



# Illegal Migration Act 2023

## 2023 CHAPTER 37

### *Duty to make arrangements for removal*

#### **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

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*Status: This is the original version (as it was originally enacted).*

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- (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.