

BORDERS, CITIZENSHIP AND IMMIGRATION ACT 2009

EXPLANATORY NOTES

COMMENTARY

Part 4: Miscellaneous and General

Section 55: Duty regarding the welfare of children

205. **Section 55** imposes a duty on the Secretary of State to make arrangements to ensure that certain specified functions are carried out having regard to the need to safeguard and promote the welfare of children who are in the UK. Subsection (1)(b) requires the Secretary of State to make similar arrangements to ensure that other persons, including contractors, who carry out those functions also have regard to the need to safeguard and promote the welfare of children.
206. Subsection (2) sets out the list of functions which the Secretary of State must make arrangements for ensuring are carried out having regard to the need to safeguard and promote the welfare of children who are in the UK. These include the immigration and nationality functions of the Secretary of State, and any function conferred upon an immigration officer by or by virtue of the Immigration Acts. Further, they include the general customs functions of the Secretary of State, and the customs functions of a designated customs official.
207. Subsection (3) requires anyone carrying out any of the functions listed to have regard to any guidance issued to them by the Secretary of State for the purposes of subsection (1).
208. Subsection (4) imposes a duty on the Director to make arrangements for ensuring that the Director's functions are carried out having regard to the need to safeguard and promote the welfare of children who are in the UK. Subsection (4)(b) requires the Director to make similar arrangements to ensure that other persons carrying out the Director's functions also have regard to the need to safeguard and promote the welfare of children.
209. Subsection (5) requires any person exercising a function of the Director to have regard to any guidance issued by the Secretary of State for the purpose of subsection (4).
210. Subsection (6) provides that, for the purposes of this section, "children" means persons who are under the age of 18.
211. Subsection (7) provides that any reference to the Immigration Acts in an enactment other than the Act includes this section.
212. Subsection (8) repeals section 21 of the UKBA 2007, which imposes a duty on the Secretary of State to issue a code of practice designed to ensure that, in exercising its functions, the Border and Immigration Agency (now the UK Border Agency) takes appropriate steps to ensure that while children are in the UK they are safe from harm.