postponed under paragraph 6 of this Schedule, to the adjudicator or the Tribunal) to be likely to result in the appearance of the appellant at the time and place named in the bail bond.

Forfeiture of bail

8. Where a person released on bail fails to comply with the terms of a bail bond conditioned for his appearance before an adjudicator or the Tribunal, the adjudicator or Tribunal may declare the bail to be forfeited, and any bail so forfeited shall be transmitted by the adjudicator or the Tribunal to the sheriff court having jurisdiction in the area where the proceedings took place, and shall be treated as having been forfeited by that court.”;

(d) in paragraph 9—

- (i) sub-paragraph (1)(b) shall not apply;
- (ii) in the application of sub-paragraph (2) to premises in Scotland, for the reference to a justice of the peace

there shall be substituted a reference to the sheriff, or a magistrate or justice of the peace, having jurisdiction in the place where the premises are situated, and for the reference to written information substantiated on oath there shall be substituted a reference to evidence on oath ;

SCH. 3

(iii) in sub-paragraph (3)(a), for the words from “ a justice of the peace ” to “ arrested ” there shall be substituted the words “ the sheriff ” ;

(iv) in sub-paragraph (4), for the words “ justice of the peace ” there shall be substituted the word “ sheriff ” and for the words from “ alternatively ” to the end there shall be substituted the words “ alternatively release him on his original bail or on new bail, and, if not of that opinion, shall release him on his original bail.”.

Application to Northern Ireland

11. In the application of this Schedule to Northern Ireland—

(a) for the reference in paragraph 2 to a police officer not below the rank of inspector there shall be substituted a reference to an officer of the Royal Ulster Constabulary not below the rank of head-constable ;

(b) for the reference in sub-paragraph (2) of paragraph 8 to a magistrates’ court there shall be substituted a reference to a court of summary jurisdiction and for sub-paragraph (4) of that paragraph there shall be substituted the following—

“ (4) Any sum the payment of which is enforceable by virtue of this paragraph by a court of summary jurisdiction shall, for the purposes of section 20(5) of the Administration of Justice Act (Northern Ireland) 1954, 1954 c. 9 (N.I.), be treated as a forfeited recognizance.” ;

(c) in paragraph 9(2) the words “ acting for the police area in which the premises are situated ” shall be omitted.

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