Immigration Act 1971

1971 CHAPTER 77

PART I

REGULATION OF ENTRY INTO AND STAY IN UNITED KINGDOM

6 Recommendations by court for deportation.

(1) Where under section 3(6) above a person convicted of an offence is liable to deportation on the recommendation of a court, he may be recommended for deportation by any court having power to sentence him for the offence unless the court commits him to be sentenced or further dealt with for that offence by another court:

Provided that in Scotland the power to recommend a person for deportation shall be exercisable only by the sheriff or the High Court of Justiciary, and shall not be exercisable by the latter on an appeal unless the appeal is against a conviction on indictment or against a sentence upon such a conviction.

(2) A court shall not recommend a person for deportation unless he has been given not less than seven days notice in writing stating that a person is not liable to deportation if he is **[**[F1]a British citizen**]**, describing the persons who are **[**[F1]British citizens**]** and stating (so far as material) the effect of section 3(8) above and section 7 below; but the powers of adjournment conferred by **[**[F2]section 10(3) of the [M1]Magistrates' Courts Act 1980**]**, **[**[F3]section 179 or 380 of the [M2]Criminal Procedure (Scotland) Act 1975**]** or any corresponding enactment for the time being in force in Northern Ireland shall include power to adjourn, after convicting an offender, for the purpose of enabling a notice to be given to him under this subsection or, if a notice was so given to him less than seven days previously, for the purpose of enabling the necessary seven days to elapse.

(3) For purposes of section 3(6) above—

(a) a person shall be deemed to have attained the age of seventeen at the time of his conviction if, on consideration of any available evidence, he appears to have done so to the court making or considering a recommendation for deportation; and

(b) the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any enactment restricting

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the imprisonment of young offenders or **[**[F4]first offenders**]**[[F4]persons who have not previously been sentenced to imprisonment**]**;

and for purposes of deportation a person who on being charged with an offence is found to have committed it shall, notwithstanding any enactment to the contrary and notwithstanding that the court does not proceed to conviction, be regarded as a person convicted of the offence, and references to conviction shall be construed accordingly.

(4) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.

(5) Where a court recommends or purports to recommend a person for deportation, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or against the conviction on which it is made; but—

[F5]. . . the recommendation shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence [F5] . . .

[F6](b) . . . . . .

(6) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the conviction on which it was made; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal or, in Scotland, until the expiration of twenty-eight days from the date of the recommendation.

(7) For the purpose of giving effect to any of the provisions of this section in its application to Scotland, the High Court of Justiciary shall have power to make rules by act of adjournal.

Textual Amendments

F1 Words substituted by British Nationality Act 1981 (c. 61), s. 52(7), **Sch. 4 para. 2** (with Sch. 8 para. 8)

F2 Words substituted by Magistrates' Courts Act 1980 (c. 43), s. 154(2), **Sch. 7 para. 104**

F3 Words substituted by Criminal Procedure (Scotland) Act 1975 (c. 21), **Sch. 9 para. 47**

F4 Words "persons" to "imprisonment" substituted for words "first offenders" (E.W.) by Criminal Justice Act 1972 (c. 71), **Sch. 5** and (U.K.) by Criminal Justice Act 1982 (c. 48), s. 80(2), **Sch. 15 para. 15(a)**

F5 Words repealed (S.) by Criminal Justice (Scotland) Act 1980 (c. 62), **Sch. 8** and repealed (31.1.1983) by Criminal Justice Act 1982 (c. 48), s. 80(2), **Sch. 16**

F6 S. 6(5)(b) repealed (S.) by Criminal Justice (Scotland) Act 1980 (c. 62), **Sch. 8** and repealed (31.1.1983) by Criminal Justice Act 1982 (c. 48), s. 80(2), **Sch. 16**

Modifications etc. (not altering text)

C1 Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by The Immigration (Guernsey) Order 1993 (S.I. 1993/1796), arts. 1, 3(1), **Sch. 1 Pt. 1**

C2 Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by The Immigration (Jersey) Order 1993 (S.I. 1993/1797), arts. 1, 3(1), **Sch. 1 Pt. 1** (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, **2(2)**; and (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2017/981, **Sch. Pt. 1 para. 1** (with art. 6))

Marginal Citations

M1 1980 c. 43.

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M2 1975 c. 21.

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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)