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**CHAPTER 1
SECTION 2****COMMON TRAVEL AREA****1. INTRODUCTION**

The Immigration Act 1971 applies to the United Kingdom (England, Scotland, Wales and Northern Ireland) but under Section 1(3) of the Immigration Act 1971 a person's arrival in or departure from within the common travel area consisting of:

- * the United Kingdom
- * the Channel Islands
- * the Isle of Man
- * the Republic of Ireland

is not subject to control and a person does not require leave to enter except in the circumstances covered in the Act which are set out in paragraph 2 and 3 below.

2. PERSONS WHO REQUIRE LEAVE TO ENTER THE UNITED KINGDOM FROM WITHIN THE COMMON TRAVEL AREA**2.1. Section 9(4) of the Immigration Act 1971**

Under Section 9(4) of the 1971 Act the following may not enter the United Kingdom from elsewhere in the common travel area without leave from an immigration officer:

- a person who on arrival in the United Kingdom was given notice that the Secretary of State has directed that his exclusion from the United Kingdom is conducive to the public good in the interests of national security;
- a person who has at any time been refused leave to enter the United Kingdom and has not since been given leave to enter or remain in the United Kingdom.

2.2. Persons who are subject of a deportation order under Section 9(4) of the Act

Section 9(4) of the Act provides for deportation orders to take effect within the common travel area. The subject of a deportation order is therefore an illegal entrant by definition of Section 33(1) of the Act merely by seeking to enter while the order is in force.

2.3. Persons without leave who have previously been refused leave to enter

A person who has previously been refused entry and has not since been given leave to enter or remain requires leave to enter.

- Where such a person comes to notice **on arrival** from a place within the common travel area arrangements should be made to examine him. The examination should be conducted in the usual way.
- If it is decided to refuse leave to enter, directions should be given for removal either to the place in the common travel area from which the passenger arrived or to another appropriate country.
- If such a person **enters without leave** and **subsequently** comes to notice, since he is an illegal entrant he may be removed without refusal of leave to enter under Paragraph 9 of Schedule 2 of the Act.

2.4. Exclusion conducive to the public good on national security grounds

Section 9(4)(a) of the Act applies to persons entering the United Kingdom from **any part of the common travel area** but **limits exclusion to cases involving national security**.

- Where a person in respect of whom the Secretary of State has personally given exclusion directions on national security grounds is examined **at the time of his arrival in the United Kingdom**, he should be given a written notice of the Secretary of State's directions, and refused leave to enter under Paragraph 320 (6) of HC 395 and served with a notice of refusal on form IS 82B.
- Where such a person is not examined at the time of his arrival and given a written notice of the Secretary of State's directions, he remains exempt from control under Section 1(3) of the Act (but see paragraph 2.6 (below)).

See also **Annex G** (below) for guidance relating to persons entering the United Kingdom from the Republic of Ireland, in respect of whom the Secretary of State has issued an exclusion order under Article 3(1)(b)(iv) of the Immigration (Control of Entry through Republic of Ireland) Order 1972.

2.5. Refusal wording and removal directions

The refusal wording should read:

"...but the Secretary of State has personally directed that your exclusion from the United Kingdom is conducive to the public good in the interests of national security."

Paragraph 320(6)

No entitlement to appeal if certificated under Section 98 of the Nationality, Immigration and Asylum Act 2002. .

Directions should be given for removal to that part of the common travel area outside the United Kingdom from which the person has arrived unless it is established that entry would be refused there in which case removal to another appropriate country should be directed.

2.6. Ability to remove persons who fall within the scope of Section 9(4)(a) but who are identified within the United Kingdom after arrival

A person who, having entered without leave from another part of the Common Travel Area (including the Republic), is encountered in the United Kingdom **after** his arrival and who, if identified on arrival could have been dealt with **only** under Section 9(4)(a) of the Act, cannot be removed.

See **Annex G** (below), however, in the case of persons who arrived from the Republic and could also have been dealt with under Article 3(1)(b)(iv) of the Immigration (Control of Entry through the Republic of Ireland) Order 1972 (as amended).

3. PERSONS WHO REQUIRE LEAVE TO ENTER THE UNITED KINGDOM FROM THE REPUBLIC OF IRELAND

As stated above, Section 1(3) of the Act exempts from control people travelling within the common travel area. However, in addition to the circumstances set out in paragraph 2 (above), Article 3 of the Immigration (Control of Entry through the Republic of Ireland) Order 1972 (as amended), excludes from this exemption certain persons who enter the United Kingdom through the **Republic of Ireland**.

ANNEX G (below) provides further guidance on this subject.

3.1. Persons entering the United Kingdom from the Republic of Ireland who are deemed to have leave to remain in the United Kingdom

Article 4 of the Immigration (Control of Entry through the Republic of Ireland) Order 1972 (the Order) imposes restrictions on the stay of persons who, under Section 1(3) of the Immigration Act 1971 may enter the United Kingdom without leave. The restrictions apply from the date on which a person entered the United Kingdom from the Republic, and Section 9(3) of the Act provides for the restrictions to have the same effect as if the leave had been given under the Act.

Article 4 of the Order does not apply to persons who:

- have the right of abode;
- are citizens of the Republic of Ireland or EEA nationals;
- require leave to enter by virtue of Article 3 of the Order;

- require leave under Section 9(4) of the Act; or
- have extant conditions of stay within the United Kingdom.
- arrive in the United Kingdom with leave to enter or remain in the United Kingdom which is in force but which was given before their arrival.

ANNEX I (below) provides a flow chart showing details of the restrictions deemed to have been imposed on the stay of persons who, under the Order, may enter the United Kingdom without leave.

4. PERSONS WHO REQUIRE LEAVE TO ENTER THE UNITED KINGDOM FROM THE ISLANDS (CHANNEL ISLANDS AND ISLE OF MAN)

Schedule 4 of the Immigration Act 1971 covers the integration of the immigration laws of the United Kingdom and Islands. The Schedule provides that:

- where a person has been given leave to enter or remain by the authorities of the Channel Islands or the Isle of Man and then proceeds **directly** to the United Kingdom, that leave and any conditions attached to it will be treated as if it had been imposed in the United Kingdom;
- if a person is refused leave to enter any of the Islands then he should be treated as if he had been refused leave to enter the United Kingdom ; and
- unless** the Secretary of State directs otherwise, a person who has been ordered to leave the Islands and forbidden to return is to be treated as if he is the subject of a deportation order (although Paragraph 3(2) of Schedule 4 provides for a person who is being deported from one of the Islands to pass through the United Kingdom en route to another country without his presence here being treated as unlawful).

ANNEX G (below) provides further guidance.

5. PERSONS ARRIVING IN THE UNITED KINGDOM WHO INTEND TRAVELLING TO THE REPUBLIC OF IRELAND, THE CHANNEL ISLANDS OR THE ISLE OF MAN

Persons seeking entry to the United Kingdom from outside the Common Travel Area who intend to proceed to the Republic of Ireland, Channel Islands or the Isle of Man, will require leave to enter, unless arriving with leave to enter or remain which is in force, if they are subject to United Kingdom control.

ANNEX H (below) provides further guidance.

6. LANDING CARDS

All persons proceeding to other parts of the common travel area should be categorised "Z". Copy landing cards should be sent to the appropriate authority. For further details see **Chapter 28, Section 1 - "Landing and Embarkation Cards"**.

7. GRANTING LEAVE TO REMAIN

Applications for leave to remain from persons subject to restrictions under the Order should be dealt with in the normal way under the appropriate part of the Rules.

Caseworkers should, however, bear in mind that there is an agreement with the Irish authorities that if a person enters the United Kingdom from the Republic, whether legally or illegally, they will accept him back at any time ***within 12 months*** of his entering the United Kingdom if they are notified by the Home Office that he is being required to leave the country, ***provided that his position in the United Kingdom has not been regularised***. Care should be taken when considering these applications, particularly if the person does not hold a valid national passport or has restricted returnability.

ANNEX J (below) provides further guidance on granting leave to remain

8. POLICE REGISTRATION

Reciprocal arrangements exist between the police in the United Kingdom and the Irish Republic for notifying the movement of foreign nationals who are registered with the police and who change their residence from one country to the other. Persons subject to Immigration (Control of Entry through Republic of Ireland) Order (as amended) restrictions (who have not been required to register by the Order) should be required to register in the normal way.