



# Illegal Migration Act 2023

## 2023 CHAPTER 37

### *Duty to make arrangements for removal*

#### **4 Unaccompanied children and power to provide for exceptions**

- (1) The duty in section 2(1) does not require the Secretary of State to make arrangements for the removal of a person from the United Kingdom at a time when the person is an unaccompanied child.
- (2) The Secretary of State may make arrangements for the removal of a person from the United Kingdom at a time when the person is an unaccompanied child.
- (3) The power in subsection (2) may be exercised only—
  - (a) where the person is to be removed for the purposes of reunion with the person's parent;
  - (b) where the person is to be removed to a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002 (safe States for the purposes of section 80A of that Act) which is—
    - (i) a country of which the person is a national, or
    - (ii) a country in which the person has obtained a passport or other document of identity;
  - (c) where the person has not made a protection claim or a human rights claim and the person is to be removed to—
    - (i) a country of which the person is a national,
    - (ii) a country or territory in which the person has obtained a passport or other document of identity, or
    - (iii) a country or territory in which the person embarked for the United Kingdom;
  - (d) in such other circumstances as may be specified in regulations made by the Secretary of State.
- (4) Regulations under subsection (3)(d) may confer a discretion on the Secretary of State.

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*Changes to legislation: There are currently no known outstanding effects for the Illegal Migration Act 2023, Section 4. (See end of Document for details)*

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- (5) For the purposes of this Act (other than [sections 16 and 17](#)) a person (“C”) is an “unaccompanied child” if—
- (a) C meets the four conditions in [section 2](#),
  - (b) C is under the age of 18, and
  - (c) at the relevant time no individual (whether or not a parent of C) who was aged 18 or over had care of C.
- (6) In subsection (5) “the relevant time” means the time of C’s entry or arrival in the United Kingdom by virtue of which the duty in [section 2\(1\)](#) would apply in relation to C apart from this section.
- (7) The Secretary of State may by regulations make provision for other exceptions from the duty in [section 2\(1\)](#).
- (8) Regulations under subsection (7) may make provision—
- (a) for this Act or any other enactment to have effect with modifications, in relation to a person to whom an exception applies, in consequence of the application of the exception to that person;
  - (b) for an exception, or for any provision made by virtue of [paragraph \(a\)](#), to be treated as having had effect from a time before the coming into force of the regulations.
- (9) Regulations made by virtue of subsection (8)(a) may, in particular, disapply any provision of this Act or any other enactment in relation to a person to whom an exception applies.
- (10) In subsections (8) and (9) “enactment” includes—
- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
  - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
  - (c) an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru;
  - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.
- (11) A statutory instrument containing regulations under subsection (7) must be laid before Parliament after being made.
- (12) Regulations contained in a statutory instrument laid before Parliament under subsection (11) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (13) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
- (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than four days.
- (14) If regulations cease to have effect as a result of subsection (12) that does not—
- (a) affect the validity of anything previously done under the regulations, or
  - (b) prevent the making of new regulations.

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*Changes to legislation: There are currently no known outstanding effects for the Illegal Migration Act 2023, Section 4. (See end of Document for details)*

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(15) In this Act—

“human rights claim” has the meaning given by section 113(1) of the Nationality, Immigration and Asylum Act 2002;

“national” includes citizen;

“protection claim” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002.

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**Commencement Information**

**II** S. 4 in force at Royal Assent for specified purposes, see [s. 68\(4\)\(b\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Illegal Migration Act 2023, Section 4.