

2023 No. 1090

IMMIGRATION

The Immigration (Isle of Man) (Amendment) Order 2023

Made - - - - *11th October 2023*

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 11th day of October 2023

Present,

The King's Most Excellent Majesty in Council

His Majesty, in exercise of the powers conferred by section 36 of the Immigration Act 1971(a), section 12(5) of the Immigration Act 1988(b), section 13(5) of the Asylum and Immigration Act 1996(c), section 170(7) of the Immigration and Asylum Act 1999(d), section 163(4) of the Nationality, Immigration and Asylum Act 2002(e), section 49(3) of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004(f), section 63(3) and (3A)(g) of the Immigration, Asylum and Nationality Act 2006(h), section 60(4) of the UK Borders Act 2007(i), section 76(6) of the Immigration Act 2014(j) and section 8(2), (3) and (4) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020(k), is pleased, by and with the advice and consent of his Privy Council, to order as follows.

Citation and commencement

1.—(1) This Order may be cited as the Immigration (Isle of Man) (Amendment) Order 2023.

(2) This Order comes into force on such day or days as the Minister for the Treasury (a Department of the Government of the Isle of Man(l)) may by order appoint.

(3) Section 34 of the Legislation Act 2015(m) (an Act of Tynwald) (Tynwald procedure: laying only) applies to an order under paragraph (2).

(a) 1971 c. 77.
(b) 1988 c. 14.
(c) 1996 c. 49.
(d) 1999 c. 33.
(e) 2002 c. 41.
(f) 2004 c. 19.
(g) Section 63(3A) was inserted by section 54(7) of the Police and Justice Act 2006 (c. 48).
(h) 2006 c. 13.
(i) 2007 c. 30.
(j) 2014 c. 22.
(k) 2020 c. 20.
(l) Established by the Government Departments Act 1987 [AT 13 of 1987] (an Act of Tynwald).
(m) AT 10 of 2015.

Interpretation of this Order

2. In this Order, “the principal Order” means the Immigration (Isle of Man) Order 2008(a).

Article 5 of the principal Order amended (general modifications)

3. In article 5 of the principal Order, in paragraph (d), for “Cabinet Office” substitute “Treasury”.

Schedule 3 to the principal Order amended (modifications subject to which the Immigration Act 1971 applies)

4. In Schedule 3 to the principal Order—

- (a) in paragraph 46(2)(b), in the definition of “Minister”(b), for “Cabinet Office” substitute “Treasury”;
- (b) after paragraph 46(4) insert—
“(5) After subsection (5) insert—

“(6) The Minister may authorise other persons to exercise functions of the Minister under the Immigration Acts in the same manner and to the same extent as the Minister may authorise others to exercise functions of the Treasury (a Department of the Isle of Man Government) under section 3 of the Government Departments Act 1987 (an Act of Tynwald).”.

Transitional and saving provisions

5.—(1) On and after the coming into force of this Order—

- (a) all rights, obligations and liabilities which immediately before the coming into force of this Order were enforceable by or against the Minister for the Cabinet Office and were enjoyed or incurred for the purposes of the Immigration Acts shall be enforceable by or against the Minister for the Treasury;
- (b) all references to the Minister for the Cabinet Office, so far as they relate to functions under the Immigration Acts, in any statutory provision, agreement, deed, instrument, licence, consent, application, notice or other document whatsoever shall, unless the context otherwise requires, be construed as references to the Minister for Treasury.

(2) This Order shall not affect the validity of anything done by or in relation to the Minister for the Cabinet Office before it comes into force.

(3) Anything which upon the coming into force of this Order is in the process of being done by or in relation to the Minister for the Cabinet Office, so far as it relates to functions under the Immigration Acts, may be continued by or in relation to the Minister for the Treasury.

(4) Anything made or done by the Minister for the Cabinet Office, so far as it relates to functions under the Immigration Acts, shall, if subsisting on the coming into force of this Order, have effect as if made or done by the Minister for the Treasury so far as that is required for continuing its effect after such coming into force.

Richard Tilbrook
Clerk of the Privy Council

(a) S.I. 2008/680 as amended by S.I. 2011/1158, S.I. 2011/1408, S.I. 2015/1765, S.I. 2016/156, S.I. 2016/755, S.I. 2019/562, S.I. 2020/1214, S.I. 2020/1322, S.I. 2020/1576 and S.I. 2021/1277.

(b) The definition of “Minister” was inserted by article 11(20) of S.I. 2019/562.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Immigration (Isle of Man) Order 2008 (S.I. 2008/680) so as to reflect the transfer of functions under the Immigration Acts from the Minister for the Cabinet Office to the Minister for the Treasury (the Cabinet Office and the Treasury both being Departments of the Isle of Man Government) and makes transitional and saving provisions. It also provides that the Minister for the Treasury may authorise others to exercise functions of the Minister under the Immigration Acts. This is required to avoid doubt in relation to the application of the Carltona principle in the Isle of Man where the Government Departments Act 1987^(a) (an Act of Tynwald) makes specific provision about the ability of Ministers to authorise others to exercise Departmental functions.

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^(a) AT 13 of 1987.

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