



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 4

#### DETENTION AND REMOVAL

##### *Removal*

#### **[<sup>F1</sup>78A Restriction on removal of children and their parents etc**

- (1) This section applies in a case where—
  - (a) a child 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 (a “relevant parent or carer”).
- (2) During the period of 28 days beginning with the day on which the relevant appeal rights are exhausted—
  - (a) the child may not be removed from or required to leave the United Kingdom; and
  - (b) a relevant parent or carer may not be removed from or required to leave the United Kingdom if, as a result, no relevant parent or carer would remain in the United Kingdom.
- (3) The relevant appeal rights are exhausted at the time when—
  - (a) neither the child, nor any relevant parent or carer, could bring an appeal under section 82 (ignoring any possibility of an appeal out of time with permission), and

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Section 78A is up to date with all changes known to be in force on or before 08 May 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](#)

- (b) no appeal brought by the child, or by any relevant parent or carer, is pending within the meaning of section 104.
- (4) Nothing in this section prevents any of the following during the period of 28 days mentioned in subsection (2)—
- (a) the giving of a direction for the removal of a person from the United Kingdom,
  - (b) the making of a deportation order in respect of a person, or
  - (c) the taking of any other interim or preparatory action.
- (5) In this section—
- “child” means a person who is aged under 18;
  - 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

**F1** S. 78A inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 2, 75(3)**; S.I. 2014/1820, art. 3(a)

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

**C1** **Ss. 78-79** applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), **Sch. 2 paras. 1-3** (as amended (8.5.2023) by [The Immigration \(Citizens’ Rights Appeals\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/441\)](#), **reg. 7(2)**)

### Changes to legislation:

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- s. 18(1)(1A) substituted for s. 18(1) by [2016 c. 19 Sch. 11 para. 31\(2\)](#)
- s. 22A inserted by [2022 c. 36 s. 13\(7\)](#)
- s. 27(ba) inserted by [2022 c. 36 s. 13\(10\)](#)
- s. 51(2)(d) and word inserted by [2016 c. 19 Sch. 11 para. 26\(6\)](#)
- s. 55(2)(aa) inserted by [2016 c. 19 Sch. 11 para. 26\(7\)](#)
- s. 62(3A) inserted by [2023 c. 37 s. 11\(8\)](#)
- s. 80A(5A) inserted by [2023 c. 37 s. 10\(8\)](#)
- s. 82A inserted by [2022 c. 36 s. 23\(1\)](#)
- s. 94(6B) inserted by [2006 c. 13 s. 13](#)
- s. 106(2)(ua) inserted by [2007 c. 30 s. 19\(3\)](#)
- s. 107(2A) inserted by [2022 c. 36 Sch. 3 para. 5\(a\)](#)
- s. 126(2A) inserted by [S.I. 2019/745 reg. 12\(3\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). [Reg. 12\(2\)\(3\)](#) omitted immediately before IP completion day by virtue of [S.I. 2020/1309](#), regs. 1(2)(a), 48)
- [Sch. 3 para. 1\(1\)\(ga\)](#) inserted by [2016 c. 19 Sch. 12 para. 2\(2\)](#) (This Act is amended by [S.I. 2020/1309](#), [Sch. 1 para. 3\(a\)](#))
- [Sch. 3 para. 1\(2A\)](#) inserted by [2016 c. 19 Sch. 12 para. 2\(4\)](#) (This Act is amended by [S.I. 2020/1309](#), [Sch. 1 para. 3\(b\)](#))
- [Sch. 3 para. 1A](#) inserted by [2016 c. 19 Sch. 12 para. 3](#)
- [Sch. 3 para. 2\(1\)\(ca\)](#) inserted by [2016 c. 19 Sch. 12 para. 4\(3\)](#)
- [Sch. 3 para. 2A](#) inserted by [2016 c. 19 Sch. 12 para. 5](#)
- [Sch. 3 para. 3A-3C](#) inserted by [2016 c. 19 Sch. 12 para. 6](#)
- [Sch. 3 para. 7B7C](#) and cross-headings inserted by [2016 c. 19 Sch. 12 para. 9](#)
- [Sch. 3 para. 10A10B](#) inserted by [2016 c. 19 Sch. 12 para. 10](#) (This Act is amended by [S.I. 2020/1309](#), [Sch. 1 para. 3\(c\)](#))
- [Sch. 3 para. 15\(aa\)](#) inserted by [2016 c. 19 Sch. 12 para. 14\(2\)](#)
- [Sch. 3 para. 15\(d\)-\(f\)](#) inserted by [2016 c. 19 Sch. 12 para. 14\(4\)](#)
- [Sch. 3 para. 7C\(1\)\(c\)](#) word substituted by [S.I. 2019/745 reg. 12\(5\)\(d\)](#) (This amendment not applied to [legislation.gov.uk](#). [Reg. 12\(5\)\(a\)\(c\)\(d\)](#) omitted immediately before IP completion day by virtue of [S.I. 2020/1309](#), regs. 1(2)(a), 48)
- [Sch. 5 para. 3\(1\)](#) [Sch. 5 para. 3](#) renumbered as [Sch. 5 para. 3\(1\)](#) by [2005 c. 4 Sch. 4 para. 407\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). The "original amending provision" is already fully in force, see [Sch. 4 paras. 361, 407\(5\)](#))
- [Sch. 5 para. 3\(2\)-\(4\)](#) inserted by [2005 c. 4 Sch. 4 para. 407\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). The "original amending provision" is already fully in force, see [Sch. 4 paras. 361, 407\(5\)](#))
- [Sch. 5 para. 3\(1\)](#) words inserted by [2005 c. 4 Sch. 4 para. 407\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). The "original amending provision" is already fully in force, see [Sch. 4 paras. 361, 407\(5\)](#))