



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART VIII

DETENTION CENTRES AND DETAINED PERSONS

Detention centres

148 Management of detention centres

- (1) A manager must be appointed for every detention centre.
- (2) In the case of a contracted out detention centre, the person appointed as manager must be a detainee custody officer whose appointment is approved by the Secretary of State.
- (3) The manager of a detention centre is to have such functions as are conferred on him by detention centre rules.
- (4) The manager of a contracted out detention centre may not—
 - (a) enquire into a disciplinary charge laid against a detained person;
 - (b) conduct the hearing of such a charge; or
 - (c) make, remit or mitigate an award in respect of such a charge.
- (5) The manager of a contracted out detention centre may not, except in cases of urgency, order—
 - (a) the removal of a detained person from association with other detained persons;
 - (b) the temporary confinement of a detained person in special accommodation; or
 - (c) the application to a detained person of any other special control or restraint (other than handcuffs).

149 Contracting out of certain detention centres

- (1) The Secretary of State may enter into a contract with another person for the provision or running (or the provision and running) by him, or (if the contract so provides) for the running by sub-contractors of his, of any detention centre or part of a detention centre.

Status: This is the original version (as it was originally enacted).

- (2) While a detention centre contract for the running of a detention centre or part of a detention centre is in force—
 - (a) the detention centre or part is to be run subject to and in accordance with the provisions of or made under this Part; and
 - (b) in the case of a part, that part and the remaining part are to be treated for the purposes of those provisions as if they were separate detention centres.
- (3) If the Secretary of State grants a lease or tenancy of land for the purposes of a detention centre contract, none of the following enactments applies to the lease or tenancy—
 - (a) Part II of the Landlord and Tenant Act 1954 (security of tenure);
 - (b) section 146 of the Law of Property Act 1925 (restrictions on and relief against forfeiture);
 - (c) section 19(1), (2) and (3) of the Landlord and Tenant Act 1927 and the Landlord and Tenant Act 1988 (covenants not to assign etc.);
 - (d) the Agricultural Holdings Act 1986;
 - (e) sections 4 to 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (irritancy clauses);
 - (f) the Agricultural Holdings (Scotland) Act 1991;
 - (g) section 14 of the Conveyancing Act 1881;
 - (h) the Conveyancing and Law of Property Act 1892;
 - (i) the Business Tenancies (Northern Ireland) Order 1996.
- (4) The Secretary of State must appoint a contract monitor for every contracted out detention centre.
- (5) A person may be appointed as the contract monitor for more than one detention centre.
- (6) The contract monitor is to have—
 - (a) such functions as may be conferred on him by detention centre rules;
 - (b) the status of a Crown servant.
- (7) The contract monitor must—
 - (a) keep under review, and report to the Secretary of State on, the running of a detention centre for which he is appointed; and
 - (b) investigate, and report to the Secretary of State on, any allegations made against any person performing custodial functions at that centre.
- (8) The contractor, and any sub-contractor of his, must do all that he reasonably can (whether by giving directions to the officers of the detention centre or otherwise) to facilitate the exercise by the contract monitor of his functions.
- (9) “Lease or tenancy” includes an underlease, sublease or sub-tenancy.
- (10) In relation to a detention centre contract entered into by the Secretary of State before the commencement of this section, this section is to be treated as having been in force at that time.

150 Contracted out functions at directly managed detention centres

- (1) The Secretary of State may enter into a contract with another person—
 - (a) for functions at, or connected with, a directly managed detention centre to be performed by detainee custody officers provided by that person; or

- (b) for such functions to be performed by certified prisoner custody officers who are provided by that person.
- (2) For the purposes of this section “detention centre” includes a short-term holding facility.

151 Intervention by Secretary of State

- (1) The Secretary of State may exercise the powers conferred by this section if it appears to him that—
- (a) the manager of a contracted out detention centre has lost, or is likely to lose, effective control of the centre or of any part of it; or
 - (b) it is necessary to do so in the interests of preserving the safety of any person, or of preventing serious damage to any property.
- (2) The Secretary of State may appoint a person (to be known as the Controller) to act as manager of the detention centre for the period—
- (a) beginning with the time specified in the appointment; and
 - (b) ending with the time specified in the notice of termination under subsection (5).
- (3) During that period—
- (a) all the functions which would otherwise be exercisable by the manager or the contract monitor are to be exercisable by the Controller;
 - (b) the contractor and any sub-contractor of his must do all that he reasonably can to facilitate the exercise by the Controller of his functions; and
 - (c) the staff of the detention centre must comply with any directions given by the Controller in the exercise of his functions.
- (4) The Controller is to have the status of a Crown servant.
- (5) If the Secretary of State is satisfied that a Controller is no longer needed for a particular detention centre, he must (by giving notice to the Controller) terminate his appointment at a time specified in the notice.
- (6) As soon as practicable after making an appointment under this section, the Secretary of State must give notice of the appointment to those entitled to notice.
- (7) As soon as practicable after terminating an appointment under this section, the Secretary of State must give a copy of the notice of termination to those entitled to notice.
- (8) Those entitled to notice are the contractor, the manager, the contract monitor and the Controller.

152 Visiting Committees and inspections

- (1) The Secretary of State must appoint a committee (to be known as the Visiting Committee) for each detention centre.
- (2) The functions of the Visiting Committee for a detention centre are to be such as may be prescribed by the detention centre rules.
- (3) Those rules must include provision—

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- (a) as to the making of visits to the centre by members of the Visiting Committee;
 - (b) for the hearing of complaints made by persons detained in the centre;
 - (c) requiring the making of reports by the Visiting Committee to the Secretary of State.
- (4) Every member of the Visiting Committee for a detention centre may at any time enter the centre and have free access to every part of it and to every person detained there.
- (5) In section 5A of the Prison Act 1952 (which deals with the appointment and functions of Her Majesty’s Chief Inspector of Prisons), after subsection (5), insert—
- “(5A) Subsections (2) to (5) apply to detention centres (as defined by section 147 of the Immigration and Asylum Act 1999 and including any in Scotland) and persons detained in such detention centres as they apply to prisons and prisoners.”

153 Detention centre rules

- (1) The Secretary of State must make rules for the regulation and management of detention centres.
- (2) Detention centre rules may, among other things, make provision with respect to the safety, care, activities, discipline and control of detained persons.