

ORDER IN COUNCIL

XXVI

1972

ENTITLED

The Immigration (Guernsey) Order 1972

(Registered on the Records of the Island of Guernsey
on the 12th day of December, 1972.)



1973.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 12th day of December, 1972, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present:—Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Brook Sutcliffe and Richard Oliver Symons, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 14th day of November, 1972, entitled "The Immigration (Guernsey) Order 1972" (S.I. 1972 No. 1719), the Court, after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

STATUTORY INSTRUMENTS

1972 No. 1719

IMMIGRATION

The Immigration (Guernsey) Order 1972

Made - - - - - 14th November 1972

Coming into Operation - 14th November 1972

At the Court at Buckingham Palace,

the 14th day of November 1972

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 36 of the Immigration Act 1971^(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Immigration (Guernsey) Order 1972 and shall come into operation forthwith.

2. The Interpretation Act 1889^(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. The provisions of Parts I, III and IV of the Immigration Act 1971 (including the Schedules dependent thereon) shall extend to the Bailiwick of Guernsey with such exceptions, adaptations and modifications as are specified in the Schedule hereto.

• *W. G. Agnew.*

^(a) 1971 c. 77.

^(b) 1889 c. 63.

SCHEDULE

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS

References to the Act and other enactments

1.—(1) Subject as hereinafter provided and save where the context otherwise requires, any reference to the Act or any provision thereof shall be construed as a reference thereto as extended to the Bailiwick of Guernsey.

(2) Subject as hereinafter provided, any reference to any other enactment shall be construed as a reference thereto as it has effect in the Bailiwick of Guernsey.

References to the Secretary of State

2.—(1) Subject as hereinafter provided, for any reference to the Secretary of State there shall be substituted a reference to the Lieutenant-Governor.

(2) In the following provisions, that is to say in sections 1 (4), 5 (6) and 29 (2), in Schedule 2, paragraphs 10 (3), 14 (3), 19 (1) and 20 (1) and, in Schedule 3, paragraph 1 (4), for any reference to the Secretary of State there shall be substituted a reference to the Board (defined as the Board of Administration).

References to the United Kingdom

3.—(1) Subject as hereinafter provided, for any reference to the United Kingdom there shall be substituted a reference to the Bailiwick of Guernsey.

(2) Nothing in this paragraph shall affect any reference to the United Kingdom and Islands, to the United Kingdom or Islands or to a citizen of the United Kingdom and Colonies or any cognate reference.

References to a constable

4. For any reference to a constable there shall be substituted a reference to a police officer.

Exercise of powers

5. Any requirement that a power be exercised by statutory instrument shall be omitted.

Section 1

6.—(1) In section 1 (3) for the words “any of the Islands (that is to say, the Channel Islands and Isle of Man)” there shall be substituted the words “the United Kingdom, the Bailiwick of Jersey, the Isle of Man”.

(2) In section 1 (4) for the words “laid down” there shall be substituted the word “made”.

Section 2

7. Nothing in paragraph 3 of this Schedule shall affect any reference in section 2 (3) or (4) to the United Kingdom.

Section 3

8.—(1) In section 3 (1) (c) for the words “with the police” there shall be substituted the words “as provided under section 4 (3) below”.

(2) In the first paragraph of section 3 (2) for the words from “The Secretary of State shall from time to time” to “laid down by him as to” there shall be substituted the words “The Board may from time to time make rules as to” and for the second paragraph thereof there shall be substituted the following provision:—

"As soon as may be after the making of any such rules the Board shall lay them before the States and, if at the meeting at which they are laid or at the next subsequent meeting the States resolve that the rules shall be disapproved, then the Board shall, as soon as may be, revoke or amend those rules by further rules, as appears to them requisite in the circumstances; and the provisions of this paragraph shall apply in relation to such further rules."

(3) In section 3 (7) the words "Any Order in Council" to the end shall be omitted.

Section 4

9.—(1) In section 4 (1) for the words preceding the semi-colon there shall be substituted the following words:—

"(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 Guernsey shall be exercised by immigration officers,
- (b) the power to give leave to remain in the Bailiwick of Guernsey and the power under section 3 (3) (a) to vary any leave as regards duration, shall be exercised by the Lieutenant-Governor, and
- (c) the power under section 3 (3) (a) to vary any leave otherwise than as regards duration shall be exercised by the Board."

(2) In section 4 (3)—

- (a) for the words "The Secretary of State" to "Parliament," there shall be substituted the words "The States may by Ordinance" and

for the words "the regulations", in each place where they occur, there shall be substituted the words "such an ordinance";

- (b) the words "with the police" shall be omitted;
- (c) for the words "officers of police" there shall be substituted the words "body or person";
- (d) before the words "as to the place and manner" there shall be inserted the words "as to the body or person with whom and".

(3) In section 4 (4) for the words "The Secretary of State" to "Parliament," there shall be substituted the words "The States may by Ordinance" and the words "to him to be" shall be omitted.

Section 6

10.—(1) In section 6 (1) the words from "unless the court" to the end shall be omitted.

(2) In section 6 (2) for the words "adjournment conferred by section 14 (3) of the Magistrates' Courts Act 1952(a), section 26 of the Criminal Justice (Scotland) Act 1949(b) or any corresponding enactment for the time being in force in Northern Ireland" there shall be substituted the words "a court to adjourn".

(3) In section 6 (5) the words "(a) except in Scotland," and the words from "and (b) in Scotland," to the end shall be omitted.

(4) In section 6 (6) the words from "or, in Scotland" to the end shall be omitted.

(5) Section 6 (7) shall be omitted.

(a) 1952 c. 55.

(b) 1949 c. 94.

Section 7

11. In section 7 (4) paragraph (c) (ii) and the words following that paragraph shall be omitted.

Section 8

12.—(1) For section 8 (2) there shall be substituted the following provision:—

“(2) The Board may, with the concurrence of the Lieutenant-Governor, direct that any particular person or class of persons shall be exempt, either unconditionally or subject to such conditions as the Board may impose, from all or any of the provisions of this Act relating to those who are not patrial.”.

(2) In section 8 (3) after the words “otherwise entitled” there shall be inserted the words “within the United Kingdom” and nothing in paragraph 1 (2) of this Schedule shall affect the reference therein to the Diplomatic Privileges Act 1964(c).

(3) Nothing in paragraph 1 (2) of this Schedule shall affect the reference in section 8 (4) to the International Headquarters and Defence Organisations Act 1964(d).

(4) Nothing in paragraph 3 of this Schedule shall affect the reference in section 8 (4) (c) to the United Kingdom.

(5) In section 8 (5) for the words “any of the Islands” there shall be substituted the words “the United Kingdom, the Bailiwick of Jersey or the Isle of Man”.

(c) 1964 c. 81.

(d) 1964 c. 5.

Section 9

13.—(1) In section 9 (1) and (2) for the words “any of the Islands”, in both places where they occur, there shall be substituted the words “the United Kingdom, the Bailiwick of Jersey or the Isle of Man”.

(2) In section 9 (2)—

(a) for the words “with the police” there shall be substituted the words “as provided under section 4 (3) above”;

(b) for the words “by an order” to the end there shall be substituted the following words:—

“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 Board”.

(3) Section 9 (5) and (7) shall be omitted.

Section 10

14. Section 10 shall be omitted.

Section 24

15. Section 24 (3) shall be omitted.

Section 25

16. Section 25 (4) shall be omitted.

Section 26

17.—(1) In section 26 (1) (f) for the word “regulations” there shall be substituted the words “an Ordinance” and the words “of an order” shall be omitted.

(2) Section 26 (2) shall be omitted.

Section 28

18. Section 28 (1), (2) and (3) shall be omitted.

Section 29

19. In section 29 (1) for the words “The Secretary of State may, in such cases as he may with the approval of the Treasury” there shall be substituted the words “The Board may, in such cases as it may”.

Section 30

20. Section 30 shall be omitted.

Section 31

21. Section 31 shall be omitted.

Section 32

22.—(1) In section 32 for any reference to the Secretary of State there shall be substituted a reference to the Lieutenant-Governor or the Board.

(2) In section 32 (3) and (4) the words “or proceedings under Part II of this Act”, in both places where they occur, shall be omitted.

Section 33

23.—(1) Nothing in paragraph 1 or 3 of this Schedule shall affect the definition in section 33 (1)

of the expressions "immigration laws", "the Islands" and "the United Kingdom and Islands".

(2) In section 33 (1) for the definitions of the expressions "immigration rules", "legally adopted", "settled" and "work permit" there shall be substituted, respectively, the following definitions:—

"immigration rules" means the rules made in pursuance of section 3 (2) above and for the time being in force;

"legally adopted" means adopted in pursuance of an order made by any court in the United Kingdom and Islands or by any adoption specified as an overseas adoption by Ordinance of the States under section 5 of the Adoption (Guernsey) Law 1970;

"settled" shall be construed in accordance with section 2 (3) (d) above but, where used in relation to the Bailiwick of Guernsey only, as if for any reference in section 2 (3) (d) or in section 8 (5) to the United Kingdom and Islands there were substituted a reference to the Bailiwick of Guernsey;

"work permit" means a permit issued by the Board to a specific employer in respect of a specific post, upon payment of such fee as may be prescribed by order of the Board, indicating that a person named in it is eligible, though not patrial, for entry into the Bailiwick of Guernsey for the purpose of taking employment.;

and there shall be inserted the following definitions:—

"Board" means the States Board of Administration;

"Lieutenant-Governor" means the person for the time being holding the office of Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey, and its Dependencies;

“police officer” means—

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limit of his jurisdiction, a member of the special constabulary of the Island of Guernsey;
- (b) in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney; and
- (c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of the Island of Guernsey;

“States” means the States of Guernsey;

- (3) Section 33 (4) shall be omitted.

Section 34

24.—(1) In section 34 (2) and (3) for both references to the Aliens Restriction Act 1914^(a) there shall be substituted references to the Aliens Restriction (Guernsey) Law 1958, as amended, and in section 34 (3) the words “by Order in Council” shall be omitted.

- (2) Section 34 (4) (c) shall be omitted.

Section 35

25. For section 35 there shall be substituted the following provisions:—

- “35.—(1) Subject to the provisions of subsection (2) of this section, this Act shall come into force on 1st January 1973, and references to the coming

(a) 1914 c. 12.

into force of this Act shall be construed as references to the beginning of that day.

(2) For the purposes of making any instrument expressed to come into operation on or after 1st January 1973, this Act shall come into force forthwith."

Section 36

26. Section 36 shall be omitted.

Section 37

27. Section 37 (2) shall be omitted.

Schedule 1

28.—(1) Nothing in paragraphs 2 and 3 of this Schedule shall affect Schedule 1 or the Appendices thereto without prejudice, however, to the operation of paragraph 4 of Schedule 1.

(2) Paragraph 3 (2) of Schedule 1 shall be omitted.

(3) In paragraph 3 (3) of Schedule 1 the words "and section 18 of the Immigration Appeals Act 1969" shall be omitted.

Schedule 2

29.—(1) For paragraphs 1 (1), (2) and (3) of Schedule 2 there shall be substituted the following provisions:—

"1.—(1) Immigration officers for the purposes of this Act shall be appointed by the States Civil Service Board with the concurrence of the Lieutenant-Governor and, with such concurrence, that Board may arrange for the employment of officers of Customs as immigration officers under this Act.

(2) Medical inspectors for the purposes of this Act may be appointed by the States Civil Service Board with the concurrence of the Lieutenant-Governor and shall be fully qualified medical practitioners.

(3) In the exercise of their functions under this Act immigration officers shall act in accordance with such directions as may be given them—

(a) by the Lieutenant-Governor, as respects the entry of persons into the Bailiwick and the period for which such persons may remain;

(b) by the Board, as respects any other matters,

and medical officers shall act in accordance with such instructions as may be given them by the States Board of Health.”.

(2) In paragraph 4 (4) of Schedule 2 the words “on an appeal under this Act or” shall be omitted.

(3) In paragraph 17 (2) of Schedule 2 for the words “a justice of the peace” there shall be substituted the words “in Guernsey the Bailiff, in Alderney the Chairman of the Court of Alderney or in Sark the Seneschal of Sark” and—

(a) sub-paragraph (b), and

(b) the words “acting for the police area in which the premises are situated, or in Northern Ireland any constable”

shall be omitted.

(4) In paragraph 18 (2) of Schedule 2 for the words “the Secretary of State” there shall be substituted the words “either the Lieutenant-Governor or the Board”.

(5) In paragraph 19 (3) of Schedule 2 the words from “or if he is” to “such a refusal,” shall be omitted.

(6) For paragraph 19 (4) of Schedule 2 there shall be substituted the following provision:—

“(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.”.

(7) For paragraph 20 (3) of Schedule 2 there shall be substituted the following provision:—

“(3) 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.”.

(8) Paragraphs 22, 23, 24 and 25 of Schedule 2 shall be omitted.

(9) Part II of Schedule 2 shall be omitted.

Schedule 3

30.—(1) Paragraph 2 (2) of Schedule 3 and the references thereto in sub-paragraphs (3), (4) and (5) shall be omitted.

(2) Paragraph 3 of Schedule 3 shall be omitted.

Schedule 4

31.—(1) For the heading to Schedule 4 there shall be substituted the following heading:—

“INTEGRATION WITH GUERNSEY LAW OF IMMIGRATION LAWS OF THE UNITED KINGDOM, JERSEY AND THE ISLE OF MAN”.

(2) In Schedule 4 for the words “any of the Islands”, wherever they occur, there shall be substituted the words “the United Kingdom, the Bailiwick of Jersey or the Isle of Man” and any reference to an island shall be construed as including a reference to the United Kingdom.

(3) At the end of paragraph 1 (2) of Schedule 4 there shall be inserted the following words:—

“; 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 as provided under section 4 (3) of this Act”.

(4) In paragraph 1 (3) of Schedule 4 the words “and subject to the like appeal (if any)” shall be omitted.

(5) Paragraph 1 (5) of Schedule 4 shall be omitted.

Schedule 6

32. Without prejudice to paragraph 1 (2) of this Schedule, the enactments mentioned in Schedule 6 shall be limited to those which have effect in the Bailiwick of Guernsey and, accordingly, there shall be omitted from Schedule 6 any reference to an Act other than the British Nationality Act 1948(a), the British Nationality Act 1958(b), the Commonwealth Immigrants Act 1962(c), the British Nationality Act 1965(d) and the Commonwealth Immigrants Act 1968(e).

(a) 1948 c. 56.

(b) 1958 c. 10.

(c) 1962 c. 21.

(d) 1965 c. 34.

(e) 1968 c. 9.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends Part I, III and IV of the Immigration Act 1971 to the Bailiwick of Guernsey with exceptions, adaptations and modifications.

R. H. VIDELO,

Her Majesty's Greffier.