



# Anti-terrorism, Crime and Security Act 2001

## 2001 CHAPTER 24

### PART 4

#### IMMIGRATION AND ASYLUM

##### *Suspected international terrorists*

#### **21 Suspected international terrorist: certification**

- (1) The Secretary of State may issue a certificate under this section in respect of a person if the Secretary of State reasonably—
  - (a) believes that the person's presence in the United Kingdom is a risk to national security, and
  - (b) suspects that the person is a terrorist.
- (2) In subsection (1)(b) "terrorist" means a person who—
  - (a) is or has been concerned in the commission, preparation or instigation of acts of international terrorism,
  - (b) is a member of or belongs to an international terrorist group, or
  - (c) has links with an international terrorist group.
- (3) A group is an international terrorist group for the purposes of subsection (2)(b) and (c) if—
  - (a) it is subject to the control or influence of persons outside the United Kingdom, and
  - (b) the Secretary of State suspects that it is concerned in the commission, preparation or instigation of acts of international terrorism.
- (4) For the purposes of subsection (2)(c) a person has links with an international terrorist group only if he supports or assists it.

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- (5) In this Part—
- “terrorism” has the meaning given by section 1 of the Terrorism Act 2000 (c. 11), and
- “suspected international terrorist” means a person certified under subsection (1).
- (6) Where the Secretary of State issues a certificate under subsection (1) he shall as soon as is reasonably practicable—
- (a) take reasonable steps to notify the person certified, and
  - (b) send a copy of the certificate to the Special Immigration Appeals Commission.
- (7) The Secretary of State may revoke a certificate issued under subsection (1).
- (8) A decision of the Secretary of State in connection with certification under this section may be questioned in legal proceedings only under section 25 or 26.
- (9) An action of the Secretary of State taken wholly or partly in reliance on a certificate under this section may be questioned in legal proceedings only by or in the course of proceedings under—
- (a) section 25 or 26, or
  - (b) section 2 of the Special Immigration Appeals Commission Act 1997 (c. 68) (appeal).

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

- C1** [Ss. 21-23](#) continued in force in accordance with s. 29(2)(c) of this Act for a period of one year beginning with 14th March 2003 by [S.I. 2003/691](#), [art. 2](#)
- [Ss. 21-23](#) continued in force in accordance with s. 29(2)(c) of this Act for a period of one year beginning with 14th March 2004 by [S.I. 2004/751](#), [art. 2](#)

**22 Deportation, removal, &c.**

- (1) An action of a kind specified in subsection (2) may be taken in respect of a suspected international terrorist despite the fact that (whether temporarily or indefinitely) the action cannot result in his removal from the United Kingdom because of—
- (a) a point of law which wholly or partly relates to an international agreement, or
  - (b) a practical consideration.
- (2) The actions mentioned in subsection (1) are—
- (a) refusing leave to enter or remain in the United Kingdom in accordance with provision made by or by virtue of any of sections 3 to 3B of the Immigration Act 1971 (c. 77) (control of entry to United Kingdom),
  - (b) varying a limited leave to enter or remain in the United Kingdom in accordance with provision made by or by virtue of any of those sections,
  - (c) recommending deportation in accordance with section 3(6) of that Act (recommendation by court),
  - (d) taking a decision to make a deportation order under section 5(1) of that Act (deportation by Secretary of State),
  - (e) making a deportation order under section 5(1) of that Act,
  - (f) refusing to revoke a deportation order,

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- (g) cancelling leave to enter the United Kingdom in accordance with paragraph 2A of Schedule 2 to that Act (person arriving with continuous leave),
  - (h) giving directions for a person's removal from the United Kingdom under any of paragraphs 8 to [F<sup>1</sup>10A] or 12 to 14 of Schedule 2 to that Act (control of entry to United Kingdom),
  - (i) giving directions for a person's removal from the United Kingdom under section 10 of the Immigration and Asylum Act 1999 (c. 33) (person unlawfully in United Kingdom), and
  - (j) giving notice to a person in accordance with regulations under [F<sup>2</sup>section 105 of the Nationality, Immigration and Asylum Act 2002] of a decision to make a deportation order against him.
- (3) Action of a kind specified in subsection (2) which has effect in respect of a suspected international terrorist at the time of his certification under section 21 shall be treated as taken again (in reliance on subsection (1) above) immediately after certification.

#### Textual Amendments

- F1** Word in s. 22(2)(h) substituted (4.4.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Consequential and Incidental Provisions\) Order 2003 \(S.I. 2003/1016\)](#), arts. 2, 3, **Sch. para. 15(1)**
- F2** Words in s. 22(2)(j) substituted (4.4.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Consequential and Incidental Provisions\) Order 2003 \(S.I. 2003/1016\)](#), arts. 2, 3, **Sch. para. 15(2)**

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

- C2** [Ss. 21-23](#) continued in force in accordance with s. 29(2)(c) of this Act for a period of one year beginning with 14th March 2003 by [S.I. 2003/691](#), **art. 2**
- [Ss. 21-23](#) continued in force in accordance with s. 29(2)(c) of this Act for a period of one year beginning with 14th March 2004 by [S.I. 2004/751](#), **art. 2**

## 23 Detention

- (1) A suspected international terrorist may be detained under a provision specified in subsection (2) despite the fact that his removal or departure from the United Kingdom is prevented (whether temporarily or indefinitely) by—
- (a) a point of law which wholly or partly relates to an international agreement, or
  - (b) a practical consideration.
- (2) The provisions mentioned in subsection (1) are—
- (a) paragraph 16 of Schedule 2 to the Immigration Act 1971 (c. 77) (detention of persons liable to examination or removal), <sup>F<sup>3</sup></sup> . . .
  - (b) paragraph 2 of Schedule 3 to that Act (detention pending deportation)[<sup>F<sup>4</sup></sup>, and
  - (c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State).]

#### Textual Amendments

- F3** Words in s. 23(2)(a) omitted (10.2.2003) by virtue of [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), **ss. 62(15)(a)**, 162(1) (with s. 159); [S.I. 2003/1](#), **art. 2**, **Sch.**
- F4** [S. 23\(2\)\(c\)](#) and preceding word inserted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), **ss. 62(15)(b)**, 162(1) (with s. 159); [S.I. 2003/1](#), **art. 2**, **Sch.**

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

- C3** Ss. 21-23 continued in force in accordance with s. 29(2)(c) of this Act for a period of one year beginning with 14th March 2003 by S.I. 2003/691, [art. 2](#)  
 Ss. 21-23 continued in force in accordance with s. 29(2)(c) of this Act for a period of one year beginning with 14th March 2004 by S.I. 2004/751, [art. 2](#)

## 24 Bail

- (1) A suspected international terrorist who is detained under a provision of the Immigration Act 1971 [<sup>F5</sup>, or under section 62 of the Nationality, Immigration and Asylum Act 2002,] may be released on bail.
- (2) For the purpose of subsection (1) the following provisions of Schedule 2 to the Immigration Act 1971 (control on entry) shall apply with the modifications specified in Schedule 3 to the Special Immigration Appeals Commission Act 1997 (c. 68) (bail to be determined by Special Immigration Appeals Commission) and with any other necessary modifications—
- paragraph 22(1A), (2) and (3) (release),
  - paragraph 23 (forfeiture),
  - paragraph 24 (arrest), and
  - paragraph 30(1) (requirement of Secretary of State's consent).
- (3) Rules of procedure under the Special Immigration Appeals Commission Act 1997 (c. 68)—
- may make provision in relation to release on bail by virtue of this section, and
  - subject to provision made by virtue of paragraph (a), shall apply in relation to release on bail by virtue of this section as they apply in relation to release on bail by virtue of that Act subject to any modification which the Commission considers necessary.
- [<sup>F6</sup>(4) Where the Special Immigration Appeals Commission determines an application for bail, the applicant or a person who made representations to the Commission about the application may appeal on a question of law to the appropriate appeal court.
- (5) Section 7(2) and (3) of the Special Immigration Appeals Commission Act 1997 (c. 68) (appeals from Commission) shall have effect for the purposes of an appeal under subsection (4) above.]

#### Textual Amendments

- F5** Words in s. 24(1) inserted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 62\(16\)](#), [162\(1\)](#) (with s. 159); S.I. 2003/1 {art. 2}, Sch.
- F6** S. 24(4)(5) added ( with effect in relation to determinations of the Special Immigration Appeals Commission made after 22.9.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 32\(1\)](#), [48\(1\)-\(3\)](#)

## 25 Certification: appeal

- (1) A suspected international terrorist may appeal to the Special Immigration Appeals Commission against his certification under section 21.

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- (2) On an appeal the Commission must cancel the certificate if—
  - (a) it considers that there are no reasonable grounds for a belief or suspicion of the kind referred to in section 21(1)(a) or (b), or
  - (b) it considers that for some other reason the certificate should not have been issued.
- (3) If the Commission determines not to cancel a certificate it must dismiss the appeal.
- (4) Where a certificate is cancelled under subsection (2) it shall be treated as never having been issued.
- (5) An appeal against certification may be commenced only—
  - (a) within the period of three months beginning with the date on which the certificate is issued, or
  - (b) with the leave of the Commission, after the end of that period but before the commencement of the first review under section 26.

## **26 Certification: review**

- (1) The Special Immigration Appeals Commission must hold a first review of each certificate issued under section 21 as soon as is reasonably practicable after the expiry of the period of six months beginning with the date on which the certificate is issued.
- (2) But—
  - (a) in a case where before the first review would fall to be held in accordance with subsection (1) an appeal under section 25 is commenced (whether or not it is finally determined before that time) or leave to appeal is given under section 25(5)(b), the first review shall be held as soon as is reasonably practicable after the expiry of the period of six months beginning with the date on which the appeal is finally determined, and
  - (b) in a case where an application for leave under section 25(5)(b) has been commenced but not determined at the time when the first review would fall to be held in accordance with subsection (1), if leave is granted the first review shall be held as soon as is reasonably practicable after the expiry of the period of six months beginning with the date on which the appeal is finally determined.
- (3) The Commission must review each certificate issued under section 21 as soon as is reasonably practicable after the expiry of the period of three months beginning with the date on which the first review or a review under this subsection is finally determined.
- (4) The Commission may review a certificate during a period mentioned in subsection (1), (2) or (3) if—
  - (a) the person certified applies for a review, and
  - (b) the Commission considers that a review should be held because of a change in circumstance.
- (5) On a review the Commission—
  - (a) must cancel the certificate if it considers that there are no reasonable grounds for a belief or suspicion of the kind referred to in section 21(1)(a) or (b), and
  - (b) otherwise, may not make any order (save as to leave to appeal).

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- (6) A certificate cancelled by order of the Commission under subsection (5) ceases to have effect at the end of the day on which the order is made.
- (7) Where the Commission reviews a certificate under subsection (4), the period for determining the next review of the certificate under subsection (3) shall begin with the date of the final determination of the review under subsection (4).

## 27 **Appeal and review: supplementary**

- (1) The following provisions of the Special Immigration Appeals Commission Act 1997 (c. 68) shall apply in relation to an appeal or review under section 25 or 26 as they apply in relation to an appeal under section 2 of that Act—
  - (a) section 6 (person to represent appellant's interests),
  - (b) section 7 (further appeal on point of law), and
  - (c) section 7A (pending appeal).
- (2) The reference in subsection (1) to an appeal or review does not include a reference to a decision made or action taken on or in connection with—
  - (a) an application under section 25(5)(b) or 26(4)(a) of this Act, or
  - (b) subsection (8) below.
- (3) Subsection (4) applies where—
  - (a) a further appeal is brought by virtue of subsection (1)(b) in connection with an appeal or review, and
  - (b) the Secretary of State notifies the Commission that in his opinion the further appeal is confined to calling into question one or more derogation matters within the meaning of section 30 of this Act.
- (4) For the purpose of the application of section 26(2) and (3) of this Act the determination by the Commission of the appeal or review in connection with which the further appeal is brought shall be treated as a final determination.
- (5) Rules under section 5 or 8 of the Special Immigration Appeals Commission Act 1997 (general procedure; and leave to appeal) may make provision about an appeal, review or application under [F7section 24, 25 or 26 of this Act] .
- (6) Subject to any provision made by virtue of subsection (5), rules under section 5 or 8 of that Act shall apply in relation to an appeal, review or application under [F7section 24, 25 or 26 of this Act] with any modification which the Commission considers necessary.
- (7) Subsection (8) applies where the Commission considers that an appeal or review under section 25 or 26 which relates to a person's certification under section 21 is likely to raise an issue which is also likely to be raised in other proceedings before the Commission which relate to the same person.
- (8) The Commission shall so far as is reasonably practicable—
  - (a) deal with the two sets of proceedings together, and
  - (b) avoid or minimise delay to either set of proceedings as a result of compliance with paragraph (a).
- (9) Cancellation by the Commission of a certificate issued under section 21 shall not prevent the Secretary of State from issuing another certificate, whether on the grounds of a change of circumstance or otherwise.

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[<sup>F8</sup>(10) The reference in section 110 of the Nationality, Immigration and Asylum Act 2002 (immigration and asylum appeal: grant to voluntary organisation) to persons who have rights of appeal under Part 5 of that Act shall be treated as including a reference to suspected international terrorists.]

#### Textual Amendments

- F7** Words in s. 27(5)(6) substituted (22.9.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), **ss. 32(2)**, 48(1)-(3)
- F8** S. 27(10) substituted (1.4.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), **ss. 114**, 162(1), **Sch. 7 para. 30** (with s. 159); [S.I. 2003/754](#), **art. 2**, **Sch. 1** (with arts. 3, 4, **Sch. 2** (as amended by [S.I. 2003/1040](#) and [S.I. 2003/1339](#)))

## 28 Review of sections 21 to 23

- (1) The Secretary of State shall appoint a person to review the operation of sections 21 to 23.
- (2) The person appointed under subsection (1) shall review the operation of those sections not later than—
  - (a) the expiry of the period of 14 months beginning with the day on which this Act is passed;
  - (b) one month before the expiry of a period specified in accordance with section 29(2)(b) or (c).
- (3) Where that person conducts a review under subsection (2) he shall send a report to the Secretary of State as soon as is reasonably practicable.
- (4) Where the Secretary of State receives a report under subsection (3) he shall lay a copy of it before Parliament as soon as is reasonably practicable.
- (5) The Secretary of State may make payments to a person appointed under subsection (1).

## 29 Duration of sections 21 to 23

- (1) Sections 21 to 23 shall, subject to the following provisions of this section, expire at the end of the period of 15 months beginning with the day on which this Act is passed.
- (2) The Secretary of State may by order—
  - (a) repeal sections 21 to 23;
  - (b) revive those sections for a period not exceeding one year;
  - (c) provide that those sections shall not expire in accordance with subsection (1) or an order under paragraph (b) or this paragraph, but shall continue in force for a period not exceeding one year.
- (3) An order under subsection (2)—
  - (a) must be made by statutory instrument, and
  - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

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- (4) An order may be made without compliance with subsection (3)(b) if it contains a declaration by the Secretary of State that by reason of urgency it is necessary to make the order without laying a draft before Parliament; in which case the order—
  - (a) must be laid before Parliament, and
  - (b) shall cease to have effect at the end of the period specified in subsection (5) unless the order is approved during that period by resolution of each House of Parliament.
- (5) The period referred to in subsection (4)(b) is the period of 40 days—
  - (a) beginning with the day on which the order is made, and
  - (b) ignoring any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (6) The fact that an order ceases to have effect by virtue of subsection (4)—
  - (a) shall not affect the lawfulness of anything done before the order ceases to have effect, and
  - (b) shall not prevent the making of a new order.
- (7) Sections 21 to 23 shall by virtue of this subsection cease to have effect at the end of 10th November 2006.

### **30 Legal proceedings: derogation**

- (1) In this section “derogation matter” means—
  - (a) a derogation by the United Kingdom from Article 5(1) of the Convention on Human Rights which relates to the detention of a person where there is an intention to remove or deport him from the United Kingdom, or
  - (b) the designation under section 14(1) of the Human Rights Act 1998 (c. 42) of a derogation within paragraph (a) above.
- (2) A derogation matter may be questioned in legal proceedings only before the Special Immigration Appeals Commission; and the Commission—
  - (a) is the appropriate tribunal for the purpose of section 7 of the Human Rights Act 1998 in relation to proceedings all or part of which call a derogation matter into question; and
  - (b) may hear proceedings which could, but for this subsection, be brought in the High Court or the Court of Session.
- (3) In relation to proceedings brought by virtue of subsection (2)—
  - (a) section 6 of the Special Immigration Appeals Commission Act 1997 (c. 68) (person to represent appellant’s interests) shall apply with the reference to the appellant being treated as a reference to any party to the proceedings,
  - (b) rules under section 5 or 8 of that Act (general procedure; and leave to appeal) shall apply with any modification which the Commission considers necessary, and
  - (c) in the case of proceedings brought by virtue of subsection (2)(b), the Commission may do anything which the High Court may do (in the case of proceedings which could have been brought in that court) or which the Court of Session may do (in the case of proceedings which could have been brought in that court).



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- (4) The Commission's power to award costs (or, in Scotland, expenses) by virtue of subsection (3)(c) may be exercised only in relation to such part of proceedings before it as calls a derogation matter into question.
- (5) In relation to proceedings brought by virtue of subsection (2)(a) or (b)—
- (a) an appeal may be brought to the appropriate appeal court (within the meaning of section 7 of the Special Immigration Appeals Commission Act 1997 (c. 68)) with the leave of the Commission or, if that leave is refused, with the leave of the appropriate appeal court, and
  - (b) the appropriate appeal court may consider and do only those things which it could consider and do in an appeal brought from the High Court or the Court of Session in proceedings for judicial review.
- (6) In relation to proceedings which are entertained by the Commission under subsection (2) but are not brought by virtue of subsection (2)(a) or (b), subsection (4) shall apply in so far as the proceedings call a derogation matter into question.
- (7) In this section “the Convention on Human Rights” has the meaning given to “the Convention” by section 21(1) of the Human Rights Act 1998 (c. 42).

### **31 Interpretation**

A reference in section 22, 23 or 24 to a provision of the Immigration Act 1971 (c. 77) includes a reference to that provision as applied by—

- (a) another provision of that Act, or
- (b) another Act.

### **32 Channel Islands and Isle of Man**

Her Majesty may by Order in Council direct that sections 21 to 31 shall extend, with such modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.

**Status:**

Point in time view as at 05/10/2004.

**Changes to legislation:**

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