



UK Borders Act 2007

2007 CHAPTER 30

Deportation of criminals

36 Detention

- (1) A person who has served a period of imprisonment may be detained under the authority of the Secretary of State—
- (a) while the Secretary of State considers whether section 32(5) applies, and
 - (b) where the Secretary of State thinks that section 32(5) applies, pending the making of the deportation order.

[^{F1}(1A) A person liable to be detained under subsection (1) may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the decision as to whether section 32(5) applies, or the deportation order, to be made.

(1B) Subsection (1) applies regardless of whether there is anything that for the time being prevents the decision or the deportation order from being made.

(1C) Subsections (1A) and (1B) are subject to subsection (2A) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women).

(1D) Subsection (1E) applies if, while a person is detained under subsection (1), the Secretary of State no longer considers that the decision or the deportation order will be made within a reasonable period of time.

(1E) The person may be detained under subsection (1) 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.]

- (2) Where a deportation order is made in accordance with section 32(5) the Secretary of State shall exercise the power of detention under paragraph 2(3) of Schedule 3 to the Immigration Act 1971 (c. 77) (detention pending removal) [^{F2}unless the person is granted immigration bail under Schedule 10 to the Immigration Act 2016.]

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- [^{F3}(2A) The detention under subsection (1) of a person to whom section 60 (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.]
- (3) A court determining an appeal against conviction or sentence may [^{F4}release a person on bail] from detention under subsection (1) or (2).
- [^{F5}(3A) 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 subsection (3).
- (3B) If the court grants bail to a person under subsection (3), 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.
- (3C) A reference in any provision of, or made under, an enactment other than this section to immigration bail granted, or a condition imposed, under Schedule 10 to the Immigration Act 2016 includes bail granted by the court under subsection (3) or (as the case may be) a condition imposed by the court on the grant of such bail.]
- (4) Provisions of the Immigration Act 1971 which apply to detention under paragraph 2(3) of Schedule 3 to that Act shall apply to detention under subsection (1) ^{F6}....
- ^{F7}(5)

Textual Amendments

- F1** S. 36(1A)-(1E) inserted (28.9.2023) by [Illegal Migration Act 2023 \(c. 37\)](#), **ss. 12(5)**, 68(1) (with s. 55(9)); S.I. 2023/989, reg. 2(a)
- F2** Words in s. 36(2) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 40(2)**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F3** S. 36(2A) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 60(13)**, 94(1); S.I. 2016/603, reg. 3(m)
- F4** Words in s. 36(3) substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 40(3)**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F5** S. 36(3A)-(3C) inserted (15.1.2018) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 40(4)**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F6** Words in s. 36(4) omitted (15.1.2018) by virtue of [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 40(5)**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F7** S. 36(5) omitted (15.1.2018) by virtue of [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 40(6)**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)

Commencement Information

- I1** S. 36 in force at 1.8.2008 for specified purposes by S.I. 2008/1818, art. 2(a), **Sch.**

Changes to legislation:

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

- Act excluded by [2024 c. 8 s. 2\(5\)\(a\)](#)⁵

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

- s. 33(4)(4A)(4B) substituted for s. 33(4) by [S.I. 2019/745 reg. 17\(3\)](#) (This amendment not applied to legislation.gov.uk. Reg. 17(3)(4) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- s. 61(2)(o) and word inserted by [2024 c. 8 s. 7\(1\)\(b\)](#)