



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART I

#### IMMIGRATION: GENERAL

##### *Removal from the United Kingdom*

#### **9 Treatment of certain overstayers.**

- (1) During the regularisation period overstayers may apply, in the prescribed manner, for leave to remain in the United Kingdom.
- (2) The regularisation period begins on the day prescribed for the purposes of this subsection and is not to be less than three months.
- (3) The regularisation period ends—
  - (a) on the day prescribed for the purposes of this subsection; or
  - (b) if later, on the day before that on which section 65 comes into force.
- (4) Section 10 and paragraph 12 of Schedule 15 come into force on the day after that on which the regularisation period ends
- (5) The Secretary of State must publicise the effect of this section in the way appearing to him to be best calculated to bring it to the attention of those affected.
- (6) “Overstayer” means a person who, having only limited leave to enter or remain in the United Kingdom, remains beyond the time limited by the leave.

#### **[<sup>F1</sup>10 Removal of persons unlawfully in the United Kingdom**

- (1) A person may be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer if the person requires leave to enter or remain in the United Kingdom but does not have it.

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- (2) Where a person (“P”) is liable to be or has been removed from the United Kingdom under subsection (1), a member of P's family who meets the following three conditions may also be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer, provided that the Secretary of State or immigration officer has given the family member written notice of the intention to remove him or her.
- (3) The first condition is that the family member is—
  - (a) P's partner,
  - (b) P's child, or a child living in the same household as P in circumstances where P has care of the child,
  - (c) in a case where P is a child, P's parent, or
  - (d) an adult dependent relative of P.
- (4) The second condition is that—
  - (a) in a case where the family member has leave to enter or remain in the United Kingdom, that leave was granted on the basis of his or her family life with P;
  - (b) in a case where the family member does not have leave to enter or remain in the United Kingdom, in the opinion of the Secretary of State or immigration officer the family member—
    - (i) would not, on making an application for such leave, be granted leave in his or her own right, but
    - (ii) would be granted leave on the basis of his or her family life with P, if P had leave to enter or remain.
- (5) The third condition is that the family member is neither a British citizen, nor is he or she entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972.
- (6) A notice given to a family member under subsection (2) invalidates any leave to enter or remain in the United Kingdom previously given to the family member.
- (7) For the purposes of removing a person from the United Kingdom under subsection (1) or (2), the Secretary of State or an immigration officer may give any such direction for the removal of the person as may be given under paragraphs 8 to 10 of Schedule 2 to the 1971 Act.
- (8) But subsection (7) does not apply where a deportation order is in force against a person (and any directions for such a person's removal must be given under Schedule 3 to the 1971 Act).
- (9) The following paragraphs of Schedule 2 to the 1971 Act apply in relation to directions under subsection (7) (and the persons subject to those directions) as they apply in relation to directions under paragraphs 8 to 10 of Schedule 2 (and the persons subject to those directions)—
  - (a) paragraph 11 (placing of person on board ship or aircraft);
  - (b) paragraph 16(2) to (4) (detention of person where reasonable grounds for suspecting removal directions may be given or pending removal in pursuance of directions);
  - (c) paragraph 17 (arrest of person liable to be detained and search of premises for person liable to arrest);

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- (d) paragraph 18 (supplementary provisions on detention);
  - (e) paragraph 18A (search of detained person);
  - (f) paragraph 18B (detention of unaccompanied children);
  - (g) paragraphs 19 and 20 (payment of expenses of custody etc);
  - F2(h) .....
  - F2(i) .....
  - (j) paragraphs 25A to 25E (searches etc).
- (10) The Secretary of State may by regulations make further provision about—
- (a) the time period during which a family member may be removed under subsection (2);
  - (b) the service of a notice under subsection (2).
- (11) In this section “child” means a person who is under the age of 18.]

**Textual Amendments**

- F1 S. 10 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))
- F2 S. 10(9)(h)(i) omitted (15.1.2018) by virtue of [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 27**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)

**Modifications etc. (not altering text)**

- C1 S. 10 applied (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), regs. 1(2)(b), **32(2)**
- C2 S. 10 applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1209\)](#), regs. 1(1), **3(4)**, 4(5), 12(1)(h)

**F3 11 Removal of asylum claimant under standing arrangement with member States**

**Textual Amendments**

- F3 S. 11 repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 33(2), 48(3), **Sch. 4**; S.I. 2004/2523, art. 2, Sch. (with art. 3)

**F4 12 Removal of asylum claimants in other circumstances.**

**Textual Amendments**

- F4 S. 12 repealed (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 33(2), 48(3), **Sch. 4**; S.I. 2004/2523, art. 2, Sch. (with art. 3)

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### 13 Proof of identity of persons to be removed or deported.

- (1) This section applies if a person—
  - (a) is to be removed from the United Kingdom to a country of which he is a national or citizen; but
  - (b) does not have a valid passport or other document establishing his identity and nationality or citizenship and permitting him to travel.
- (2) If the country to which the person is to be removed indicates that he will not be admitted to it unless identification data relating to him are provided by the Secretary of State, he may provide them with such data.
- (3) In providing identification data, the Secretary of State must not disclose whether the person concerned has made a claim for asylum.
- [<sup>F5</sup>(4) For the purposes of Article 49(1)(d) of the [<sup>F6</sup>UK GDPR], the provision under this section of identification data is a transfer of personal data which is necessary for important reasons of public interest.]
- [<sup>F7</sup>(4A) “The UK GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act).]
- (5) “Identification data” means—
  - (a) fingerprints taken under section 141; or
  - (b) data collected in accordance with regulations made under section 144.
- (6) “Removed” means removed as a result of directions given under section 10 or under Schedule 2 or 3 to the 1971 Act.

#### Textual Amendments

- F5** S. 13(4) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 47\(2\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F6** Words in s. 13(4) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), [Sch. 3 para. 19\(2\)](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F7** S. 13(4A) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), [Sch. 3 para. 19\(3\)](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, Sch. 5 para. 1(1)

### 14 Escorts for persons removed from the United Kingdom under directions.

- (1) Directions for, or requiring arrangements to be made for, the removal of a person from the United Kingdom may include or be amended to include provision for the person who is to be removed to be accompanied by an escort consisting of one or more persons specified in the directions.
- (2) The Secretary of State may by regulations make further provision supplementing subsection (1).
- (3) The regulations may, in particular, include provision—
  - (a) requiring the person to whom the directions are given to provide for the return of the escort to the United Kingdom;

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- (b) requiring him to bear such costs in connection with the escort (including, in particular, remuneration) as may be prescribed;
- (c) as to the cases in which the Secretary of State is to bear those costs;
- (d) prescribing the kinds of expenditure which are to count in calculating the costs incurred in connection with escorts.

**<sup>F8</sup>15 Protection of claimants from removal or deportation.**

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**Textual Amendments**

- F8** [S. 15](#) repealed (1.4.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 77(5), 162(1), [Sch. 9](#) (with s. 159); S.I. 2003/754, art. 2(1), Sch. 1 (with arts. 3, 4, Sch. 2 paras. 1(2), 5)

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