

A summary of key UK primary legislation

Additional resource • *Introduction to immigration law and immigration advice in the UK*

Immigration Act 1971

Continues to provide the framework of immigration control.

All persons without a right of abode are subject to immigration control (s.1).

The Secretary of State must lay down the rules to be followed (s.1(4)).

Defines who has a right of abode (amended by other legislation) (s.2).

Provides that entry/stay is regulated by the grant of leave to enter or remain for either a limited or indefinite period (s.3), and that leave continues whilst an application is awaiting decision (s.3C).

Provides for regulation and control of entry into and stay in the UK by the Secretary of State through powers (delegated to Entry Clearance Officers and Immigration Officers and under-secretaries at the Home Office) to grant (s.4):

- entry clearance
- leave to enter
- leave to remain/further leave to remain, or make a decision to remove, a decision to deport, a decision to revoke a deportation order.

Provides for when a person may become liable for deportation (s.3(5)).

Gives the power to remove only to certain countries or territories – specified in paragraph 8 of Schedule 2.

Defines various terms including illegal entrant (s.33).

Provides for the power to examine passengers and detain passengers (Schedule 2).

(You may have noticed this includes references to sections of the Act; for example, Section 1 is referred to as 's.1'. Sections may also have sub-sections, or parts; these are shown in brackets, so for example Sub-section 4 of Section 1 is written as 's.1(4)').

British Nationality Act 1981

Redefines nationality and citizenship and limited 'right of abode' to newly created 'British citizens' (replacing Citizens of the United Kingdom and Commonwealth with six new categories of nationality and citizenship). While the Act may at first glance appear indecipherable, patience will be rewarded:

- s1 defines acquisition by birth or adoption.
- s2 defines acquisition by descent.
- s3 sets out the provisions for the registration of minors born outside the UK.
- s6 and Schedule 1 set out the criteria for acquisition by naturalisation.
- s4 to s.4J and s5 set out other registration provisions.
- s11 defines who acquired citizenship on commencement of the Act.
- s14 defines a 'British citizen by descent' and, in effect, also 'otherwise than by descent'.
- s40 deprivation of citizenship.

Immigration and Asylum Act 1999

Largely superseded, but still relevant in certain important respects.

Amends the Immigration Act 1971 to provide for entry clearance to have effect as leave to enter (s1).

Provides powers of administrative removal for persons (s10).

Provides for the registration of immigration advisers through the Office of the Immigration Services Commissioner (OISC), including the introduction of related criminal offences and enforcement power.

Provides for the support and dispersal of asylum seekers.

Provides for suspicious marriages to be reported by registrars.

Creates new offences relating to facilitating/harbouring illegal entrants and increases powers of arrest and power to search premises and persons.

Nationality, Immigration and Asylum Act 2002

Sets out rights of appeal to the immigration tribunal.

Provides for certain asylum and human rights claims to be certified as clearly unfounded. The right to challenge such decisions is to be exercised from abroad only (commonly referred to as non-suspensive appeals because the removal process is not suspended to allow the appeal to take place) (s94)+.

Provides for establishment of accommodation centres and removal centres (ss16–42).

Allows for revocation of indefinite leave to remain (s76).

Grounds of appeal (s84).

Gives domestic life to Article 33(2) of the Refugee Convention (s72).

Provisions for juxtaposed controls with EEA countries.

Part 5A, commenced on 28 July 2014, provides certain considerations as to the public interest that judges must have regard to when assessing an Article 8 claim.

The appeals provisions have been heavily amended, leaving only those who have made asylum or human rights claims with a right of appeal.

Borders, Citizenship and Immigration Act 2009

New citizenship provisions (although the Coalition Government (2010–15) later stated that these would never be commenced).

Abolishes Asylum and Immigration Tribunal, and merges immigration adjudication into the unified tribunal structure.

Powers to transfer fresh claim judicial reviews to the Upper Tribunal (a process that reached its culmination on 1 November 2013 from when almost all immigration judicial reviews are heard in the Upper Tribunal).

Powers to restrict what studies a person can undertake in the UK.

Most importantly, a new duty to safeguard and promote the welfare of children: section 55.

Immigration Act 2014

Predominantly amends other legislation (such as the 1971 Act, and others), including changes to unlawful entry, the statutory duty to safeguard children and the right of appeal. Its provisions are inserted into the 1971 Act.

Immigration Health Charge Order 2015

Sets out the requirements to pay an Immigration Health Charge when applying for either entry clearance or for limited leave to remain.

Where to find the amount of the charge.

When the charge has to be paid.

Consequences of not paying the charge.

Exemptions and reductions, waivers or refunds from the charge.

Immigration Act 2016

Again, this Act largely amends the 1971 Act in regard to unlawful work and the powers of immigration officers. Its provisions are inserted into the 1971 Act.