STATUTORY INSTRUMENTS

2015 No. 1765

IMMIGRATION

The Immigration (Isle of Man) (Amendment) Order 2015

Made - - - - 8th October 2015

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 8th day of October 2015

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 63(3) and (3A) of the Immigration, Asylum and Nationality Act 2006(**1**) and section 76(6) of the Immigration Act 2014(**2**), is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and commencement

1.—(1) This Order may be cited as the Immigration (Isle of Man) (Amendment) Order 2015.

(2) This Order shall come into force —

(a) on the day after making for the purposes of enabling regulations and orders to be made under any enactment which extends to the Isle of Man by virtue of the amendments made to the principal Order by this Order; and

(b) on 6th April 2016 for all other purposes.

Interpretation

2. In this Order —

"the 2006 Act" means the Immigration, Asylum and Nationality Act 2006;

"the 2014 Act" means the Immigration Act 2014; and

"the principal Order" means the Immigration (Isle of Man) Order 2008(**3**).

(**1**) 2006 c. 13: by virtue of section 63(3A), inserted by section 54(7) of the Police and Justice Act 2006 (c. 48), the power in section 63(3) to extend the Immigration, Asylum and Nationality Act 2006 to territories covered by it includes both extension with the amendments and repeals made by the Police and Justice Act 2006 and extension without those amendments and repeals.

(**2**) 2014 c. 22.

(**3**) S.I. 2008/680, which was amended by S.I. 2011/1408 and S.I. 2011/1158.

Amendment of the principal Order

3. The principal Order is amended in accordance with articles 4 to 8.

Amendment of article 2

4. In article 2 at the end add —

""the 2014 Act" means the Immigration Act 2014.".

Insertion of articles 22 and 23

5. After article 21 insert —

"**Extension of the Immigration Act 2014 to the Isle of Man**

22.—(1) The following provisions of the 2014 Act shall extend to the Isle of Man subject to the modifications specified in Schedule 9A.

(2) The provisions are sections 68, 69 and 70.

23. For ease of reference, the provisions of the 2014 Act as modified and extended to the Isle of Man are set out in Part 8 of Schedule 10.".

Amendment of Schedule 9

6. In Schedule 9 (which sets out modifications subject to which the 2006 Act applies to the Isle of Man), omit paragraphs 6 and 7.

Insertion of Schedule 9A

7. After Schedule 9 insert —

"SCHEDULE 9A Article 22

The Immigration Act 2014

1.—(1) Section 68 of the 2014 Act is modified as follows.

(2) In subsections (1) and (2) for "Secretary of State" substitute "appropriate authority".

(3) In subsection (7) for "Secretary of State" substitute "appropriate authority".

(4) In subsection (9) for "Secretary of State", in both places where the phrase occurs, substitute "appropriate authority".

(5) In subsection (12) —

(a) immediately before the definition of "costs" insert —

""the appropriate authority" means —

(a) in relation to functions exercised in the Isle of Man, the Governor; and

(b) in relation to functions exercised elsewhere, the Secretary of State;";

(b) in the definition of "costs" for "Secretary of State" substitute "appropriate authority";

(c) in the definition of "function in connection with immigration or nationality" for "United Kingdom" substitute "relevant jurisdiction"; and

(d) after that definition insert —

""the relevant jurisdiction" means —

(a) in relation to functions performed by, or on behalf of, the Secretary of State, the United Kingdom and

(b) in relation to functions performed by, or on behalf of, the Governor, the Isle of Man.".

2.—(1) Section 69 of the 2014 Act is modified as follows.

(2) For subsection (1) substitute —

"(1) A fees order or fees regulations —

(a) if made by the Secretary of State may be made only with the consent of the Lords Commissioners of Her Majesty's Treasury; and

(b) if made by the Governor may be made only with the consent of the Treasury(**4**).".

(3) In subsection (2) for "the United Kingdom" substitute "the relevant jurisdiction".

(4) In subsection (3) for "the Secretary of State" substitute "the appropriate authority".

(5) After subsection (4) insert —

"(4A) Fees paid to the Governor by virtue of section 68 must be paid into the General Revenue of the Isle of Man unless they relate to a function which is performed by or on behalf of the Secretary of State, in which case the fees are to be remitted to the Secretary of State and paid into the Consolidated Fund.".

(6) In subsection (5) —

(a) at the end of paragraph (b) omit "or"; and

(b) after that paragraph insert —

"(ba) section 1 of the Fees and Duties Act 1989 (of Tynwald)(**5**); or"."

Amendment to Schedule 10

8.—(1) Schedule 10 (which sets out the text of the Immigration Acts as applied to the Isle of Man) is amended as follows.

(2) In Part 7 (which sets out the text of the 2006 Act as modified in accordance with Schedule 9) omit the text relating to sections 51 and 52.

(3) At the end of the Schedule add —

Article 23

"PART 8

The Immigration Act 2014

Fees

68.—(1) The appropriate authority may provide, in accordance with this section, for fees to be charged in respect of the exercise of functions in connection with immigration or nationality.

(**4**) See article 5(c) of the principal Order for the meaning of "the Treasury" in the legislation applied by it to the Isle of Man.
(**5**) 1989 AT 12 (Isle of Man).

(2) The functions in respect of which fees are to be charged are to be specified by the appropriate authority by order ("a fees order").

(3) A fees order—

(a) must specify how the fee in respect of the exercise of each specified function is to be calculated, and

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

(4) For any specified fee, a fees order must provide for it to comprise one or more amounts each of which is—

(a) a fixed amount, or

(b) an amount calculated by reference to an hourly rate or other factor.

(5) Where a fees order provides for a fee (or part of a fee) to be a fixed amount, it—

(a) must specify a maximum amount for the fee (or part), and

(b) may specify a minimum amount.

(6) Where a fees order provides for a fee (or part of a fee) to be calculated as mentioned in subsection (4)(b), it—

(a) must specify—

(i) how the fee (or part) is to be calculated, and

(ii) a maximum rate or other factor, and

(b) may specify a minimum rate or other factor.

(7) For any specified fee, the following are to be set by the appropriate authority by regulations ("fees regulations")—

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

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

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

(a) must not—

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

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

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

(9) In setting the amount of any fee, or rate or other factor, in fees regulations, the appropriate authority may have regard only to—

(a) the costs of exercising the function;

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

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

(d) the promotion of economic growth;

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

(f) any international agreement.