



Criminal Justice and Police Act 2001

2001 CHAPTER 16

PART 1

PROVISIONS FOR COMBATTING CRIME AND DISORDER

CHAPTER 3

OTHER PROVISIONS FOR COMBATTING CRIME AND DISORDER

Travel restrictions on drug trafficking offenders

33 Power to make travel restriction orders

- (1) This section applies where—
 - (a) a person (“the offender”) has been convicted by any court of a post-commencement drug trafficking offence;
 - (b) the court has determined that it would be appropriate to impose a sentence of imprisonment for that offence; and
 - (c) the term of imprisonment which the court considers appropriate is a term of four years or more.
- (2) It shall be the duty of the court, on sentencing the offender—
 - (a) to consider whether it would be appropriate for the sentence for the offence to include the making of a travel restriction order in relation to the offender;
 - (b) if the court determines that it is so appropriate, to make such travel restriction order in relation to the offender as the court thinks suitable in all the circumstances (including any other convictions of the offender for post-commencement drug trafficking offences in respect of which the court is also passing sentence); and
 - (c) if the court determines that it is not so appropriate, to state its reasons for not making a travel restriction order.

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- (3) A travel restriction order is an order that prohibits the offender from leaving the United Kingdom at any time in the period which—
- (a) begins with the offender’s release from custody; and
 - (b) continues after that time for such period of not less than two years as may be specified in the order.
- (4) A travel restriction order may contain a direction to the offender to deliver up, or cause to be delivered up, to the court any UK passport held by him; and where such a direction is given, the court shall send any passport delivered up in pursuance of the direction to the Secretary of State at such address as the Secretary of State may determine.
- (5) Where the offender’s passport is held by the Secretary of State by reason of the making of any direction contained in a travel restriction order, the Secretary of State (without prejudice to any other power or duty of his to retain the passport)—
- (a) may retain it for so long as the prohibition imposed by the order applies to the offender, and is not for the time being suspended; and
 - (b) shall not return the passport after the prohibition has ceased to apply, or when it is suspended, except where the passport has not expired and an application for its return is made to him by the offender.
- (6) In this section “post-commencement”—
- (a) except in relation to an offence that is a drug trafficking offence by virtue of an order under section 34(1)(c), means committed after the coming into force of this section; and
 - (b) in relation to an offence that is a drug trafficking offence by virtue of such an order, means committed after the coming into force of that order.
- (7) References in this section to the offender’s release from custody are references to his first release from custody after the imposition of the travel restriction order which is neither—
- (a) a release on bail; nor
 - (b) a temporary release for a fixed period.
- (8) In this section “UK passport” means a United Kingdom passport within the meaning of the Immigration Act 1971 (c. 77).

34 Meaning of “drug trafficking offence”

- (1) In section 33 “drug trafficking offence” means any of the following offences (including one committed by aiding, abetting, counselling or procuring)—
- (a) an offence under section 4(2) or (3) of the Misuse of Drugs Act 1971 (c. 38) (production and supply of controlled drugs);
 - (b) an offence under section 20 of that Act (assisting in or inducing commission outside United Kingdom of an offence punishable under a corresponding law);
 - (c) any such other offence under that Act as may be designated by order made by the Secretary of State;
 - (d) an offence under—
 - (i) section 50(2) or (3) of the Customs and Excise Management Act 1979 (c. 2) (improper importation),
 - (ii) section 68(2) of that Act (exportation), or

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- (iii) section 170 of that Act (fraudulent evasion),
in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the Misuse of Drugs Act 1971 (c. 38);
 - (e) an offence under section 1 of the Criminal Law Act 1977 (c. 45) or Article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983 1120 (N.I. 13)), or in Scotland at common law, of conspiracy to commit any of the offences in paragraphs (a) to (d) above;
 - (f) an offence under section 1 of the Criminal Attempts Act 1981 (c. 47) or Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983, or in Scotland at common law, of attempting to commit any of those offences; and
 - (g) an offence under section 19 of the Misuse of Drugs Act 1971 (c. 38) or at common law of inciting another person to commit any of those offences.
- (2) The power to make an order under subsection (1)(c) shall be exercisable by statutory instrument; and no such order shall be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.
- (3) An order under subsection (1)(c) may provide, in relation to any offence designated by such an order, that it is to be treated as so designated only—
- (a) for such purposes, and
 - (b) in cases where it was committed in such manner or in such circumstances, as may be described in the order.

35 Revocation and suspension of a travel restriction order

- (1) Subject to the following provisions of this section, the court by which a travel restriction order has been made in relation to any person under section 33 may—
- (a) on an application made by that person at any time which is—
 - (i) after the end of the minimum period, and
 - (ii) is not within three months after the making of any previous application for the revocation of the prohibition,revoke the prohibition imposed by the order with effect from such date as the court may determine; or
 - (b) on an application made by that person at any time after the making of the order, suspend the prohibition imposed by the order for such period as the court may determine.
- (2) A court to which an application for the revocation of the prohibition imposed on any person by a travel restriction order is made shall not revoke that prohibition unless it considers that it is appropriate to do so in all the circumstances of the case and having regard, in particular, to—
- (a) that person's character;
 - (b) his conduct since the making of the order; and
 - (c) the offences of which he was convicted on the occasion on which the order was made.
- (3) A court shall not suspend the prohibition imposed on any person by a travel restriction order for any period unless it is satisfied that there are exceptional circumstances, in that person's case, that justify the suspension on compassionate grounds of that prohibition for that period.

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- (4) In making any determination on an application for the suspension of the prohibition imposed on any person by a travel restriction order, a court (in addition to considering the matters mentioned in subsection (3)) shall have regard to—
- (a) that person's character;
 - (b) his conduct since the making of the order;
 - (c) the offences of which he was convicted on the occasion on which the order was made; and
 - (d) any other circumstances of the case that the court considers relevant.
- (5) Where the prohibition imposed on any person by a travel restriction order is suspended, it shall be the duty of that person—
- (a) to be in the United Kingdom when the period of the suspension ends; and
 - (b) if the order contains a direction under section 33(4), to surrender, before the end of that period, any passport returned or issued to that person, in respect of the suspension, by the Secretary of State;
- and a passport that is required to be surrendered under paragraph (b) shall be surrendered to the Secretary of State in such manner or by being sent to such address as the Secretary of State may direct at the time when he returns or issues it.
- (6) Where the prohibition imposed on any person by a travel restriction order is suspended for any period under this section, the end of the period of the prohibition imposed by the order shall be treated (except for the purposes of subsection (7)) as postponed (or, if there has been one or more previous suspensions, further postponed) by the length of the period of suspension.
- (7) In this section “the minimum period”—
- (a) in the case of a travel restriction order imposing a prohibition for a period of four years or less, means the period of two years beginning at the time when the period of the prohibition began;
 - (b) in the case of a travel restriction order imposing a prohibition of more than four years but less than ten years, means the period of four years beginning at that time; and
 - (c) in any other case, means the period of five years beginning at that time.

36 Offences of contravening orders

- (1) A person who leaves the United Kingdom at a time when he is prohibited from leaving it by a travel restriction order is guilty of an offence and liable—
- (a) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (2) A person who is not in the United Kingdom at the end of a period during which a prohibition imposed on him by a travel restriction order has been suspended shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

- (3) A person who fails to comply with—
- (a) a direction contained in a travel restriction order to deliver up a passport to a court, or to cause such a passport to be delivered up, or
 - (b) any duty imposed on him by section 35(5)(b) to surrender a passport to the Secretary of State,
- shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.
- (4) This section has effect subject to section 37(3).

37 Saving for powers to remove a person from the United Kingdom

- (1) A travel restriction order made in relation to any person shall not prevent the exercise in relation to that person of any prescribed removal power.
- (2) A travel restriction order made in relation to any person shall remain in force, notwithstanding the exercise of any prescribed removal power in relation to that person, except in so far as either—
- (a) the Secretary of State by order otherwise provides; or
 - (b) the travel restriction order is suspended or revoked under section 35.
- (3) No person shall be guilty of an offence under section 36 in respect of any act or omission required of him by an obligation imposed in the exercise of a prescribed removal power.
- (4) In this section “a prescribed removal power” means any such power conferred by or under any enactment as—
- (a) consists in a power to order or direct the removal of a person from the United Kingdom; and
 - (b) is designated for the purposes of this section by an order made by the Secretary of State.
- (5) An order under subsection (2)(a) or (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order under subsection (2)(a)—
- (a) may make different provision for different cases; and
 - (b) may contain such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.
- (7) References in this section to a person’s removal from the United Kingdom include references to his deportation, extradition, repatriation, delivery up or other transfer to a place outside the United Kingdom.