



# Illegal Migration Act 2023

## 2023 CHAPTER 37

### *Unaccompanied children*

PROSPECTIVE

#### **16 Accommodation and other support for unaccompanied migrant children**

- (1) The Secretary of State may provide, or arrange for the provision of, accommodation in England for unaccompanied children in England.
- (2) In this section, “accommodation for unaccompanied migrant children” means accommodation provided under [this section](#).
- (3) While a child is residing in accommodation for unaccompanied migrant children, the Secretary of State may provide, or arrange for the provision of, other types of support to the child.
- (4) Subsections (1) to (3) are to be treated as having had effect at all times on or after 7 March 2023.
- (5) For the purposes of this section and section 17, a person (“C”) is an unaccompanied child if—
  - (a) C meets the four conditions in section 2, reading subsection (3) of that section as if it referred to a person entering or arriving in the United Kingdom as mentioned in subsection (2) of that section on or after 7 March 2023,
  - (b) C is under the age of 18, and
  - (c) at the time of C’s entry or arrival in the United Kingdom by virtue of which C meets the condition in section 2(3), no individual (whether or not a parent of C) who was aged 18 or over had care of C.

#### **Commencement Information**

- II** S. 16 not in force at Royal Assent, see [s. 68\(1\)](#)

**Status:** Point in time view as at 28/09/2023. This version of this cross heading contains provisions that are prospective.  
**Changes to legislation:** Illegal Migration Act 2023, Cross Heading: Unaccompanied children is up to date with all changes known to be in force on or before 30 September 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)

## PROSPECTIVE

**17 Transfer of children from Secretary of State to local authority and vice versa**

- (1) The Secretary of State may decide that a child is to cease residing in accommodation for unaccompanied migrant children on a certain date (the transfer date).
- (2) On making that decision, the Secretary of State must direct a local authority in England to provide accommodation to the child, under section 20 of the Children Act 1989, from the transfer date.
- (3) The transfer date must be a date falling after the end of the period of five working days beginning with the day on which the local authority was given the direction.
- (4) The Secretary of State may decide that an unaccompanied child who is being provided with accommodation by a local authority in England is to cease being provided with that accommodation on a certain date (the transfer date).
- (5) On making that decision, the Secretary of State must direct the local authority to cease providing the child with accommodation from the transfer date.
- (6) The transfer date must be a date falling after the end of the period of five working days beginning with the day on which the local authority was given the direction.
- (7) When a local authority ceases providing a child with accommodation in compliance with a direction under [subsection \(5\)](#), the Secretary of State must arrange for the child to reside in accommodation for unaccompanied migrant children from the transfer date.
- (8) In this section and sections [18](#) and [19](#)—
  - “accommodation for unaccompanied migrant children” has the same meaning as in [section 16](#);
  - “local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);
  - “working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

**Commencement Information**

**I2** S. 17 not in force at Royal Assent, see [s. 68\(1\)](#)

**18 Duty of local authority to provide information to the Secretary of State**

- (1) The Secretary of State may direct a local authority to provide information to the Secretary of State for the purposes of helping the Secretary of State to make a decision under [section 17\(1\)](#) or [\(4\)](#) (decision to transfer unaccompanied migrant child from Secretary of State to local authority or vice versa).
- (2) The information that the Secretary of State may direct a local authority to provide is—
  - (a) information about the accommodation and support provided to children by the local authority;

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- (b) such other information as may be specified in regulations made by the Secretary of State.
- (3) A local authority which is directed to provide information under this section must provide it—
- (a) in such form and manner as the Secretary of State may direct, and
  - (b) before such time or before the end of such period as the Secretary of State may direct.

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**Commencement Information**

**I3** S. 18 in force at Royal Assent for specified purposes, see [s. 68\(4\)\(f\)](#)

PROSPECTIVE

**19 Enforcement of local authorities' duties under sections 17 and 18**

- (1) If the Secretary of State is satisfied that a local authority has failed, without reasonable excuse, to comply with a direction under [section 17](#) or a duty under [section 18](#), the Secretary of State may make an order declaring that authority to be in default with respect to that direction or duty.
- (2) An order under [subsection \(1\)](#) must give the Secretary of State's reasons for making it.
- (3) An order under [subsection \(1\)](#) may contain such directions for the purpose of ensuring that the direction or duty is complied with, within such period as may be specified in the order, as appears to the Secretary of State to be necessary.
- (4) Any such direction may be enforced on an application made on behalf of the Secretary of State, by a mandatory order.

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**Commencement Information**

**I4** S. 19 not in force at Royal Assent, see [s. 68\(1\)](#)

**20 Extension to Wales, Scotland and Northern Ireland**

- (1) The Secretary of State may make regulations enabling sections [16](#) to [19](#) to apply in relation to Wales, Scotland or Northern Ireland.
- (2) The regulations may amend, repeal or revoke any enactment (including an enactment contained in this Act).
- (3) The regulations may not confer functions on—
  - (a) the Welsh Ministers,
  - (b) the Scottish Ministers,
  - (c) the First Minister and deputy First Minister in Northern Ireland,
  - (d) a Northern Ireland Minister, or
  - (e) a Northern Ireland department.

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- (4) In this section, “enactment” includes—
- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
  - (b) an enactment contained in, or in an instrument made under, an Act or Measure of Senedd Cymru;
  - (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
  - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

#### Commencement Information

**I5** S. 20 in force at Royal Assent for specified purposes, see [s. 68\(4\)\(g\)](#)

PROSPECTIVE

## 21 Transfer of children between local authorities

- (1) Section 69 of the Immigration Act 2016 (transfer of responsibility for relevant children) is amended as follows.
- (2) In subsection (9) (definition of “relevant child”)—
  - (a) omit the “or” at the end of paragraph (b), and
  - (b) after paragraph (c) insert “, or
  - (d) an unaccompanied child, within the meaning of section 16 of the Illegal Migration Act 2023.”
- (3) In subsection (10), at the end insert “(a) to (c)”.

#### Commencement Information

**I6** S. 21 not in force at Royal Assent, see [s. 68\(1\)](#)

**Status:**

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**Changes to legislation:**

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