



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART I

IMMIGRATION: GENERAL

Removal from the United Kingdom

9 Treatment of certain overstayers.

- (1) During the regularisation period overstayers may apply, in the prescribed manner, for leave to remain in the United Kingdom.
- (2) The regularisation period begins on the day prescribed for the purposes of this subsection and is not to be less than three months.
- (3) The regularisation period ends—
 - (a) on the day prescribed for the purposes of this subsection; or
 - (b) if later, on the day before that on which section 65 comes into force.
- (4) Section 10 and paragraph 12 of Schedule 15 come into force on the day after that on which the regularisation period ends
- (5) The Secretary of State must publicise the effect of this section in the way appearing to him to be best calculated to bring it to the attention of those affected.
- (6) “Overstayer” means a person who, having only limited leave to enter or remain in the United Kingdom, remains beyond the time limited by the leave.

10 Removal of certain persons unlawfully in the United Kingdom.

- (1) A person who is not a British citizen may be removed from the United Kingdom, in accordance with directions given by an immigration officer, if—
 - (a) having only a limited leave to enter or remain, he does not observe a condition attached to the leave or remains beyond the time limited by the leave;

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- [^{F1}(b) he uses deception in seeking (whether successfully or not) leave to remain;]
- [^{F2}(ba) his indefinite leave to enter or remain has been revoked under section 76(3) of the Nationality, Immigration and Asylum Act 2002 (person ceasing to be refugee);]
- (c) directions ^{F3}... have been given for the removal, under this section, of a person (“the other person”) to whose family he belongs.
- (2) Directions may not be given under subsection (1)(a) if the person concerned has made an application for leave to remain in accordance with regulations made under section 9.
- [^{F4}(3) Directions for the removal of a person may not be given under subsection (1)(c) unless the Secretary of State has given the person written notice of the intention to remove him.
- (4) A notice under subsection (3) may not be given if—
- the person whose removal under subsection (1)(a) or (b) is the cause of the proposed directions under subsection (1)(c) has left the United Kingdom, and
 - more than eight weeks have elapsed since that person’s departure.
- (5) If a notice under subsection (3) is sent by first class post to a person’s last known address, that subsection shall be taken to be satisfied at the end of the second day after the day of posting.
- (5A) Directions for the removal of a person under subsection (1)(c) cease to have effect if he ceases to belong to the family of the person whose removal under subsection (1) (a) or (b) is the cause of the directions under subsection (1)(c).]
- (6) Directions under this section—
- may be given only to persons falling within a prescribed class;
 - may impose any requirements of a prescribed kind.
- (7) In relation to any such directions, paragraphs 10, 11, 16 to 18, 21 and 22 to 24 of Schedule 2 to the 1971 Act (administrative provisions as to control of entry), apply as they apply in relation to directions given under paragraph 8 of that Schedule.
- (8) Directions for the removal of a person given under this section invalidate any leave to enter or remain in the United Kingdom given to him before the directions are given or while they are in force.
- (9) The costs of complying with a direction given under this section (so far as reasonably incurred) must be met by the Secretary of State.
- [^{F5}(10) A person shall not be liable to removal from the United Kingdom under this section at a time when section 7(1)(b) of the Immigration Act 1971 (Commonwealth and Irish citizens ordinarily resident in United Kingdom) would prevent a decision to deport him.]

Textual Amendments

- F1** S. 10(1)(b) substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 74, 162\(1\)](#) (with [s. 159](#)); [S.I. 2003/1](#), [art. 2](#), [Sch.](#)
- F2** S. 10(1)(ba) inserted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 76\(7\), 162\(1\)](#) (with [s. 159](#)); [S.I. 2003/1](#), [art. 2](#), [Sch.](#)
- F3** Words in s. 10(1)(c) repealed (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 73\(3\), 162\(1\)](#), [Sch. 9](#) (with [s. 159](#)); [S.I. 2003/1](#), [art. 2](#), [Sch.](#)

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- F4** S. 10(3)-(5A) substituted for s. 10(3)-(5) (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 73\(4\), 162\(1\)](#) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F5** S. 10(10) added (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 75\(4\), 162\(1\)](#) (with s. 159); S.I. 2003/1, art. 2, Sch.

Modifications etc. (not altering text)

- C1** S. 10 extended (14.12.2001) by [2001 c. 24, ss. 22\(1\)\(2\)\(i\)\(3\)](#), 127(2)
- C2** S. 10 restricted (2.10.2000) by [S.I. 2000/2444, art. 3, Sch. 2 para. 1\(2\)](#)
S. 10 applied (2.10.2000) by [S.I. 2000/2326, regs. 9, 26\(2\)](#)
S. 10 restricted (2.10.2000) by [S.I. 2000/2326, reg. 34\(2\)\(10\)](#) (with application as mentioned in regs. 9, 28 of the said S.I.)
- C3** S. 10 excluded (14.3.2003) by [Nationality, Immigration and Asylum Act 2002 \(Commencement No.4\) Order 2003 \(S.I. 2003/754\), Sch. 2 para. 6\(2\)](#)
- C4** S. 10 restricted by [S.I. 2000/2326, reg. 32\(2\)](#) (as substituted (1.4.2003) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\), regs. 1, 2\(8\)](#) (with reg. 3(1)))

Commencement Information

- I1** S. 10 wholly in force at 2.10.2000; s. 10 not in force at Royal Assent see s. 170(4); s. 10(6) in force at 22.5.2000 by [S.I. 2000/1282, art. 2, Sch.](#); s. 10 in force so far as not already in force at 2.10.2000 by virtue of [S.I. 2000/265, reg. 3](#) and [S.I. 2000/2444, art. 2, Sch. 1](#) (subject to arts. 3,4, Sch. 2)

[^{F6}11] Removal of asylum claimant under standing arrangement with member States

- (1) In determining whether a person in relation to whom a certificate has been issued under subsection (2) may be removed from the United Kingdom, a member State is to be regarded as—
- a place where a person's life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular social group, or political opinion; and
 - a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention.
- (2) Nothing in section 77 of the Nationality, Immigration and Asylum Act 2002 prevents a person who has made a claim for asylum (“the claimant”) from being removed from the United Kingdom to a member State if the Secretary of State has certified that—
- the member State has accepted that, under standing arrangements, it is the responsible State in relation to the claimant's claim for asylum; and
 - in his opinion, the claimant is not a national or citizen of the member State to which he is to be sent.
- (3) Subsection (4) applies where a person who is the subject of a certificate under subsection (2)—
- has instituted or could institute an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 (immigration appeal), and
 - has made a human rights claim (within the meaning of section 113 of that Act).
- (4) The person may not be removed from the United Kingdom in reliance upon this section unless—
- the appeal is finally determined, withdrawn or abandoned (within the meaning of section 104 of that Act) or can no longer be brought (ignoring any possibility of an appeal out of time with permission), or

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- (b) the Secretary of State has issued a certificate in relation to the human rights claim under section 93(2)(b) of that Act (clearly unfounded claim).
- (5) In this section “standing arrangements” means arrangements in force between two or more member States for determining which State is responsible for considering applications for asylum.]

Textual Amendments

F6 S. 11 substituted (8.12.2002 for specified purposes, 1.4.2003 in so far as not already in force) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), **ss. 80, 162(1)** (with s. 159); [S.I. 2002/2811](#), **art. 2, Sch. (with art. 3)**; [S.I. 2003/754](#), **art. 2(1), Sch. 1** (with arts. 3, 4, Sch. 2 para. 6)

12 Removal of asylum claimants in other circumstances.

- (1) Subsection (2) applies if the Secretary of State intends to remove a person who has made a claim for asylum (“the claimant”) from the United Kingdom to—
- (a) a member State, or a territory which forms part of a member State, otherwise than under standing arrangements; or
 - (b) a country other than a member State which is designated by order made by the Secretary of State for the purposes of this section.
- (2) Nothing in section 15 prevents the claimant’s removal if—
- (a) the Secretary of State has certified that, in his opinion, the conditions set out in subsection (7) are fulfilled;
 - (b) the certificate has not been set aside on an appeal under section 65.
- (3) Unless a certificate has been issued under section 72(2)(a) in relation to a person, he is not to be removed from the United Kingdom—
- (a) if he has an appeal under section 65 against the decision to remove him in accordance with subsection (2) pending; or
 - (b) before the time for giving notice of such an appeal has expired.
- (4) Subsection (5) applies if the Secretary of State intends to remove a person who has made a claim for asylum (“the claimant”) from the United Kingdom to a country which is not—
- (a) a member State; or
 - (b) a country designated under subsection (1)(b).
- (5) Nothing in section 15 prevents the claimant’s removal if—
- (a) the Secretary of State has certified that, in his opinion, the conditions set out in subsection (7) are fulfilled;
 - (b) the certificate has not been set aside on an appeal under section 65 or 71; and
 - (c) the time for giving notice of such an appeal has expired and no such appeal is pending.
- (6) For the purposes of subsection (5)(c), an appeal under section 65 is not to be regarded as pending if the Secretary of State has issued a certificate under section 72(2)(a) in relation to the allegation on which it is founded.
- (7) The conditions are that—
- (a) he is not a national or citizen of the country to which he is to be sent;

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- (b) his life and liberty would not be threatened there by reason of his race, religion, nationality, membership of a particular social group, or political opinion; and
 - (c) the government of that country would not send him to another country otherwise than in accordance with the Refugee Convention.
- (8) “Standing arrangements” has the same meaning as in section 11.

Commencement Information

I2 S. 12 wholly in force; s. 12 not in force at Royal Assent see s. 170(4); s. 12(1) in force for certain purposes at 22.5.2000 by S.I. 2000/1282, art. 2, Sch.; s. 12 in force so far as not already in force at 2.10.2000 by S.I. 2000/2444, art. 2, Sch. 1 (subject to arts. 3, 4, Sch. 2)

13 Proof of identity of persons to be removed or deported.

- (1) This section applies if a person—
- (a) is to be removed from the United Kingdom to a country of which he is a national or citizen; but
 - (b) does not have a valid passport or other document establishing his identity and nationality or citizenship and permitting him to travel.
- (2) If the country to which the person is to be removed indicates that he will not be admitted to it unless identification data relating to him are provided by the Secretary of State, he may provide them with such data.
- (3) In providing identification data, the Secretary of State must not disclose whether the person concerned has made a claim for asylum.
- (4) For the purposes of paragraph 4(1) of Schedule 4 to the ^{M1}Data Protection Act 1998, the provision under this section of identification data is a transfer of personal data which is necessary for reasons of substantial public interest.
- (5) “Identification data” means—
- (a) fingerprints taken under section 141; or
 - (b) data collected in accordance with regulations made under section 144.
- (6) “Removed” means removed as a result of directions given under section 10 or under Schedule 2 or 3 to the 1971 Act.

Marginal Citations

M1 1998 c.29.

14 Escorts for persons removed from the United Kingdom under directions.

- (1) Directions for, or requiring arrangements to be made for, the removal of a person from the United Kingdom may include or be amended to include provision for the person who is to be removed to be accompanied by an escort consisting of one or more persons specified in the directions.
- (2) The Secretary of State may by regulations make further provision supplementing subsection (1).

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- (3) The regulations may, in particular, include provision—
 - (a) requiring the person to whom the directions are given to provide for the return of the escort to the United Kingdom;
 - (b) requiring him to bear such costs in connection with the escort (including, in particular, remuneration) as may be prescribed;
 - (c) as to the cases in which the Secretary of State is to bear those costs;
 - (d) prescribing the kinds of expenditure which are to count in calculating the costs incurred in connection with escorts.

F7 15 Protection of claimants from removal or deportation.

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Textual Amendments

F7 S. 15 repealed (1.4.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 77\(5\), 162\(1\), Sch. 9](#) (with s. 159); [S.I. 2003/754, art. 2\(1\), Sch. 1](#) (with arts. 3, 4, Sch. 2 paras. 1(2), 5)

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