

**Changes to legislation:** Immigration Act 2016, Paragraph 3 is up to date with all changes known to be in force on or before 23 August 2023. 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 10

#### IMMIGRATION BAIL

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

- C1** Sch. 10 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)(b)(4)
- C1** Sch. 10 modified (15.1.2018 for specified purposes, 31.8.2021 for E.W. in so far as not already in force, 31.8.2022 for S.N.I. in so far as not already in force) by [1997 c. 68](#), **Sch. 3** (as substituted by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 25**; S.I. 2017/1241, reg. 2(c) (with **Sch.**) (as amended by S.I. 2018/31, **reg. 2**); S.I. 2021/939, reg. 2(b) (with Sch. para. 1, **2**); S.I. 2022/863, regs. 1(2), **2(b)**)
- C1** Sch. 10 applied by [2007 c. 30](#), s. **36(3A)-(3C)** (as inserted (15.1.2018) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 40(4)**; S.I. 2017/1241, reg. 2(c) (with **Sch.**) (as amended by S.I. 2018/31, **reg. 2**))
- C2** Sch. 10 applied by [1971 c. 77](#), **Sch. 3 para. 2(5)-(7)** (as substituted (15.1.2018) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 10 para. 21(2)(d)**; S.I. 2017/1241, reg. 2(c) (with **Sch.**) (as amended by S.I. 2018/31, **reg. 2**))

### PART 1

#### MAIN PROVISIONS

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

- C1** Sch. 10 Pt. 1 applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2)(3), **13(2)**

#### *Exercise of power to grant immigration bail*

- 3 (1) The Secretary of State or the First-tier Tribunal must have regard to the matters listed in sub-paragraph (2) in determining—
- (a) whether to grant immigration bail to a person, and
  - (b) the conditions to which a person's immigration bail is to be subject.
- (2) Those matters are—
- (a) the likelihood of the person failing to comply with a bail condition,
  - (b) whether the person has been convicted of an offence (whether in or outside the United Kingdom or before or after the coming into force of this paragraph),
  - (c) the likelihood of a person committing an offence while on immigration bail,

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- (d) the likelihood of the person's presence in the United Kingdom, while on immigration bail, causing a danger to public health or being a threat to the maintenance of public order,
  - (e) whether the person's detention is necessary in that person's interests or for the protection of any other person,
  - [<sup>F1</sup>(ea) whether the person has failed without reasonable excuse to cooperate with any process—
    - (i) for determining whether the person requires or should be granted leave to enter or remain in the United Kingdom,
    - (ii) for determining the period for which the person should be granted such leave and any conditions to which it should be subject,
    - (iii) for determining whether the person's leave to enter or remain in the United Kingdom should be varied, curtailed, suspended or cancelled,
    - (iv) for determining whether the person should be removed from the United Kingdom, or
    - (v) for removing the person from the United Kingdom, and]
  - (f) such other matters as the Secretary of State or the First-tier Tribunal thinks relevant.
- (3) A person who is being detained under paragraph 16(1) of Schedule 2 to the Immigration Act 1971 must not be granted immigration bail by the First-tier Tribunal until after the end of the period of 8 days beginning with the date of the person's arrival in the United Kingdom.
- (4) A person must not be granted immigration bail by the First-tier Tribunal without the consent of the Secretary of State if—
- (a) directions for the removal of the person from the United Kingdom are for the time being in force, and
  - (b) the directions require the person to be removed from the United Kingdom within the period of 14 days beginning with the date of the decision on whether the person should be granted immigration bail.
- (5) If the Secretary of State or the First-tier Tribunal decides to grant, or to refuse to grant, immigration bail to a person, the Secretary of State or the Tribunal must give the person notice of the decision.
- (6) Where the First-tier Tribunal is required under sub-paragraph (5) to give a person notice of a decision, it must also give the Secretary of State notice of the decision.
- (7) Where the decision is to grant immigration bail, a notice under sub-paragraph (5) or (6) must state—
- (a) when the grant of immigration bail commences, and
  - (b) the bail conditions.
- (8) The commencement of a grant of immigration bail may be specified to be conditional on arrangements specified in the notice being in place to ensure that the person is able to comply with the bail conditions.

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#### Textual Amendments

- F1** Sch. 10 para. 3(2)(ea) substituted for word (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), **ss. 48, 87(1)**; [S.I. 2022/590](#), **regs. 1(2), 2**, [Sch. 1 para. 25](#)
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#### Commencement Information

- I1** Sch. 10 para. 3 in force at 15.1.2018 by [S.I. 2017/1241](#), **reg. 2(c)** (with [Sch.](#)) (as amended by [S.I. 2018/31](#), **reg. 2**)

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**Changes and effects yet to be applied to :**

- Sch. 10 para. 3(4)(b) word substituted by [2022 c. 36 s. 46\(8\)](#)
- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 69(9)(d) and word inserted by [2023 c. 37 s. 21\(2\)\(b\)](#)
- Sch. 10 para. 3(2)(eza) inserted by [2023 c. 37 s. 13\(3\)\(a\)](#)
- Sch. 10 para. 3(3A)-(3C) inserted by [2023 c. 37 s. 13\(3\)\(b\)](#)
- Sch. 10 para. 3A and cross-heading inserted by [2023 c. 37 s. 13\(4\)](#)