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Immigration Act 2014

2014 CHAPTER 22

PART 1

REMOVAL AND OTHER POWERS

VALID FROM 28/07/2014

Removal

VALID FROM 20/10/2014

1 Removal of persons unlawfully in the United Kingdom

For section 10 of the Immigration and Asylum Act 1999, substitute—

“10 Removal of persons unlawfully in the United Kingdom

- (1) A person may be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer if the person requires leave to enter or remain in the United Kingdom but does not have it.
- (2) Where a person (“P”) is liable to be or has been removed from the United Kingdom under subsection (1), a member of P’s family who meets the following three conditions may also be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer, provided that the Secretary of State or immigration officer has given the family member written notice of the intention to remove him or her.
- (3) The first condition is that the family member is—
 - (a) P’s partner,

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- (b) P's child, or a child living in the same household as P in circumstances where P has care of the child,
 - (c) in a case where P is a child, P's parent, or
 - (d) an adult dependent relative of P.
- (4) The second condition is that—
- (a) in a case where the family member has leave to enter or remain in the United Kingdom, that leave was granted on the basis of his or her family life with P;
 - (b) in a case where the family member does not have leave to enter or remain in the United Kingdom, in the opinion of the Secretary of State or immigration officer the family member—
 - (i) would not, on making an application for such leave, be granted leave in his or her own right, but
 - (ii) would be granted leave on the basis of his or her family life with P, if P had leave to enter or remain.
- (5) The third condition is that the family member is neither a British citizen, nor is he or she entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972.
- (6) A notice given to a family member under subsection (2) invalidates any leave to enter or remain in the United Kingdom previously given to the family member.
- (7) For the purposes of removing a person from the United Kingdom under subsection (1) or (2), the Secretary of State or an immigration officer may give any such direction for the removal of the person as may be given under paragraphs 8 to 10 of Schedule 2 to the 1971 Act.
- (8) But subsection (7) does not apply where a deportation order is in force against a person (and any directions for such a person's removal must be given under Schedule 3 to the 1971 Act).
- (9) The following paragraphs of Schedule 2 to the 1971 Act apply in relation to directions under subsection (7) (and the persons subject to those directions) as they apply in relation to directions under paragraphs 8 to 10 of Schedule 2 (and the persons subject to those directions)—
- (a) paragraph 11 (placing of person on board ship or aircraft);
 - (b) paragraph 16(2) to (4) (detention of person where reasonable grounds for suspecting removal directions may be given or pending removal in pursuance of directions);
 - (c) paragraph 17 (arrest of person liable to be detained and search of premises for person liable to arrest);
 - (d) paragraph 18 (supplementary provisions on detention);
 - (e) paragraph 18A (search of detained person);
 - (f) paragraph 18B (detention of unaccompanied children);
 - (g) paragraphs 19 and 20 (payment of expenses of custody etc);
 - (h) paragraph 21 (temporary admission to UK of person liable to detention);
 - (i) paragraphs 22 to 25 (bail);

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- (j) paragraphs 25A to 25E (searches etc).
- (10) The Secretary of State may by regulations make further provision about—
 - (a) the time period during which a family member may be removed under subsection (2);
 - (b) the service of a notice under subsection (2).
- (11) In this section “child” means a person who is under the age of 18.”

2 **Restriction on removal of children and their parents etc**

After section 78 of the Nationality, Immigration and Asylum Act 2002, insert—

“78A Restriction on removal of children and their parents etc

- (1) This section applies in a case where—
 - (a) a child is to be removed from or required to leave the United Kingdom, and
 - (b) an individual who—
 - (i) is a parent of the child or has care of the child, and
 - (ii) is living in a household in the United Kingdom with the child,is also to be removed from or required to leave the United Kingdom (a “relevant parent or carer”).
- (2) During the period of 28 days beginning with the day on which the relevant appeal rights are exhausted—
 - (a) the child may not be removed from or required to leave the United Kingdom; and
 - (b) a relevant parent or carer may not be removed from or required to leave the United Kingdom if, as a result, no relevant parent or carer would remain in the United Kingdom.
- (3) The relevant appeal rights are exhausted at the time when—
 - (a) neither the child, nor any relevant parent or carer, could bring an appeal under section 82 (ignoring any possibility of an appeal out of time with permission), and
 - (b) no appeal brought by the child, or by any relevant parent or carer, is pending within the meaning of section 104.
- (4) Nothing in this section prevents any of the following during the period of 28 days mentioned in subsection (2)—
 - (a) the giving of a direction for the removal of a person from the United Kingdom,
 - (b) the making of a deportation order in respect of a person, or
 - (c) the taking of any other interim or preparatory action.
- (5) In this section—
 - “child” means a person who is aged under 18;

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references to a person being removed from or required to leave the United Kingdom are to the person being removed or required to leave in accordance with a provision of the Immigration Acts.”

3 Independent Family Returns Panel

Before section 55 of the Borders, Citizenship and Immigration Act 2009, insert—

“54A Independent Family Returns Panel

- (1) The Independent Family Returns Panel is established.
- (2) The Secretary of State must consult the Independent Family Returns Panel—
 - (a) in each family returns case, on how best to safeguard and promote the welfare of the children of the family, and
 - (b) in each case where the Secretary of State proposes to detain a family in pre-departure accommodation, on the suitability of so doing, having particular regard to the need to safeguard and promote the welfare of the children of the family.
- (3) A family returns case is a case where—
 - (a) a child who is living in the United Kingdom is to be removed from or required to leave the United Kingdom, and
 - (b) an individual who—
 - (i) is a parent of the child or has care of the child, and
 - (ii) is living in a household in the United Kingdom with the child,
 is also to be removed from or required to leave the United Kingdom.
- (4) The Secretary of State may by regulations make provision about—
 - (a) additional functions of the Independent Family Returns Panel,
 - (b) its status and constitution,
 - (c) the appointment of its members,
 - (d) the payment of remuneration and allowances to its members, and
 - (e) any other matters in connection with its establishment and operation.
- (5) Regulations under this section must be made by statutory instrument.
- (6) An instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—

“child” means a person who is under the age of 18;

“pre-departure accommodation” has the same meaning as in Part 8 of the Immigration and Asylum Act 1999;

references to a person being removed from or required to leave the United Kingdom are to the person being removed or required to leave in accordance with a provision of the Immigration Acts.”

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