



# Immigration Act 2014

## 2014 CHAPTER 22

### PART 3

#### ACCESS TO SERVICES ETC

### CHAPTER 1

#### RESIDENTIAL TENANCIES

#### *Key interpretation*

#### **20 Residential tenancy agreement**

- (1) This section applies for the purposes of this Chapter.
- (2) “Residential tenancy agreement” means a tenancy which—
  - (a) grants a right of occupation of premises for residential use,
  - (b) provides for payment of rent (whether or not a market rent), and
  - (c) is not an excluded agreement.
- (3) In subsection (2), “tenancy” includes—
  - (a) any lease, licence, sub-lease or sub-tenancy, and
  - (b) an agreement for any of those things,and in this Chapter references to “landlord” and “tenant”, and references to premises being “leased”, are to be read accordingly.
- (4) For the purposes of subsection (2)(a), an agreement grants a right of occupation of premises “for residential use” if, under the agreement, one or more adults have the right to occupy the premises as their only or main residence (whether or not the premises may also be used for other purposes).
- (5) In subsection (2)(b) “rent” includes any sum paid in the nature of rent.

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- (6) In subsection (2)(c) “excluded agreement” means any agreement of a description for the time being specified in Schedule 3.
- (7) The Secretary of State may by order amend Schedule 3 so as to—
  - (a) add a new description of excluded agreement,
  - (b) remove any description, or
  - (c) amend any description.

**Commencement Information**

**I1** S. 20 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(a)**

**I2** S. 20 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(a)**

**21 Persons disqualified by immigration status or with limited right to rent**

- (1) For the purposes of this Chapter, a person (“P”) is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement if—
  - (a) P is not a relevant national, and
  - (b) P does not have a right to rent in relation to the premises.
- (2) P does not have a “right to rent” in relation to premises if—
  - (a) P requires leave to enter or remain in the United Kingdom but does not have it, or
  - (b) P's leave to enter or remain in the United Kingdom is subject to a condition preventing P from occupying the premises.
- (3) But P is to be treated as having a right to rent in relation to premises (in spite of subsection (2)) if the Secretary of State has granted P permission for the purposes of this Chapter to occupy premises under a residential tenancy agreement.
- (4) References in this Chapter to a person with a “limited right to rent” are references to—
  - (a) a person who has been granted leave to enter or remain in the United Kingdom for a limited period, or
  - (b) a person who—
    - (i) is not a relevant national, <sup>F1</sup>...
    - <sup>F1</sup>(ii) .....
- (5) In this section “relevant national” means—
  - (a) a British citizen,
  - [<sup>F2</sup>(aa) an Irish citizen, or
  - (ab) a person who is not an Irish citizen and who has leave to enter or remain in the United Kingdom which was granted by virtue of residence scheme immigration rules within the meaning given by section 17 of the European Union (Withdrawal Agreement) Act 2020.]
  - <sup>F3</sup>(b) .....
  - <sup>F3</sup>(c) .....

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#### Textual Amendments

- F1** S. 21(4)(b)(ii) and word omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **20(2)(a)**
- F2** S. 21(5)(aa)(ab) inserted (31.12.2020) by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **20(2)(b)(i)**
- F3** S. 21(5)(b)(c) omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **20(2)(b)(ii)**

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

- C1** S. 21 applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1209\)](#), regs. 1(1), **3(4)**, 4(5), 12(1)(n)

#### Commencement Information

- I3** S. 21 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(b)**
- I4** S. 21 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(b)**

### *Penalty notices*

## **22 Persons disqualified by immigration status not to be leased premises**

- (1) A landlord must not authorise an adult to occupy premises under a residential tenancy agreement if the adult is disqualified as a result of their immigration status.
- (2) A landlord is to be taken to “authorise” an adult to occupy premises in the circumstances mentioned in subsection (1) if (and only if) there is a contravention of this section.
- (3) There is a contravention of this section in either of the following cases.
- (4) The first case is where a residential tenancy agreement is entered into that, at the time of entry, grants a right to occupy premises to—
  - (a) a tenant who is disqualified as a result of their immigration status,
  - (b) another adult named in the agreement who is disqualified as a result of their immigration status, or
  - (c) another adult not named in the agreement who is disqualified as a result of their immigration status (subject to subsection (6)).
- (5) The second case is where—
  - (a) a residential tenancy agreement is entered into that grants a right to occupy premises on an adult with a limited right to rent,
  - (b) the adult later becomes a person disqualified as a result of their immigration status, and
  - (c) the adult continues to occupy the premises after becoming disqualified.
- (6) There is a contravention as a result of subsection (4)(c) only if—
  - (a) reasonable enquiries were not made of the tenant before entering into the agreement as to the relevant occupiers, or

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- (b) reasonable enquiries were so made and it was, or should have been, apparent from the enquiries that the adult in question was likely to be a relevant occupier.
- (7) Any term of a residential tenancy agreement that prohibits occupation of premises by a person disqualified by their immigration status is to be ignored for the purposes of determining whether there has been a contravention of this section if—
- (a) the landlord knew when entering into the agreement that the term would be breached, or
  - (b) the prescribed requirements were not complied with before entering into the agreement.
- (8) It does not matter for the purposes of this section whether or not—
- (a) a right of occupation is exercisable on entering into an agreement or from a later date;
  - (b) a right of occupation is granted unconditionally or on satisfaction of a condition.
- (9) A contravention of this section does not affect the validity or enforceability of any provision of a residential tenancy agreement by virtue of any rule of law relating to the validity or enforceability of contracts in circumstances involving illegality.
- (10) In this Chapter—
- “post-grant contravention” means a contravention in the second case mentioned in subsection (5);
  - “pre-grant contravention” means a contravention in the first case mentioned in subsection (4);
  - “relevant occupier”, in relation to a residential tenancy agreement, means any adult who occupies premises under the agreement (whether or not named in the agreement).

#### **Commencement Information**

- I5** S. 22 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), [art. 6\(1\)\(c\)](#)
- I6** S. 22 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), [art. 2\(c\)](#)

## **23 Penalty notices: landlords**

- (1) If there is a contravention of section 22, the Secretary of State may give the responsible landlord a notice requiring the payment of a penalty.
- (2) The amount of the penalty is such an amount as the Secretary of State considers appropriate, but the amount must not exceed £3,000.
- (3) “Responsible landlord” means—
  - (a) in relation to a pre-grant contravention, the landlord who entered into the residential tenancy agreement;
  - (b) in relation to a post-grant contravention, the person who is the landlord under the agreement at the time of the contravention.
- (4) But if there is a superior landlord in relation to the residential tenancy agreement who is responsible for the purposes of this section, the “responsible landlord” means that

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superior landlord (and references to the landlord in the following provisions of this Chapter are to be read accordingly).

- (5) A superior landlord is “responsible for the purposes of this section” if arrangements in writing have been made in relation to the residential tenancy agreement between the landlord and the superior landlord under which the superior landlord accepts responsibility for—
  - (a) contraventions of section 22 generally, or
  - (b) contraventions of a particular description and the contravention in question is of that description.
- (6) The Secretary of State may by order amend the amount for the time being specified in subsection (2).

#### **Commencement Information**

- I7** S. 23 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(d)**
- I8** S. 23 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(d)**

## **24 Excuses available to landlords**

- (1) This section applies where a landlord is given a notice under section 23 requiring payment of a penalty.
- (2) Where the notice is given for a pre-grant contravention, the landlord is excused from paying the penalty if the landlord shows that—
  - (a) the prescribed requirements were complied with before the residential tenancy agreement was entered into, or
  - (b) a person acting as the landlord's agent is responsible for the contravention (see section 25(2)).
- (3) The prescribed requirements may be complied with for the purposes of subsection (2)
  - (a) at any time before the residential tenancy agreement is entered into.
- (4) But where compliance with the prescribed requirements discloses that a relevant occupier is a person with a limited right to rent, the landlord is excused under subsection (2)(a) only if the requirements are complied with in relation to that occupier within such period as may be prescribed.
- (5) The excuse under subsection (2)(a) or (b) is not available if the landlord knew that entering into the agreement would contravene section 22.
- (6) Where the notice is given for a post-grant contravention, the landlord is excused from paying the penalty if any of the following applies—
  - (a) the landlord has notified the Secretary of State of the contravention as soon as reasonably practicable;
  - (b) a person acting as the landlord's agent is responsible for the contravention;
  - (c) the eligibility period in relation to the limited right occupier whose occupation caused the contravention has not expired.
- (7) For the purposes of subsection (6)(a), the landlord is to be taken to have notified the Secretary of State of the contravention “as soon as reasonably practicable” if the landlord—

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- (a) complied with the prescribed requirements in relation to each limited right occupier at the end of the eligibility period, and
  - (b) notified the Secretary of State of the contravention without delay on it first becoming apparent that the contravention had occurred.
- (8) Notification under subsection (6)(a) must be in the prescribed form and manner.
- (9) In this Chapter “limited right occupier”, in relation to a residential tenancy agreement, means a relevant occupier who had a limited right to rent at the time when the occupier was first granted a right to occupy the premises under the agreement.

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

- C2** S. 24 modified (1.12.2014) by [The Immigration \(Residential Accommodation\) \(Prescribed Cases\) Order 2014 \(S.I. 2014/2873\)](#), arts. 1, 7, **Sch. paras. 3**
- C3** S. 24 modified (1.12.2014) by [The Immigration \(Residential Accommodation\) \(Prescribed Cases\) Order 2014 \(S.I. 2014/2873\)](#), arts. 1, 6, **Sch. paras. 1**

**Commencement Information**

- I9** S. 24 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(e)**
- I10** S. 24 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(e)**

**25 Penalty notices: agents**

- (1) Subsection (3) applies where—
- (a) a landlord contravenes section 22, and
  - (b) a person acting as the landlord's agent (“the agent”) is responsible for the contravention.
- (2) For the purposes of this Chapter, an agent is responsible for a landlord's contravention of section 22 if (and only if)—
- (a) the agent acts in the course of a business, and
  - (b) under arrangements made with the landlord in writing, the agent was under an obligation for the purposes of this Chapter to comply with the prescribed requirements on behalf of the landlord.
- (3) The Secretary of State may give the agent a notice requiring the agent to pay a penalty.
- (4) The amount of the penalty is such an amount as the Secretary of State considers appropriate, but the amount must not exceed £3,000.
- (5) The Secretary of State may by order amend the amount for the time being specified in subsection (4).

**Commencement Information**

- I11** S. 25 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(f)**
- I12** S. 25 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(f)**

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## 26 Excuses available to agents

- (1) This section applies where an agent is given a notice under section 25 requiring payment of a penalty.
- (2) Where the notice is given for a pre-grant contravention, the agent is excused from paying the penalty if the agent shows that the prescribed requirements were complied with before the residential tenancy agreement was entered into.
- (3) The prescribed requirements may be complied with for the purposes of subsection (2) at any time before the residential tenancy agreement is entered into.
- (4) But where compliance with the prescribed requirements discloses that a relevant occupier is a person with a limited right to rent, the agent is excused under subsection (2) only if the requirements are complied with in relation to that occupier within such period as may be prescribed.
- (5) The excuse under subsection (2) is not available if the agent—
  - (a) knew that the landlord would contravene section 22 by entering into the agreement,
  - (b) had sufficient opportunity to notify the landlord of that fact before the landlord entered into the agreement, but
  - (c) did not do so.
- (6) Where the notice is given for a post-grant contravention, the agent is excused from paying the penalty if either of the following applies—
  - (a) the agent has notified the Secretary of State and the landlord of the contravention as soon as reasonably practicable;
  - (b) the eligibility period in relation to the limited right occupier whose occupation caused the contravention has not expired.
- (7) For the purposes of subsection (6)(a), the agent is to be taken to have notified the Secretary of State and the landlord of the contravention “as soon as reasonably practicable” if the agent—
  - (a) complied with the prescribed requirements in relation to each limited right occupier at the end of the eligibility period, and
  - (b) notified the Secretary of State and the landlord of the contravention without delay on it first becoming apparent that the contravention had occurred.
- (8) Notification under subsection (6)(a) must be in the prescribed form and manner.

### Modifications etc. (not altering text)

- C4** S. 26 modified (1.12.2014) by [The Immigration \(Residential Accommodation\) \(Prescribed Cases\) Order 2014 \(S.I. 2014/2873\)](#), arts. 1, 7, **Sch. paras. 4**
- C5** S. 26 modified (1.12.2014) by [The Immigration \(Residential Accommodation\) \(Prescribed Cases\) Order 2014 \(S.I. 2014/2873\)](#), arts. 1, 6, **Sch. paras. 2**

### Commencement Information

- I13** S. 26 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(g)**
- I14** S. 26 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(g)**

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## 27 Eligibility period

- (1) An eligibility period in relation to a limited right occupier is established if the prescribed requirements are complied with in relation to the occupier.
- (2) An eligibility period established under subsection (1) may be renewed (on one or more occasions) by complying with the prescribed requirements again.
- (3) But an eligibility period in relation to a limited right occupier is only established or renewed under this section at any time if it reasonably appears from the information obtained in complying with the prescribed requirements at that time that the occupier is a person with a limited right to rent.
- (4) The length of an eligibility period established or renewed under this section in relation to a limited right occupier is the longest of the following periods—
  - (a) the period of one year beginning with the time when the prescribed requirements were last complied with in relation to the occupier;
  - (b) so much of any leave period as remains at that time;
  - (c) so much of any validity period as remains at that time.
- (5) In subsection (4)—
 

“leave period” means a period for which the limited right occupier was granted leave to enter or remain in the United Kingdom;

“validity period” means the period for which an immigration document issued to the limited right occupier by or on behalf of the Secretary of State is valid.
- (6) In subsection (5) “immigration document” means a document of a prescribed description which—
  - <sup>F4</sup>(a) .....
  - (b) grants to the holder a right to enter or remain in the United Kingdom for such period as the document may authorise.

### Textual Amendments

- F4** S. 27(6)(a) and word omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **20(3)**

### Modifications etc. (not altering text)

- C6** S. 27 applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1209\)](#), regs. 1(1), **3(4)**, 4(5), 12(1)(o)

### Commencement Information

- I15** S. 27 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(h)**
- I16** S. 27 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(h)**

## 28 Penalty notices: general

- (1) The Secretary of State may give a penalty notice—
  - (a) to a landlord under section 23 without having established whether the landlord is excused from paying the penalty under section 24;



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- (b) to an agent under section 25 without having established whether the agent is excused from paying the penalty under section 26.
- (2) A penalty notice must—
- (a) be in writing,
  - (b) state why the Secretary of State thinks the recipient is liable to the penalty,
  - (c) state the amount of the penalty,
  - (d) specify a date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,
  - (e) specify how a penalty must be paid,
  - (f) explain how the recipient may object to the penalty or make an appeal against it, and
  - (g) explain how the Secretary of State may enforce the penalty.
- (3) A separate penalty notice may be given in respect of each adult disqualified by their immigration status in relation to whom there is a contravention of section 22.
- (4) Where a penalty notice is given to two or more persons who jointly constitute the landlord or agent in relation to a residential tenancy agreement, those persons are jointly and severally liable for any sum payable to the Secretary of State as a penalty imposed by the notice.
- (5) A penalty notice may not be given in respect of any adult if—
- (a) the adult has ceased to occupy the premises concerned, and
  - (b) a period of 12 months or more has passed since the time when the adult last occupied the premises,
- but this subsection is not to be taken as affecting the validity of a penalty notice given before the end of that period.
- (6) Subsection (5) does not apply to a penalty notice given after the end of the 12 month period mentioned in that subsection if—
- (a) it is a new penalty notice given by virtue of section 29(6)(b) on the determination of an objection to another penalty notice, and
  - (b) that other penalty notice was given before the end of the period.

#### **Commencement Information**

**I17** S. 28 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(i)**

**I18** S. 28 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(i)**

### *Objections, appeals and enforcement*

## **29 Objection**

- (1) The recipient of a penalty notice (“the recipient”) may object on the ground that—
- (a) the recipient is not liable to the imposition of the penalty,
  - (b) the recipient is excused by virtue of section 24 or 26, or
  - (c) the amount of the penalty is too high.
- (2) An objection must be made by giving a notice of objection to the Secretary of State.

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- (3) A notice of objection must—
  - (a) be in writing,
  - (b) give the reasons for the objection,
  - (c) be given in the prescribed manner, and
  - (d) be given before the end of the prescribed period.
- (4) In considering a notice of objection to a penalty the Secretary of State must have regard to the code of practice under section 32.
- (5) On considering a notice of objection the Secretary of State may—
  - (a) cancel the penalty,
  - (b) reduce the penalty,
  - (c) increase the penalty, or
  - (d) determine to take no action.
- (6) After reaching a decision as to how to proceed under subsection (5) the Secretary of State must—
  - (a) notify the recipient of the decision (including the amount of any increased or reduced penalty) before the end of the prescribed period or such longer period as the Secretary of State may agree with the recipient, and
  - (b) if the penalty is increased, issue a new penalty notice under section 23 or (as the case may be) section 25.

#### **Commencement Information**

**I19** S. 29 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), [art. 6\(1\)\(j\)](#)

**I20** S. 29 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), [art. 2\(j\)](#)

## **30 Appeals**

- (1) The recipient may appeal to the court on the ground that—
  - (a) the recipient is not liable to the imposition of a penalty,
  - (b) the recipient is excused payment as a result of section 24 or 26, or
  - (c) the amount of the penalty is too high.
- (2) The court may—
  - (a) allow the appeal and cancel the penalty,
  - (b) allow the appeal and reduce the penalty, or
  - (c) dismiss the appeal.
- (3) An appeal is to be a re-hearing of the Secretary of State's decision to impose a penalty and is to be determined having regard to—
  - (a) the code of practice under section 32 that has effect at the time of the appeal, and
  - (b) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware).
- (4) Subsection (3) has effect despite any provisions of rules of court.

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- (5) An appeal may be brought only if the recipient has given a notice of objection under section 29 and the Secretary of State—
  - (a) has determined the objection by issuing to the recipient the penalty notice (as a result of increasing the penalty under section 29(5)(c)),
  - (b) has determined the objection by—
    - (i) reducing the penalty under section 29(5)(b), or
    - (ii) taking no action under section 29(5)(d), or
  - (c) has not informed the recipient of a decision before the end of the period that applies for the purposes of section 29(6)(a).
- (6) An appeal must be brought within the period of 28 days beginning with the relevant date.
- (7) Where the appeal is brought under subsection (5)(a), the relevant date is the date specified in the penalty notice issued in accordance with section 29(6)(b) as the date on which it is given.
- (8) Where the appeal is brought under subsection (5)(b), the relevant date is the date specified in the notice informing the recipient of the decision for the purposes of section 29(6)(a) as the date on which it is given.
- (9) Where the appeal is brought under subsection (5)(c), the relevant date is the date on which the period that applies for the purposes of section 29(6)(a) ends.
- (10) In this section “the court” means—
  - (a) the county court, if the appeal relates to a residential tenancy agreement in relation to premises in England and Wales;
  - (b) the sheriff, if the appeal relates to a residential tenancy agreement in relation to premises in Scotland;
  - (c) a county court in Northern Ireland, if the appeal relates to a residential tenancy agreement in relation to premises in Northern Ireland.

#### **Commencement Information**

**I21** S. 30 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(k)**

**I22** S. 30 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(k)**

## **31 Enforcement**

- (1) This section applies where a sum is payable to the Secretary of State as a penalty under this Chapter.
- (2) In England and Wales the penalty is recoverable as if it were payable under an order of the county court in England and Wales.
- (3) In Scotland the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.

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- (5) Where action is taken under this section for the recovery of a sum payable as a penalty under this Chapter, the penalty is—
- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;
  - (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.
- (6) Money paid to the Secretary of State by way of a penalty must be paid into the Consolidated Fund.

**Commencement Information**

**I23** S. 31 in force at 1.12.2014 for specified purposes by [S.I. 2014/2771](#), **art. 6(1)(l)**

**I24** S. 31 in force at 1.2.2016 for E. in so far as not already in force by [S.I. 2016/11](#), **art. 2(l)**

*Codes of practice*

**32 General matters**

- (1) The Secretary of State must issue a code of practice for the purposes of this Chapter.
- (2) The code must specify factors that the Secretary of State will consider when determining the amount of a penalty imposed under this Chapter.
- (3) The code may contain guidance about—
  - (a) factors that the Secretary of State will consider when determining whether—
    - (i) a residential tenancy agreement grants a right of occupation of premises for residential use, or
    - (ii) a person is occupying premises as an only or main residence;
  - (b) the reasonable enquiries that a landlord should make to determine the identity of relevant occupiers in relation to a residential tenancy agreement (so far as they are not named in the agreement);
  - (c) any other matters in connection with this Chapter that the Secretary of State considers appropriate.
- (4) Guidance under subsection (3)(a) may in particular relate to the treatment for the purposes of this Chapter of arrangements that are made in connection with holiday lettings or lettings for purposes connected with business travel.
- (5) The Secretary of State must from time to time review the code and may revise and re-issue it following a review.
- (6) The code (or revised code)—
  - (a) may not be issued unless a draft has been laid before Parliament, and
  - (b) comes into force in accordance with provision made by order of the Secretary of State.

*Status: Point in time view as at 31/12/2020.*

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#### Commencement Information

**I25** S. 32 in force at 1.12.2014 by [S.I. 2014/2771](#), [art. 7\(a\)](#)

### 33 Discrimination

- (1) The Secretary of State must issue a code of practice specifying what a landlord or agent should or should not do to ensure that, while avoiding liability to pay a penalty under this Chapter, the landlord or agent also avoids contravening—
  - (a) the Equality Act 2010, so far as relating to race, or
  - (b) the Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6)).
- (2) The Secretary of State must from time to time review the code and may revise and re-issue it following a review.
- (3) Before issuing the code (or a revised code) the Secretary of State must consult—
  - (a) the Commission for Equality and Human Rights,
  - (b) the Equality Commission for Northern Ireland, and
  - (c) such persons representing the interests of landlords and tenants as the Secretary of State considers appropriate.
- (4) After consulting under subsection (3) the Secretary of State must—
  - (a) publish a draft code, and
  - (b) consider any representations made about the published draft.
- (5) The code (or revised code)—
  - (a) may not be issued unless a draft has been laid before Parliament (prepared after considering representations under subsection (4)(b) and with or without modifications to reflect the representations), and
  - (b) comes into force in accordance with provision made by order of the Secretary of State.
- (6) A breach of the code—
  - (a) does not make a person liable to civil or criminal proceedings, but
  - (b) may be taken into account by a court or tribunal.

#### Commencement Information

**I26** S. 33 in force at 1.12.2014 by [S.I. 2014/2771](#), [art. 7\(b\)](#)

### *I<sup>F5</sup> Offences*

#### Textual Amendments

**F5** Ss. 33A-33C and cross-heading inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), [ss. 39\(2\)](#), [94\(1\)](#); [S.I. 2016/1037](#), [regs. 2\(a\)](#), [5\(c\)](#)

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### **33A Offences: landlords**

- (1) The landlord under a residential tenancy agreement which relates to premises in England commits an offence if the first and second conditions are met.
- (2) The first condition is that the premises are occupied by an adult who is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (3) The second condition is that the landlord knows or has reasonable cause to believe that the premises are occupied by an adult who is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (4) But unless subsection (5) applies the landlord does not commit an offence under subsection (1) if—
  - (a) the premises are located in an area in relation to which section 22 is in force,
  - (b) the adult mentioned in subsections (2) and (3) is a limited right occupier, and
  - (c) the eligibility period in relation to that occupier has not expired.
- (5) This subsection applies if the Secretary of State has given a notice in writing to the landlord which—
  - (a) identifies the adult mentioned in subsections (2) and (3), and
  - (b) states that the adult is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (6) It is a defence for a person charged with an offence under subsection (1) to prove that—
  - (a) the person has taken reasonable steps to terminate the residential tenancy agreement, and
  - (b) the person has taken such steps within a reasonable period beginning with the time when the person first knew or had reasonable cause to believe that the premises were occupied by the adult mentioned in subsections (2) and (3).
- (7) In determining whether subsection (6)(a) or (b) applies to a person, the court must have regard to any guidance which, at the time in question, had been issued by the Secretary of State for the purposes of that subsection and was in force at that time.
- (8) Guidance issued for the purposes of subsection (6)—
  - (a) must be laid before Parliament in draft before being issued, and
  - (b) comes into force in accordance with regulations made by the Secretary of State.
- (9) Section 22(9) applies for the purposes of subsection (1) as it applies for the purposes of that section.
- (10) A person commits an offence if—
  - (a) there has been a post-grant contravention in relation to a residential tenancy agreement which relates to premises in England,
  - (b) the person is the responsible landlord in relation to the post-grant contravention,
  - (c) the person knows or has reasonable cause to believe that there has been a post-grant contravention in relation to the agreement, and
  - (d) none of paragraphs (a), (b) and (c) of section 24(6) applies in relation to the post-grant contravention.

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- (11) Subsection (10) applies whether or not the landlord is given a notice under section 23 in respect of the contravention.

### **33B Offences: agents**

- (1) Subsection (2) applies to an agent who is responsible for a landlord's contravention of section 22 in relation to premises in England.
- (2) The agent commits an offence if the agent—
- (a) knew or had reasonable cause to believe that the landlord would contravene section 22 by entering into the residential tenancy agreement in question,
  - (b) had sufficient opportunity to notify the landlord of that fact before the landlord entered into the agreement, but
  - (c) did not do so.
- (3) Subsection (4) applies where—
- (a) a landlord contravenes section 22 in relation to a residential tenancy agreement relating to premises in England,
  - (b) the contravention is a post-grant contravention, and
  - (c) a person acting as the landlord's agent (“the agent”) is responsible for the post-grant contravention.
- (4) The agent commits an offence if—
- (a) the agent knows or has reasonable cause to believe that there has been a post-grant contravention in relation to the agreement, and
  - (b) neither of paragraphs (a) and (b) of section 26(6) applies in relation to the post-grant contravention.
- (5) Subsection (4) applies whether or not the agent is given a notice under section 25 in respect of the contravention.

### **33C Offences: penalties etc**

- (1) A person who is guilty of an offence under section 33A or 33B is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both.
- (2) In the application of this section in relation to an offence committed before the coming into force of [<sup>F6</sup>paragraph 24(2) of Schedule 22 to the Sentencing Act 2020] the reference in subsection (1)(b) to 12 months is to be read as a reference to 6 months.
- (3) If an offence under section 33A or 33B is committed by a body corporate with the consent or connivance of an officer of the body, the officer, as well as the body, is to be treated as having committed the offence.
- (4) In subsection (3) a reference to an officer of a body includes a reference to—
- (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary, and
  - (c) if the affairs of the body are managed by its members, a member.

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- (5) Where an offence under section 33A or 33B is committed by a partnership (whether or not a limited partnership) subsection (3) has effect, but as if a reference to an officer of the body were a reference to—
- (a) a partner, and
  - (b) a person purporting to act as a partner.
- (6) An offence under section 33A or 33B is to be treated as—
- (a) a relevant offence for the purposes of sections 28B and 28D of the Immigration Act 1971 (search, entry and arrest), and
  - (b) an offence under Part 3 of that Act (criminal proceedings) for the purposes of sections 28E, 28G and 28H of that Act (search after arrest).]

#### Textual Amendments

- F6** Words in s. 33C(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 443\(1\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### *f<sup>F7</sup>Eviction*

#### Textual Amendments

- F7** Ss. 33D, 33E and cross-heading inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), [ss. 40\(2\), 94\(1\)](#); S.I. 2016/1037, regs. 2(a), 5(d)

### **33D Termination of agreement where all occupiers disqualified**

- (1) The landlord under a residential tenancy agreement relating to premises in England may terminate the agreement in accordance with this section if the condition in subsection (2) is met.
- (2) The condition is that the Secretary of State has given one or more notices in writing to the landlord which, taken together,—
  - (a) identify the occupier of the premises or (if there is more than one occupier) all of them, and
  - (b) state that the occupier or occupiers are disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (3) The landlord may terminate the residential tenancy agreement by giving notice in writing and in the prescribed form to the tenant or, in the case of a joint tenancy, all of the tenants specifying the date on which the agreement comes to an end.
- (4) That date must not be earlier than the end of the period of 28 days beginning with the day specified in the notice as the day on which it is given.
- (5) The notice may be given—
  - (a) by delivering it to the tenant or tenants,
  - (b) by leaving it at the premises,
  - (c) by sending it by post to the tenant or tenants at the address of the premises, or
  - (d) in any other prescribed manner.



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- (6) The notice is to be treated as a notice to quit in a case where a notice to quit would otherwise be required to bring the residential tenancy agreement to an end.
- (7) The notice is enforceable as if it were an order of the High Court.
- (8) In this section “occupier”, in relation to premises to which a residential tenancy agreement applies, means—
  - (a) a tenant,
  - (b) a person who, under the agreement, otherwise has the right to occupy the premises and is named in the agreement, and
  - (c) any other person who the landlord knows is occupying the premises.

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

C7 S. 33D(3) modified (1.12.2016) by [The Immigration \(Residential Accommodation\) \(Termination of Residential Tenancy Agreements\) \(Guidance etc.\) Regulations 2016 \(S.I. 2016/1060\)](#), regs. 1(1), 3, [Sch.](#)

**33E Other procedures for ending agreement**

- (1) It is an implied term of a residential tenancy agreement to which this subsection applies that the landlord may terminate the tenancy if the premises to which it relates are occupied by an adult who is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (2) Subsection (1) applies to a residential tenancy agreement relating to premises in England if—
  - (a) it is a tenancy or sub-tenancy or an agreement for a tenancy or sub-tenancy, but
  - (b) it is not a protected or statutory tenancy within the meaning of the Rent Act 1977 or an assured tenancy within the meaning of the Housing Act 1988.
- (3) For provision relating to a residential tenancy agreement which is a protected or statutory tenancy where a tenant or occupier is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement, see Case 10A in Part 1 of Schedule 15 to the Rent Act 1977.
- (4) For provision relating to a residential tenancy agreement which is an assured tenancy where a tenant or occupier is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement, see Ground 7B in Part 1 of Schedule 2 to the Housing Act 1988.]

*General*

**34 Orders**

- (1) An order prescribing requirements for the purposes of this Chapter may, in particular, require a landlord or agent to—
  - (a) obtain a document of a prescribed description from relevant occupiers before or during the course of a residential tenancy agreement;

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- (b) obtain one document of each of a number of prescribed descriptions from relevant occupiers before or during the course of a residential tenancy agreement;
  - (c) take steps to verify, retain, copy or record the content of a document obtained in accordance with the order;
  - (d) take such other steps before or during the course of a residential tenancy agreement as the order may specify.
- (2) If the draft of an instrument containing an order under or in connection with this Chapter would, apart from this subsection, be a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.

#### Commencement Information

**I27** S. 34 in force at 1.12.2014 by [S.I. 2014/2771](#), [art. 7\(c\)](#)

### 35 Transitional provision

- (1) This Chapter does not apply in relation to a residential tenancy agreement entered into before the commencement day.
- (2) This Chapter does not apply in relation to a residential tenancy agreement entered into on or after the commencement day (“the renewed agreement”) if—
- (a) another residential tenancy agreement was entered into before the commencement day between the same parties (“the original agreement”), and
  - (b) the tenant has always had a right of occupation of the premises leased under the renewed agreement since entering into the original agreement.
- (3) In this section “the commencement day” means such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes or areas.
- [<sup>F8</sup>(4) References in this section to this Chapter do not include sections 33A to 33E (offences and eviction).
- (5) Sections 33A to 33C apply in relation to a residential tenancy agreement entered into before or after the coming into force of section 39 of the Immigration Act 2016 (which inserted those sections into this Act).
- (6) But sections 33A(10) and (11) and 33B apply only in relation to a contravention of section 22 which occurs after the coming into force of section 39 of the Immigration Act 2016.]
- [<sup>F9</sup>(7) Sections 33D and 33E apply in relation to a residential tenancy agreement entered into before or after the coming into force of section 40 of the Immigration Act 2016 (which inserted those sections into this Act).]

#### Textual Amendments

- F8** S. 35(4)-(6) inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), [ss. 39\(3\)](#), [94\(1\)](#); [S.I. 2016/1037](#), [regs. 2\(a\)](#), [5\(c\)](#)
- F9** S. 35(7) inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), [ss. 40\(3\)](#), [94\(1\)](#); [S.I. 2016/1037](#), [regs. 2\(b\)](#), [5\(d\)](#)

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

**C8** S. 35(3): 1.12.2014 appointed as "the commencement day" by [S.I. 2014/2771](#), art. 12

#### Commencement Information

**I28** S. 35 in force at 1.12.2014 by [S.I. 2014/2771](#), [art. 7\(d\)](#)

### 36 Crown application

This Chapter binds the Crown, except where the Crown is the responsible landlord for the purposes of section 23 <sup>F10</sup> or the landlord for the purposes of section 33A.]

#### Textual Amendments

**F10** Words in s. 36 inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), [ss. 39\(4\)](#), [94\(1\)](#); [S.I. 2016/1037](#), [regs. 2\(a\)](#), [5\(c\)](#)

#### Commencement Information

**I29** S. 36 in force at 1.12.2014 by [S.I. 2014/2771](#), [art. 7\(e\)](#)

### 37 Interpretation

(1) In this Chapter—

- “adult” means a person who has attained the age of 18;
- “agreement” includes an agreement in any form (whether or not in writing);
- “eligibility period”, in relation to a limited right occupier, is to be read in accordance with section 27;
- “limited right occupier” has the meaning given in section 24(9);
- “occupy” means occupy as an only or main residence;
- “penalty notice” means a penalty notice given under this Chapter;
- “person with a limited right to rent” has the meaning given in section 21(4);
- “post-grant contravention” has the meaning given in section 22(10);
- “pre-grant contravention” has the meaning given in section 22(10);
- “premises” includes land, buildings, moveable structures, vehicles and vessels;
- “prescribed” means prescribed in an order made by the Secretary of State;
- “recipient” means the recipient of a penalty notice;
- “relevant occupier” has the meaning given in section 22(10);
- “residential tenancy agreement” has the meaning given in section 20(2).

(2) For the purposes of this Chapter a residential tenancy agreement grants a person a right to occupy premises if—

- (a) the agreement expressly grants that person the right (whether or not by naming the person), or
- (b) the person is permitted to occupy the premises by virtue of an express grant given to another person,

and references to a person occupying premises under an agreement are to be read accordingly.

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- (3) A reference in this Chapter to the “prescribed requirements”, in connection with compliance with the requirements at a particular time, is a reference only to such of the requirements as are capable of being complied with at that time.
- (4) Where two or more persons jointly constitute the landlord in relation to a residential tenancy agreement—
- (a) the references to the landlord in—
    - (i) section 22(7)(a),
    - (ii) section 24(5), (6)(a) and (7), <sup>F11</sup> ...
    - (iii) section 26(6)(a) and (7)(b),
    - <sup>F12</sup>(iv) section 33A,]
    - <sup>F13</sup>(v) section 33D, and
    - (vi) section 33E,]
 are to be taken as references to any of those persons;
  - (b) any other references to the landlord in this Chapter are to be taken as references to all of those persons.
- (5) Where two or more persons jointly constitute the agent in relation to a residential tenancy agreement—
- (a) the references to the agent in section 26(5), (6)(a) and (7) are to be taken as references to any of those persons;
  - (b) any other references to the agent in this Chapter are to be taken as references to all of those persons.
- (6) The Secretary of State may by order prescribe cases in which—
- (a) a residential tenancy agreement is, or is not, to be treated as being entered into for the purposes of this Chapter;
  - (b) a person is, or is not, to be treated as occupying premises as an only or main residence for the purposes of this Chapter.
- (7) An order under subsection (6) prescribing a case may modify the application of this Chapter in relation to that case.
- (8) The cases mentioned in subsection (6)(a) include, in particular, cases where—
- (a) an option to renew an agreement is exercised;
  - (b) rights of occupation under an agreement are varied;
  - (c) an agreement is assigned (whether by the landlord or the tenant);
  - (d) a periodic tenancy arises at the end of a fixed term;
  - (e) an agreement grants a right of occupation on satisfaction of a condition;
  - (f) there is a change in the persons in occupation of the premises leased under an agreement or in the circumstances of any such person.

#### Textual Amendments

- F11** Word in s. 37(4)(a)(ii) omitted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by virtue of [Immigration Act 2016 \(c. 19\)](#), [ss. 39\(5\)\(a\)](#), 94(1); S.I. 2016/1037, [regs. 2\(a\)](#), 5(c)
- F12** S. 37(4)(a)(iv) inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), [ss. 39\(5\)\(b\)](#), 94(1); S.I. 2016/1037, [regs. 2\(a\)](#), 5(c)
- F13** S. 37(4)(a)(v)(vi) inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), [ss. 40\(4\)](#), 94(1); S.I. 2016/1037, [regs. 2\(b\)](#), 5(d)

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### Commencement Information

**I30** S. 37 in force at 1.12.2014 by S.I. 2014/2771, art. 7(f)

## CHAPTER 2

### OTHER SERVICES ETC

#### *National Health Service*

### 38 Immigration health charge

- (1) The Secretary of State may by order provide for a charge to be imposed on—
  - (a) persons who apply for immigration permission, or
  - (b) any description of such persons.
- (2) “Immigration permission” means—
  - (a) leave to enter or remain in the United Kingdom for a limited period,
  - (b) entry clearance which, by virtue of provision made under section 3A(3) of the Immigration Act 1971, has effect as leave to enter the United Kingdom for a limited period, or
  - (c) any other entry clearance which may be taken as evidence of a person's eligibility for entry into the United Kingdom for a limited period.
- (3) An order under this section may in particular—
  - (a) impose a separate charge on a person in respect of each application made by that person;
  - (b) specify the amount of any charge (and different amounts may be specified for different purposes);
  - (c) make provision about when or how a charge may or must be paid to the Secretary of State;
  - (d) make provision about the consequences of a person failing to pay a charge (including provision for the person's application to be refused);
  - (e) provide for exemptions from a charge;
  - (f) provide for the reduction, waiver or refund of part or all of a charge (whether by conferring a discretion or otherwise).
- (4) In specifying the amount of a charge under subsection (3)(b) the Secretary of State must (among other matters) have regard to the range of health services that are likely to be available free of charge to persons who have been given immigration permission.
- (5) Sums paid by virtue of an order under this section must—
  - (a) be paid into the Consolidated Fund, or
  - (b) be applied in such other way as the order may specify.
- (6) In this section—
  - “entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971;
  - “health services” means services provided as part of the health service in England, Wales, Scotland and Northern Ireland;

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and the references to applying for leave to enter or remain for a limited period include references to applying for a variation of leave to enter or remain which would result in leave to enter or remain for a limited period.

#### Commencement Information

**I31** S. 38 in force at 20.10.2014 by [S.I. 2014/2771](#), **art. 4(b)**

### 39 Related provision: charges for health services

- (1) A reference in the NHS charging provisions to persons not ordinarily resident in Great Britain or persons not ordinarily resident in Northern Ireland includes (without prejudice to the generality of that reference) a reference to—
- (a) persons who require leave to enter or remain in the United Kingdom but do not have it, and
  - (b) persons who have leave to enter or remain in the United Kingdom for a limited period [<sup>F14</sup>unless that leave was granted by virtue of residence scheme immigration rules].
- (2) The “NHS charging provisions” are—
- (a) section 175 of the National Health Service Act 2006 (charges in respect of persons not ordinarily resident in Great Britain);
  - (b) section 124 of the National Health Service (Wales) Act 2006 (charges in respect of persons not ordinarily resident in Great Britain);
  - (c) section 98 of the National Health Service (Scotland) Act 1978 (charges in respect of persons not ordinarily resident in Great Britain);
  - (d) Article 42 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) (provision of services to persons not ordinarily resident in Northern Ireland).

[<sup>F15</sup>(3) For the purposes of subsection (1) “residence scheme immigration rules” has the meaning given by section 17 of the European Union (Withdrawal Agreement) Act 2020.]

#### Textual Amendments

- F14** Words in s. 39(1)(b) inserted (31.12.2020) by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **20(4)(a)**
- F15** S. 39(3) inserted (31.12.2020) by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **20(4)(b)**

#### Commencement Information

**I32** S. 39 in force at 6.4.2015 by [S.I. 2015/874](#), **art. 2(a)**

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*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Immigration Act 2014, PART 3 is up to date with all changes known to be in force on or before 02 September 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)*

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### *Bank accounts*

#### **40 Prohibition on opening current accounts for disqualified persons**

- (1) A bank or building society (B) must not open a current account for a person (P) who is within subsection (2) unless—
  - (a) B has carried out a status check which indicates that P is not a disqualified person, or
  - (b) at the time when the account is opened B is unable, because of circumstances that cannot reasonably be regarded as within its control, to carry out a status check in relation to P.
- (2) A person is within this subsection if he or she—
  - (a) is in the United Kingdom, and
  - (b) requires leave to enter or remain in the United Kingdom but does not have it.
- (3) For the purposes of this section—
  - (a) carrying out a “status check” in relation to P means checking with a specified anti-fraud organisation or a specified data-matching authority whether, according to information supplied to that organisation or authority by the Secretary of State, P is a disqualified person;
  - (b) a “disqualified person” is a person within subsection (2) for whom the Secretary of State considers that a current account should not be opened by a bank or building society;
  - (c) opening an account for P includes—
    - (i) opening a joint account for P and others;
    - (ii) opening an account in relation to which P is a signatory or is identified as a beneficiary;
    - (iii) adding P as an account holder or as a signatory or identified beneficiary in relation to an account.
- (4) In subsection (3)(a)—

“anti-fraud organisation” has the same meaning as in section 68 of the Serious Crime Act 2007;

“data-matching authority” means a person or body conducting data matching exercises, within the meaning of Schedule 9 to the Local Audit and Accountability Act 2014, under or by virtue of that or any other Act;

“specified” means specified by an order made by the Secretary of State for the purposes of this section.
- (5) Subsection (1)(b) does not apply where—
  - (a) a bank or building society is required to pay a reasonable fee for carrying out status checks, and
  - (b) its inability to carry out a status check is due to its failure to pay the fee.
- (6) A bank or building society that refuses to open a current account for someone on the ground that he or she is a disqualified person must tell the person, if it may lawfully do so, that that is the reason for its refusal.
- [<sup>F16</sup>(7) The prohibition in subsection (1) does not apply in the case of an account to be operated (or an account that is operated) by or for a person or body of a description specified in an order made by the Treasury.]

*Status: Point in time view as at 31/12/2020.*

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#### Textual Amendments

**F16** S. 40(7) inserted (12.12.2014) by [The Immigration Act 2014 \(Bank Accounts\) \(Amendment\) Order 2014 \(S.I. 2014/3074\)](#), arts. 1, 2

#### Commencement Information

**I33** S. 40 in force at 12.12.2014 by [S.I. 2014/1943](#), art. 2

### [<sup>F17</sup> 40A Requirement to carry out immigration checks in relation to current accounts

- (1) A bank or building society must, at such times or with such frequency as is specified in regulations made by the Treasury, carry out an immigration check in relation to each current account held with it that is not an excluded account.
- (2) For the purposes of this section carrying out an “immigration check” in relation to a current account means checking whether, according to information supplied by the Secretary of State to a specified anti-fraud organisation or a specified data-matching authority, the account is operated by or for a disqualified person.
- (3) A “disqualified person” is a person—
  - (a) who is in the United Kingdom,
  - (b) who requires leave to enter or remain in the United Kingdom but does not have it, and
  - (c) for whom the Secretary of State considers that a current account should not be provided by a bank or building society.
- (4) A current account is an excluded account for the purposes of subsection (1) if the account is operated by or for a person or body of a description specified in regulations made by the Treasury.
- (5) An account is operated by or for a person or body if the person or body is an account holder or a signatory or identified as a beneficiary in relation to the account.
- (6) A bank or building society must—
  - (a) make arrangements with a specified anti-fraud organisation or a specified data-matching authority for the purpose of enabling the bank or building society to carry out immigration checks in relation to current accounts, and
  - (b) pay any reasonable fee required to be paid under those arrangements.
- (7) In this section “specified anti-fraud organisation” and “specified data-matching authority” have the same meaning as in section 40(3)(a).

#### Textual Amendments

**F17** Ss. 40A-40H inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 7 para. 2](#); [S.I. 2016/1037](#), reg. 2(d); [S.I. 2017/929](#), reg. 2(b)



*Status: Point in time view as at 31/12/2020.*

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#### **40B Requirement to notify existence of current accounts for disqualified persons**

- (1) This section applies where, as a result of an immigration check carried out under section 40A, a bank or building society identifies a current account that is operated by or for a person who the bank or building society believes to be a disqualified person.
- (2) Where this section applies, the bank or building society (as the case may be) must as soon as reasonably practicable—
  - (a) notify the Secretary of State that a current account held with it is operated by or for a person who it believes to be a disqualified person, and
  - (b) provide the Secretary of State with such other information as may be prescribed.
- (3) A notification made, or information provided, under subsection (2) must be made or provided in the prescribed form and manner.
- (4) In subsections (2) and (3) “prescribed” means prescribed in regulations made by the Treasury.
- (5) Regulations under subsection (2) may (in particular) require the provision of information relating to any accounts held with the bank or building society that are operated by or for the person who is believed to be a disqualified person.

##### **Textual Amendments**

- F17** Ss. 40A-40H inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 7 para. 2; S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

#### **40C Action to be taken by Secretary of State following section 40B notification**

- (1) Where the Secretary of State receives a notification from a bank or building society under section 40B(2) in relation to a person, the Secretary of State must check whether the person is a disqualified person.
- (2) If the Secretary of State determines that the person is a disqualified person, the Secretary of State may apply under section 40D for a freezing order in respect of one or more of the accounts held with the bank or building society that are operated by or for the disqualified person.
- (3) If the Secretary of State decides not to apply for a freezing order under subsection (2), or decides to apply for a freezing order in respect of one or more but not all of the accounts held with the bank or building society that are operated by or for the disqualified person, the Secretary of State must notify the bank or building society that it is subject to the duty in section 40G(2) in relation to the disqualified person.
- (4) A notification made under subsection (3) must contain the prescribed information and be made in the prescribed form and manner.
- (5) In subsection (4) “prescribed” means prescribed in regulations made by the Treasury.
- (6) If the Secretary of State determines that the person is not a disqualified person, the Secretary of State must notify the bank or building society accordingly.

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### Textual Amendments

**F17** Ss. 40A-40H inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 7 para. 2; S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

## 40D Freezing orders

- (1) On an application by the Secretary of State under section 40C(2), the court may make a freezing order in respect of any account specified in the application.
- (2) A freezing order in respect of an account is an order that prohibits each person and body by or for whom the account is operated from making withdrawals or payments from the account.
- (3) A freezing order may be made subject to exceptions.
- (4) An exception may (in particular)—
  - (a) make provision for the disqualified person to meet his or her reasonable living expenses and reasonable legal expenses;
  - (b) allow another person or body by or for whom the account is operated to make withdrawals or payments from the account.
- (5) An application for a freezing order may be made without notice.
- (6) The court may vary or discharge a freezing order made in respect of an account (whether made under this section or on an appeal under section 40E) on an application made by—
  - (a) the Secretary of State, or
  - (b) a person or body by or for whom the account is operated.
- (7) If the Secretary of State applies for a freezing order in respect of an account and the order is not made, or the order is made but subsequently discharged, the Secretary of State must notify the bank or building society that it is subject to the duty in section 40G(2) in relation to the disqualified person.
- (8) A notification made under subsection (7) must contain the information and be in the form and manner prescribed in regulations made under subsection (4) of section 40C for the purposes of subsection (3) of that section.
- (9) In this section—
 

“the court” means—

  - (a) in England and Wales, a magistrates' court;
  - (b) in Scotland, the sheriff;
  - (c) in Northern Ireland, a court of summary jurisdiction;

“the disqualified person” means the person who, following a check under section 40C(1), was determined to be a disqualified person, resulting in the application for the freezing order.

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#### Textual Amendments

**F17** Ss. 40A-40H inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 7 para. 2; S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

### 40E Freezing orders: appeals

- (1) An appeal may be made to the relevant appeal court against a decision of a court under section 40D.
- (2) The right of appeal under subsection (1) is exercisable by—
  - (a) the Secretary of State, and
  - (b) if the decision relates to a freezing order that is in force in respect of an account, a person or body by or for whom the account is operated.
- (3) On an appeal under this section the relevant appeal court may make—
  - (a) whatever orders are necessary to give effect to its determination of the appeal;
  - (b) whatever incidental or consequential orders appear to it to be just.
- (4) In this section “the relevant appeal court” means—
  - (a) the Crown Court, where the decision appealed against is a decision of a magistrates' court;
  - (b) the Sheriff Appeal Court, where the decision appealed against is a decision of the sheriff;
  - (c) a county court, where the decision appealed against is a decision of a court of summary jurisdiction.

#### Textual Amendments

**F17** Ss. 40A-40H inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 7 para. 2; S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

### 40F Freezing orders: code of practice

- (1) The Secretary of State must issue a code of practice—
  - (a) specifying the factors that the Secretary of State will consider when deciding whether to apply for a freezing order under section 40C(2),
  - (b) outlining the arrangements for keeping a freezing order under review for the purpose of deciding whether to apply under section 40D(6) for its variation or discharge, and
  - (c) specifying the factors that the Secretary of State will consider when deciding whether to make such an application.
- (2) The Secretary of State must from time to time review the code and may revise and re-issue it following a review.
- (3) The code (or revised code)—
  - (a) may not be issued unless a draft has been laid before Parliament, and

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- (b) comes into force in accordance with provision contained in regulations made by the Secretary of State.

#### Textual Amendments

**F17** Ss. 40A-40H inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 7 para. 2](#); S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

### 40G Closure of accounts not subject to freezing order

- (1) This section applies where—
- (a) a bank or building society makes a notification under section 40B(2) in relation to a person,
  - (b) the person is determined by the Secretary of State (following a check under section 40C(1)) to be a disqualified person, and
  - (c) the bank or building society receives a notification under section 40C(3) or 40D(7) in relation to the disqualified person.
- (2) Where this section applies the bank or building society must as soon as reasonably practicable close each account held with it that—
- (a) in the case of a notification under section 40C(3), is operated by or for the disqualified person and is not the subject of an application for a freezing order;
  - (b) in the case of a notification under section 40D(7), is operated by or for the disqualified person and in respect of which a freezing order is not in force.
- (3) The bank or building society may delay closing an account which it would otherwise be required to close under subsection (2) if at the time at which it would otherwise be required to close it—
- (a) the account is overdrawn, or
  - (b) where the account is operated by or for the disqualified person and one or more bodies or other persons, the bank or building society considers that closing the account would significantly adversely affect the interests of any of those other bodies or persons.
- (4) Where subsection (3) applies, closure of the account may be delayed for such period as is reasonable (but not indefinitely).
- (5) If an account falling within subsection (2) is operated by or for the disqualified person and one or more bodies or other persons, the bank or building society is to be treated as having complied with that subsection in relation to that account if, as soon as reasonably practicable, it takes all such steps as are necessary to prevent the account from being operated by or for the disqualified person (instead of closing the account).
- (6) Where the bank or building society closes an account in compliance with this section, it must tell each person or body by or for whom the account is operated, if it may lawfully do so, why it has closed the account.
- (7) Where the bank or building society prevents an account from being operated by or for the disqualified person by virtue of subsection (5), it must tell each person or body by or for whom the account is operated, if it may lawfully do so, why it has prevented the account from being operated by or for the disqualified person.

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- (8) The bank or building society must provide the Secretary of State with information about the steps that it has taken to comply with this section.
- (9) Information provided under subsection (8) must be provided in the prescribed form and manner and at the prescribed times or with the prescribed frequency.
- (10) In subsection (9) “prescribed” means prescribed in regulations made by the Treasury.

#### Textual Amendments

**F17** Ss. 40A-40H inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 7 para. 2**; S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

### 40H Sections 40A to 40G: interpretation

- (1) This section applies for the purposes of sections 40A to 40G.
- (2) “Account” includes a financial product by means of which a payment may be made.
- (3) “Freezing order” has the meaning given by section 40D(2).
- (4) “Disqualified person” has the meaning given by section 40A(3).
- (5) References to an account being operated by or for a person or body are to be read in accordance with section 40A(5).]

#### Textual Amendments

**F17** Ss. 40A-40H inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 7 para. 2**; S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

### 41 Regulation by Financial Conduct Authority

- (1) The Treasury may make regulations to enable the Financial Conduct Authority to make arrangements for monitoring and enforcing compliance with the prohibition imposed on banks and building societies by section 40 <sup>[F18]</sup> and the requirements imposed on them by sections 40A, 40B and 40G].
- (2) The regulations may (in particular)—
  - (a) provide for the Financial Conduct Authority to be given free access to the information to which banks and building societies are given access when carrying out status checks under section 40 <sup>[F19]</sup> or immigration checks under section 40A];
  - (b) apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000, including in particular those mentioned in subsection (3), with or without modification.
- (3) The provisions are—
  - (a) provisions about investigations, including powers of entry and search and criminal offences;

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- (b) provisions for the grant of an injunction (or, in Scotland, an interdict) in relation to a contravention or anticipated contravention;
- (c) provisions giving the Financial Conduct Authority powers to impose disciplinary measures (including financial penalties) or to give directions;
- (d) provisions giving a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) or the Financial Conduct Authority powers to make subordinate legislation;
- (e) provisions for the Financial Conduct Authority to charge fees.

#### Textual Amendments

- F18** Words in s. 41(1) inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 7 para. 3\(2\)](#); S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)
- F19** Words in s. 41(2)(a) inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 7 para. 3\(3\)](#); S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

#### Commencement Information

- I34** S. 41 in force at 14.7.2014 by [S.I. 2014/1820](#), [art. 2\(a\)](#)

## 42 “Bank” and “building society”

- (1) In sections 40 [<sup>F20</sup>to 41] “bank” means an authorised deposit-taker that has its head office or a branch in the United Kingdom.

This is subject to subsection (4).

- (2) In subsection (1) “authorised deposit-taker” means—
- (a) a person who under Part 4A of the Financial Services and Markets Act 2000 has permission to accept deposits;
  - <sup>F21</sup>(b) .....

- (3) A reference in subsection (2) to a person <sup>F22</sup>... with permission to accept deposits does not include a person <sup>F22</sup>... with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.

- (4) “Bank” does not include—
- (a) a building society;
  - (b) a person who is specified, or is within a class of persons specified, by an order under section 38 of the Financial Services and Markets Act 2000 (exemption orders);
  - (c) a credit union within the meaning given by section 31(1) of the Credit Unions Act 1979 or by Article 2(2) of the Credit Unions (Northern Ireland) Order 1985;
  - (d) a friendly society within the meaning given by section 116 of the Friendly Societies Act 1992.

- (5) In sections 40 [<sup>F23</sup>to 41] , and in subsection (4), “building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986.

*Status: Point in time view as at 31/12/2020.*

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#### Textual Amendments

- F20** Words in s. 42(1) substituted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 7 para. 4](#); S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)
- F21** S. 42(2)(b) omitted (31.12.2020) by virtue of [The Immigration, Nationality and Asylum \(EU Exit\) Regulations 2019 \(S.I. 2019/745\)](#), regs. 1(2), [21\(4\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in s. 42(3) omitted (31.12.2020) by virtue of [The Immigration, Nationality and Asylum \(EU Exit\) Regulations 2019 \(S.I. 2019/745\)](#), regs. 1(2), [21\(4\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in s. 42(5) substituted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 7 para. 4](#); S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

#### Commencement Information

- I35** S. 42 in force at 14.7.2014 by [S.I. 2014/1820](#), [art. 2\(b\)](#)

### 43 Power to amend

- (1) The Treasury may by order amend any of sections 40 to 42 so as—
- to alter the categories of financial institution to which those sections apply;
  - to alter the categories of account to which the prohibition in section 40(1) [<sup>F24</sup>or the requirement in section 40A(1)] applies;
  - to include provision defining a category of account specified in [<sup>F25</sup>section 40 or 40A] ;
  - to provide for the prohibition in section 40(1) not to apply in the case of an account to be operated (or an account that is operated) by or for a person or body of a specified description.
- (2) An order under subsection (1) may amend a section so that it provides for a matter to be specified in a further order to be made by the Treasury.
- (3) In subsection (1) “account” includes a financial product by means of which a payment may be made.

#### Textual Amendments

- F24** Words in s. 43(1)(b) inserted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 7 para. 5\(2\)](#); S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)
- F25** Words in s. 43(1)(c) substituted (1.11.2016 for specified purposes, 30.10.2017 in so far as not already in force) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 7 para. 5\(3\)](#); S.I. 2016/1037, reg. 2(d); S.I. 2017/929, reg. 2(b)

#### Commencement Information

- I36** S. 43 in force at 14.7.2014 by [S.I. 2014/1820](#), [art. 2\(c\)](#)

*Status: Point in time view as at 31/12/2020.*

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## *Work*

### 44 Appeals against penalty notices

In section 17 of the Immigration, Asylum and Nationality Act 2006 (appeal), for subsections (4) and (5) substitute—

“(4A) An appeal may be brought only if the employer has given a notice of objection under section 16 and the Secretary of State—

- (a) has determined the objection by issuing to the employer the penalty notice (as a result of increasing the penalty under section 16(4)(c)),
- (b) has determined the objection by—
  - (i) reducing the penalty under section 16(4)(b), or
  - (ii) taking no action under section 16(4)(d), or
- (c) has not informed the employer of a decision before the end of the period that applies for the purposes of section 16(5)(b).

(4B) An appeal must be brought within the period of 28 days beginning with the relevant date.

(4C) Where the appeal is brought under subsection (4A)(a), the relevant date is the date specified in the penalty notice issued in accordance with section 16(5)(c) as the date on which it is given.

(4D) Where the appeal is brought under subsection (4A)(b), the relevant date is the date specified in the notice informing the employer of the decision for the purposes of section 16(5)(b) as the date on which it is given.

(4E) Where the appeal is brought under subsection (4A)(c), the relevant date is the date on which the period that applies for the purposes of section 16(5)(b) ends.”

#### **Commencement Information**

**I37** S. 44 in force at 28.7.2014 by [S.I. 2014/1820](#), [art. 3\(p\)](#) (with [art. 5](#))

### 45 Recovery of sums payable under penalty notices

In section 18 of the Immigration, Asylum and Nationality Act 2006 (enforcement), for subsections (1) and (2) substitute—

“(1) This section applies where a sum is payable to the Secretary of State as a penalty under section 15.

(1A) In England and Wales the penalty is recoverable as if it were payable under an order of the county court.

(1B) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(1C) In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.



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(1D) Where action is taken under this section for the recovery of a sum payable as a penalty under section 15, the penalty is—

- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;
- (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.”

#### Commencement Information

**I38** S. 45 in force at 28.7.2014 by S.I. 2014/1820, art. 3(q) (with art. 6)

### *Driving licences*

#### **46 Grant of driving licences: residence requirement**

- (1) In section 97 of the Road Traffic Act 1988 (grant of licences), in the opening words of subsection (1), after “who” insert “ meets the relevant residence requirement (see section 97A) and ”.
- (2) After that section insert—

#### **“97A Residence requirement**

- (1) For the purposes of an application under section 97, a person meets the relevant residence requirement if, on the date the application is made—
  - (a) in the case of an application that is made by virtue of section 89(1) (ea) (application by holder of Community licence), the applicant is lawfully resident in the United Kingdom and—
    - (i) is also normally resident in the United Kingdom, or
    - (ii) has been attending a course of study in the United Kingdom during the period of six months ending on that date;
  - (b) in the case of an application that is made by virtue of section 89(1) (f) (application by holder of exchangeable licence), the applicant is normally and lawfully resident in Great Britain but has not been so resident for more than the prescribed period;
  - (c) in the case of an application that is made by virtue of section 97(2) (application for provisional licence), the applicant is lawfully resident in Great Britain and the Secretary of State is satisfied that the applicant will remain so for not less than 185 days; and
  - (d) in any other case, the applicant is normally and lawfully resident in Great Britain.
- (2) For the purposes of subsection (1) a person is not lawfully resident in Great Britain or the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Immigration Act 2014, PART 3 is up to date with all changes known to be in force on or before 02 September 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)*

- (3) In Article 13 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (grant of licences), in the opening words of paragraph (1), after “who” insert “meets the relevant residence requirement (see Article 13A) and”.
- (4) After that Article insert—

**“13A Residence requirement**

- (1) For the purposes of an application under Article 13, a person meets the relevant residence requirement if, on the date the application is made—
- (a) in the case of an application that is made by virtue of Article 5(1)(ea) (application by holder of Community licence), the applicant is lawfully resident in the United Kingdom and—
    - (i) is also normally resident in the United Kingdom, or
    - (ii) has been attending a course of study in the United Kingdom during the period of six months ending on that date;
  - (b) in the case of an application that is made by virtue of Article 5(1)(f) (application by holder of exchangeable licence), the applicant is normally and lawfully resident in Northern Ireland but has not been so resident for more than the prescribed period;
  - (c) in the case of an application that is made by virtue of Article 13(2) (application for provisional licence), the applicant is lawfully resident in Northern Ireland and the Department is satisfied that the applicant will remain so for not less than 185 days; and
  - (d) in any other case, the applicant is normally and lawfully resident in Northern Ireland.
- (2) For the purposes of paragraph (1) a person is not lawfully resident in Northern Ireland or the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”

**Commencement Information**

**I39** S. 46 in force at 14.7.2014 by [S.I. 2014/1820](#), [art. 2\(d\)](#)

**47 Revocation of driving licences on grounds of immigration status**

- (1) In section 99 of the Road Traffic Act 1988 (duration of licences)—
- (a) after subsection (3) insert—
 

“(3ZA) Where it appears to the Secretary of State that a licence holder is not lawfully resident in the United Kingdom, the Secretary of State may serve notice in writing on that person revoking the licence and requiring the person to surrender the licence and its counterpart forthwith to the Secretary of State, and it is the duty of that person to comply with the requirement.

(3ZB) For the purposes of subsection (3ZA) a person is not lawfully resident in the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”;
  - (b) in subsection (5), after “(3)” insert “ , (3ZA) ”;

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Immigration Act 2014, PART 3 is up to date with all changes known to be in force on or before 02 September 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)*

- (c) in subsection (7ZZA)—
- (i) after “(3)” insert “, (3ZA) ”;
  - (ii) after “subsections and” insert “, except in the case of a licence and counterpart surrendered in pursuance of subsection (3ZA), ”.
- (2) In section 100 of that Act (appeals)—
- (a) in subsection (1)(c), after “99(3)” insert “, (3ZA) ”;
  - (b) at the end insert—
    - “(4) In any proceedings under this section about the revocation of a licence in pursuance of section 99(3ZA) (revocation on grounds of immigration status), the court or sheriff is not entitled to entertain any question as to whether—
      - (a) the appellant should be, or should have been, granted leave to enter or remain in the United Kingdom, or
      - (b) the appellant has, after the date that the Secretary of State served notice under section 99(3ZA), been granted leave to enter or remain in the United Kingdom.”
- (3) In Article 15 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (duration of licences)—
- (a) after paragraph (5) insert—
    - “(5ZA) Where it appears to the Department that a licence holder is not lawfully resident in the United Kingdom, the Department may serve notice in writing on that person revoking the licence and requiring the person to surrender the licence and its counterpart forthwith to the Department, and it is the duty of that person to comply with the requirement.
    - (5ZB) For the purposes of paragraph (5ZA) a person is not lawfully resident in the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”;
  - (b) in paragraph (7), after “(5)” insert “, (5ZA) ”.
- (4) In Article 16 of that Order (appeals)—
- (a) in paragraph (1)(c), after “15(5)” insert “, (5ZA) ”;
  - (b) at the end insert—
    - “(4) In any proceedings under this Article about the revocation of a licence in pursuance of Article 15(5ZA) (revocation on grounds of immigration status), the court is not entitled to entertain any question as to whether—
      - (a) the appellant should be, or should have been, granted leave to enter or remain in the United Kingdom, or
      - (b) the appellant has, after the date that the Department served notice under Article 15(5ZA), been granted leave to enter or remain in the United Kingdom.”

#### Commencement Information

**I40** S. 47 in force at 14.7.2014 by [S.I. 2014/1820](#), [art. 2\(e\)](#)

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

Immigration Act 2014, PART 3 is up to date with all changes known to be in force on or before 02 September 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.