

Changes to legislation: Criminal Justice Act 1982, SCHEDULE 10 is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 10

Section 64.

AMENDMENTS OF SCHEDULE 3 TO ^{M1}IMMIGRATION ACT 1971

Modifications etc. (not altering text)

C1 Sch. 10 extended (Isle of Man) (13.3.2008 for specified purposes, 1.5.2008 in so far as not already in force) by *The Immigration (Isle of Man) Order 2008 (S.I. 2008/680)*, arts. 1(2), 9 (with art. 5, Sch. 2)

Marginal Citations

M1 1971 c. 77.

- 1 In paragraph 2—
- (a) in sub-paragraph (1), after the word “directs”, in the first place where it occurs, there shall be inserted the words “or a direction is given under sub-paragraph (1A) below,”;
 - (b) the following sub-paragraph shall be inserted after that sub-paragraph—

“(1A) Where—

 - (a) a recommendation for deportation made by a court on conviction of a person is in force in respect of him; and
 - (b) he appeals against his conviction or against that recommendation,

the powers that the court determining the appeal may exercise include power to direct him to be released without setting aside the recommendation.”;
 - (c) the following sub-paragraphs shall be substituted for sub-paragraph (5)—

“(5) A person to whom this sub-paragraph applies shall be subject to such restrictions as to residence and as to reporting to the police as may from time to time be notified to him in writing by the Secretary of State.

(6) The persons to whom sub-paragraph (5) above applies are—

 - (a) a person liable to be detained under sub-paragraph (1) above, while by virtue of a direction of the Secretary of State he is not so detained; and
 - (b) a person liable to be detained under sub-paragraph (2) or (3) above, while he is not so detained.”.
- 2 The following shall be added after paragraph 3—

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“ Powers of courts pending deportation

- 4 Where the release of a person recommended for deportation is directed by a court, he shall be subject to such restrictions as to residence and as to reporting to the police as the court may direct.
- 5 (1) On an application made—
- (a) by or on behalf of a person recommended for deportation whose release was so directed; or
 - (b) by a constable; or
 - (c) by an immigration officer,
- the appropriate court shall have the powers specified in sub-paragraph (2) below.
- (2) The powers mentioned in sub-paragraph (1) above are—
- (a) if the person to whom the application relates is not subject to any such restrictions imposed by a court as are mentioned in paragraph 4 above, to order that he shall be subject to any such restrictions as the court may direct; and
 - (b) if he is subject to such restrictions imposed by a court by virtue of that paragraph or this paragraph—
 - (i) to direct that any of them shall be varied or shall cease to have effect; or
 - (ii) to give further directions as to his residence and reporting.
- 6 (1) In this Schedule “the appropriate court” means, except in a case to which sub-paragraph (2) below applies, the court which directed release.
- (2) This sub-paragraph applies where the court which directed release was—
- (a) the Crown Court;
 - (b) the Court of Appeal;
 - (c) the High Court of Justiciary;
 - (d) the Crown Court in Northern Ireland; or
 - (e) the Court of Appeal in Northern Ireland.
- (3) Where the Crown Court or the Crown Court in Northern Ireland directed release, the appropriate court is—
- (a) the court that directed release; or
 - (b) a magistrates’ court acting for the commission area or county court division where the person to whom the application relates resides.
- (4) Where the Court of Appeal or the Court of Appeal in Northern Ireland gave the direction, the appropriate court is the Crown Court or the Crown Court in Northern Ireland, as the case may be.
- (5) Where the High Court of Justiciary directed release, the appropriate court is—
- (a) that court; or
 - (b) in a case where release was directed by that court on appeal, the court from which the appeal was made.

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- 7 (1) A constable or immigration officer may arrest without warrant any person who is subject to restrictions imposed by a court under this Schedule and who at the time of arrest is in the relevant part of the United Kingdom—
- (a) if he has reasonable grounds to suspect that that person is contravening or has contravened any of those restrictions; or
 - (b) if he has reasonable grounds for believing that that person is likely to contravene any of them.
- (2) In sub-paragraph (1) above “the relevant part of the United Kingdom” means—
- (a) England and Wales, in a case where a court with jurisdiction in England or Wales imposed the restrictions;
 - (b) Scotland, in a case where a court with jurisdiction in Scotland imposed them; and
 - (c) Northern Ireland, in a case where a court in Northern Ireland imposed them.
- 8 (1) A person arrested in England or Wales or Northern Ireland in pursuance of paragraph 7 above shall be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace for the petty sessions area or district in which he was arrested.
- (2) In reckoning for the purposes of this paragraph any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.
- 9 (1) A person arrested in Scotland in pursuance of paragraph 7 above shall wherever practicable be brought before the appropriate court not later than in the course of the first day after his arrest, such day not being a Saturday, a Sunday or a court holiday prescribed for that court under section 10 of the Bail etc. (Scotland) Act 1980.
- (2) Nothing in this paragraph shall prevent a person arrested in Scotland being brought before a court on a Saturday, a Sunday or such court holiday as is mentioned in sub-paragraph (1) above where the court is, in pursuance of section 10 of the said Act of 1980, sitting on such day for the disposal of criminal business.
- 10 Any justice of the peace or court before whom a person is brought by virtue of paragraph 8 or 9 above—
- (a) if of the opinion that that person is contravening, has contravened or is likely to contravene any restriction imposed on him by a court under this Schedule, may direct—
 - (i) that he be detained; or
 - (ii) that he be released subject to such restrictions as to his residence and reporting to the police as the court may direct; and
 - (b) if not of that opinion, shall release him without altering the restrictions as to his residence and his reporting to the police.”.

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

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

- s. 32(1A)(ca) words inserted by [2021 c. 11 Sch. 13 para. 36](#)