

2024 No. 586 (C. 37)

IMMIGRATION AND ASYLUM

**The Illegal Migration Act 2023 (Commencement No. 2)
Regulations 2024**

Made - - - -

30th April 2024

The Secretary of State makes these Regulations in exercise of the powers conferred by section 68(1) and (2) of the Illegal Migration Act 2023(a).

Citation and extent

1.—(1) These Regulations may be cited as the Illegal Migration Act 2023 (Commencement No. 2) Regulations 2024.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Commencement of section 50 of the Illegal Migration Act 2023

2. Section 50 of the Illegal Migration Act 2023 comes into force on the day after the day on which these Regulations are made.

30th April 2024

Alex Chalk
Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the second commencement regulations made under the Illegal Migration Act 2023 (c. 37) (“the Act”).

These Regulations bring section 50 of the Act into force.

The Act establishes a new procedure for the removal of persons who enter or arrive in the United Kingdom in breach of immigration control. Section 2 of the Act places a duty on the Secretary of State to make arrangements for the removal of a person, if the person meets specified conditions, from the United Kingdom to their home country or to a safe third country. A person may challenge the decision of the Secretary of State for removal on the basis that their claim is a ‘suspensive claim’ as defined under section 38(2) of the Act. A successful challenge has the effect of suspending a person’s removal from the United Kingdom.

(a) 2023 c. 37.

Sections 44 to 49 of the Act make provision for legal proceedings in the Upper Tribunal (Immigration and Asylum Chamber) where a person challenges their removal by way of a suspensive claim.

Section 50(1) of the Act provides that on the first occasion that Tribunal Procedure Rules (namely rules of practice and procedure for how suspensive claims are conducted in the Upper Tribunal) for the purposes of sections 44 to 49 of the Act are made, they may be made by the Lord Chancellor instead of under the usual procedure by the Tribunal Procedure Committee (defined in section 50(10)). Section 50(2) and (4) requires the Lord Chancellor to consult named senior judiciary before making such rules and section 50(3) states that no other consultation is required. Section 50(5) specifies that such rules are to be made by statutory instrument and section 50(6), (7) and (8) determines the parliamentary procedure for the making of that instrument. As part of the parliamentary procedure, the rules cease to have effect at the end of the period of 40 days beginning with the day on which the instrument was made unless during that period the instrument is approved by a resolution of each House of Parliament. Section 50(9) provides that if the rules cease to have effect in that way, anything done under the rules previously to them ceasing to have effect remains valid, and the Lord Chancellor is permitted to re-make rules pursuant to section 50(1).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector or community bodies is foreseen. An impact assessment was published in relation to the Illegal Migration Bill and can be found at <https://bills.parliament.uk/publications/51897/documents/3699> or a copy can be obtained from the Home Office, 2 Marsham Street, London SW1P 4DF.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Illegal Migration Act 2023 have been brought into force in England and Wales, Scotland and Northern Ireland by commencement regulations made before the date of these Regulations:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 12	28 September 2023	2023/989
Section 15	28 September 2023	2023/989
Section 59	28 September 2023	2023/989
Section 60	28 September 2023	2023/989
Section 61	28 September 2023	2023/989
Section 62	28 September 2023	2023/989
Paragraphs 8, 10 and 11 of Schedule 2	28 September 2023	2023/989

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