



# Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

## 2004 CHAPTER 19

### *Removal and detention*

#### **33 Removing asylum seeker to safe country**

- (1) Schedule 3 (which concerns the removal of persons claiming asylum to countries known to protect refugees and to respect human rights) shall have effect.
- (2) Sections 11 and 12 of the Immigration and Asylum Act 1999 (c. 33) (removal of asylum claimant to country under standing or other arrangements) shall cease to have effect.
- (3) The following provisions of the Nationality, Immigration and Asylum Act 2002 (c. 41) shall cease to have effect—
  - (a) section 80 (new section 11 of 1999 Act), and
  - (b) section 93 (appeal from within United Kingdom: “third country” removal).

#### **Commencement Information**

**II** [S. 33](#) in force at 1.10.2004 by [S.I. 2004/2523](#), [art. 2](#), [Sch.](#) (with [art. 3](#))

#### **34 Detention pending deportation**

- (1) In paragraph 2(1) of Schedule 3 to the Immigration Act 1971 (c. 77) (detention pending deportation on recommendation by court) for the words “and that person is neither detained in pursuance of the sentence or order of any court nor for the time being released on bail by any court having power so to release him” substitute “ and that person is not detained in pursuance of the sentence or order of any court ”.
- (2) In paragraph 2(2) of that Schedule (detention following notice of deportation) for the words “and he is neither detained in pursuance of the sentence or order of a court

---

**Changes to legislation:** Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Cross Heading: Removal and detention is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

nor for the time being released on bail by a court having power so to release him” substitute “ and he is not detained in pursuance of the sentence or order of a court ”.

**Commencement Information**

**I2** S. 34 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

**35 Deportation or removal: cooperation**

- (1) The Secretary of State may require a person to take specified action if the Secretary of State thinks that—
- (a) the action will or may enable a travel document to be obtained by or for the person, and
  - (b) possession of the travel document will facilitate the person’s deportation or removal from the United Kingdom.
- (2) In particular, the Secretary of State may require a person to—
- (a) provide information or documents to the Secretary of State or to any other person;
  - (b) obtain information or documents;
  - [<sup>F1</sup>(c) provide biometric information (within the meaning of section 15 of the UK Borders Act 2007), or submit to a process by means of which such information is obtained or recorded;]
  - (d) make, or consent to or cooperate with the making of, an application to a person acting for the government of a State other than the United Kingdom;
  - (e) cooperate with a process designed to enable determination of an application;
  - (f) complete a form accurately and completely;
  - (g) attend an interview and answer questions accurately and completely;
  - (h) make an appointment.
- (3) A person commits an offence if he fails without reasonable excuse to comply with a requirement of the Secretary of State under subsection (1).
- (4) A person guilty of an offence under subsection (3) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding [<sup>F2</sup>the general limit in a magistrates’ court], to a fine not exceeding the statutory maximum or to both.
- (5) If [<sup>F3</sup>a constable or][<sup>F3</sup>an] immigration officer reasonably suspects that a person has committed an offence under subsection (3) he may arrest the person without warrant.
- (6) An offence under subsection (3) shall be treated as—
- (a) a relevant offence for the purposes of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and
  - (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28(4), 28E, 28G and 28H (search after arrest, &c.) of that Act.
- (7) In subsection (1)—

**Changes to legislation:** *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Cross Heading: Removal and detention is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

“travel document” means a passport or other document which is issued by or for Her Majesty’s Government or the government of another State and which enables or facilitates travel from the United Kingdom to another State, and

“removal from the United Kingdom” means removal under—

- (a) Schedule 2 to the Immigration Act 1971 (control on entry) (including a provision of that Schedule as applied by another provision of the Immigration Acts),
  - (b) section 10 of the Immigration and Asylum Act 1999 (c. 33) (removal of person unlawfully in United Kingdom), or
  - (c) Schedule 3 to this Act.
- (8) While sections 11 and 12 of the Immigration and Asylum Act 1999 continue to have effect, the reference in subsection (7)(c) above to Schedule 3 to this Act shall be treated as including a reference to those sections.
- (9) In so far as subsection (3) extends to England and Wales, subsection (4)(b) shall, until [F42 May 2022], have effect as if the reference to [F5 the general limit in a magistrates’ court] were a reference to six months.
- (10) In so far as subsection (3) extends to Scotland, subsection (4)(b) shall have effect as if the reference to twelve months were a reference to six months.
- (11) In so far as subsection (3) extends to Northern Ireland, subsection (4)(b) shall have effect as if the reference to twelve months were a reference to six months.

#### Textual Amendments

- F1** S. 35(2)(c) substituted (28.7.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 2 para. 5; S.I. 2014/1820, art. 3\(z\)](#)
- F2** Words in s. 35(4)(b) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\), regs. 1\(2\), 2\(1\), Sch. Pt. 1](#)
- F3** Word in s. 35(5) substituted (E.W.) (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 7 para. 63\(b\); S.I. 2005/3495, art. 2\(1\)\(m\)](#); and (N.I.) (1.3.2007) by [The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288\), art. 1\(2\), Sch. 1 para. 39\(2\)](#)
- F4** Words in s. 35(9) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\), regs. 1\(2\), 5\(1\), Sch. Pt. 1](#)
- F5** Words in s. 35(9) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\), regs. 1\(2\), 2\(1\), Sch. Pt. 1](#)

#### F636 Electronic monitoring

.....

#### Textual Amendments

- F6** S. 36 omitted (15.1.2018) by virtue of [Immigration Act 2016 \(c. 19\), s. 94\(1\), Sch. 10 para. 38; S.I. 2017/1241, reg. 2\(c\) \(with Sch.\) \(as amended by S.I. 2018/31, reg. 2\)](#)

**Changes to legislation:**

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Cross Heading: Removal and detention is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 8(1A)(1B) inserted by [2022 c. 36 s. 19\(2\)](#)
- s. 8(3A)(3B) inserted by [2022 c. 36 s. 19\(3\)](#)
- s. 8(6A)(6B) inserted by [2022 c. 36 s. 19\(4\)](#)
- s. 8(9A)(a) word inserted by [2022 c. 36 Sch. 3 para. 7\(b\)](#)
- s. 8(9A)(b) and word inserted by [2022 c. 36 Sch. 3 para. 7\(c\)](#)
- s. 8(9B) inserted by [2022 c. 36 s. 19\(6\)](#)
- Sch. 3 para. 3(3) inserted by [2023 c. 37 s. 10\(9\)\(a\)](#)
- Sch. 3 para. 8(3) inserted by [2023 c. 37 s. 10\(9\)\(b\)](#)
- Sch. 3 para. 13(3) inserted by [2023 c. 37 s. 10\(9\)\(c\)](#)