Draft Order laid before Parliament under sections 3A(13) and 3B(6) of the Immigration Act 1971, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2000 No.

IMMIGRATION

Immigration (Leave to Enter and Remain) Order 2000

Made - - - -	*2000*
Coming into force	
Articles 1 to 12, 14 and 15(1) in accordance with article 1(2)	
Articles 13 and 15(2)	*30th July 2000*

Whereas a draft of this Order has been laid before Parliament and approved by a resolution of each House in accordance with sections 3A(13) and 3B(6) of the Immigration Act 1971(**1**);

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by sections 3A(1), (2), (3), (4), (6) and (10) and 3B(2)(a) and (c) and (3)(a) of the Immigration Act 1971, hereby makes the following Order:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Immigration (Leave to Enter and Remain) Order 2000.

(2) Articles 1 to 12, 14 and 15(1) of this Order shall come into force on 28th April 2000 or, if later, on the day after the day on which it is made and articles 13 and 15(2) shall come into force on 30th July 2000.

(3) In this Order—

"the Act" means the Immigration Act 1971;

"control port" means a port in which a control area is designated under paragraph 26(3) of Schedule 2 to the Act;

(**1**) 1971 c. 77, sections 3A and 3B are inserted by sections 1 and 2 of the Immigration and Asylum Act 1999 (1999 c. 33).

"the Immigration Acts" means:

(a) the Act;

(b) the Immigration Act 1988(**2**);

(c) the Asylum and Immigration Appeals Act 1993(**3**);

(d) the Asylum and Immigration Act 1996(**4**); and

(e) the Immigration and Asylum Act 1999.

"responsible third party" means a person appearing to an immigration officer to be:

(a) in charge of a group of people arriving in the United Kingdom together or intending to arrive in the United Kingdom together;

(b) a tour operator;

(c) the owner or agent of a ship, aircraft, train, hydrofoil or hovercraft;

(d) the person responsible for the management of a control port or his agent; or

(e) an official at a British Diplomatic Mission or at a British Consular Post or at the office of any person outside the United Kingdom and Islands who has been authorised by the Secretary of State to accept applications for entry clearance;

"tour operator" means a person who, otherwise than occasionally, organises and provides holidays to the public or a section of it; and

"visit visa" means an entry clearance granted for the purpose of entry to the United Kingdom as a visitor under the immigration rules.

PART II

ENTRY CLEARANCE AS LEAVE TO ENTER

Entry clearance as Leave to Enter

2. Subject to article 6(3), an entry clearance which complies with the requirements of article 3 shall have effect as leave to enter the United Kingdom to the extent specified in article 4, but subject to the conditions referred to in article 5.

Requirements

3.—(1) An entry clearance shall not have effect as leave to enter unless it complies with the requirements of this article.

(2) The entry clearance must specify the purpose for which the holder wishes to enter the United Kingdom.

(3) The entry clearance must be endorsed with:

(a) the conditions to which it is subject; or

(b) a statement that it is to have effect as indefinite leave to enter the United Kingdom.

(**2**) 1998 c. 14.
(**3**) 1993 c. 23.
(**4**) 1996 c. 49.

Extent to which Entry Clearance is to be Leave to Enter

4.—(1) A visit visa, during its period of validity, shall have effect as leave to enter the United Kingdom on an unlimited number of occasions, in accordance with paragraph (2).

(2) On each occasion the holder arrives in the United Kingdom, he shall be treated for the purposes of the Immigration Acts as having been granted, before arrival, leave to enter the United Kingdom for a limited period beginning on the date of arrival, being:

(a) six months if six months or more remain of the visa's period of validity; or

(b) the visa's remaining period of validity, if less than six months.

(3) In the case of any other form of entry clearance, it shall have effect as leave to enter the United Kingdom on one occasion during its period of validity; and, on arrival in the United Kingdom, the holder shall be treated for the purposes of the Immigration Acts as having been granted, before arrival, leave to enter the United Kingdom:

(a) in the case of an entry clearance which is endorsed with a statement that it is to have effect as indefinite leave to enter the United Kingdom, for an indefinite period; or

(b) in the case of an entry clearance which is endorsed with conditions, for a limited period, being the period beginning on the date on which the holder arrives in the United Kingdom and ending on the date of expiry of the entry clearance.

(4) In this article "period of validity" means the period beginning on the day on which the entry clearance becomes effective and ending on the day on which it expires.

Conditions

5. An entry clearance shall have effect as leave to enter subject to any conditions, being conditions of a kind that may be imposed on leave to enter given under section 3 of the Act, to which the entry clearance is subject and which are endorsed on it.

Incidental, supplementary and consequential provisions

6.—(1) Where an immigration officer exercises his power to cancel leave to enter under paragraph 2A(8) of Schedule 2 to the Act(**5**) or article 13(7) below in respect of an entry clearance which has effect as leave to enter, the entry clearance shall cease to have effect.

(2) If the holder of an entry clearance—

(a) arrives in the United Kingdom before the day on which it becomes effective; or

(b) seeks to enter the United Kingdom for a purpose other than the purpose specified in the entry clearance,

an immigration officer may cancel the entry clearance.

(3) If the holder of an entry clearance which does not, at the time, have effect as leave to enter the United Kingdom seeks leave to enter the United Kingdom at any time before his departure for, or in the course of his journey to, the United Kingdom and is refused leave to enter under article 7, the entry clearance shall not have effect as leave to enter.

(**5**) Paragraph 2A is inserted into Schedule 2 to the Act by paragraph 57 of Schedule 14 to the Immigration and Asylum Act 1999.

PART III

FORM AND MANNER OF GIVING AND REFUSING LEAVE TO ENTER

Grant and refusal of leave to enter before arrival in the United Kingdom

7.—(1) An immigration officer, whether or not in the United Kingdom, may give or refuse a person leave to enter the United Kingdom at any time before his departure for, or in the course of his journey to, the United Kingdom.

(2) In order to determine whether or not to give leave to enter under this article (and, if so, for what period and subject to what conditions), an immigration officer may seek such information, and the production of such documents or copy documents, as an immigration officer would be entitled to obtain in an examination under paragraph 2 or 2A of Schedule 2 to the Act.

(3) An immigration officer may also require the person seeking leave to supply an up to date medical report.

(4) Failure by a person seeking leave to supply any information, documents, copy documents or medical report requested by an immigration officer under this article shall be a ground, in itself, for refusal of leave.

Grant or refusal of leave otherwise than by notice in writing

8.—(1) A notice giving or refusing leave to enter may, instead of being given in writing as required by section 4(1) of the Act, be given as follows.

(2) The notice may be given by facsimile or electronic mail.

(3) In the case of a notice giving or refusing leave to enter the United Kingdom as a visitor, it may be given orally, including by means of a telecommunications system.

(4) In paragraph (3), "leave to enter the United Kingdom as a visitor" means leave to enter as a visitor under the immigration rules for a period not exceeding six months, subject to conditions prohibiting employment and recourse to public funds (within the meaning of the immigration rules).

Grant or refusal of leave by notice to a responsible third party

9.—(1) Leave to enter may be given or refused to a person by means of a notice given (in such form and manner as permitted by the Act or this Order for a notice giving or refusing leave to enter) to a responsible third party acting on his behalf.

(2) A notice under paragraph (1) may refer to a person to whom leave is being granted or refused either by name or by reference to a description or category of persons which includes him.

Notice of refusal of leave

10.—(1) Where a notice refusing leave to enter to a person is given under article 8(3) or 9, an immigration officer shall as soon as practicable give to him a notice in writing stating that he has been refused leave to enter the United Kingdom and stating the reasons for the refusal.

(2) Where an immigration officer serves a notice under the Immigration (Appeals) Notices Regulations 1984(**6**) or under regulations made under paragraph 1 of Schedule 4 to the Immigration and Asylum Act 1999 in respect of the refusal, he shall not be required to serve a notice under paragraph (1).

(**6**) S.I.1984/2040.