



Crime and Courts Act 2013

2013 CHAPTER 22

PART 3

MISCELLANEOUS AND GENERAL

Border control

51 Immigration cases: appeal rights; and facilitating combined appeals

^{F1}(1)

(2) In section 99 of that Act (pending appeals lapse on issue of certificates)—

- (a) in subsection (1) (list of provisions under which certificates may be issued) omit “96(1) or (2),” and
- (b) in the title, for “96 to” substitute “ 97 and ”.

^{F2}(3)

Annotations:

Amendments (Textual)

F1 S. 51(1) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), [art. 2\(e\)](#) (with [arts. 9-11](#)) (as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))

F2 S. 51(3) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 7](#) table; [S.I. 2014/2771](#), [art. 2\(e\)](#) (with [arts. 9-11](#)) (as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))

Commencement Information

I1 S. 51 in force at 8.5.2013 by [S.I. 2013/1042](#), [art. 2\(i\)](#)

Changes to legislation: There are currently no known outstanding effects for the Crime and Courts Act 2013, Cross Heading: Border control. (See end of Document for details)

F³52 Appeals against refusal of entry clearance to visit the

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Annotations:

Amendments (Textual)

- F3** S. 52 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

F⁴53 Restriction on right of appeal from within the United Kingdom

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Annotations:

Amendments (Textual)

- F4** S. 53 repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended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))

54 Deportation on national security grounds: appeals

(1) Section 97A of the Nationality, Immigration and Asylum Act 2002 (deportation on national security grounds: appeal rights) is amended as follows.

(2) After subsection (1) insert—

“(1A) This section also applies where the Secretary of State certifies, in the case of a person in respect of whom a deportation order has been made which states that it is made in accordance with section 32(5) of the UK Borders Act 2007, that the person's removal from the United Kingdom would be in the interests of national security.”

(3) For subsection (2)(c) substitute—

“(c) section 2(5) of the Special Immigration Appeals Commission Act 1997 (whether appeals brought against decisions certified under section 97 may be brought from within the United Kingdom) does not apply, but see instead the following provisions of this section.”

(4) After subsection (2) insert—

“(2A) The person while in the United Kingdom may not bring or continue an appeal under section 2 of the Special Immigration Appeals Commission Act 1997—

- (a) against the decision to make the deportation order, or
- (b) against any refusal to revoke the deportation order,

unless the person has made a human rights claim while in the United Kingdom.

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- (2B) Subsection (2A) does not allow the person while in the United Kingdom to bring or continue an appeal if the Secretary of State certifies that removal of the person—
- (a) to the country or territory to which the person is proposed to be removed, and
 - (b) despite the appeals process not having been begun or not having been exhausted,
- would not breach the United Kingdom's obligations under the Human Rights Convention.
- (2C) The grounds upon which a certificate may be given under subsection (2B) include (in particular)—
- (a) that the person would not, before the appeals process is exhausted, face a real risk of serious irreversible harm if removed to the country or territory to which the person is proposed to be removed;
 - (b) that the whole or part of any human rights claim made by the person is clearly unfounded.
- (2D) Subsection (2A) does not allow the person while in the United Kingdom to bring an appeal on a non-human-rights ground, or to continue an appeal so far as brought on non-human-rights grounds, if the Secretary of State certifies that removal of the person—
- (a) to the country or territory to which the person is proposed to be removed, and
 - (b) despite the appeals process, so far as relating to appeal on non-human-rights grounds, not having been begun or not having been exhausted,
- would not breach the United Kingdom's obligations under the Human Rights Convention.
- (2E) In subsection (2D) “non-human-rights ground” means any ground other than the ground that removal of the person from the United Kingdom in consequence of the decision to make the deportation order would be unlawful under section 6 of the Human Rights Act 1998 as being incompatible with a person's Convention rights.
- (2F) If a certificate in respect of a person is given under subsection (2B), the person may apply to the Special Immigration Appeals Commission to set aside the certificate.
- (2G) If a person makes an application under subsection (2F) then the Commission, in determining whether the certificate should be set aside, must apply the principles that would be applied in judicial review proceedings.
- (2H) The Commission's determination of a review under subsection (2F) is final.
- (2J) The Commission may direct that a person who has made and not withdrawn an application under subsection (2F) is not to be removed from the United Kingdom at a time when the review has not been finally determined by the Commission.
- (2K) Sections 5 and 6 of the Special Immigration Appeals Commission Act 1997 apply in relation to reviews under subsection (2F) (and to applicants for such

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reviews) as they apply in relation to appeals under section 2 or 2B of that Act (and to persons bringing such appeals).

(2L) Any exercise of power to make rules under section 5 of that Act in relation to reviews under subsection (2F) is to be with a view to securing that proceedings on such reviews are handled expeditiously.”

(5) In subsection (3) (appeal against certificate under subsection (2)(c)(iii)) for “(2)(c)(iii)” substitute “(2D)”.

Annotations:

Commencement Information

I2 S. 54 in force at 25.6.2013 by [S.I. 2013/1042](#), [art. 4\(c\)](#)

55 Powers of immigration officers

(1) In the Police Act 1997, in section 93 (authorisations to interfere with property etc: authorising officers), in subsection (5), after paragraph (h) insert—

“(ha) an immigration officer who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is designated for the purposes of this paragraph by the Secretary of State;”.

(2) In the Regulation of Investigatory Powers Act 2000, in section 32(6) (authorisation of intrusive surveillance: senior authorising officers), after paragraph (m) insert—

“(ma) a senior official in the department of the Secretary of State by whom functions relating to immigration are exercisable who is designated for the purposes of this paragraph by the Secretary of State; and”.

(3) The Proceeds of Crime Act 2002 is amended in accordance with subsections (4) and (5).

(4) In the 2002 Act—

(a) in section 47A (search and seizure powers under sections 47B to 47S: meaning of “appropriate officer”), in subsection (1), after paragraph (a) insert—

“(aa) an immigration officer;”;

(b) in section 127A (search and seizure powers in Scotland under sections 127B to 127R: meaning of “appropriate officer”), in subsection (1), after paragraph (a) insert—

“(aa) an immigration officer, or”;

(c) in section 195A (search and seizure powers in Northern Ireland under sections 195B to 195S: meaning of “appropriate officer”), in subsection (1), after paragraph (a) insert—

“(aa) an immigration officer, or”.

(5) In section 378 of the 2002 Act (appropriate officers and senior appropriate officers for the purposes of investigations under Part 8 of that Act)—

(a) in subsection (1) (appropriate officers for confiscation investigations), after paragraph (d) insert—

“(e) an immigration officer.”;

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- (b) in subsection (2) (senior appropriate officers for confiscation investigations), after paragraph (c) insert—
 - “(ca) an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank;”;
 - (c) in subsection (3A) (appropriate officers for detained cash investigations), after paragraph (b) insert—
 - “(c) an immigration officer.”;
 - (d) in subsection (4) (appropriate officers for money laundering investigations), after paragraph (c) insert—
 - “(d) an immigration officer.”;
 - (e) in subsection (6) (senior appropriate officers in relation to money laundering investigations), after paragraph (b) insert—
 - “(ba) an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank;”.
- (6) In the UK Borders Act 2007, in section 24 (seizure of cash by immigration officers under Proceeds of Crime Act 2002)—
- (a) in subsection (2), for paragraphs (a) and (b) substitute—
 - “(a) unlawful conduct”, in or in relation to section 289, means conduct which—
 - (i) relates to the entitlement of one or more persons who are not nationals of the United Kingdom to enter, transit across, or be in, the United Kingdom (including conduct which relates to conditions or other controls on any such entitlement), or
 - (ii) is undertaken for the purposes of, or otherwise in relation to, a relevant nationality enactment,and (in either case) constitutes an offence;”;
 - (b) after subsection (2) insert—
 - “(2A) In subsection (2)(a)(ii) “relevant nationality enactment” means any enactment in—
 - (a) the British Nationality Act 1981,
 - (b) the Hong Kong Act 1985,
 - (c) the Hong Kong (War Wives and Widows) Act 1996,
 - (d) the British Nationality (Hong Kong) Act 1997,
 - (e) the British Overseas Territories Act 2002, or
 - (f) an instrument made under any of those Acts.”.
- (7) Sections 136 to 139 of the Criminal Justice and Public Order Act 1994 (execution of warrants and powers of arrest and search) apply to an immigration officer as they apply to a constable (but subject to subsection (8) below and paragraphs 41 to 43 of Schedule 21).
- (8) An immigration officer may exercise a power under sections 136 to 139 of the 1994 Act only—
- (a) in the exercise of a function which relates to the entitlement of one or more persons who are not nationals of the United Kingdom to enter, transit across,

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or be in, the United Kingdom (including a function which relates to conditions or other controls on any such entitlement),

- (b) in exercising a function under, or for the purposes of—
 - (i) the British Nationality Act 1981,
 - (ii) the Hong Kong Act 1985,
 - (iii) the Hong Kong (War Wives and Widows) Act 1996,
 - (iv) the British Nationality (Hong Kong) Act 1997,
 - (v) the British Overseas Territories Act 2002,
 - (vi) an instrument made under any of those Acts, or
- (c) in connection with the prevention, investigation or prosecution of any of the following offences (insofar as that does not involve the exercise of a function which falls within paragraph (a) or (b))—
 - (i) an offence under section 26(1)(a), (b) or (g) of the Immigration Act 1971 (refusal or failure to submit to examination or to furnish information etc, or obstruction of immigration officer);
 - (ii) an offence under section 22 of the UK Borders Act 2007 (assaulting an immigration officer).

^{F5}(9)

^{F5}(10)

^{F5}(11)

^{F5}(12)

- (13) In the Criminal Procedure (Scotland) Act 1995, in section 307 (interpretation)—
 - (a) in subsection (1), in the definition of “officer of law”, after paragraph (ba) insert—
 - “(bb) subject to subsection (1AA) below, an immigration officer acting with the authority (which may be general or specific) of the Secretary of State;”;
 - (b) after subsection (1A) insert—
 - “(1AA) The inclusion of immigration officers as “officers of law” shall have effect only in relation to immigration offences and nationality offences (within the meaning of Part 3 of the Criminal Law (Consolidation) (Scotland) Act 1995).”;
 - (c) in subsection (1B), for the words from “this Act” to “had the authority” substitute “this Act—
 - (a) a certificate of the Commissioners for Her Majesty's Revenue and Customs that an officer of Revenue of Customs, or
 - (b) a certificate of the Secretary of State that an immigration officer,
 had the authority”.

- (14) Schedule 21 (powers of immigration officers: further provision) has effect.

Changes to legislation: There are currently no known outstanding effects for the Crime and Courts Act 2013, Cross Heading: Border control. (See end of Document for details)

Annotations:

Amendments (Textual)

- F5** S. 55(9)-(12) repealed (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018 \(S.I. 2018/46\)](#), arts. 2(2)(d), **22(3)** (with art. 22(2))
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Commencement Information

- I3** S. 55(1)(2) in force at 25.6.2013 by [S.I. 2013/1042](#), **art. 4(d)**
- I4** S. 55(3) in force at 25.6.2013 for specified purposes by [S.I. 2013/1042](#), **art. 4(e)**
- I5** S. 55(3) in force at 22.11.2014 for specified purposes by [S.I. 2014/3098](#), **art. 2(a)**
- I6** S. 55(4) in force at 22.11.2014 by [S.I. 2014/3098](#), **art. 2(b)**
- I7** S. 55(5) in force at 25.6.2013 by [S.I. 2013/1042](#), **art. 4(f)**
- I8** S. 55(6)-(13) in force at 25.6.2013 by [S.I. 2013/1042](#), **art. 4(g)**
- I9** S. 55(14) in force at 25.6.2013 for specified purposes by [S.I. 2013/1042](#), **art. 4(h)**
- I10** S. 55(14) in force at 22.11.2014 for specified purposes by [S.I. 2014/3098](#), **art. 2(c)**

Changes to legislation:

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Heading: Border control.