



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART VIII U.K.

#### DETENTION CENTRES AND DETAINED PERSONS

##### *Detention centres*

#### 148 Management of [F<sup>1</sup>removal centres]. U.K.

- (1) A manager must be appointed for every [F<sup>1</sup>removal centre].
- (2) In the case of a contracted out [F<sup>1</sup>removal centre], the person appointed as manager must be a detainee custody officer whose appointment is approved by the Secretary of State.
- (3) The manager of a [F<sup>1</sup>removal centre] is to have such functions as are conferred on him by [F<sup>1</sup>removal centre] rules.
- (4) The manager of a contracted out [F<sup>1</sup>removal centre] may not—
  - (a) enquire into a disciplinary charge laid against a detained person;
  - (b) conduct the hearing of such a charge; or
  - (c) make, remit or mitigate an award in respect of such a charge.
- (5) The manager of a contracted out [F<sup>1</sup>removal centre] may not, except in cases of urgency, order—
  - (a) the removal of a detained person from association with other detained persons;
  - (b) the temporary confinement of a detained person in special accommodation; or
  - (c) the application to a detained person of any other special control or restraint (other than handcuffs).

#### Textual Amendments

- F1** Words in s. 148 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)ss.66\(2\)\(3\)\(b\), 162\(1\)](#) (with s. 159); S.I. 2003/1, art. 2, Sch.

*Status: Point in time view as at 10/02/2003.*

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#### Commencement Information

- II** S. 148 wholly in force at 2.4.2001; s. 148 not in force at Royal Assent; s. 148(3) in force at 1.8.2000 for certain purposes by [S.I. 2000/1985](#), [art. 2](#), [Sch.](#); s. 148 in force so far as not already in force at 2.4.2001 by [S.I. 2001/239](#), [art. 2](#), [Sch.](#)

### 149 Contracting out of certain [F<sup>2</sup>removal centres]. **U.K.**

- (1) The Secretary of State may enter into a contract with another person for the provision or running (or the provision and running) by him, or (if the contract so provides) for the running by sub-contractors of his, of any [F<sup>2</sup>removal centre] or part of a [F<sup>2</sup>removal centre].
- (2) While a [F<sup>2</sup>removal centre] contract for the running of a [F<sup>2</sup>removal centre] or part of a [F<sup>2</sup>removal centre] is in force—
  - (a) the [F<sup>2</sup>removal centre] or part is to be run subject to and in accordance with the provisions of or made under this Part; and
  - (b) in the case of a part, that part and the remaining part are to be treated for the purposes of those provisions as if they were separate [F<sup>2</sup>removal centres].
- (3) If the Secretary of State grants a lease or tenancy of land for the purposes of a [F<sup>2</sup>removal centre] contract, none of the following enactments applies to the lease or tenancy—
  - (a) Part II of the <sup>M1</sup>Landlord and Tenant Act 1954 (security of tenure);
  - (b) section 146 of the <sup>M2</sup>Law of Property Act 1925 (restrictions on and relief against forfeiture);
  - (c) section 19(1), (2) and (3) of the <sup>M3</sup>Landlord and Tenant Act 1927 and the <sup>M4</sup>Landlord and Tenant Act 1988 (covenants not to assign etc.);
  - (d) the <sup>M5</sup>Agricultural Holdings Act 1986;
  - (e) sections 4 to 7 of the <sup>M6</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (irritancy clauses);
  - (f) the <sup>M7</sup>Agricultural Holdings (Scotland) Act 1991;
  - (g) section 14 of the <sup>M8</sup>Conveyancing Act 1881;
  - (h) the <sup>M9</sup>Conveyancing and Law of Property Act 1892;
  - (i) the <sup>M10</sup>Business Tenancies (Northern Ireland) Order 1996.
- (4) The Secretary of State must appoint a contract monitor for every contracted out [F<sup>2</sup>removal centre].
- (5) A person may be appointed as the contract monitor for more than one [F<sup>2</sup>removal centre].
- (6) The contract monitor is to have—
  - (a) such functions as may be conferred on him by [F<sup>2</sup>removal centre] rules;
  - (b) the status of a Crown servant.
- (7) The contract monitor must—
  - (a) keep under review, and report to the Secretary of State on, the running of a [F<sup>2</sup>removal centre] for which he is appointed; and
  - (b) investigate, and report to the Secretary of State on, any allegations made against any person performing custodial functions at that centre.

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- (8) The contractor, and any sub-contractor of his, must do all that he reasonably can (whether by giving directions to the officers of the [F<sup>2</sup>removal centre] or otherwise) to facilitate the exercise by the contract monitor of his functions.
- (9) “Lease or tenancy” includes an underlease, sublease or sub-tenancy.
- (10) In relation to a [F<sup>2</sup>removal centre] contract entered into by the Secretary of State before the commencement of this section, this section is to be treated as having been in force at that time.

#### Textual Amendments

- F2** Words in ss. 149, 150 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss.66\(2\)\(3\)\(c\)](#), [162\(1\)](#) (with s. 159); S.I. 2003/1, [art. 2](#), [Sch.](#)

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

- C1** S. 149 extended (4.11.2002) by [The Immigration \(Short-term Holding Facilities\) Regulations 2002 \(S.I. 2002/2538\)](#), [art. 2](#)

#### Commencement Information

- I2** S. 149 wholly in force at 2.4.2001; S. 149 not in force at Royal Assent; s. 149(1)(3)(6)(a)(9) in force at 1.8.2000 by [S.I. 2000/1985](#), [art. 2](#), [Sch.](#); s. 149 in force so far as not already in force at 2.4.2001 by [S.I. 2001/239](#), [art. 2](#), [Sch.](#)

#### Marginal Citations

- M1** 1954 c. 56.  
**M2** 1925 c. 20.  
**M3** 1927 c. 36  
**M4** 1988 c.26.  
**M5** 1986 c. 5.  
**M6** 1985 c. 73.  
**M7** 1991 c. 55.  
**M8** 1881 c. 41.  
**M9** 1892 c. 13.  
**M10** [S.I. 1996/725 \(N.I. 5\)](#).

## 150 Contracted out functions at directly managed [F<sup>2</sup>removal centres]. **U.K.**

- (1) The Secretary of State may enter into a contract with another person—
  - (a) for functions at, or connected with, a directly managed [F<sup>2</sup>removal centre] to be performed by detainee custody officers provided by that person; or
  - (b) for such functions to be performed by certified prisoner custody officers who are provided by that person.
- (2) For the purposes of this section “[F<sup>2</sup>removal centre]” includes a short-term holding facility.

#### Textual Amendments

- F2** Words in ss. 149, 150 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss.66\(2\)\(3\)\(c\)](#), [162\(1\)](#) (with s. 159); S.I. 2003/1, [art. 2](#), [Sch.](#)

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## 151 Intervention by Secretary of State. **U.K.**

- (1) The Secretary of State may exercise the powers conferred by this section if it appears to him that—
  - (a) the manager of a contracted out [<sup>F3</sup>removal centre] has lost, or is likely to lose, effective control of the centre or of any part of it; or
  - (b) it is necessary to do so in the interests of preserving the safety of any person, or of preventing serious damage to any property.
- (2) The Secretary of State may appoint a person (to be known as the Controller) to act as manager of the [<sup>F3</sup>removal centre] for the period—
  - (a) beginning with the time specified in the appointment; and
  - (b) ending with the time specified in the notice of termination under subsection (5).
- (3) During that period—
  - (a) all the functions which would otherwise be exercisable by the manager or the contract monitor are to be exercisable by the Controller;
  - (b) the contractor and any sub-contractor of his must do all that he reasonably can to facilitate the exercise by the Controller of his functions; and
  - (c) the staff of the [<sup>F3</sup>removal centre] must comply with any directions given by the Controller in the exercise of his functions.
- (4) The Controller is to have the status of a Crown servant.
- (5) If the Secretary of State is satisfied that a Controller is no longer needed for a particular [<sup>F3</sup>removal centre], he must (by giving notice to the Controller) terminate his appointment at a time specified in the notice.
- (6) As soon as practicable after making an appointment under this section, the Secretary of State must give notice of the appointment to those entitled to notice.
- (7) As soon as practicable after terminating an appointment under this section, the Secretary of State must give a copy of the notice of termination to those entitled to notice.
- (8) Those entitled to notice are the contractor, the manager, the contract monitor and the Controller.

### Textual Amendments

**F3** Words in s. 151 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss.66\(2\)\(3\)\(d\), 162\(1\)](#) (with [s. 159](#)); [S.I. 2003/1](#), art. 2, Sch.

## 152 Visiting Committees and inspections. **U.K.**

- (1) The Secretary of State must appoint a committee (to be known as the Visiting Committee) for each [<sup>F4</sup>removal centre].
- (2) The functions of the Visiting Committee for a [<sup>F4</sup>removal centre] are to be such as may be prescribed by the [<sup>F4</sup>removal centre] rules.
- (3) Those rules must include provision—
  - (a) as to the making of visits to the centre by members of the Visiting Committee;

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- (b) for the hearing of complaints made by persons detained in the centre;
  - (c) requiring the making of reports by the Visiting Committee to the Secretary of State.
- (4) Every member of the Visiting Committee for a [<sup>F4</sup>removal centre] may at any time enter the centre and have free access to every part of it and to every person detained there.
- (5) In section 5A of the <sup>M11</sup>Prison Act 1952 (which deals with the appointment and functions of Her Majesty’s Chief Inspector of Prisons), after subsection (5), insert—
- “(5A) Subsections (2) to (5) apply to [<sup>F4</sup>removal centres] (as defined by section 147 of the Immigration and Asylum Act 1999 and including any in Scotland) and persons detained in such [<sup>F4</sup>removal centres] as they apply to prisons and prisoners.”

#### Textual Amendments

**F4** Words in s. 152 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss.66\(2\)\(3\)\(e\)](#), [162\(1\)](#) (with s. 159); [S.I. 2003/1](#), [art. 2](#), [Sch.](#)

#### Commencement Information

**I3** S. 152 wholly in force at 2.4.2001; s. 152 not in force at Royal Assent; s.152(2)(3) in force at 1.8.2000 for certain purposes by [S.I. 2000/1985](#), [art. 2](#), [Sch.](#); s. 152 in force so far as not already in force at 2.4.2001 by [S.I. 2001/239](#), [art. 2](#), [Sch.](#)

#### Marginal Citations

**M11** [1952 c. 52](#).

### 153 [<sup>F5</sup>Removal centre] rules. **U.K.**

- (1) The Secretary of State must make rules for the regulation and management of [<sup>F5</sup>removal centres].
- (2) [<sup>F5</sup>Removal centre] rules may, among other things, make provision with respect to the safety, care, activities, discipline and control of detained persons.

#### Textual Amendments

**F5** Words in s. 153 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss.66\(2\)\(3\)\(f\)](#), [162\(1\)](#) (with s. 159); [S.I. 2003/1](#), [art. 2](#), [Sch.](#)

#### Commencement Information

**I4** S. 153 wholly in force at 2.4.2001; S. 153 not in force at Royal Assent; s. 153 in force for certain purposes at 1.8.2000 by [S.I. 2000/1985](#), [art. 2](#), [Sch.](#); S. 153 in force so far as not already in force at 2.4.2001 by [S.I. 2001/239](#), [art. 2](#), [Sch.](#)

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