

SCHEDULES

SCHEDULE 2

Section 4(4).

EXCLUSION ORDERS

Duration

- 1
- (1) An exclusion order may be revoked at any time by a further order made by the Secretary of State.
 - (2) An exclusion order shall, unless revoked earlier, expire at the end of the period of three years beginning with the day on which it is made.
 - (3) The fact that an exclusion order against a person has been revoked or has expired shall not prevent the making of a further exclusion order against him.

Notice of making of order

- 2
- (1) As soon as may be after the making of an exclusion order, notice of the making of the order shall be served on the person against whom it has been made; and the notice shall—
 - (a) set out the rights afforded to him by paragraph 3 below; and
 - (b) specify the manner in which those rights are to be exercised.
 - (2) Sub-paragraph (1) above shall not impose an obligation to take any steps to serve a notice on a person at a time when he is outside the United Kingdom.
 - (3) Where the person against whom an exclusion order is made is not for the time being detained by virtue of this Act, the notice of the making of the order may be served on him by posting it to him at his last known address.

Right to make representations

- 3
- (1) If after being served with notice of the making of an exclusion order the person against whom it is made objects to the order he may—
 - (a) make representations in writing to the Secretary of State setting out the grounds of his objections; and
 - (b) include in those representations a request for a personal interview with the person or persons nominated by the Secretary of State under sub-paragraph (5) below.
 - (2) Subject to sub-paragraphs (3) and (4) below, a person against whom an exclusion order has been made must exercise the rights conferred by sub-paragraph (1) above within seven days of the service of the notice.
 - (3) Where before the end of that period—
 - (a) he has consented to his removal under paragraph 5 below from Great Britain, Northern Ireland or the United Kingdom, as the case may be; and

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- (b) he has been removed accordingly,
 he may exercise the rights conferred by sub-paragraph (1) above within fourteen days of his removal.
- (4) Where at the time when the notice of an exclusion order is served on a person he is in a part of the United Kingdom other than that from which the order excludes him he may exercise the rights conferred by sub-paragraph (1) above within fourteen days of the service of the notice.
- (5) If a person exercises those rights within the period within which they are required to be exercised by him, the matter shall be referred for the advice of one or more persons nominated by the Secretary of State.
- (6) Where sub-paragraph (2) above applies, the person against whom the exclusion order has been made shall be granted a personal interview with the person or persons so nominated.
- (7) Where sub-paragraph (3) or (4) above applies, the person against whom the exclusion order has been made shall be granted a personal interview with the person or persons so nominated if it appears to the Secretary of State that it is reasonably practicable to grant him such an interview in an appropriate country or territory within a reasonable period from the date on which he made his representations.
- (8) In sub-paragraph (7) above “an appropriate country or territory” means—
- (a) Northern Ireland or the Republic of Ireland if the exclusion order was made under section 5 of this Act;
 - (b) Great Britain or the Republic of Ireland if it was made under section 6 of this Act;
 - (c) the Republic of Ireland if it was made under section 7 of this Act.
- (9) Where it appears to the Secretary of State that it is reasonably practicable to grant a personal interview in more than one appropriate country or territory he may grant the interview in whichever of them he thinks fit.
- (10) It shall be for the Secretary of State to determine the place in any country or territory at which an interview under this paragraph is to be granted.

Reconsideration of exclusion order following representations

- 4 (1) Where the Secretary of State receives representations in respect of an exclusion order under paragraph 3 above he shall reconsider the matter as soon as reasonably practicable after receiving the representations and any report of an interview relating to the matter which has been granted under that paragraph.
- (2) In reconsidering a matter under this paragraph the Secretary of State shall take into account everything which appears to him to be relevant and in particular—
- (a) the representations relating to the matter made to him under paragraph 3 above;
 - (b) the advice of the person or persons to whom the matter was referred by him under that paragraph; and
 - (c) the report of any interview relating to the matter granted under that paragraph.

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- (3) The Secretary of State shall thereafter, if it is reasonably practicable to do so, give notice in writing to the person against whom the exclusion order has been made of any decision he takes as to whether or not to revoke the order.

Powers of removal

- 5 Where an exclusion order has been made against a person and notice of the making of the order has been served on him, the Secretary of State may have him removed from the relevant territory—
- (a) if he consents;
 - (b) if the period mentioned in paragraph 3(2) above has expired and he has not made representations relating to the matter in accordance with that paragraph; or
 - (c) if he has made such representations but the Secretary of State has notified him that he has decided not to revoke the order.

Removal directions

- 6 (1) The Secretary of State may in accordance with the following provisions of this paragraph give directions for the removal from the relevant territory of any person subject to an exclusion order; but a person shall not be removed in pursuance of the directions until notice of the making of the order has been served on him and one of the conditions in paragraph 5(a), (b) and (c) above is fulfilled.
- (2) Directions under this paragraph above may be—
- (a) directions given to the captain of a ship or aircraft about to leave the relevant territory requiring him to remove the person in question from that territory in that ship or aircraft; or
 - (b) directions given to the owners or agents of any ship or aircraft requiring them to make arrangements for the removal from the relevant territory of the person in question in a ship or aircraft specified or indicated in the directions; or
 - (c) directions for the removal from the relevant territory of the person in question in accordance with arrangements to be made by the Secretary of State;
- and any such directions shall specify the country or territory to which the person in question is to be removed.
- (3) Directions under this paragraph may also be given for the removal of a person by land to the Republic of Ireland; and those directions may be—
- (a) directions given to the driver or owner of any vehicle (being, in the case of a private vehicle, one in which that person arrived in Northern Ireland) requiring him to remove the person in question to the Republic of Ireland in a vehicle specified in the directions; or
 - (b) directions for the removal of the person in question in accordance with arrangements to be made by the Secretary of State.
- (4) No directions under this paragraph shall be for the removal of a person to any country or territory other than one—
- (a) of which the person in question is a national or citizen;
 - (b) in which he obtained a passport or other document of identity; or

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- (c) to which there is reason to believe that he will be admitted;
and no such directions shall be given for the removal of a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas) to a country or territory outside the United Kingdom unless he is also a national or citizen of, or has indicated that he is willing to be removed to, that country or territory.
- (5) Where—
- (a) a person is found on examination under Schedule 5 to this Act to be subject to an exclusion order; or
 - (b) an exclusion order is made against a person following such an examination, the power to give directions for his removal under any provision of this paragraph except sub-paragraphs (2)(c) and (3)(b) shall be exercisable by an examining officer as well as by the Secretary of State; and where any such person has arrived in a ship or aircraft (including arrival as a transit passenger, member of the crew or other person not seeking to enter Great Britain or Northern Ireland) the countries or territories to which he may be directed to be removed under sub-paragraph (2) above include the country or territory in which he embarked on that ship or aircraft.
- (6) A person in respect of whom directions are given under this paragraph may be placed under the authority of the Secretary of State or an examining officer on board any ship or aircraft or, as the case may be, in or on any vehicle in which he is to be removed in accordance with the directions.
- (7) The costs of complying with any directions under this paragraph shall be defrayed by the Secretary of State.
- (8) Any person who without reasonable excuse fails to comply with directions given to him under this paragraph is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale or both.
- (9) In this paragraph “the relevant territory” means—
- (a) in relation to a person subject to an exclusion order made under section 5 of this Act, Great Britain;
 - (b) in relation to a person subject to an exclusion order made under section 6 of this Act, Northern Ireland; and
 - (c) in relation to a person subject to an exclusion order made under section 7 of this Act, the United Kingdom.

Detention pending removal

- 7 (1) A person in respect of whom directions for removal may be given under paragraph 6 above may be detained pending the giving of such directions and pending removal in pursuance of the directions under the authority of the Secretary of State or, if the directions are to be or have been given by an examining officer, of such an officer.
- (2) A person liable to be detained under this paragraph may be arrested without warrant by an examining officer.
- (3) The captain of a ship or aircraft, if so required by an examining officer, shall prevent any person placed on board the ship or aircraft under paragraph 6 above from disembarking in the relevant territory or, before the directions for his removal have been fulfilled, elsewhere.

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- (4) Where under sub-paragraph (3) above the captain of a ship or aircraft is required to prevent a person from disembarking he may for that purpose detain him in custody on board the ship or aircraft.
- (5) The captain of a ship or aircraft who fails to take reasonable steps to comply with a requirement imposed under sub-paragraph (3) above is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 4 on the standard scale or both.
- (6) A person may be removed from a vehicle for detention under this paragraph.
- (7) In this paragraph “relevant territory” has the same meaning as in paragraph 6 above.

Detention : supplementary provisions

- 8 (1) If a justice of the peace is satisfied that there are reasonable grounds for suspecting that a person liable to be arrested under paragraph 7(2) above is to be found on any premises he may grant a search warrant authorising any constable to enter those premises for the purpose of searching for and arresting that person.
- (2) In Scotland the power to issue a warrant under sub-paragraph (1) above shall be exercised by a sheriff or a justice of the peace, an application for such a warrant shall be supported by evidence on oath and a warrant shall not authorise a constable to enter any premises unless he is a constable for the police area in which they are situated.
- (3) In Northern Ireland an application for a warrant under sub-paragraph (1) above shall be made by a complaint on oath.
- (4) A person detained under this Schedule shall be deemed to be in legal custody at any time when he is so detained and, if detained otherwise than on board a ship or aircraft, may be detained in such a place as the Secretary of State may from time to time direct.
- (5) Where a person is detained under this Schedule, any examining officer, constable or prison officer, or any other person authorised by the Secretary of State, may take all such steps as may be reasonably necessary for photographing, measuring or otherwise identifying him.
- (6) Any person detained under this Schedule may be taken in the custody of a constable or an examining officer, or of any person acting under the authority of an examining officer, to and from any place where his attendance is required for the purpose of establishing his nationality or citizenship or for making arrangements for his admission to a country or territory outside the United Kingdom or where he is required to be for any other purpose connected with the operation of this Act.

Exemption from exclusion orders

- 9 (1) When any question arises under this Act whether a person is exempted from the provisions of section 5, 6 or 7 of this Act it shall be for the person asserting that he is exempt to prove it.
- (2) A person is not to be treated as ordinarily resident in Great Britain for the purposes of the exemption in section 5(4)(a) of this Act or in Northern Ireland for the purpose of the exemption in section 6(4)(a) of this Act at a time when he is there in breach of—
 - (a) an exclusion order; or

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- (b) the Immigration Act 1971 or any law for purposes similar to that Act in force in the United Kingdom after the passing of this Act.
- (3) In each of those exemptions “the last three years” is to be taken as a period amounting in total to three years exclusive of any time during which the person claiming exemption was undergoing imprisonment or detention for a period of six months or more by virtue of a sentence passed for an offence on a conviction in the United Kingdom or in any of the Islands.
- (4) In sub-paragraph (3) above—
- (a) “sentence” includes any order made on conviction of an offence;
 - (b) two or more sentences for consecutive (or partly consecutive) terms shall be treated as a single sentence;
 - (c) a person shall be deemed to be detained by virtue of a sentence—
 - (i) at any time when he is liable to imprisonment or detention by virtue of the sentence but is unlawfully at large; and
 - (ii) during any period of custody by which under any relevant enactment the term to be served under the sentence is reduced.
- (5) In sub-paragraph (4)(c)(ii) above “relevant enactment” means section 67 of the Criminal Justice Act 1967 and any similar enactment which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom or in any of the Islands.