

*These notes refer to the UK Borders Act 2007 (c.30)  
which received Royal Assent on 30th October 2007*

# UK BORDERS ACT 2007

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5: Deportation of criminals**

##### *Section 36: Detention*

116. This section creates a new power for the Secretary of State to detain a person while he considers whether section 32 applies, and pending the making of a deportation order under section 32 (*subsection (1)*). Where an automatic deportation order has been made, the Secretary of State must exercise the power of detention under paragraph 2(3) of Schedule 3 to the Immigration Act 1971 unless in the circumstances he thinks it inappropriate. A court determining on appeal against conviction or sentence may direct release from detention under subsection (1) or (2) (*subsection (3)*). Paragraph 2(3) provides a power of detention in respect of a person if a deportation order is in force against that person.
117. *Subsections (4) and (5)* apply the existing provisions on bail, arrest and restriction orders to automatic deportation cases.