



Immigration Act 2016

2016 CHAPTER 19

PART 5

SUPPORT ETC FOR CERTAIN CATEGORIES OF MIGRANT

Transfer of responsibility for relevant children

69 Transfer of responsibility for relevant children

- (1) This section applies in relation to a local authority ^{F1}... (“the first authority”) if—
 - (a) the authority has functions under any of the [^{F2}relevant provisions] in relation to a relevant child, or
 - (b) functions under any of the relevant provisions may be conferred on the authority in relation to a relevant child.
- (2) The first authority may make arrangements with another local authority in [^{F3}the same part of the United Kingdom] (“the second authority”) under which—
 - (a) if this section applies to the authority by virtue of paragraph (a) of subsection (1), the functions mentioned in that paragraph become functions of the second authority in relation to the relevant child, and
 - (b) if this section applies to the authority by virtue of paragraph (b) of subsection (1), the functions mentioned in that paragraph become functions that may be conferred on the second authority in relation to the relevant child.
- (3) The effect of arrangements under [^{F4}subsection (2)] is that, from the time at which the arrangements have effect in accordance with their terms—
 - (a) functions under the relevant provisions cease to be functions of, and may not be conferred on, the first authority in relation to the relevant child (“C”),
 - (b) any of the relevant provisions which immediately before that time applied in relation to C as a result of C's connection with the first authority or the area of the first authority have effect as if C had that connection with the second authority or the area of the second authority (if that would not otherwise be the case), and

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- (c) C is to be treated for the purposes of the relevant provisions as if C were not and had never been ordinarily resident in the area of the first authority (if that would otherwise be the case).
- [^{F5}(3A) The first authority may make arrangements with another local authority in a different part of the United Kingdom (“the second authority”) having the effects mentioned in subsection (3B).
- (3B) The effects are that, from the time at which the arrangements have effect in accordance with their terms—
- (a) the first authority ceases to have any functions in relation to the relevant child (“C”) under the relevant provisions and functions under those provisions may not be conferred on the first authority in relation to C,
 - (b) C is to be treated as having a like connection with the second authority, or the area of the second authority, as C had immediately before that time with the first authority or the area of the first authority, and
 - (c) C is to be treated for the purposes of the relevant provisions in relation to both the first authority and the second authority as if the first authority had never had any functions in relation to C.
- (3C) Where a statutory provision would, but for this subsection, require the approval of a court or of any other person for arrangements under subsection (3A), that statutory provision does not apply in relation to such arrangements.]
- (4) [^{F6}Subsections (3)(b) and (3B)(b) are] subject to any change in C's circumstances after the time at which the arrangements have effect.
- (5) Nothing in subsection (3) [^{F7}or (3B)] affects any liability of the first authority in relation to C for any act or omission of the first authority before the time at which the arrangements have effect.
- (6) The Secretary of State may by regulations make further provision about the effect of arrangements under this section.
- (7) Arrangements under this section may not be brought to an end by the first or second authority once they have come into effect.
- [^{F8}(8) In this section “local authority”—
- (a) in relation to England and Wales has the same meaning as in the Children Act 1989 (see section 105(1) of that Act),
 - (b) in relation to Scotland means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, and
 - (c) in relation to Northern Ireland means a Health and Social Care trust established under Article 10 of the Health and Personal Services (Northern Ireland) Order 1991.
- (8A) In this section “the relevant provisions”—
- (a) in relation to a local authority in England, means the provisions of or made under Part 3, 4 or 5 of the Children Act 1989 (support for children and families and care, supervision and protection of children), and
 - (b) in relation to a local authority in Wales, Scotland or Northern Ireland, means any statutory provision which confers functions on, or which are exercisable by, such an authority which correspond, or are similar, to the functions

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conferred on a local authority in England by or under any of those Parts of that Act.]

(9) In this section “relevant child” means—

- (a) a person under the age of 18 who is unaccompanied and has made a protection claim which has not been determined,
- (b) a person under the age of 18 who is unaccompanied and who—
 - (i) requires leave to enter or remain in the United Kingdom but does not have it, and
 - (ii) is a person of a kind specified in regulations made by the Secretary of State, or
- (c) a person under the age of 18 who is unaccompanied and who—
 - (i) has leave to enter or remain in the United Kingdom, and
 - (ii) is a person of a kind specified in regulations made by the Secretary of State.

(10) The Secretary of State may by regulations make provision about the meaning of “unaccompanied” for the purposes of subsection (9).

(11) In subsection (9)—

- (a) “protection claim” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002, and
- (b) the reference to a protection claim having been determined is to be construed in accordance with section 94(3) of the Immigration and Asylum Act 1999.

[^{F9}(12) In this section “statutory provision” means a provision made by or under—

- (a) an Act,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, or
- (d) an Act of the Northern Ireland Assembly.

(13) In this section a reference to a part of the United Kingdom is a reference to England, Wales, Scotland or Northern Ireland.]

Textual Amendments

- F1** Words in s. 69(1) omitted (7.2.2018) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(2)(a)**
- F2** Words in s. 69(1)(a) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(2)(b)**
- F3** Words in s. 69(2) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(3)**
- F4** Words in s. 69(3) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(4)**
- F5** S. 69(3A)-(3C) inserted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(5)**
- F6** Words in s. 69(4) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(6)**
- F7** Words in s. 69(5) inserted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(7)**

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F8 S. 69(8)(8A) substituted for s. 69(8) (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(8)**

F9 S. 69(12)(13) inserted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **3(9)**

Modifications etc. (not altering text)

C1 Ss. 69-72 extended to Scotland and Northern Ireland (as well as to England and Wales) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, 2(a)

Commencement Information

II S. 69 in force at 31.5.2016 by [S.I. 2016/603](#), **reg. 2(b)**

70 Duty to provide information for the purposes of transfers of responsibility

- (1) The Secretary of State may direct a local authority ^{F10}... to provide information of the kind specified in subsection (2) to the Secretary of State for the purposes of enabling—
 - (a) arrangements to be made under section 69, or
 - (b) the Secretary of State to exercise functions under section 72.
- (2) The information mentioned in subsection (1) is—
 - (a) information about the support or accommodation provided to children who are looked after by the local authority within the meaning of the [^{F11}relevant provisions];
 - (b) such other information as may be specified in regulations made by the Secretary of State.
- (3) A local authority which is directed to provide information under this section must provide it—
 - (a) in such form and manner as the Secretary of State may direct, and
 - (b) before such time or before the end of such period as the Secretary of State may direct.
- (4) In this section “local authority” [^{F12}and “relevant provisions” have the same meanings] as in section 69.

Textual Amendments

F10 Words in s. 70(1) omitted (7.2.2018) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **4(2)**

F11 Words in s. 70(2)(a) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **4(3)**

F12 Words in s. 70(4) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **4(4)**

Modifications etc. (not altering text)

C1 Ss. 69-72 extended to Scotland and Northern Ireland (as well as to England and Wales) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, 2(a)

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Commencement Information

I2 S. 70 in force at 31.5.2016 by [S.I. 2016/603](#), [reg. 2\(b\)](#)

71 Request for transfer of responsibility for relevant children

- (1) Subsection (2) applies if—
 - (a) a local authority ^{F13}... (“the first authority”) requests another local authority ^{F13}... (“the second authority”) to enter into arrangements under section 69, and
 - (b) the second authority does not comply with the first authority's request.
- (2) The Secretary of State may direct the second authority to provide the first authority and the Secretary of State with written reasons for its failure to comply with the request.
- (3) In this section “local authority” has the same meaning as in section 69.

Textual Amendments

F13 Words in [s. 71\(1\)\(a\)](#) omitted (7.2.2018) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), [regs. 1, 5](#)

Modifications etc. (not altering text)

C1 Ss. 69-72 extended to Scotland and Northern Ireland (as well as to England and Wales) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), [regs. 1, 2\(a\)](#)

Commencement Information

I3 S. 71 in force at 31.5.2016 by [S.I. 2016/603](#), [reg. 2\(b\)](#)

72 Scheme for transfer of responsibility for relevant children

- (1) The Secretary of State may prepare a scheme for functions of, or which may be conferred on, a local authority ^{F14}... (“the transferring authority”) to become functions of, or functions which may be conferred on, one or more other local authorities in [^{F15}the same part of the United Kingdom] (a “receiving authority”) in accordance with arrangements under section [^{F16}69(2)].
- [^{F17}(1A) The Secretary of State may prepare a scheme in relation to a local authority to which section 69 applies (“the transferring authority”) and one or more other local authorities in one or more other parts of the United Kingdom (“a receiving authority”) having the effects mentioned in section 69(3B).]
- (2) A scheme under this section—
 - (a) must specify the local authorities to which it relates, and
 - (b) unless it relates to all relevant children who may be the subject of arrangements under section 69 between the transferring authority and each receiving authority, must specify the relevant child or children, or descriptions of relevant children, to which it relates.
- (3) The Secretary of State may direct the transferring authority and each receiving authority under a scheme under this section to comply with the scheme.

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- (4) A direction may not be given under subsection (3) unless the Secretary of State is satisfied that compliance with the direction will not unduly prejudice the discharge by each receiving authority of any of its functions.
- (5) Before giving a direction under subsection (3) to a local authority, the Secretary of State must give the authority notice in writing of the proposed direction.
- (6) The Secretary of State may not give a direction to a local authority before the end of the period of 14 days beginning with the day on which notice under subsection (5) was given to it.
- (7) The local authority may make written representations to the Secretary of State about the proposed direction within that period.
- (8) The Secretary of State may modify or withdraw a direction under subsection (3) by notice in writing to the local authorities to which it was given.
- (9) A modification or withdrawal of a direction does not affect any arrangements made under section 69 pursuant to the direction before it was modified or withdrawn.
- (10) Subsections (5) to (7) apply to the modification or withdrawal of a direction as they apply to the giving of a direction, but as if—
 - (a) the reference to the proposed direction were to the proposed modification or proposal to withdraw the direction, and
 - (b) subsection (6) permitted the Secretary of State to withdraw the direction before the end of the 14 day period with the agreement of the local authorities to which it applies.
- (11) In this section “local authority” ^{F18}, “relevant child” and “part of the United Kingdom”] have the same meanings as in section 69.

Textual Amendments

- F14** Words in s. 72(1) omitted (7.2.2018) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **6(2)(a)**
- F15** Words in s. 72(1) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **6(2)(b)**
- F16** Word in s. 72(1) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **6(2)(c)**
- F17** S. 72(1A) inserted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **6(3)**
- F18** Words in s. 72(11) substituted (7.2.2018) by [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, **6(4)**

Modifications etc. (not altering text)

- C1** Ss. 69-72 extended to Scotland and Northern Ireland (as well as to England and Wales) by virtue of [The Transfer of Responsibility for Relevant Children \(Extension to Wales, Scotland and Northern Ireland\) Regulations 2018 \(S.I. 2018/153\)](#), regs. 1, 2(a)

Commencement Information

- I4** S. 72 in force at 31.5.2016 by [S.I. 2016/603](#), reg. **2(b)**

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73 Extension to Wales, Scotland and Northern Ireland

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate for enabling any of the provisions of sections 69 to 72 to apply in relation to Wales, Scotland or Northern Ireland.
- (2) The Secretary of State may by regulations make provision which—
 - (a) has a similar effect to—
 - (i) any of the provisions mentioned in subsection (1), or
 - (ii) provision which may be made under section 69(6) or (10), and
 - (b) applies in relation to Wales, Scotland or Northern Ireland.
- (3) Regulations under subsection (1) may amend, repeal or revoke any enactment (including an enactment contained in this Act).
- (4) Regulations under subsection (1) or (2) may not confer functions on—
 - (a) the Welsh Ministers,
 - (b) the Scottish Ministers,
 - (c) the First Minister and deputy First Minister in Northern Ireland,
 - (d) a Northern Ireland Minister, or
 - (e) a Northern Ireland department.
- (5) In this section “enactment” includes—
 - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
 - (b) an enactment contained in, or in an instrument made under, an Act or Measure of the National Assembly for Wales;
 - (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
 - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

Commencement Information

I5 S. 73 in force at 1.1.2018 by [S.I. 2017/1210](#), [reg. 2](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)