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CHAPTER 1
SECTION 2

COMMON TRAVEL AREA

**PERSONS WHO REQUIRE LEAVE TO ENTER THE UNITED KINGDOM FROM THE
COMMON TRAVEL AREA****1. PERSONS ENTERING FROM THE REPUBLIC OF IRELAND WHO REQUIRE LEAVE TO ENTER BY VIRTUE OF ARTICLE 3 OF THE IMMIGRATION (CONTROL OF ENTRY THROUGH REPUBLIC OF IRELAND) ORDER 1972 (AS AMENDED).**

Paragraph 2 of Section 2, above, gives details of persons who, under Section 9(4) of the Immigration Act 1971, may not enter the United Kingdom from elsewhere in the common travel area without leave from an immigration officer. In addition, under Article 3 of the Immigration (Control of Entry through Republic of Ireland) Order 1972 (as amended), persons in the categories set out below may not enter the United Kingdom, *from the Republic of Ireland*, without leave from an immigration officer.

1.1. Persons in transit through the Republic

Any person who arrives (by ship or aircraft) in the United Kingdom from outside the Common Travel Area, having transited through the Republic, *without passing through the Immigration Control there*, requires leave to enter, unless arriving with leave to enter or remain which is in force, and should be examined by an immigration officer in the normal way.

The transit visa schedule for Ireland was amended on 18 December 2003 as follows:

An alien coming from a place outside the state other than Great Britain or Northern Ireland who is a citizen of a state specified [below] shall not enter a port in the state unless he or she is the holder of a valid Irish transit visa: Afghanistan, Albania, Bulgaria, Cuba, Democratic Republic of Congo, Ethiopia, Eritrea, Ghana, Iran, Iraq, Lebanon, Moldova, Nigeria, Romania, Somalia, Sri Lanka, Federal Republic of Yugoslavia (Serbia and Montenegro) and Zimbabwe.

1.2. Visa nationals who are not in possession of a valid United Kingdom entry clearance

A visa national who does not hold a valid United Kingdom entry clearance requires leave to enter. If he voluntarily presents himself to an immigration officer he should be refused leave to enter. Removal directions should require his return to the Republic.

1.3. **Persons who entered the Irish Republic unlawfully from outside the common travel area**

A person arriving in the United Kingdom, who unlawfully entered the Republic from a place outside the common travel area, requires leave to enter. If he presents himself to an immigration officer, his application for leave to enter should be considered on its merits. If he does not qualify for leave to enter his application should be refused under the relevant part of the Immigration Rules.

1.4. **Persons who entered the Irish Republic after entering the United Kingdom or Islands unlawfully**

A person who enters the United Kingdom or Islands unlawfully and who then travels directly to the Republic will, on his return to the United Kingdom, require leave to enter. If he presents himself to an immigration officer he should normally be refused leave to enter.

If such a person is apprehended within the United Kingdom he should be treated as an illegal entrant.

Directions should be given for removal to the country (outside the common travel area) from which he travelled to the United Kingdom or to his country of origin.

1.5. **Persons whose leave to enter or remain expired before leaving the United Kingdom for the Irish Republic**

Under the original Order, a person whose limited leave expired whilst in the United Kingdom or Islands, **did not** require leave to enter on his return to the United Kingdom from the Republic. The Immigration (Control of Entry through the Republic of Ireland) (Amendment) Order 1979, came into effect on 1 August 1979, amending Article 3(1)(b)(iii) so that such persons now require leave to enter.

However, a person who entered the United Kingdom in these circumstances **before 1 August 1979**, and who **has not left** the United Kingdom or Islands, or been given leave to enter or remain should be given **indefinite leave to remain**. A person who entered **after 1 August 1979** without leave is an illegal entrant.

NB: Article 3(1)(b)(iii) of the Order does not apply to cases in which persons whose leave expired whilst in the United Kingdom entered the Irish Republic after first going to a place outside the common travel area.

1.6. **Persons whose exclusion has been deemed to be conducive to the public good**

- Section 9(4)(a) of the Immigration Act 1971 applies to persons, arriving in the United Kingdom from **any part of the Common Travel Area**, whose exclusion has been personally directed by the Secretary of State, **but only where the direction is made in the interests of national security** (see also paragraph 2.4 of the main part of this instruction (above)).

That provision, however, is enforceable only if the person is identified and examined **at the time of arrival in the United Kingdom**.

- Article 3(1)(b)(iv) of the Immigration (Control of Entry through Republic of Ireland) Order 1972 (as amended) applies to persons, including citizens of the Republic of Ireland, coming from **the Republic of Ireland only** but grounds for exclusion are not limited to matters of national security but extend to **all cases where exclusion would be conducive to the public good**.

In either case, if the person is examined **at the time of arrival**, he should be refused leave to enter under Paragraph 320(6) of HC 395 and served with notice of refusal on form IS 82B. Directions should be given for removal to the Republic, unless it is established that entry would be refused there, in which case removal to another appropriate country should be directed.

1.7. **Removal of persons in respect of whom the Secretary of State has personally given exclusion directions who are identified within the United Kingdom after arrival from the Republic of Ireland**

A person who is encountered in the United Kingdom **after** his arrival from the Republic who, if identified on arrival could 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), can be considered as an illegal entrant.

A person removed as an illegal entrant, whether or not the Secretary of State has personally directed his exclusion **is entitled to appeal** from abroad under Section 82(h) of the Nationality, Immigration and Asylum Act 2002.

2. **PERSONS ENTERING FROM ONE OF THE ISLANDS (THE CHANNEL ISLANDS AND THE ISLE OF MAN)**

2.1. **Persons to whom Section 9(4) of the Act applies**

Paragraph 2.1 of Section 3 refers.

2.2. **Persons whose presence was unlawful under the immigration laws of that Island**

If such a person enters the United Kingdom he will be deemed an illegal entrant. If he is apprehended he should be removed under Paragraph 10 of Schedule 2 to the country of which he is a national or to a country (where there is reason to believe he will be admitted) outside the common travel area.

2.3. **Persons with previous limited leave from the United Kingdom who required leave to enter the Channel Islands**

Section 3(4) of the Act provides that where a person who has limited leave to enter the United Kingdom, leaves and returns to the United Kingdom within the validity of that leave, the time limit and any conditions attached to his stay will continue to apply.

However, if the person was subsequently given leave to enter under the Island's laws that leave will have effect in the United Kingdom as if it had been obtained here. If he was refused, or entered the Islands illegally without leave, or if his presence there was unlawful, he may not lawfully enter the United Kingdom without leave, despite the fact that his previous limited leave has not expired.