

**CHAPTER 19
SECTION 3**

**SECTION 1(5)
OF THE IMMIGRATION ACT 1971**

1. INTRODUCTION

Section 1(5) of the Immigration Act 1971 was repealed on 1.8.88 by the Immigration Act 1988. Caseworkers may, however, encounter unresolved claims which were outstanding on 1.8.88 or files relating to persons who benefited from or previously made unsuccessful claims under Section 1(5). This section is intended to assist in such a situation.

2. THE APPLICATION OF SECTION 1(5) OF THE IMMIGRATION ACT 1971

Section 1(5) of the 1971 Act stated that:

"The Rules shall be so framed that Commonwealth Citizens settled in the United Kingdom at the coming into force of this Act and their wives and children are not, by virtue of anything in the Rules, any less free to come into and go from the United Kingdom than if this Act had not been passed."

In the context of the requirements of the Rules, this means that the wives and children benefitting from Section 1(5) are exempt from any tests other than the requirement to have prior entry clearance. They are moreover to be granted settlement on arrival.

Wives and children of Commonwealth citizens settled here on 1 January 1973 coming for settlement are thus considered under *HC 169*, without regard to the current Rules.

3. FURTHER INFORMATION

Further information concerning those who benefit under Section 1(5) in their own right as well as the wives and children of beneficiaries is held by INPD, Section 1. Any further guidance may be obtained from them (via PCS, in the case of immigration officers).