

Changes to legislation: Immigration Act 1971, Cross Heading: Detention or control pending deportation is up to date with all changes known to be in force on or before 21 April 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) View outstanding changes

SCHEDULES

SCHEDULE 3

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))
- C1** Sch. 3 applied (1.2.2017 for specified purposes) by **The Immigration (European Economic Area)**
Regulations 2016 (S.I. 2016/1052), regs. 1(2)(b), **32(3)**, 40(4)
- C1** Schs. 2-4: amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (11.10.2017 coming into force
in accordance with art. 1) by **The Immigration (Jersey) (Amendment) Order 2017** (S.I. 2017/981), **Sch.**
Pt. 1 para. 1 (with art. 6)
- C1** Sch. 3 modified by S.I. 1994/1405, art. 7 (as amended (coming into force in accordance with art. 1(3) of
the amending S.I.) by **The Channel Tunnel (International Arrangements and Miscellaneous Provisions)**
(Amendment) Order 2020 (S.I. 2020/915), arts. 1(3), **11**)
- C1** Sch. 3 modified (30.9.2020 immediately after the entry into force of S.I. 2020/915, art. 5) by **The Channel**
Tunnel (Arrangements with the Kingdom of the Netherlands) Order 2020 (S.I. 2020/916), arts. 1(3), **6**
- C1** Sch. 3 applied (31.12.2020) by **The Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020** (S.I.
2020/1213), regs. 1(2)(3), **16(3)**

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^{F2}... be detained pending the making of a deportation order in
pursuance of the recommendation, [^{F3}unless—
(a) the court by which the recommendation is made grants bail to the person, or
(b) the person is released on immigration bail under Schedule 10 to the
Immigration Act 2016.]

[^{F4}(1A) Where—

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- (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 [^{F5}release the person on bail without setting aside the recommendation.]]
- (2) Where notice has been given to a person in accordance with regulations under [^{F6}section 105 of the Nationality, Immigration and Asylum Act 2002 (notice of decision)] of a decision to make a deportation order against him, [^{F7}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 [^{F8}unless he is released on immigration bail under Schedule 10 to the Immigration Act 2016.]
- [^{F9}3A) A person liable to be detained under sub-paragraph (1), (2) or (3) may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the deportation order to be made, or the removal to be carried out.
- (3B) Sub-paragraphs (1) to (3) apply regardless of whether there is anything that for the time being prevents the deportation order from being made or the removal from being carried out.
- (3C) Sub-paragraphs (3A) and (3B) are subject to sub-paragraph (4ZA) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women).
- (3D) Sub-paragraph (3E) applies if, while a person is detained under sub-paragraph (1), (2) or (3), the Secretary of State no longer considers that the deportation order will be made or the removal will be carried out within a reasonable period of time.
- (3E) The person may be detained under that sub-paragraph for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the person's release as the Secretary of State considers to be appropriate.]
- (4) In relation to detention under sub-paragraph (2) or (3) above, paragraphs [^{F10}17, 18, 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 [^{F11}; 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.]
- [^{F12}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.]
- [^{F13}5) The provisions of Schedule 10 to the Immigration Act 2016 that apply in relation to the grant of immigration bail by the First-tier Tribunal apply in relation to the grant of bail by the court under sub-paragraph (1) or (1A).

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- (6) If the court grants bail to a person under sub-paragraph (1) or (1A), Schedule 10 to the Immigration Act 2016 applies in relation to that person as if the person had been granted immigration bail by the First-tier Tribunal under that Schedule.
- (7) A reference in any provision of, or made under, an enactment other than this paragraph to immigration bail granted, or a condition imposed, under Schedule 10 to the Immigration Act 2016 includes bail granted by the court under sub-paragraph (1) or (1A) or (as the case may be) a condition imposed by the court on the grant of such bail.]

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 in Sch. 3 para. 2(1) omitted (15.1.2018) by virtue of [Immigration Act 2016 \(c. 19\), s. 94\(1\)](#), [Sch. 10 para. 21\(2\)\(a\)\(i\)](#); S.I. 2017/1241, [reg. 2\(c\)](#) (with Sch.) (as amended by S.I. 2018/31, [reg. 2](#))
- F3** Words in Sch. 3 para. 2(1) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\)](#), [Sch. 10 para. 21\(2\)\(a\)\(ii\)](#); S.I. 2017/1241, [reg. 2\(c\)](#) (with Sch.) (as amended by S.I. 2018/31, [reg. 2](#))
- 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(1A) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\)](#), [Sch. 10 para. 21\(2\)\(b\)](#); S.I. 2017/1241, [reg. 2\(c\)](#) (with Sch.) (as amended by S.I. 2018/31, [reg. 2](#))
- F6** 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))
- F7** 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.
- F8** Words in Sch. 3 para. 2(3) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\)](#), [Sch. 10 para. 21\(2\)\(c\)](#); S.I. 2017/1241, [reg. 2\(c\)](#) (with Sch.) (as amended by S.I. 2018/31, [reg. 2](#))
- F9** [Sch. 3 para. 2\(3A\)-\(3E\)](#) inserted (28.9.2023) by [Illegal Migration Act 2023 \(c. 37\), ss. 12\(2\)\(a\)](#), [68\(1\)](#) (with s. 55(9)); S.I. 2023/989, [reg. 2\(a\)](#)
- F10** Words in [Sch. 3 para. 2\(4\)](#) substituted (28.9.2023) by [Illegal Migration Act 2023 \(c. 37\), ss. 12\(2\)\(b\)](#), [68\(1\)](#) (with s. 55(9)); S.I. 2023/989, [reg. 2\(a\)](#)
- F11** 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)
- F12** [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\(m\)](#)
- F13** [Sch. 3 para. 2\(5\)-\(7\)](#) substituted for [Sch. 3 para. 2\(4A\)-\(6\)](#) (15.1.2018) by [Immigration Act 2016 \(c. 19\), s. 94\(1\)](#), [Sch. 10 para. 21\(2\)\(d\)](#); S.I. 2017/1241, [reg. 2\(c\)](#) (with Sch.) (as amended by S.I. 2018/31, [reg. 2](#))

Modifications etc. (not altering text)

- C1** [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\(2\)\(b\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [2008 c. 4 s. 133\(7\)\(8\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10(1A)(1B) inserted by [1999 c. 33 Sch. 14 para. 47\(3\)](#)
- s. 24(1)(fa) inserted by [2023 c. 37 s. 10\(2\)](#)
- s. 24C-24F inserted by [2016 c. 19 s. 44\(2\)](#)
- s. 26A(1)(b)(ia) inserted by [2016 c. 19 Sch. 11 para. 25](#)
- s. 27(1)(aa) inserted by [2023 c. 37 s. 10\(3\)\(a\)](#)
- s. 27(1)(ba) inserted by [2023 c. 37 s. 10\(3\)\(b\)](#)
- s. 28CA(1)(bb) substituted for word in s. 28CA(1)(b) by [2016 c. 19 s. 44\(5\)](#)
- Sch. 2 para. 27B(4A) inserted by [2004 c. 19 s. 16](#)
- Sch. 2 para. 26(4) inserted by [2016 c. 19 s. 74\(1\)](#)
- Sch. 2 Pt. 1A inserted by [2016 c. 19 Sch. 13](#)
- Sch. 2 para. 11A inserted by [2023 c. 37 s. 10\(4\)](#)