
STATUTORY INSTRUMENTS

2016 No. 1052

The Immigration (European Economic Area) Regulations 2016

PART 5

PROCEDURE IN RELATION TO EEA DECISIONS

Person subject to removal

32.—(1) If there are reasonable grounds for suspecting that a person is someone who may be removed from the United Kingdom under regulation 23(6)(b), that person may be detained under the authority of the Secretary of State pending a decision whether or not to remove the person under that regulation, and paragraphs 17 to 18A of Schedule 2 to the 1971 Act apply in relation to the detention of such a person as those paragraphs apply in relation to a person who may be detained under paragraph 16 of that Schedule.

(2) Where a decision is taken to remove a person under regulation 23(6)(a) or (c), the person is to be treated as if the person were a person to whom section 10(1) of the 1999 Act⁽¹⁾ applies, and section 10 of that Act (removal of certain persons unlawfully in the United Kingdom) is to apply accordingly.

(3) Where a decision is taken to remove a person under regulation 23(6)(b), the person is to be treated as if the person were a person to whom section 3(5)(a) of the 1971 Act⁽²⁾ (liability to deportation) applies, and section 5 of that Act⁽³⁾ (procedure for deportation) and Schedule 3 to that Act⁽⁴⁾ (supplementary provision as to deportation) are to apply accordingly.

(4) A person who enters the United Kingdom in breach of a deportation or exclusion order, or in circumstances where that person was not entitled to be admitted under regulation 23(1) or (3), is removable as an illegal entrant under Schedule 2 to the 1971 Act and the provisions of that Schedule apply accordingly.

(5) Where a deportation order is made against a person but the person is not removed under the order during the two year period beginning on the date on which the order is made, the Secretary of State may only take action to remove the person under the order at the end of that period if, having assessed whether there has been any material change in circumstances since the deportation order was made, the Secretary of State considers that the removal continues to be justified on the grounds of public policy, public security or public health.

⁽¹⁾ Section 10(1) was amended by the Immigration Act 2014, section 1.

⁽²⁾ Section 3(5)(a) was amended by the 1999 Act, Schedule 14, paragraphs 43 and 44.

⁽³⁾ Section 5 was amended by British Nationality Act 1981, Schedule 4, paragraph 2, the Immigration Act 1988, Schedule, paragraph 2, the Asylum and Immigration Act 1996, Schedule 2, paragraph 2 and the Civil Partnership Act 2004 (c. 33), Schedule 27, paragraph 37.

⁽⁴⁾ Schedule 3 was amended by the Criminal Justice Act 1982 (c. 48), Schedule 10, paragraphs 1 and 2, the Immigration Act 1988, Schedule 10, paragraph 10, the Asylum and Immigration Act 1996, Schedule 2, paragraph 13, the 1999 Act, section 54 and Schedule 14, paragraphs 43 and 68, the 2002 Act, Schedule 7, paragraphs 7 and 8, the Courts Act 2003, Schedule 8, paragraph 150 and Schedule 10, the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, section 34, the Immigration, Asylum and Nationality Act 2006, section 53, the Immigration Act 2014, Schedule 1, paragraph 2(2), and Schedule 9, paragraphs 9, 20 and 24, and the Immigration Act 2016, section 60.

(6) A person to whom this regulation applies must be allowed one month to leave the United Kingdom, beginning on the date on which the decision to remove is communicated before being removed because of that decision except—

- (a) in duly substantiated cases of urgency;
- (b) where the person is detained pursuant to the sentence or order of any court;
- (c) where the person is a person to whom paragraph (4) applies.

(7) Paragraph (6) does not apply where a decision has been taken under regulation 23(6) on the basis that the relevant person—

- (a) has ceased to have a derivative right to reside; or
- (b) is a person who would have had a derivative right to reside but for the effect of a decision to remove under regulation 23(6)(b).