



Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

2004 CHAPTER 19

Removal and detention

33 Removing asylum seeker to safe country

- (1) Schedule 3 (which concerns the removal of persons claiming asylum to countries known to protect refugees and to respect human rights) shall have effect.
- (2) Sections 11 and 12 of the Immigration and Asylum Act 1999 (c. 33) (removal of asylum claimant to country under standing or other arrangements) shall cease to have effect.
- (3) The following provisions of the Nationality, Immigration and Asylum Act 2002 (c. 41) shall cease to have effect—
 - (a) section 80 (new section 11 of 1999 Act), and
 - (b) section 93 (appeal from within United Kingdom: “third country” removal).

Commencement Information

II [S. 33](#) in force at 1.10.2004 by [S.I. 2004/2523](#), [art. 2](#), [Sch.](#) (with [art. 3](#))

34 Detention pending deportation

- (1) In paragraph 2(1) of Schedule 3 to the Immigration Act 1971 (c. 77) (detention pending deportation on recommendation by court) for the words “and that person is neither detained in pursuance of the sentence or order of any court nor for the time being released on bail by any court having power so to release him” substitute “ and that person is not detained in pursuance of the sentence or order of any court ”.
- (2) In paragraph 2(2) of that Schedule (detention following notice of deportation) for the words “and he is neither detained in pursuance of the sentence or order of a court

Status: Point in time view as at 01/12/2020.

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nor for the time being released on bail by a court having power so to release him” substitute “ and he is not detained in pursuance of the sentence or order of a court ”.

Commencement Information

I2 S. 34 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

35 Deportation or removal: cooperation

- (1) The Secretary of State may require a person to take specified action if the Secretary of State thinks that—
 - (a) the action will or may enable a travel document to be obtained by or for the person, and
 - (b) possession of the travel document will facilitate the person’s deportation or removal from the United Kingdom.
- (2) In particular, the Secretary of State may require a person to—
 - (a) provide information or documents to the Secretary of State or to any other person;
 - (b) obtain information or documents;
 - [^{F1}(c) provide biometric information (within the meaning of section 15 of the UK Borders Act 2007), or submit to a process by means of which such information is obtained or recorded;]
 - (d) make, or consent to or cooperate with the making of, an application to a person acting for the government of a State other than the United Kingdom;
 - (e) cooperate with a process designed to enable determination of an application;
 - (f) complete a form accurately and completely;
 - (g) attend an interview and answer questions accurately and completely;
 - (h) make an appointment.
- (3) A person commits an offence if he fails without reasonable excuse to comply with a requirement of the Secretary of State under subsection (1).
- (4) A person guilty of an offence under subsection (3) shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum or to both.
- (5) If [^{F2}a constable or][^{F2}an] immigration officer reasonably suspects that a person has committed an offence under subsection (3) he may arrest the person without warrant.
- (6) An offence under subsection (3) shall be treated as—
 - (a) a relevant offence for the purposes of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and
 - (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28(4), 28E, 28G and 28H (search after arrest, &c.) of that Act.
- (7) In subsection (1)—

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“travel document” means a passport or other document which is issued by or for Her Majesty’s Government or the government of another State and which enables or facilitates travel from the United Kingdom to another State, and

“removal from the United Kingdom” means removal under—

- (a) Schedule 2 to the Immigration Act 1971 (control on entry) (including a provision of that Schedule as applied by another provision of the Immigration Acts),
 - (b) section 10 of the Immigration and Asylum Act 1999 (c. 33) (removal of person unlawfully in United Kingdom), or
 - (c) Schedule 3 to this Act.
- (8) While sections 11 and 12 of the Immigration and Asylum Act 1999 continue to have effect, the reference in subsection (7)(c) above to Schedule 3 to this Act shall be treated as including a reference to those sections.
- (9) In so far as subsection (3) extends to England and Wales, subsection (4)(b) shall, until the commencement of ^{F3}paragraph 24 of Schedule 22 to the Sentencing Act 2020 (increased limit on magistrates' power of imprisonment), have effect as if the reference to twelve months were a reference to six months.
- (10) In so far as subsection (3) extends to Scotland, subsection (4)(b) shall have effect as if the reference to twelve months were a reference to six months.
- (11) In so far as subsection (3) extends to Northern Ireland, subsection (4)(b) shall have effect as if the reference to twelve months were a reference to six months.

Textual Amendments

- F1** S. 35(2)(c) substituted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 2 para. 5**; S.I. 2014/1820, art. 3(z)
- F2** Word in s. 35(5) substituted (E.W.) (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 7 para. 63(b)**; S.I. 2005/3495, **art. 2(1)(m)**; and (N.I.) (1.3.2007) by [The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288\)](#), art. 1(2), **Sch. 1 para. 39(2)**
- F3** Words in s. 35(9) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 445** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

^{F4}36 Electronic monitoring

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Textual Amendments

- F4** S. 36 omitted (15.1.2018) by virtue of [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 38**; S.I. 2017/1241, **reg. 2(c)** (with [Sch.](#)) (as amended by S.I. 2018/31, reg. 2)

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