



# Illegal Migration Act 2023

## 2023 CHAPTER 37

### *Duty to make arrangements for removal*

#### **2 Duty to make arrangements for removal**

- (1) The Secretary of State must make arrangements for the removal of a person from the United Kingdom if the person meets the following four conditions.
- (2) The first condition is that—
  - (a) the person requires leave to enter the United Kingdom, but has entered the United Kingdom—
    - (i) without leave to enter, or
    - (ii) with leave to enter that was obtained by means which included deception by any person,
  - (b) the person has entered the United Kingdom in breach of a deportation order,
  - (c) the person has entered or arrived in the United Kingdom at a time when they were an excluded person within the meaning of section 8B of the Immigration Act 1971 (persons excluded from the United Kingdom under certain instruments) and—
    - (i) subsection (5A) of that section (exceptions to section 8B) does not apply to the person, and
    - (ii) an exception created under, or direction given by virtue of, section 15(4) of the Sanctions and Anti-Money Laundering Act 2018 (power to create exceptions to section 8B) does not apply to the person,
  - (d) the person requires entry clearance under the immigration rules, but has arrived in the United Kingdom without a valid entry clearance, or
  - (e) the person is required under immigration rules not to travel to the United Kingdom without an electronic travel authorisation that is valid for that person's journey to the United Kingdom, but has arrived in the United Kingdom without such an electronic travel authorisation.
- (3) The second condition is that the person entered or arrived in the United Kingdom as mentioned in subsection (2) on or after the day on which this Act is passed.

- (4) The third condition is that, in entering or arriving as mentioned in subsection (2), the person did not come directly to the United Kingdom from a country in which the person's life and liberty were threatened by reason of their race, religion, nationality, membership of a particular social group or political opinion.
- (5) For the purposes of subsection (4) a person is not to be taken to have come directly to the United Kingdom from a country in which their life and liberty were threatened as mentioned in that subsection if, in coming from such a country, they passed through or stopped in another country outside the United Kingdom where their life and liberty were not so threatened.
- (6) The fourth condition is that the person requires leave to enter or remain in the United Kingdom but does not have it.
- (7) Any limited leave to enter or remain given under the immigration rules to a person within section 4(1) (unaccompanied children) is to be disregarded in determining whether the person meets the condition in subsection (6).
- (8) In this section—  
“country” includes territory;  
“deportation order” means an order under section 5 of the Immigration Act 1971;  
“electronic travel authorisation” means an authorisation in electronic form to travel to the United Kingdom;  
“entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971.
- (9) In this Act “immigration rules” means rules under section 3(2) of the Immigration Act 1971.
- (10) Section 11(1) of the Immigration Act 1971 (person deemed not to enter the United Kingdom before disembarkation, while in controlled area or while under immigration control) applies for the purposes of this section as it applies for the purposes of that Act.
- (11) The only circumstances in which the duty in subsection (1) does not apply to a person who meets the four conditions in this section are where—  
(a) section 4(1) (unaccompanied children) applies to the person,  
(b) regulations under section 4(7) (other exceptions) apply to the person,  
(c) a Minister of the Crown has made a determination under section 55(2) (interim measures of the European Court of Human Rights) in relation to the person, or  
(d) section 61 or 62 of the Nationality and Borders Act 2022 (victims of slavery and human trafficking) apply in relation to the person, so far as they have effect by virtue of section 22 of this Act (modern slavery provisions relating to removal and leave).

### 3 Amendment of date in section 2(3) etc

- (1) The Secretary of State may by regulations amend the date which is for the time being specified in—  
(a) section 2(3) (duty to remove: date of entry or arrival in the United Kingdom);  
(b) section 5(7)(a) (application to claims made on or after passing of this Act);

- (c) section 6(12)(a) or (14)(a) (application to claims made on or after passing of this Act).
- (2) Regulations under subsection (1) may make consequential amendments to this Act or any other enactment.
- (3) Provision made by virtue of subsection (2) may, in particular, amend this Act or any other enactment to modify the operation of a provision which would otherwise apply to a person who meets, or has ever met, the condition in section 2(3) (including to enable that provision to operate as if an amendment to section 2(3) had not been made).
- (4) An amendment made by virtue of subsection (1) may have the effect that a provision mentioned in that subsection specifies—
  - (a) a particular calendar date, or
  - (b) a date which is determined by the occurrence of a particular event (for example the coming into force of a provision of this Act, generally or for a particular purpose).
- (5) But such an amendment may not have the effect that the provision specifies a date which is earlier than the date specified before the amendment was made.

#### **4 Unaccompanied children and power to provide for exceptions**

- (1) The duty in section 2(1) does not require the Secretary of State to make arrangements for the removal of a person from the United Kingdom at a time when the person is an unaccompanied child.
- (2) The Secretary of State may make arrangements for the removal of a person from the United Kingdom at a time when the person is an unaccompanied child.
- (3) The power in subsection (2) may be exercised only—
  - (a) where the person is to be removed for the purposes of reunion with the person’s parent;
  - (b) where the person is to be removed to a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002 (safe States for the purposes of section 80A of that Act) which is—
    - (i) a country of which the person is a national, or
    - (ii) a country in which the person has obtained a passport or other document of identity;
  - (c) where the person has not made a protection claim or a human rights claim and the person is to be removed to—
    - (i) a country of which the person is a national,
    - (ii) a country or territory in which the person has obtained a passport or other document of identity, or
    - (iii) a country or territory in which the person embarked for the United Kingdom;
  - (d) in such other circumstances as may be specified in regulations made by the Secretary of State.
- (4) Regulations under subsection (3)(d) may confer a discretion on the Secretary of State.
- (5) For the purposes of this Act (other than sections 16 and 17) a person (“C”) is an “unaccompanied child” if—

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- (a) C meets the four conditions in section 2,
  - (b) C is under the age of 18, and
  - (c) at the relevant time no individual (whether or not a parent of C) who was aged 18 or over had care of C.
- (6) In subsection (5) “the relevant time” means the time of C’s entry or arrival in the United Kingdom by virtue of which the duty in section 2(1) would apply in relation to C apart from this section.
- (7) The Secretary of State may by regulations make provision for other exceptions from the duty in section 2(1).
- (8) Regulations under subsection (7) may make provision—
  - (a) for this Act or any other enactment to have effect with modifications, in relation to a person to whom an exception applies, in consequence of the application of the exception to that person;
  - (b) for an exception, or for any provision made by virtue of paragraph (a), to be treated as having had effect from a time before the coming into force of the regulations.
- (9) Regulations made by virtue of subsection (8)(a) may, in particular, disapply any provision of this Act or any other enactment in relation to a person to whom an exception applies.
- (10) In subsections (8) and (9) “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 of the Scottish Parliament;
  - (c) an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru;
  - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.
- (11) A statutory instrument containing regulations under subsection (7) must be laid before Parliament after being made.
- (12) Regulations contained in a statutory instrument laid before Parliament under subsection (11) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (13) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than four days.
- (14) If regulations cease to have effect as a result of subsection (12) that does not—
  - (a) affect the validity of anything previously done under the regulations, or
  - (b) prevent the making of new regulations.
- (15) In this Act—
  - “human rights claim” has the meaning given by section 113(1) of the Nationality, Immigration and Asylum Act 2002;

“national” includes citizen;  
“protection claim” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002.

## **5 Disregard of certain claims, applications etc**

- (1) The duty in section 2(1) or the power in section 4(2) applies in relation to a person who meets the four conditions in section 2 regardless of whether—
  - (a) the person makes a protection claim,
  - (b) the person makes a human rights claim,
  - (c) the person claims to be a victim of slavery or a victim of human trafficking as defined by regulations made by the Secretary of State under section 69 of the Nationality and Borders Act 2022, or
  - (d) the person makes an application for judicial review in relation to their removal from the United Kingdom under this Act.
- (2) If a person who meets the four conditions in section 2 makes a protection claim, or a human rights claim within subsection (5), the Secretary of State must declare the claim inadmissible (and see section 41(4) in relation to human rights claims not within subsection (5)).
- (3) A protection claim or a human rights claim declared inadmissible under subsection (2) cannot be considered under the immigration rules.
- (4) A declaration under subsection (2) that a protection claim or a human rights claim is inadmissible is not a decision to refuse the claim and, accordingly, no right of appeal under section 82(1)(a) or (b) of the Nationality, Immigration and Asylum Act 2002 (appeal against refusal of protection claim or human rights claim) arises.
- (5) A human rights claim is within this subsection if it is a claim that removal of a person from the United Kingdom to—
  - (a) a country of which the person is a national, or
  - (b) a country or territory in which the person has obtained a passport or other document of identity,would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Convention).
- (6) In this Act “application for judicial review” means—
  - (a) in England and Wales and Northern Ireland, an application to the High Court for judicial review,
  - (b) in Scotland, an application to the supervisory jurisdiction of the Court of Session, and
  - (c) any other application to a court or tribunal which is required by an enactment to be determined by applying the principles that would be applied by a court on an application within paragraph (a) or (b).
- (7) In this section, references to a claim include a claim—
  - (a) that was made on or after the day on which this Act is passed, and
  - (b) that has not been decided by the Secretary of State on the date on which this section comes into force.

## 6 Removal for the purposes of section 2 or 4

- (1) Where the Secretary of State is required by section 2(1) to make arrangements for the removal of a person from the United Kingdom, the Secretary of State must ensure that the arrangements are made—
  - (a) as soon as is reasonably practicable after the person's entry or arrival in the United Kingdom, or
  - (b) where the person has ceased to be an unaccompanied child, as soon as is reasonably practicable after the person has ceased to be an unaccompanied child.
- (2) The following provisions of this section apply where—
  - (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of a person ("P") from the United Kingdom, or
  - (b) the Secretary of State may make arrangements for the removal of a person ("P") from the United Kingdom under section 4(2).
- (3) Subject to section 4(3)(c) (removal of certain unaccompanied children) and to the following provisions of this section, P may be removed to—
  - (a) a country of which P is a national,
  - (b) a country or territory in which P has obtained a passport or other document of identity,
  - (c) a country or territory in which P embarked for the United Kingdom, or
  - (d) a country or territory to which there is reason to believe P will be admitted.
- (4) If P is a national of a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002 (inadmissibility of certain asylum and human rights claims: safe States), or has obtained a passport or other document of identity in such a country, P may not be removed to a country or territory within subsection (3)(a) or (b) if—
  - (a) P makes a protection claim or a human rights claim, and
  - (b) the Secretary of State considers that there are exceptional circumstances which prevent P's removal to that country or territory.
- (5) For the purposes of subsection (4), exceptional circumstances include—
  - (a) in a case where P is a national of a country that is a signatory to the Human Rights Convention, or has obtained a passport or other document of identity in such a country, where that country is derogating from any of its obligations under the Human Rights Convention in accordance with Article 15 of the Convention;
  - (b) in a case where P is a national of a member State, or has obtained a passport or other document of identity in a member State, where the member State is the subject of a proposal initiated in accordance with the procedure referred to in Article 7(1) of the Treaty on European Union and—
    - (i) the proposal has yet to be determined by the Council of the European Union or (as the case may be) the European Council,
    - (ii) the Council of the European Union has determined, in accordance with Article 7(1), that there is a clear risk of a serious breach by the member State of the values referred to in Article 2 of the Treaty, or
    - (iii) the European Council has determined, in accordance with Article 7(2), the existence of a serious and persistent breach by the member State of the values referred to in Article 2 of the Treaty.

- (6) Subsection (7) applies if—
- (a) P is a national of a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002, or has obtained a passport or other document of identity in such a country, and
  - (b) P makes a protection claim or a human rights claim.
- (7) P may be removed to a country or territory within subsection (3)(c) or (d) only if it is listed in Schedule 1.
- (8) Subsection (9) applies if—
- (a) P is not a national of a country listed in section 80AA(1) of the Nationality, Immigration and Asylum Act 2002, and has not obtained a passport or other document of identity in such a country, and
  - (b) P makes a protection claim or a human rights claim.
- (9) P may not be removed to a country or territory within subsection (3)(a) or (b); and P may be removed to a country or territory within subsection (3)(c) or (d) only if it is listed in Schedule 1.
- (10) Where a country or territory is listed in Schedule 1 in respect of a description of person, subsection (7) or (9) has effect in relation to P and that country or territory only if the Secretary of State is satisfied that P is within that description.
- (11) Where a part of a country or territory is listed in Schedule 1, references to a country or territory in subsections (7), (9) and (10) have effect in relation to that country or territory as if they were references to that part.
- (12) In this section references to a claim include a claim—
- (a) that was made on or after the day on which this Act is passed, and
  - (b) that has not been decided by the Secretary of State on the date on which this section comes into force.
- (13) In this Act “the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4 November 1950, as it has effect for the time being in relation to the United Kingdom.
- (14) Where the Secretary of State exercises the power in subsection (2) of section 80AA of the Nationality, Immigration and Asylum Act 2002 to amend the list of States in subsection (1) of that section so as to add a State, subsections (4), (6) and (7) apply to a person who is a national of that State, or who has obtained a passport or other document of identity in that State, if—
- (a) they have made a protection claim or a human rights claim on or after the day on which this Act is passed, and
  - (b) the claim has not been decided by the Secretary of State on the date on which the amendment comes into force.

## **7 Powers to amend Schedule 1**

- (1) The Secretary of State may by regulations amend Schedule 1 to add a country or territory, or part of a country or territory, if satisfied that—
- (a) there is in general in that country or territory, or part, no serious risk of persecution, and



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- (b) removal of persons to that country or territory, or part, pursuant to the duty in section 2(1) will not in general contravene the United Kingdom's obligations under the Human Rights Convention.
- (2) If the Secretary of State is satisfied that the statements in subsection (1)(a) and (b) are true of a country or territory, or part of a country or territory, in relation to a description of person, regulations under subsection (1) may add the country or territory or part to Schedule 1 in respect of that description of person.
- (3) A description for the purposes of subsection (2) may refer to—
- (a) sex,
  - (b) language,
  - (c) race,
  - (d) religion,
  - (e) nationality,
  - (f) membership of a social or other group,
  - (g) political opinion, or
  - (h) any other attribute or circumstance that the Secretary of State thinks appropriate.
- (4) In deciding whether the statements in subsection (1)(a) and (b) are true of a country or territory, or part of a country or territory, the Secretary of State—
- (a) must have regard to all the circumstances of the country or territory, or part (including its laws and how they are applied), and
  - (b) must have regard to information from any appropriate source (including member States and international organisations).
- (5) The Secretary of State may by regulations amend Schedule 1 to omit a country or territory, or part of a country or territory; and the omission may—
- (a) be general, or
  - (b) have the effect that the country or territory, or part, remains listed in Schedule 1 in respect of a description of person.

## **8 Further provisions about removal**

- (1) **This section** applies where—
- (a) the Secretary of State is required by section 2(1) to make arrangements for the removal of a person (“P”) from the United Kingdom, or
  - (b) the Secretary of State may make arrangements for the removal of a person (“P”) from the United Kingdom under section 4(2).
- (2) P may not be removed from the United Kingdom unless—
- (a) the Secretary of State or an immigration officer has given a notice in writing to P stating—
    - (i) that P is to be removed, and
    - (ii) the country or territory to which P is to be removed, and
  - (b) the condition in subsection (3) is met.
- (3) The condition in **this subsection** is that—
- (a) the claim period for any suspensive claim that may be made by P has expired, or



- (b) P has notified the Secretary of State (orally or in writing) that P does not intend to make a suspensive claim.
- (4) The giving of a notification by P under subsection (3)(b) does not affect any ability of P to make a suspensive claim before P is removed from the United Kingdom under this Act (and accordingly if P makes such a claim, sections 38 to 53 apply in relation to the claim).
- (5) But where P has been removed from the United Kingdom under this Act following such a notification, P may not make a suspensive claim (regardless of whether the claim period has expired).
- (6) A notice under subsection (2)(a) must—
  - (a) contain details of any right P has to make a suspensive claim under this Act, and
  - (b) set out the claim period for any such suspensive claim.
- (7) In this section—
  - “claim period”—
    - (a) in relation to a suspensive claim within section 38(2)(a) (serious harm suspensive claims), has the meaning given by section 42(7), and
    - (b) in relation to a suspensive claim within section 38(2)(b) (removal conditions suspensive claims), has the meaning given by section 43(7);
  - “suspensive claim” has the meaning given by section 38 (suspensive claims: interpretation).
- (8) Subject to section 6 (removal for the purposes of section 2 or 4), the Secretary of State or an immigration officer may give directions to the owners or agents of a ship, aircraft, train or vehicle requiring them to make arrangements for P’s removal from the United Kingdom in any ship, aircraft, train or vehicle specified or indicated in the direction to a country or territory so specified.
- (9) Where the Secretary of State or an immigration officer may give directions for P’s removal in accordance with subsection (8) the Secretary of State or an immigration officer may instead give directions for P’s removal in accordance with arrangements to be made by the Secretary of State or an immigration officer to any country or territory to which P could be removed under subsection (8).
- (10) The costs of complying with any directions given under this section must be defrayed by the Secretary of State.
- (11) P may be placed, under the authority of an immigration officer or the Secretary of State, on board any ship, aircraft, train or vehicle in which P is to be removed in accordance with directions under this section.
- (12) Where subsection (11) applies, the captain of the ship or aircraft, the train manager of the train or the driver of the vehicle—
  - (a) must, if so required by an immigration officer or the Secretary of State, prevent P from disembarking in the United Kingdom or before the directions for P’s removal have been fulfilled, and
  - (b) may for that purpose detain P in custody on board the ship, aircraft, train or vehicle.
- (13) A person is deemed to be in legal custody at any time when the person is detained under subsection (12)(b).

- (14) Paragraph 17A of Schedule 2 to the Immigration Act 1971 (period of detention) applies in relation to detention under subsection (12)(b) on board a ship, aircraft, train or vehicle as it applies in relation to detention on board a ship or aircraft under paragraph 16(4) of that Schedule.
- (15) In [this section](#) a reference to an “owner” of a ship, aircraft, train or vehicle includes a reference to any person who jointly owns it.
- (16) Where—
- (a) P is to be removed to a country or territory, and
  - (b) only part of that country or territory is listed in [Schedule 1](#),
- references in this section to the country or territory are to that part.
- (17) In this Act “immigration officer” means a person appointed by the Secretary of State as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971.

## 9 Support where asylum claim inadmissible

- (1) The Immigration and Asylum Act 1999 is amended in accordance with subsections (2) and (3).
- (2) If paragraph 1 of Schedule 11 to the Immigration Act 2016, which repeals section 4 of the Immigration and Asylum Act 1999, is not yet in force on the day this section comes into force, in subsection (2)(b) of that section, after “the Nationality, Immigration and Asylum Act 2002” insert “and section 5 of the Illegal Migration Act 2023”.
- (3) In section 94 (interpretation of Part 6: support for asylum-seekers etc)—
- (a) in subsection (4A), after “the Nationality, Immigration and Asylum Act 2002” insert “or section 5 of the Illegal Migration Act 2023”,
  - (b) in subsection (4B), for “of that Act” substitute “of the Nationality, Immigration and Asylum Act 2002”, and
  - (c) in subsection (4C), for “of that Act” substitute “of the Nationality, Immigration and Asylum Act 2002 or under section 5 of the Illegal Migration Act 2023”.
- (4) The Nationality, Immigration and Asylum Act 2002 is amended as follows.
- (5) In section 18(1ZA) (asylum seeker: definition), after “section 80A or 80B” insert “of this Act or section 5 of the Illegal Migration Act 2023”.
- (6) In section 21 (sections 17 to 20: supplementary), in subsection (3)(a), after “section 80A or 80B” insert “of this Act or section 5 of the Illegal Migration Act 2023”.
- (7) In paragraph 17(2A) of Schedule 3 (withholding and withdrawal of support: interpretation), after “section 80A or 80B” insert “of this Act or section 5 of the Illegal Migration Act 2023”.

## 10 Other consequential amendments relating to removal

- (1) The Immigration Act 1971 is amended in accordance with subsections (2) to (4).
- (2) In section 24(1) (illegal entry and similar offences), after paragraph (f) insert—
- “(fa) if the person disembarks in the United Kingdom from a ship, aircraft, train or vehicle after being placed on board under section 8(11) of the

Illegal Migration Act 2023 with a view to the person's removal from the United Kingdom;”.

- (3) In section 27(1) (offences by persons connected with ships or aircraft)—
- (a) after paragraph (a) insert—
    - “(aa) if, being the captain of a ship or aircraft, the train manager of a train or the driver of a vehicle, the person knowingly permits a person to disembark in the United Kingdom when required under section 8(12)(a) of the Illegal Migration Act 2023 to prevent it;”, and
  - (b) after paragraph (b) insert—
    - “(ba) if, as owner or agent of a ship, aircraft, train or vehicle, the person fails, without reasonable excuse, to make arrangements for or in connection with the removal of a person from the United Kingdom when required to do so by directions given under section 8(8) or (9) of the Illegal Migration Act 2023;”.
- (4) In Schedule 2 (administrative provisions as to control on entry etc), after paragraph 11 insert—
- “11A Paragraphs 8 to 10 do not apply to a person if—
- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or
  - (b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 4(2) of that Act,
- but see section 8 of that Act.”
- (5) The Immigration and Asylum Act 1999 is amended in accordance with subsections (6) and (7).
- (6) In section 10 (removal of persons unlawfully in the United Kingdom), after subsection (11) insert—
- “(12) This section does not apply to a person if—
- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or
  - (b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 4(2) of that Act,
- but see section 8 of that Act.”
- (7) In section 156(1)(b) (arrangements for the provision of escorts and custody), for “or this Act” substitute “, this Act or the Illegal Migration Act 2023”.
- (8) In section 80A of the Nationality, Immigration and Asylum Act 2002 (claims by nationals of listed safe States), after subsection (5) insert—
- “(5A) This section does not apply to a person who meets the four conditions in section 2 of the Illegal Migration Act 2023 (duty to make arrangements for removal).”

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(9) In Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe country)—

(a) in paragraph 3, after sub-paragraph (2) insert—

“(3) This paragraph does not apply for the purposes of determining whether a person who has made an asylum claim or a human rights claim may be removed from the United Kingdom to a State of which the person is not a national or citizen if—

- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or
- (b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 4(2) of that Act,

but see section 6 of that Act.”;

(b) in paragraph 8, after sub-paragraph (2) insert—

“(3) This paragraph does not apply for the purposes of determining whether a person who has made an asylum claim may be removed from the United Kingdom to a State of which the person is not a national or citizen if—

- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or
- (b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 4(2) of that Act,

but see section 6 of that Act.”;

(c) in paragraph 13, after sub-paragraph (2) insert—

“(3) This paragraph does not apply for the purposes of determining whether a person who has made an asylum claim may be removed from the United Kingdom to a State of which the person is not a national or citizen if—

- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or
- (b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 4(2) of that Act,

but see section 6 of that Act.”