

Status: Point in time view as at 12/07/2016.

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SCHEDULES

SCHEDULE 3

Section 5.

SUPPLEMENTARY PROVISIONS AS TO DEPORTATION

Modifications etc. (not altering text)

- C1** Schs. 2-4 extended (with modifications) to Guernsey (1.8.1993) by S.I. 1993/1796, art. 3(1), **Sch. 1 Pt. I**
Schs. 2-4 extended (with modifications) to Jersey (1.8.1993) by S.I. 1993/1797, art. 3(1), **Sch. 1 Pt. I**
(as amended (17.10.2012) by S.I. 2012/2593, arts. 1, 2(2))
Sch. 3 modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, **Sch. 4 para. 1(12)**
Sch. 3 amended (2.10.2000) by 1999 c. 33, s. 58(3), **Sch. 4 Pt. II para. 15**; S.I. 2000/2444, art. 2, **Sch**
(subject to transitional provisions in art. 3, Sch. 2 para. 2)
Sch. 3 applied (with modifications) (2.10.2000) by 1999 c. 33, s. 58(3), **Sch. 4 Pt. II para. 12**; S.I.
2000/2444, art. 2, **Sch** (subject to transitional provisions in art. 3, Sch. 2 para. 2)
Sch. 3 applied (2.10.2000 with application as mentioned in reg. 9) by S.I. 2000/2326, **reg. 26(3)**
Sch. 3 restricted (2.10.2000 with application as mentioned in regs. 9, 28) by S.I. 2000/2326, **reg. 32(2)**
(7) (as substituted (1.4.2003) for reg. 34(2)(10) by S.I. 2003/549, **reg. 2(8)** (with reg. 3))
Sch. 3 applied (with modifications) (2.10.2000 with application as mentioned in regs. 9, 28) by S.I.
2000/2326, **reg. 32(3)(7)** (as substituted (1.4.2003) for reg. 34(3)(10) by S.I. 2003/549, **reg. 2(8)** (with
reg. 3))
- C2** Sch. 3 amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (17.10.2012 coming into force in
accordance with art. 1) by **The Immigration and Asylum (Jersey) Order 2012** (S.I. 2012/2593), arts. 1,
2(2)

Removal of persons liable to deportation

- 1 (1) Where a deportation order is in force against any person, the Secretary of State may give directions for his removal to a country or territory specified in the directions being either—
- a country of which he is a national or citizen; or
 - a country or territory to which there is reason to believe that he will be admitted.
- (2) The directions under sub-paragraph (1) above may be either—
- directions given to the captain of a ship or aircraft about to leave the United Kingdom requiring him to remove the person in question in that ship or aircraft; or
 - directions given to the owners or agents of any ship or aircraft requiring them to make arrangements for his removal in a ship or aircraft specified or indicated in the directions; or
 - directions for his removal in accordance with arrangements to be made by the Secretary of State.
- (3) In relation to directions given under this paragraph, paragraphs 11 and 16(4) of Schedule 2 to this Act shall apply, with the substitution of references to the Secretary

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of State for references to an immigration officer, as they apply in relation to directions for removal given under paragraph 8 of that Schedule.

- (4) The Secretary of State, if he thinks fit, may apply in or towards payment of the expenses of or incidental to the voyage from the United Kingdom of a person against whom a deportation order is in force, or the maintenance until departure of such a person and his dependants, if any, any money belonging to that person; and except so far as they are paid as aforesaid, those expenses shall be defrayed by the Secretary of State.

Detention or control pending deportation

- 2 (1) Where a recommendation for deportation made by a court is in force in respect of any person, [^{F1}and that person is not detained in pursuance of the sentence or order of any court] , he shall, unless the court by which the recommendation is made otherwise directs [^{F2}or a direction is given under sub-paragraph (1A) below,] be detained pending the making of a deportation order in pursuance of the recommendation, unless the Secretary of State directs him to be released pending further consideration of his case [^{F3}or he is released on bail].-

[^{F4}(1A) Where—

- (a) a recommendation for deportation made by a court on conviction of a person is in force in respect of him; and
 (b) he appeals against his conviction or against that recommendation,
 the powers that the court determining the appeal may exercise include power to direct him to be released without setting aside the recommendation.]

- (2) Where notice has been given to a person in accordance with regulations under [^{F5}section 105 of the Nationality, Immigration and Asylum Act 2002 (notice of decision)] of a decision to make a deportation order against him, [^{F6}and he is not detained in pursuance of the sentence or order of a court] , he may be detained under the authority of the Secretary of State pending the making of the deportation order.

- (3) Where a deportation order is in force against any person, he may be detained under the authority of the Secretary of State pending his removal or departure from the United Kingdom (and if already detained by virtue of sub-paragraph (1) or (2) above when the order is made, shall continue to be detained unless [^{F7}he is released on bail or] the Secretary of State directs otherwise).

- (4) In relation to detention under sub-paragraph (2) or (3) above, paragraphs 17 [^{F8}[^{F9}to 18A] and 25A to 25E] of Schedule 2 to this Act shall apply as they apply in relation to detention under paragraph 16 of that Schedule [^{F10}; and for that purpose the reference in paragraph 17(1) to a person liable to detention includes a reference to a person who would be liable to detention upon receipt of a notice which is ready to be given to him.]

[^{F11}(4ZA) The detention under sub-paragraph (1), (2) or (3) of a person to whom section 60 (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.]

[^{F12}(4A) Paragraphs 22 to 25 of Schedule 2 to this Act apply in relation to a person detained under sub-paragraph (1), (2) or (3) as they apply in relation to a person detained under paragraph 16 of that Schedule.]

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- [^{F13}(5) A person to whom this sub-paragraph applies shall be subject to such restrictions as to residence [^{F14}, as to his employment or occupation] and as to reporting to the police [^{F15} or an immigration officer] as may from time to time be notified to him in writing by the Secretary of State.
- (6) The persons to whom sub-paragraph (5) above applies are—
- (a) a person liable to be detained under sub-paragraph (1) above, while by virtue of a direction of the Secretary of State he is not so detained; and
 - (b) a person liable to be detained under sub-paragraph (2) or (3) above, while he is not so detained.]

Textual Amendments

- F1** Words in Sch. 3 para. 2(1) substituted (1.10.2004) by *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 34(1)*; S.I. 2004/2523, **art. 2**, Sch.
- F2** Words inserted by *Criminal Justice Act 1982 (c. 48), s. 80(2), Sch. 10 para. 1 (a)*
- F3** Words in Sch. 3 para. 2(1) inserted (10.2.2003) by 1999 c. 33, s. 54(1)(2); S.I. 2003/2, **art. 2**, Sch.
- F4** Para. 2(1A) inserted by *Criminal Justice Act 1982 (c. 48), s. 80(2), Sch. 10 para. 1 (b)*
- F5** Words in Sch. 3 para. 2(2) substituted (1.4.2003) by 2002 c. 41, s. 114, **Sch. 7 para. 7** (with s. 159); S.I. 2003/754, **art. 2**, **Sch. 1** (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040 and 2003/1339))
- F6** Words in Sch. 3 para. 2(2) substituted (1.10.2004) by *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 34(2)*; S.I. 2004/2523, **art. 2**, Sch.
- F7** Words in Sch. 3 para. 2(3) inserted (10.2.2003) by 1999 c. 33, s. 54(1)(3); S.I. 2003/2, **art. 2**, Sch.
- F8** Words in Sch. 3 para. 2(4) substituted (14.2.2000) by 1999 c. 33, s. 169(1), **Sch. 14 paras. 43, 68**; S.I. 2000/168, **art. 2**, **Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2**, Sch.)
- F9** Words in Sch. 3 para. 2(4) substituted (28.7.2014) by *Immigration Act 2014 (c. 22), s. 75(3), Sch. 1 para. 2(2)*; S.I. 2014/1820, **art. 3(y)**
- F10** Words in Sch. 3 para. 2(4) inserted (31.8.2006) by *Immigration, Asylum and Nationality Act 2006 (c. 13), s. 53*; S.I. 2006/2226, **art. 3**, **Sch. 1** (subject to transitional provisions in art. 4)
- F11** Sch. 3 para. 2(4ZA) inserted (12.7.2016) by *Immigration Act 2016 (c. 19), ss. 60(11), 94(1)*; S.I. 2016/603, **reg. 3(m)**
- F12** Sch. 3 para. 2(4A) inserted (10.2.2003) by 1999 c. 33, s. 54(1)(4); S.I. 2003/2, **art. 2**, Sch.
- F13** Para. 2(5)(6) substituted for para. 2(5) by *Criminal Justice Act 1982 (c. 48), s. 80(2), Sch. 10 para. 1 (c)*
- F14** Words inserted by *Immigration Act 1988 (c. 14, SIF 62), s. 10, Sch. para. 10(2)(4)*
- F15** Words in Sch. 3 para. 2(5) inserted (1.10.1996) by 1996 c. 49, s. 12(1), **Sch. 2 para. 13**; S.I. 1996/2053, **art. 2, Sch. Pt. II**

Modifications etc. (not altering text)

- C3** Sch. 3 para. 2(3)(4)(6) amended (26.7.1993) by 1993 c. 23, **s. 7(4)**; S.I. 1993/1655, **art. 2**
Sch. 3 para. 2 extended (14.12.2001) by 2001 c. 24, **s. 23(2)(b)**
- C4** Sch. 3 para. 2(5) applied (1.8.2008 for certain purposes and otherwise prosp.) by *UK Borders Act 2007 (c. 30), ss. 36(5), 59*; S.I. 2008/1818, **art. 2(a)**, Sch.

Effect of appeals

- [^{F163} So far as they relate to an appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 against a decision [^{F17} that relates to a deportation order] and refusal to revoke deportation order), paragraphs 29 to [^{F18}33A] of Schedule 2 to this

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Act shall apply for the purposes of this Schedule as if the reference in paragraph 29(1) to Part I of that Schedule were a reference to this Schedule.]

Textual Amendments

- F16** Sch. 3 para. 3 substituted (1.4.2003) by 2002 c. 41, s. 114, Sch. 7 para. 8 (with s. 159); S.I. 2003/754, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040 and 2003/1339))
- F17** Words in Sch. 3 para. 3 substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 24; S.I. 2014/2771, art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))
- F18** Word in Sch. 3 para. 3 substituted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 9; S.I. 2014/2771, art. 2(e) (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, arts. 1(2)(3), 7, 8; and with transitional provisions and savings in S.I. 2014/2928, art. 2 (which S.I. is revoked (6.4.2015) by S.I. 2015/371, arts. 1(3), 9))

Powers of courts pending deportation

- [^{F19}4 Where the release of a person recommended for deportation is directed by a court, he shall be subject to such restrictions as to residence [^{F20}, as to his employment or occupation] and as to reporting to the police as the court may direct.]

Textual Amendments

- F19** Paras. 4—10 added (31.1.1983) by Criminal Justice Act 1982 (c. 48), s. 80(2), Sch. 10 para. 2
- F20** Words inserted by Immigration Act 1988 (c. 14, SIF 62), s. 10, Sch. para. 10(2)(4)

- 5 (1) On an application made—
- (a) by or on behalf of a person recommended for deportation whose release was so directed; or
 - (b) by a constable; or
 - (c) by an immigration officer,
- the appropriate court shall have the powers specified in sub-paragraph (2) below.
- (2) The powers mentioned in sub-paragraph (1) above are—
- (a) if the person to whom the application relates is not subject to any such restrictions imposed by a court as are mentioned in paragraph 4 above, to order that he shall be subject to any such restrictions as the court may direct; and
 - (b) if he is subject to such restrictions imposed by a court by virtue of that paragraph or this paragraph—
 - (i) to direct that any of them shall be varied or shall cease to have effect; or
 - (ii) to give further directions as to his residence and reporting.
- 6 (1) In this Schedule “the appropriate court” means, except in a case to which sub-paragraph (2) below applies, the court which directed release.
- (2) This sub-paragraph applies where the court which directed release was—
- (a) the Crown Court;
 - (b) the Court of Appeal;

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- (c) the High Court of Justiciary;
- (d) the Crown Court in Northern Ireland; or
- (e) the Court of Appeal in Northern Ireland.

[^{F21}(2A) Where the Crown Court directed release, the appropriate court is that court or a magistrates' court.]

- (3) Where ^{F22} . . . the Crown Court in Northern Ireland directed release, the appropriate court is—
 - (a) the court that directed release; or
 - (b) a magistrates' court acting for the ^{F22} . . . county court division where the person to whom the application relates resides.
- (4) Where the Court of Appeal or the Court of Appeal in Northern Ireland gave the direction, the appropriate court is the Crown Court or the Crown Court in Northern Ireland, as the case may be.
- (5) Where the High Court of Justiciary directed release, the appropriate court is—
 - (a) that court; or
 - (b) in a case where release was directed by that court on appeal, the court from which the appeal was made.

Textual Amendments

- F21** Sch. 3 para. 6(2A) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 109(1), [Sch. 8 para. 150\(2\)](#); [S.I. 2005/910](#), [art. 3\(y\)\(bb\)](#)
- F22** Words in Sch. 3 para. 6(3) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 109(1)(3), [Sch. 8 para. 150\(3\)](#), [Sch. 10](#); [S.I. 2005/910](#), [art. 3\(y\)\(bb\)](#)

- 7
 - (1) A constable or immigration officer may arrest without warrant any person who is subject to restrictions imposed by a court under this Schedule and who at the time of the arrest is in the relevant part of the United Kingdom—
 - (a) if he has reasonable grounds to suspect that that person is contravening or has contravened any of those restrictions; or
 - (b) if he has reasonable grounds for believing that that person is likely to contravene any of them.
 - (2) In sub-paragraph (1) above “the relevant part of the United Kingdom” means—
 - (a) England and Wales, in a case where a court with jurisdiction in England or Wales imposed the restrictions;
 - (b) Scotland, in a case where a court with jurisdiction in Scotland imposed them; and
 - (c) Northern Ireland, in a case where a court in Northern Ireland imposed them.
- 8
 - (1) A person arrested in [^{F23}England or Wales in pursuance of paragraph 7 above shall be brought as soon as practicable and in any event within twenty-four hours after his arrest before a justice of the peace in England or Wales, and a person arrested in] Northern Ireland in pursuance of paragraph 7 above shall be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace for the petty sessions ^{F24} . . . district in which he was arrested.

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- (2) In reckoning for the purposes of this paragraph any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

Textual Amendments

- F23** Words in Sch. 3 para. 8(1) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 109(1), [Sch. 8 para. 150\(4\)\(a\)](#); [S.I. 2005/910](#), [art. 3\(y\)\(bb\)](#)
- F24** Words in Sch. 3 para. 8(1) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 109(1)(3), [Sch. 8 para. 150\(4\)\(b\)](#), [Sch. 10](#); [S.I. 2005/910](#), [art. 3\(y\)\(bb\)](#)

- 9 (1) A person arrested in Scotland in pursuance of paragraph 7 above shall wherever practicable be brought before the appropriate court not later than in the course of the first day after his arrest, such day not being a Saturday, a Sunday or a court holiday prescribed for that court under section 10 of the ^{M1}Bail etc. (Scotland) Act 1980.
- (2) Nothing in this paragraph shall prevent a person arrested in Scotland being brought before a court on a Saturday, a Sunday or such a court holiday as is mentioned in sub-paragraph (1) above where the court is, in pursuance of section 10 of the said Act of 1980, sitting on such day for the disposal of criminal business.

Marginal Citations

- M1** 1980 c. 40.

- 10 Any justice of the peace or court before whom a person is brought by virtue of paragraph 8 or 9 above—
- (a) if of the opinion that that person is contravening, has contravened or is likely to contravene any restriction imposed on him by a court under this Schedule, may direct—
- (i) that he be detained; or
- (ii) that he be released subject to such restrictions as to his residence and reporting to the police as the court may direct; and
- (b) if not of that opinion, shall release him without altering the restrictions as to his residence and his reporting to the police.

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