



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART I

IMMIGRATION: GENERAL

Removal from the United Kingdom

9 Treatment of certain overstayers

- (1) During the regularisation period overstayers may apply, in the prescribed manner, for leave to remain in the United Kingdom.
- (2) The regularisation period begins on the day prescribed for the purposes of this subsection and is not to be less than three months.
- (3) The regularisation period ends—
 - (a) on the day prescribed for the purposes of this subsection; or
 - (b) if later, on the day before that on which section 65 comes into force.
- (4) Section 10 and paragraph 12 of Schedule 15 come into force on the day after that on which the regularisation period ends
- (5) The Secretary of State must publicise the effect of this section in the way appearing to him to be best calculated to bring it to the attention of those affected.
- (6) “Overstayer” means a person who, having only limited leave to enter or remain in the United Kingdom, remains beyond the time limited by the leave.

10 Removal of certain persons unlawfully in the United Kingdom

- (1) A person who is not a British citizen may be removed from the United Kingdom, in accordance with directions given by an immigration officer, if—
 - (a) having only a limited leave to enter or remain, he does not observe a condition attached to the leave or remains beyond the time limited by the leave;

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- (b) he has obtained leave to remain by deception; or
 - (c) directions (“the first directions”) have been given for the removal, under this section, of a person (“the other person”) to whose family he belongs.
- (2) Directions may not be given under subsection (1)(a) if the person concerned has made an application for leave to remain in accordance with regulations made under section 9.
- (3) Directions may not be given under subsection (1)(c) unless the Secretary of State has given the person concerned written notice, not more than eight weeks after the other person left the United Kingdom in accordance with the first directions, that he intends to remove the person concerned from the United Kingdom.
- (4) If such a notice is sent by the Secretary of State by first class post, addressed to the person concerned’s last known address, it is to be taken to have been received by that person on the second day after the day on which it was posted.
- (5) Directions for the removal of a person under subsection (1)(c) cease to have effect if he ceases to belong to the family of the other person.
- (6) Directions under this section—
- (a) may be given only to persons falling within a prescribed class;
 - (b) may impose any requirements of a prescribed kind.
- (7) In relation to any such directions, paragraphs 10, 11, 16 to 18, 21 and 22 to 24 of Schedule 2 to the 1971 Act (administrative provisions as to control of entry), apply as they apply in relation to directions given under paragraph 8 of that Schedule.
- (8) Directions for the removal of a person given under this section invalidate any leave to enter or remain in the United Kingdom given to him before the directions are given or while they are in force.
- (9) The costs of complying with a direction given under this section (so far as reasonably incurred) must be met by the Secretary of State.

11 Removal of asylum claimants under standing arrangements with member States

- (1) In determining whether a person in relation to whom a certificate has been issued under subsection (2) may be removed from the United Kingdom, a member State is to be regarded as—
- (a) a place where a person’s life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular social group, or political opinion; and
 - (b) a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention.
- (2) Nothing in section 15 prevents a person who has made a claim for asylum (“the claimant”) from being removed from the United Kingdom to a member State if—
- (a) the Secretary of State has certified that—
 - (i) the member State has accepted that, under standing arrangements, it is the responsible State in relation to the claimant’s claim for asylum; and
 - (ii) in his opinion, the claimant is not a national or citizen of the member State to which he is to be sent;
 - (b) the certificate has not been set aside on an appeal under section 65.

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- (3) Unless a certificate has been issued under section 72(2)(a) in relation to a person, he is not to be removed from the United Kingdom—
 - (a) if he has an appeal under section 65 against the decision to remove him in accordance with this section pending; or
 - (b) before the time for giving notice of such an appeal has expired.
- (4) “Standing arrangements” means arrangements in force as between member States for determining which state is responsible for considering applications for asylum.

12 Removal of asylum claimants in other circumstances

- (1) Subsection (2) applies if the Secretary of State intends to remove a person who has made a claim for asylum (“the claimant”) from the United Kingdom to—
 - (a) a member State, or a territory which forms part of a member State, otherwise than under standing arrangements; or
 - (b) a country other than a member State which is designated by order made by the Secretary of State for the purposes of this section.
- (2) Nothing in section 15 prevents the claimant’s removal if—
 - (a) the Secretary of State has certified that, in his opinion, the conditions set out in subsection (7) are fulfilled;
 - (b) the certificate has not been set aside on an appeal under section 65.
- (3) Unless a certificate has been issued under section 72(2)(a) in relation to a person, he is not to be removed from the United Kingdom—
 - (a) if he has an appeal under section 65 against the decision to remove him in accordance with subsection (2) pending; or
 - (b) before the time for giving notice of such an appeal has expired.
- (4) Subsection (5) applies if the Secretary of State intends to remove a person who has made a claim for asylum (“the claimant”) from the United Kingdom to a country which is not—
 - (a) a member State; or
 - (b) a country designated under subsection (1)(b).
- (5) Nothing in section 15 prevents the claimant’s removal if—
 - (a) the Secretary of State has certified that, in his opinion, the conditions set out in subsection (7) are fulfilled;
 - (b) the certificate has not been set aside on an appeal under section 65 or 71; and
 - (c) the time for giving notice of such an appeal has expired and no such appeal is pending.
- (6) For the purposes of subsection (5)(c), an appeal under section 65 is not to be regarded as pending if the Secretary of State has issued a certificate under section 72(2)(a) in relation to the allegation on which it is founded.
- (7) The conditions are that—
 - (a) he is not a national or citizen of the country to which he is to be sent;
 - (b) his life and liberty would not be threatened there by reason of his race, religion, nationality, membership of a particular social group, or political opinion; and
 - (c) the government of that country would not send him to another country otherwise than in accordance with the Refugee Convention.

(8) “Standing arrangements” has the same meaning as in section 11.

13 Proof of identity of persons to be removed or deported

- (1) This section applies if a person—
 - (a) is to be removed from the United Kingdom to a country of which he is a national or citizen; but
 - (b) does not have a valid passport or other document establishing his identity and nationality or citizenship and permitting him to travel.
- (2) If the country to which the person is to be removed indicates that he will not be admitted to it unless identification data relating to him are provided by the Secretary of State, he may provide them with such data.
- (3) In providing identification data, the Secretary of State must not disclose whether the person concerned has made a claim for asylum.
- (4) For the purposes of paragraph 4(1) of Schedule 4 to the Data Protection Act 1998, the provision under this section of identification data is a transfer of personal data which is necessary for reasons of substantial public interest.
- (5) “Identification data” means—
 - (a) fingerprints taken under section 141; or
 - (b) data collected in accordance with regulations made under section 144.
- (6) “Removed” means removed as a result of directions given under section 10 or under Schedule 2 or 3 to the 1971 Act.

14 Escorts for persons removed from the United Kingdom under directions

- (1) Directions for, or requiring arrangements to be made for, the removal of a person from the United Kingdom may include or be amended to include provision for the person who is to be removed to be accompanied by an escort consisting of one or more persons specified in the directions.
- (2) The Secretary of State may by regulations make further provision supplementing subsection (1).
- (3) The regulations may, in particular, include provision—
 - (a) requiring the person to whom the directions are given to provide for the return of the escort to the United Kingdom;
 - (b) requiring him to bear such costs in connection with the escort (including, in particular, remuneration) as may be prescribed;
 - (c) as to the cases in which the Secretary of State is to bear those costs;
 - (d) prescribing the kinds of expenditure which are to count in calculating the costs incurred in connection with escorts.

15 Protection of claimants from removal or deportation

- (1) During the period beginning when a person makes a claim for asylum and ending when the Secretary of State gives him notice of the decision on the claim, he may not be removed from, or required to leave, the United Kingdom.

- (2) Subsection (1) does not prevent—
 - (a) directions for his removal being given during that period;
 - (b) a deportation order being made against him during that period.
- (3) But no such direction or order is to have effect during that period.
- (4) This section is to be treated as having come into force on 26 July 1993.