

EXPLANATORY MEMORANDUM TO
THE IMMIGRATION (REMOVAL OF FAMILY MEMBERS) REGULATIONS 2014
2014 No. 2816

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1. The Immigration (Removal of Family Members) Regulations 2014 (“the 2014 Regulations”) make provision about family members who may be removed from the United Kingdom (“the UK”) where the person to whose family they belong requires leave to enter or remain in the UK but does not have it. The 2014 Regulations set out the time period within which a notice under section 10(2) of the Immigration and Asylum Act 1999 (“the 1999 Act”) may be given, and the procedure to be followed for serving the notice of removal.

2.2. The 2014 Regulations are subject to the negative resolution procedure.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None

4. Legislative Context

4.1. Section 1 of the Immigration Act 2014 (“the 2014 Act”) replaces section 10 of the 1999 Act with a new provision in relation to the removal of persons unlawfully in the UK. Subsection (2) provides for the removal of family members in accordance with conditions set out in subsections (3) – (5). Further provision on the time period for removal and the service of a removal notice may be set out in regulations made under subsection (10).

5. Territorial Extent and Application

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why?

- 7.1. The policy objective is to ensure that a family member knows the timescales in which they can be notified of removal and what the process is for notifying family members of that removal.
- 7.2. These details are best placed in the 2014 Regulation as the appropriate timescale and method for notifying family members or the time limits for removal may change within a limited extent.

Effect of the 2014 Regulations

- 7.3. For the purpose of removal the 2014 Regulations set out the practical means of serving the notice and the timing of when a notice of removal may be given. This replicates the provisions that were previously in place for the removal of family members under section 10 of the 1999 Act.

8. Consultation outcome

- 8.1. There has not been a formal public consultation exercise, but interested parties were offered an opportunity to comment on the amendments to section 10 of the 1999 Act during the passage of the Immigration Bill. Evidence regarding removal and family members was provided by:
- Immigration Law Practitioners' Association;
 - The International Organization for Migration;
 - Liberty.
- 8.2. There was concern that detail on the definition of family members was not on the face of the legislation, and that family members may be removed without first receiving notice of the removal. Draft Regulations addressing these points were provided during the passage of the Bill and further clarity on these issues was subsequently moved out of the scope of Regulations and into statute.

9. Guidance

- 9.1. The Home Office produces guidance on immigration decisions and family removals which is available on the website at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>.
- 9.2. The guidance is updated as required to reflect changes to legislation, policy and procedure.

10. Impact

- 10.1. The impact on business, charities or voluntary bodies is nil.
- 10.2. The impact on the public sector is nil.
- 10.3. A Regulatory Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1. The legislation does not apply to small business.

12. Monitoring & review

- 12.1. The Home Office will keep the 2014 Regulations continually under review.

13. Contact

- 13.1. Julia Dolby at the Home Office can be contacted with queries regarding this instrument, at Julia.Dolby@homeoffice.gsi.gov.uk or 020 7035 0408.