

Changes to legislation: Immigration Act 1971, Paragraph 16 is up to date with all changes known to be in force on or before 11 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 2

ADMINISTRATIVE PROVISIONS AS TO CONTROL ON ENTRY ETC.

Modifications etc. (not altering text)

- C1** Sch. 2 modified (10.6.1991) by [Criminal Justice \(International Co-operation\) Act 1990 \(c. 5, SIF 39:1\), s. 6\(6\)\(b\)](#); S.I. 1991/1072, art. 2, [Sch. Pt. I](#)
- C1** Sch. 2 modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, [Sch. 4 para. 1\(11\)](#) (as amended: (1.12.1997) by S.I. 1994/1405, art. 8, [Sch. 4 para. 11](#); (30.7.2000) by S.I. 2000/1775, arts. 1, [2\(2\)](#); (25.5.2001) by S.I. 2001/1544, arts. 1(2), [6\(3\)](#) (as itself amended (2.1.2008) by S.I. 2007/3579, [art. 2\(2\)\(3\)](#)); (5.8.2014) by S.I. 2014/1814, arts. 1, [2\(3\)\(4\)](#); and (30.9.2020) by S.I. 2020/915, arts. 1(2), [5\(5\)](#))
Sch. 2 extended (with modifications): (Guernsey) (1.8.1993) by S.I. 1993/1796, art. 3(1), [Sch. 1 Pt. 1](#); (Jersey) (1.8.1993) by S.I. 1993/1797, art. 3(1), [Sch. 1 Pt. 1](#) (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, [2\(2\)](#))
Sch. 2 applied (20.7.1994) by S.I. 1994/1895, [art. 20\(2\)](#)
Sch. 2 amended (2.10.2000) by 1999 c. 33, s. 66; S.I. 2000/2444, art. 2, [Sch. 1](#) (subject to transitional provisions in [art. 3](#), [Sch. 2 para. 2](#))
Sch. 2 extended (10.2.2003) (with modifications) by 2002 c. 41, s. 62(3) (with s. 159); S.I. 2003/1, [art. 2](#), [Sch. 2](#), [Sch. 2](#)
Sch. 2 amended (1.4.2003) by 2002 c. 41, s. 68 (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 S.I. 2003/1339)
- C1** Sch. 2 applied by [The Immigration \(European Economic Area\) Regulations 2006 \(S.I. 2006/1003\), reg. 24\(4\)](#) (as substituted (1.6.2009) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2009 \(S.I. 2009/1117\), reg. 2](#), [Sch. 1 para. 10\(c\)](#))
- C1** Sch. 2 applied in part (with modifications) by S.I. 2006/1003, reg. 29AA(6)(7) (as inserted (28.7.2014) by [The Immigration \(European Economic Area\) \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/1976\), reg. 1](#), [Sch. para. 8](#) (with reg. 4))
- C1** Sch. 2 applied (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\), regs. 1\(2\)\(b\), 40\(7\), 41\(7\)](#)
- C1** Sch. 2 modified (31.7.2017) by [The Criminal Justice \(European Investigation Order\) Regulations 2017 \(S.I. 2017/730\), regs. 1\(1\), 21\(8\)\(b\)](#) (with reg. 3)
- C1** Sch. 2 modified (31.7.2017) by [The Criminal Justice \(European Investigation Order\) Regulations 2017 \(S.I. 2017/730\), regs. 1\(1\), 55\(7\)\(b\)](#) (with reg. 3)
- 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. 2 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. 2 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. 2 applied (31.12.2020) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\), regs. 1\(2\)\(3\), 16\(1\)\(4\)](#)
- C1** Sch. 2 modified (31.12.2020) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\), regs. 1\(2\)\(3\), 7](#)

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- C1** Sch. 2 modified (31.12.2020) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2)(3), **13(2)**

PART I

GENERAL PROVISIONS

Modifications etc. (not altering text)

- C1** Sch. 2 Pt. I 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. 1](#) (subject to transitional provisions in [art. 3](#), [Sch. 2 para. 2](#))
 Sch. 2 Pt. I amended (2.10.2000) by [1999 c. 33, s. 58\(3\)](#), [Sch. 4 Pt. II para. 15](#); [S.I. 2000/2444, art. 2](#), [Sch. 1](#) (subject to transitional provisions in [art. 3](#), [Sch. 2 para. 2](#))
 Sch. 2 Pt. I 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. 2 Pt. I applied (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), regs. 1(2)(b), **40(4)**

Detention of persons liable to examination or removal

- 16 (1) A person who may be required to submit to examination under paragraph 2 above may be detained under the authority of an immigration officer pending his examination and pending a decision to give or refuse him leave to enter.
- [^{F1}(1A) A person whose leave to enter has been suspended under paragraph 2A may be detained under the authority of an immigration officer pending—
- (a) completion of his examination under that paragraph; and
 - (b) a decision on whether to cancel his leave to enter.]
- [^{F2}(1B) A person who has been required to submit to further examination under paragraph 3(1A) may be detained under the authority of an immigration officer, for a period not exceeding 12 hours, pending the completion of the examination.]
- [^{F3}(2) If there are reasonable grounds for suspecting that a person is someone in respect of whom directions may be given under any of paragraphs [^{F4}8 to 10A] or 12 to 14, that person may be detained under the authority of an immigration officer pending—
- (a) a decision whether or not to give such directions;
 - (b) his removal in pursuance of such directions.]
- [^{F5}(2A) But the detention of an unaccompanied child under sub-paragraph (2) is subject to paragraph 18B.]
- [^{F6}(2B) The detention under sub-paragraph (2) of a person to whom section 60 (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.]
- [^{F7}(2C) A person may be detained under the authority of an immigration officer—
- (a) if the immigration officer suspects that the person meets the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal

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- from the United Kingdom), pending a decision as to whether the conditions are met;
- (b) if the immigration officer suspects that the Secretary of State has a duty to make arrangements for the removal of the person from the United Kingdom under that section, pending a decision as to whether the duty applies;
 - (c) if the Secretary of State has such a duty, pending the person's removal from the United Kingdom in accordance with that section;
 - (d) if the person meets those four conditions but the Secretary of State does not have such a duty by virtue of [subsection \(1\) of section 4](#) of that Act—
 - (i) pending a decision to give limited leave to enter or remain under the immigration rules to the person for the purposes of that subsection,
 - (ii) pending a decision to give leave under section 8AA of the Immigration Act 1971 (discretionary leave for persons generally ineligible for leave etc),
 - (iii) pending a decision to give leave under section 65(2) of the Nationality and Borders Act 2022 (leave to remain for victims of slavery or human trafficking), or
 - (iv) pending a decision to remove the person under [subsection \(2\) of section 4](#) of the Illegal Migration Act 2023 (power to remove unaccompanied children), and pending their removal in accordance with that subsection.
- (2D) But if the immigration officer is satisfied that a woman being detained under sub-paragraph [\(2C\)](#) is pregnant, then the woman may not be detained under that sub-paragraph for a period of—
- (a) more than 72 hours from the relevant time, or
 - (b) more than seven days from the relevant time, in a case where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).
- (2E) A woman who has been released as a result of sub-paragraph [\(2D\)](#) may be detained again under sub-paragraph [\(2C\)](#) in accordance with sub-paragraph [\(2D\)](#).
- (2F) Where a woman being detained under sub-paragraph [\(2C\)](#) has previously been detained under section [62\(2A\)](#) of the Nationality, Immigration and Asylum Act 2002 and has not been released in between, the definition of “the relevant time” in sub-paragraph [\(2G\)](#) is to be read as if paragraph (b) referred to the time when the woman was first detained under sub-paragraph [\(2C\)](#) or section [62\(2A\)](#) of that Act.
- (2G) In sub-paragraphs [\(2D\)](#) to [\(2F\)](#)—
- “the relevant time” means the later of—
- (a) the time at which the immigration officer is first satisfied that the woman is pregnant, and
 - (b) the time at which the detention under sub-paragraph [\(2C\)](#) begins;
- “woman” means a female of any age.
- (2H) The powers in sub-paragraph [\(2C\)](#) may be exercised in respect of an unaccompanied child only in the circumstances specified in regulations made by the Secretary of State.
- (2I) The Secretary of State may, by regulations, specify time limits that apply in relation to the detention of an unaccompanied child under sub-paragraph [\(2C\)\(d\)\(iv\)](#) (detention of unaccompanied child in relation to removal).

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- (2J) Regulations under sub-paragraph (2H) may confer a discretion on the Secretary of State or an immigration officer.
- (2K) Regulations under sub-paragraph (2H) or (2I)—
- (a) may make different provision for different purposes;
 - (b) may make consequential, supplementary, incidental, transitional or saving provision;
 - (c) must be made by statutory instrument.
- (2L) A person who may be detained under sub-paragraph (2C) may no longer be detained under sub-paragraph (1), (1A), (1B), (2), (3) or (4).
- (2M) A person (of any age) detained under sub-paragraph (2C) may be detained in any place that the Secretary of State considers appropriate.
- (2N) A statutory instrument containing regulations under sub-paragraph (2H) or (2I) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2P) In sub-paragraphs (2H) and (2I), “unaccompanied child” has the same meaning as in the Illegal Migration Act 2023 (see section 4 of that Act).]
- (3) A person on board a ship or aircraft may, under the authority of an immigration officer, be removed from the ship or aircraft for detention under this paragraph; but if an immigration officer so requires the captain of a ship or aircraft shall prevent from disembarking in the United Kingdom any person who has arrived in the United Kingdom in the ship or aircraft and been refused leave to enter, and the captain may for that purpose detain him in custody on board the ship or aircraft.
- (4) The captain of a ship or aircraft, if so required by an immigration officer, shall prevent from disembarking in the United Kingdom or before the directions for his removal have been fulfilled any person placed on board the ship or aircraft under paragraph 11 or 15 above, and the captain may for that purpose detain him in custody on board the ship or aircraft.
- ^{F8}(4A)
- [^{F9}(5) See paragraph 17A for further provision about the period for which persons may be detained under this paragraph.]

Textual Amendments

- F1** Sch. 2 para. 16(1A) inserted (14.2.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 60; S.I. 2000/168, art. 2, Sch. 1 (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F2** Sch. 2 para. 16(1B) inserted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 42(3); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F3** Sch. 2 para. 16(2) substituted (11.11.1999) by 1999 c. 33, ss. 140(1), 170(3) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F4** Words in Sch. 2 para. 16(2) substituted (10.2.2003) by 2002 c. 41, s. 73(5) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F5** Sch. 2 para. 16(2A) inserted (28.7.2014) by Immigration Act 2014 (c. 22), ss. 5(2), 75(3); S.I. 2014/1820, art. 3(d)
- F6** Sch. 2 para. 16(2B) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 60(10), 94(1); S.I. 2016/603, reg. 3(m)

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- F7** Sch. 2 para. 16(2C)-(2P) inserted (20.7.2023 for specified purposes) by Illegal Migration Act 2023 (c. 37), **ss. 11(2)**, 68(1)(4)(d) (with s. 55(9))
- F8** Sch. 2 para. 16(4A) repealed by S.I. 1993/1813, art. 9(1), **Sch. 6 Pt. I**
- F9** Sch. 2 para. 16(5) inserted (28.9.2023) by Illegal Migration Act 2023 (c. 37), **ss. 12(1)(a)**, 68(1) (with s. 55(9)); S.I. 2023/989, reg. 2(a)

Modifications etc. (not altering text)

- C1** Sch. 2 para. 16 applied (2.10.2000) by Immigration and Asylum Act 1999 (c. 33), **s. 9(4)**, 10 (as substituted (20.10.2014) by c. 22, ss. 1, 75(3); S.I. 2014/2771, art. 2(a) (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)); S.I. 2000/2444, **art. 2**, **Sch. 1** (subject to transitional provisions in art. 3, Sch. 2 para. 2) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, **Sch.**) Sch. 2 para. 16 extended (14.12.2001) by 2001 c. 24, **ss. 23(2)(a)**, 127(2)
- C2** Sch. 2 paras. 2-4, 7, 16-18, 21-24 applied (with modifications) (2.10.2000) by S.I. 2000/2326, **reg. 24(2)** (with **regs. 9, 28**) Sch. 2 para. 16 applied (2.10.2000) by S.I. 2000/2326, **reg. 25(3)(a)** (with **regs. 9, 28**)
- C3** Sch. 2 paras. 16-18A applied (with modifications) (31.1.2020) by The Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 (S.I. 2020/61), reg. 1(2), **Sch. 3 para. 2(1)(a)(2)**
- C4** Sch. 2 para. 16(1) modified (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 3(3)**; S.I. 2017/1241, **reg. 2(c)** (with **Sch.**) (as amended by S.I. 2018/31, reg. 2)
- C5** Sch. 2 para. 16(2)-(4) applied by 1999 c. 33, **s. 10(9)(b)** (as substituted (20.10.2014) by Immigration Act 2014 (c. 22), **ss. 1**, 75(3); S.I. 2014/2771, art. 2(a) (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)))

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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\(4\)](#)