



Jersey

**ASYLUM AND IMMIGRATION
ACT 1996 (JERSEY) ORDER 1998**

JERSEY
REVISED EDITION OF THE LAWS
21.035

APPENDIX

Jersey Order in Council 14/1998 The Asylum and Immigration Act 1996 (Jersey) Order 1998

Jersey Order in Council 14/1998

THE ASYLUM AND IMMIGRATION ACT 1996 (JERSEY) ORDER 1998

(Registered on the 22nd day of May 1998)

At the Court at Windsor Castle

22nd day of April 1998

PRESENT

The Queen's Most Excellent Majesty in Council

HER MAJESTY, in exercise of the powers conferred upon Her by section 13(5) of the Asylum and Immigration Act 1996, 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 Asylum and Immigration Act 1996 (Jersey) Order 1998 and shall come into force on 22nd June 1998.

2. In this Order, “the 1971 Act” means the Immigration Act 1971.

3. Sections 4, 5, 7, 12(1), 13(1) and (2) of, and paragraphs 1, 2, 4 to 6, 8 to 10 and 13 of Schedule 2 to, the Asylum and Immigration Act 1996, shall extend to the Bailiwick of Jersey with the modifications specified in the Schedule to this Order, being modifications that appear to Her Majesty to be appropriate.

N.H. NICHOLLS

Clerk of the Privy Council.

SCHEDULE

(Article 3)

MODIFICATIONS OF PROVISIONS OF THE ASYLUM AND IMMIGRATION ACT 1996 IN THEIR EXTENSION TO JERSEY

1. In section 4 (amending section 24(1) of the 1971 Act), for “United Kingdom” substitute “Bailiwick of Jersey”.
2. In section 5 (amending section 25 of the 1971 Act) –
 - (a) in subsection (1), for “United Kingdom”, in each place where it occurs, substitute “Bailiwick of Jersey”; and
 - (b) in subsection (2), for “for asylum (within the meaning of the Asylum and Immigration Appeals Act 1993)” substitute “that it would be contrary to the obligations of the United Kingdom in respect of the Bailiwick of Jersey under the Convention relating to the status of refugees done at Geneva on 28th July 1951 and the Protocol to that Convention for him to be removed from, or required to leave, the Bailiwick of Jersey”.
3. In section 7 –
 - (a) in subsection (1), for “constable” substitute “police officer”;
 - (b) in subsection (2) –
 - (i) in paragraph (a), for “a justice of the peace” substitute “the Bailiff”;
 - (ii) for “; or” substitute a comma;
 - (iii) omit paragraph (b); and
 - (iv) for “constable” substitute “police officer”; and
 - (c) omit subsection (3).
4. In section 12(1), omit “and a related amendment of the Immigration Act 1988”.
5. In section 13(2), after “the Immigration Act 1971” insert “as extended to the Bailiwick of Jersey by the Immigration (Jersey) Order 1993”; omit the definition of “the 1993 Act”; and, in the definition of “person subject to immigration control”, for “United Kingdom” substitute “Bailiwick of Jersey”.
6. In paragraph 1 of Schedule 2 –
 - (a) in sub-paragraph (1) (amending section 3(1) of the 1971 Act), for “United Kingdom”, in both places where it occurs, substitute “Bailiwick of Jersey”; and for “with the police” substitute “as provided by an order made under section 4(3) below”; and
 - (b) omit sub-paragraph (3).

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7. In paragraph 4 of Schedule 2 (amending section 33 of the 1971 Act) –

(a) in sub-paragraph (1), for “United Kingdom” substitute “Bailiwick of Jersey”;
and

(b) omit sub-paragraph (2).

8. In paragraph 5(2)(b) of Schedule 2 (amending paragraph 4(3) of Schedule 2 to the 1971 Act), for “United Kingdom” substitute “Bailiwick of Jersey”.

9. In paragraph 6 of Schedule 2 (amending paragraph 9 of Schedule 2 to the 1971 Act), for “United Kingdom” substitute “Bailiwick of Jersey”.

10. In paragraph 10 of Schedule 2 (amending paragraph 21 of Schedule 2 to the 1971 Act), for “United Kingdom”, in both places where it occurs, substitute “Bailiwick of Jersey”.

ASYLUM AND IMMIGRATION ACT 1996

1996 CHAPTER 49

ARRANGEMENT OF SECTIONS

Asylum claims

Section

- 1. * * * * *
- 2. * * * * *
- 3. * * * * *

Immigration offences

- 4. Obtaining leave by deception.
- 5. Assisting asylum claimants, and persons seeking to obtain leave by deception.
- 6. * * * * *
- 7. Power of arrest and search warrants.

Persons subject to immigration control

- 8. * * * * *
- 9. * * * * *
- 10. * * * * *
- 11. * * * * *

Miscellaneous and supplemental

- 12. Other amendments and repeals.
- 13. Short title, interpretation, commencement and extent.

SCHEDULES

- Schedule 1 – * * * * *
- Schedule 2 – Amendments of the 1971 Act and the Immigration Act 1988.
- Schedule 3 – * * * * *
- Schedule 4 – * * * * *

ELIZABETH II



ASYLUM AND IMMIGRATION ACT 1996

1996 CHAPTER 49

AN ACT to amend and supplement the Immigration Act 1971 and the Asylum and Immigration Appeals Act 1993; to make further provision with respect to persons subject to immigration control and the employment of such persons; and for connected purposes.

[24th July 1996]

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 follows³ –

Asylum claims

1. * * * * *
2. * * * * *
3. * * * * *

Immigration offences

Obtaining leave by deception

4. In subsection (1) of section 24 of the 1971 Act (illegal entry and similar offences), after paragraph (a) there shall be inserted the following paragraph –

“(aa) if, by means which include deception by him, he obtains or seeks to obtain leave to enter or remain in the [Bailiwick of Jersey].”.

Assisting asylum claimants, and persons seeking to obtain leave by deception

5.-(1) In subsection (1) of section 25 of the 1971 Act (assisting illegal entry, and harbouring), for the words from “the entry” to “illegal entrant” there shall be substituted the following paragraphs –

- (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

³ Deletions and words in square brackets indicate adaptations and modifications made by The Asylum and Immigration Act 1996 (Jersey) Order 1998.

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(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.”.

(2) After that subsection there shall be inserted the following subsection –

“(1A) Nothing in subsection (1)(b) above shall apply to anything which is done

–

(a) by a person otherwise than for gain, or in the course of his employment by a bona fide organisation whose purpose it is to assist refugees; or

(b) in relation to a person who has been detained under paragraph 16 of Schedule 2 to this Act, or has been granted temporary admission under paragraph 21 of that Schedule;

and in that provision ‘asylum claimant’ means a person who intends to make a claim [that it would be contrary to the obligations of the United Kingdom in respect of the Bailiwick of Jersey under the Convention relating to the status of refugees done at Geneva on 28th July 1951 and the Protocol to that Convention for him to be removed from, or required to leave, the Bailiwick of Jersey].”

(3) In subsection (5) of that section, for the words “Subsection (1)” there shall be substituted the words “Subsection (1)(a)”.

(4) In subsection (6) of that section, for the words “subsection (1)” there shall be substituted the words “subsection (1)(a) or (b)”.

6. * * * * *

Power of arrest and search warrants

7.(1) A [police officer] or immigration officer may arrest without warrant anyone whom he has reasonable grounds for suspecting to have committed an offence to which this section applies.

(2) If –

(a) [the Bailiff] is by written information on oath satisfied that there is reasonable ground for suspecting that a person who is liable to be arrested under subsection (1) above is to be found on any premises[,]

(b) * * * * *

he may grant a warrant authorising any [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.

(3) * * * * *

(4) This section applies to the following offences under section 24(1) of the 1971 Act, namely –

(a) an offence under paragraph (a) (illegal entry);

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- (b) an offence under paragraph (aa) (obtaining leave to enter or remain by deception); and
- (c) an offence under paragraph (b) (remaining beyond time limited by leave or failing to observe condition of leave).

(5) In this section “immigration officer” has the same meaning as in the 1971 Act.

8. * * * * *

9. * * * * *

10. * * * * *

11. * * * * *

Miscellaneous and supplemental

Other amendments and repeals

12.-(1) Schedule 2 to this Act (which contains amendments of the 1971 Act * * * shall have effect.

(2) * * * * *

(3) * * * * *

Short title, interpretation, commencement and extent

13.-(1) This Act may be cited as the Asylum and Immigration Act 1996.

(2) In this Act –

“the 1971 Act” means the Immigration Act 1971 [as extended to the Bailiwick of Jersey by the Immigration (Jersey) Order 1993];

* * *

“person subject to immigration control” means a person who under the 1971 Act requires leave to enter or remain in the [Bailiwick of Jersey] (whether or not such leave has been given).

(3) * * * * *

(4) * * * * *

(5) * * * * *

(6) * * * * *

SCHEDULES

SCHEDULE 1

* * * * *

SCHEDULE 2

(Section 12(1))

AMENDMENTS OF THE 1971 ACT AND THE IMMIGRATION ACT 1988

General provisions for regulation and control, &c.

1.-(1) In subsection (1) of section 3 of the 1971 Act (general provisions for regulation and control), for paragraph (c) there shall be substituted the following paragraph –

“(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) In subsection (5) (persons liable to deportation) of that section, after paragraph (a) there shall be inserted the following paragraph –

“(aa) if he has obtained leave to remain by deception; or”.

(3) * * * * *

Persons belonging to another’s family

2. In subsection (4) of section 5 of the 1971 Act (persons belonging to another’s family), for paragraph (b) there shall be substituted the following paragraph –

“(b) where that other person is a woman, her husband and her or his children under the age of eighteen;”.

Appeals against conditions

3. * * * * *

Interpretation

4.-(1) In subsection (1) of section 33 of the 1971 Act (interpretation), for the definitions of “entrant” and “illegal entrant” there shall be substituted the following definitions –

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“ ‘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;”.

(2) * * * * *

Information and documents

5.-(1) In sub-paragraph (2)(b) of paragraph 4 of Schedule 2 to the 1971 Act (information and documents), after the words “is carrying or conveying”, in the first place where they occur, there shall be inserted the words “, or has carried or conveyed,”.

(2) In sub-paragraph (3) of that paragraph –

- (a) after the words “is carrying or conveying” there shall be inserted the words “, or has carried or conveyed,”;
- (b) for the words from “he and any” to “control” there shall be substituted the following paragraphs –

“(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],”; and

- (c) after the words “is doing” there shall be inserted the words “or, as the case may be, has done”.

Removal of illegal entrants

6. Paragraph 9 of Schedule 2 to the 1971 Act (removal of illegal entrants) shall be renumbered as sub-paragraph (1) of that paragraph; and after that provision as so renumbered there shall be inserted the following sub-paragraph –

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

Arrest of persons liable to detention

7. * * * * *

Recovery of expenses incurred in detaining persons refused leave to enter

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8. In sub-paragraph (1) of paragraph 19 of Schedule 2 to the 1971 Act (recovery of expenses incurred in detaining persons refused leave to enter), for the words “at any time” there shall be substituted the words “for any period (not exceeding 14 days)”.

Recovery of expenses incurred in detaining illegal entrants

9.-(1) In sub-paragraph (1) of paragraph 20 of Schedule 2 to the 1971 Act (recovery of expenses incurred in detaining illegal entrants), for the words “at any time” there shall be substituted the words “for any period (not exceeding 14 days)”.

(2) After that sub-paragraph there shall be inserted the following sub-paragraph –

“(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.”.

Temporary admission of persons liable to detention

10. After sub-paragraph (2) of paragraph 21 of Schedule 2 to the 1971 Act (temporary admission of persons liable to detention) there shall be inserted the following sub-paragraphs –

“(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 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 under paragraph 2 above 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.”.

Temporary release of persons liable to detention

11. * * * * *

Grant of bail pending removal

12. * * * * *

Supplementary provisions as to deportation

13. In paragraph 2(5) of Schedule 3 to the 1971 Act (supplementary provisions as to deportation), after the words “the police” there shall be inserted the words “or an immigration officer”.

SCHEDULE 3

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SCHEDULE 4

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