



# Borders, Citizenship and Immigration Act 2009

## 2009 CHAPTER 11

### PART 4 **U.K.**

#### MISCELLANEOUS AND GENERAL

##### *Judicial review*

#### <sup>F1</sup>53 **Transfer of certain immigration judicial review applications** **U.K.**

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#### **Textual Amendments**

**F1** S. 53 repealed (1.11.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), ss. **22(4)**, 61(3); S.I. 2013/2200, art. 5

##### *Trafficking people for exploitation*

#### 54 **Trafficking people for exploitation** **U.K.**

<sup>F2</sup>In section 4(4) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (trafficking people for exploitation: meaning of exploitation), for paragraph (d) substitute—

“(d) a person uses or attempts to use him for any purpose within subparagraph (i), (ii) or (iii) of paragraph (c), having chosen him for that purpose on the grounds that—

(i) he is mentally or physically ill or disabled, he is young or he has a family relationship with a person, and

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- (ii) a person without the illness, disability, youth or family relationship would be likely to refuse to be used for that purpose.”]

#### Textual Amendments

- F2** S. 54 repealed (N.I.) (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2\)](#), s. 28(2), [Sch. 5](#)

#### Commencement Information

- II** S. 54 in force at 10.11.2009 by [S.I. 2009/2731](#), [art. 3\(b\)](#)

### Children

#### [<sup>F3</sup>54A Independent Family Returns Panel **U.K.**

- (1) The Independent Family Returns Panel is established.
- (2) The Secretary of State must consult the Independent Family Returns Panel—
  - (a) in each family returns case, on how best to safeguard and promote the welfare of the children of the family, and
  - (b) in each case where the Secretary of State proposes to detain a family in pre-departure accommodation, on the suitability of so doing, having particular regard to the need to safeguard and promote the welfare of the children of the family.
- (3) A family returns case is a case where—
  - (a) a child who is living in the United Kingdom is to be removed from or required to leave the United Kingdom, and
  - (b) an individual who—
    - (i) is a parent of the child or has care of the child, and
    - (ii) is living in a household in the United Kingdom with the child,
 is also to be removed from or required to leave the United Kingdom.
- (4) The Secretary of State may by regulations make provision about—
  - (a) additional functions of the Independent Family Returns Panel,
  - (b) its status and constitution,
  - (c) the appointment of its members,
  - (d) the payment of remuneration and allowances to its members, and
  - (e) any other matters in connection with its establishment and operation.
- (5) Regulations under this section must be made by statutory instrument.
- (6) An instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
 

“child” means a person who is under the age of 18;

“pre-departure accommodation” has the same meaning as in Part 8 of the Immigration and Asylum Act 1999;

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references to a person being removed from or required to leave the United Kingdom are to the person being removed or required to leave in accordance with a provision of the Immigration Acts.]

#### Textual Amendments

**F3** S. 54A inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), ss. 3, 75(3); S.I. 2014/1820, art. 3(b); S.I. 2014/1820, art. 3(b)

## 55 Duty regarding the welfare of children **U.K.**

- (1) The Secretary of State must make arrangements for ensuring that—
  - (a) the functions mentioned in subsection (2) are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom, and
  - (b) any services provided by another person pursuant to arrangements which are made by the Secretary of State and relate to the discharge of a function mentioned in subsection (2) are provided having regard to that need.
- (2) The functions referred to in subsection (1) are—
  - (a) any function of the Secretary of State in relation to immigration, asylum or nationality;
  - (b) any function conferred by or by virtue of the Immigration Acts on an immigration officer;
  - (c) any general customs function of the Secretary of State;
  - (d) any customs function conferred on a designated customs official.
- (3) A person exercising any of those functions must, in exercising the function, have regard to any guidance given to the person by the Secretary of State for the purpose of subsection (1).
- (4) The Director of Border Revenue must make arrangements for ensuring that—
  - (a) the Director's functions are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom, and
  - (b) any services provided by another person pursuant to arrangements made by the Director in the discharge of such a function are provided having regard to that need.
- (5) A person exercising a function of the Director of Border Revenue must, in exercising the function, have regard to any guidance given to the person by the Secretary of State for the purpose of subsection (4).
- (6) In this section—
  - “children” means persons who are under the age of 18;
  - “customs function”, “designated customs official” and “general customs function” have the meanings given by Part 1.
- (7) A reference in an enactment (other than this Act) to the Immigration Acts includes a reference to this section.
- (8) Section 21 of the UK Borders Act 2007 (c. 30) (children) ceases to have effect.

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#### Commencement Information

**I2** S. 55 in force at 2.11.2009 by [S.I. 2009/2731](#), [art. 2\(a\)](#)

### General

#### 56 Repeals **U.K.**

The Schedule contains repeals.

#### Commencement Information

**I3** S. 56 partly in force; s. 56 in force for certain purposes at Royal Assent see s. 58

**I4** S. 56 in force at 2.11.2009 for specified purposes by [S.I. 2009/2731](#), [art. 2\(b\)](#)

**I5** S. 56 in force at 13.1.2010 for specified purposes by [S.I. 2009/2731](#), [art. 4\(i\)](#)

#### 57 Extent **U.K.**

- (1) Subject to the following provisions of this section, this Act extends to—
  - (a) England and Wales,
  - (b) Scotland, and
  - (c) Northern Ireland.
- (2) Sections 22 (application of the PACE orders) and 23 (investigations and detention: England and Wales and Northern Ireland) extend to England and Wales and Northern Ireland only.
- (3) An amendment, modification or repeal by this Act has the same extent as the enactment or relevant part of the enactment to which it relates (ignoring extent by virtue of an Order in Council under any of the Immigration Acts).
- (4) Subsection (3) does not apply to—
  - (a) the amendments made by section 52 (detention at ports in Scotland);
  - (b) the amendment made by section 54 (trafficking people for exploitation), which extends to England and Wales and Northern Ireland only.
- (5) Her Majesty may by Order in Council provide for any of the provisions of this Act, other than any provision of Part 1 (border functions) or section 53 (transfer of certain immigration judicial review applications), to extend, with or without modifications, to any of the Channel Islands or the Isle of Man.
- (6) Subsection (5) does not apply in relation to the extension to a place of a provision which extends there by virtue of subsection (3).

#### Modifications etc. (not altering text)

**C1** [S. 57\(5\)](#) power extended (28.4.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), ss. [86\(5\)\(6\)\(k\)](#), [87\(3\)\(c\)](#)

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## 58 Commencement **U.K.**

- (1) Part 1 (border functions) comes into force on the day this Act is passed.
- (2) The provisions of Part 2 (citizenship) come into force on such day as the Secretary of State may by order appoint.
- (3) In Part 3 (immigration)—
  - (a) section 50 (restriction on studies) comes into force on the day this Act is passed;
  - (b) sections 51 (fingerprinting of foreign criminals) and 52 (detention at ports in Scotland) come into force on such day as the Secretary of State may by order appoint.
- (4) In this Part—
  - (a) section 53 (transfer of certain immigration judicial review applications) comes into force on such day as the Lord Chancellor may by order appoint;
  - (b) sections 54 (trafficking people for exploitation) and 55 (duty regarding the welfare of children) come into force on such day as the Secretary of State may by order appoint.
- (5) Any repeal in the Schedule (and section 56 so far as relating to the repeal) comes into force in the same way as the provisions of this Act to which the repeal relates.
- (6) The other provisions of this Part come into force on the day this Act is passed.
- (7) An order under this section must be made by statutory instrument.
- (8) An order under this section—
  - (a) may appoint different days for different purposes;
  - (b) may include transitional or incidental provision or savings.
- (9) An order commencing sections 39 to 41 (acquisition of British citizenship by naturalisation) must include provision that the amendments made by those sections do not have effect in relation to an application for naturalisation as a British citizen if—
  - (a) the date of the application is before the date on which those sections come into force in accordance with the order (“the date of commencement”), or
  - (b) the date of the application is before the end of the period of 24 months beginning with the date of commencement and the application is made by a person who falls within subsection (10) or (11).
- (10) A person falls within this subsection if on the date of commencement the person has indefinite leave to remain in the United Kingdom.
- (11) A person falls within this subsection if the person is given indefinite leave to remain in the United Kingdom on an application—
  - (a) the date of which is before the date of commencement, and
  - (b) which is decided after the date of commencement.
- (12) The reference in subsection (9) to an order commencing sections 39 to 41 does not include an order commencing those sections for the purpose only of enabling regulations to be made under the British Nationality Act 1981 (c. 61).
- (13) In the case of an order commencing sections 39 to 41, transitional provision may, in particular—

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- (a) provide that the qualifying period for the purposes of paragraph 1 or 3 of Schedule 1 to the British Nationality Act 1981 includes time before that commencement;
  - (b) provide for leave to enter or remain in the United Kingdom granted before that commencement to be treated as qualifying temporary residence leave or probationary citizenship leave for the purposes of that Schedule.
- (14) In the case of an order commencing section 45 (acquisition of British citizenship through the female line), transitional provision may, in particular, provide that section 45 is to apply to an application made, but not determined, under section 4C of the British Nationality Act 1981 before that commencement.
- (15) No order may be made commencing section 52 (detention at ports in Scotland) unless the Secretary of State has consulted the Scottish Ministers.
- (16) No order may be made commencing section 53 (transfer of certain immigration judicial review applications) unless the functions of the Asylum and Immigration Tribunal in relation to appeals under Part 5 of the Nationality, Immigration and Asylum Act 2002 (c. 41) have been transferred under section 30(1) of the Tribunals, Courts and Enforcement Act 2007 (c. 15).

**59 Short title** **U.K.**

This Act may be cited as the Borders, Citizenship and Immigration Act 2009.

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**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. 54A(3A)(3B) inserted by [2023 c. 37 s. 14](#)