



Immigration & Asylum Act 2014

An Act to make provision about immigration law; to make provision about the rights of children and families in the same; to make provision about the implementation of an amnesty before the law for certain undocumented immigrants; to impose new rules on asylum claims; to grant registered asylum claimants an unconditional right to work for the duration of their stay and to expunge the use of the word 'alien' in reference to non-British persons from the statute; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Restriction on removal of children and their parents

After Section 78 of the Nationality, Immigration & Asylum Act 2002 insert:

78A. Restriction on removal of children and their parents

(1) This section applies in a case where—

(a) a child is to be removed from or required to leave the United Kingdom, and

(b) an individual who—

(i) is a parent of the child or has care of the child, and

(ii) is living in a household in the United Kingdom with the child, is also to be removed from or required to leave the United Kingdom (a “relevant parent or carer”).

(2) During the period of 28 days beginning with the day on which the relevant appeal rights are exhausted—

(a) the child may not be removed from or required to leave the United Kingdom; and

(b) a relevant parent or carer may not be removed from or required to leave the United Kingdom if, as a result, no relevant parent or carer would remain in the United Kingdom.

(3) The relevant appeal rights are exhausted at the time when—

(a) neither the child, nor any relevant parent or carer, could bring an appeal under section 82 (ignoring any possibility of an appeal out of time with permission), and

(b) no appeal brought by the child, or by any relevant parent or carer, is pending within the meaning of section 104.

(4) In this section—

“child” means a person who is aged under 18;

references to a person being removed from or required to leave the United Kingdom are to the person being removed or required to leave in accordance with a provision of the Immigration Acts.”

2. Independent Family Returns Panel

Before section 55 of the Borders, Citizenship and Immigration Act 2009, insert—

54A. Independent Family Returns Panel

(1) The Independent Family Returns Panel is established.

(2) The Secretary of State must consult the Independent Family Returns Panel—

(a) in each family returns case, on how best to safeguard and promote the welfare of the children of the family, and

(b) in each case where the Secretary of State proposes to detain a family in pre-departure accommodation, on the suitability of so doing, having particular regard to the need to safeguard and promote the welfare of the children of the family.

(3) A family returns case is a case where—

(a) a child who is living in the United Kingdom is to be removed from or required to leave the United Kingdom, and

(b) an individual who—

(i) is a parent of the child or has care of the child, and

(ii) is living in a household in the United Kingdom with the child, is also to be removed from or required to leave the United Kingdom.

(4) The Secretary of State may by regulations make provision about—

(a) additional functions of the Independent Family Returns Panel,

(b) its status and constitution,

(c) the appointment of its members,

(d) the payment of remuneration and allowances to its members, and

(e) any other matters in connection with its establishment and operation.

(5) Regulations under this section must be made by statutory instrument.

(6) An instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

“child” means a person who is under the age of 18;

“pre-departure accommodation” has the same meaning as in Part 8 of the Immigration and Asylum Act 1999;

references to a person being removed from or required to leave the United Kingdom are to the person being removed or required to leave in accordance with a provision of the Immigration Acts.”

3. Amnesty for undocumented immigrants

(1) Within this section, an undocumented immigrant is a person resident in the United Kingdom who is not able, by provision of documentation upon request, to prove that they have a right to be so resident.

(2) An undocumented immigrant may be a person who entered the United Kingdom illegally, whose status in the United Kingdom became that of an illegal immigrant following the expiration of a visa or the invalidation thereof by reason of other circumstances, or who may be lawfully resident in the United Kingdom but is not able to prove that fact by provision of documentation upon request.

(3) There is no presumption that an undocumented immigrant is an illegal immigrant, and each undocumented immigrant for the purposes of this section is to be treated with a presumption that they are a legitimate resident of the United Kingdom until and unless evidence is found that they are an illegal immigrant.

(4) The Secretary of State may, by regulation, declare an amnesty for any group of, or the whole body of, undocumented immigrants in the United Kingdom.

(5) Regulations under this section must be made by statutory instrument.

(6) An instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) An amnesty under subsection (4) would have the effect of pardoning individual undocumented immigrants meeting the requirements of the regulation from prosecution or removal from the United Kingdom on the basis of contact made or information gathered pursuant to the purposes set out in this section.

(8) Where an amnesty is declared, undocumented immigrants making contact with the Home Department (or its executive agencies) under the terms of the amnesty will be offered support through reasonable means to gather evidence of their right to permanent residency in the United Kingdom.

(9) Where evidence of a person's right to permanent residency in the United Kingdom cannot be found following the exhaustion of reasonable efforts under subsection (8), an undocumented immigrant may, in the event that an immigration officer reasonably believes they have been resident in the United Kingdom for a continuous period of at least five years and that the person does not possess any criminal record in the United Kingdom, be granted leave to apply for a permanent residency card which may be granted at the discretion of the Secretary of State.

4. Asylum claims - the 'safe country' rule

(1) A safe country is defined for the purposes of this section as a country in which, in the opinion of the Secretary of State according to established guidance, a person applying for asylum would not have been at risk of facing the violation of their human rights.

(2) A person who enters the United Kingdom from a safe country, or whom an immigration officer reasonably believes has passed through a safe country en route to the United Kingdom, shall not be eligible to claim asylum in the United Kingdom.

(3) A person as defined under subsection (2) may be liable for removal from the United Kingdom provided that they are to be returned to a safe country through which they have already travelled in their attempt to enter the United Kingdom.

5. Asylum claimants and the right to work

(1) A successful asylum claimant is a person who has been granted asylum in the United Kingdom.

(2) Whilst an asylum claim is being considered, and if the process of that consideration continues after a period of 12 months from the date of the original application has elapsed, a person seeking asylum will be granted unconditional leave to pursue paid work.

(3) Once an asylum claim has been granted, a successful asylum claimant will be granted unconditional leave to work in the United Kingdom for the duration of the period for which they are entitled to asylum.

6. Use of the word 'alien'

(1) In the British Nationality Act 1981, and in any statutory legislation where the word 'alien' is used in accordance with the meaning given to that term by the same, the word 'alien' shall be replaced with 'person of neither British, Irish nor Commonwealth citizenship who is not a British protected person.'

7. Short Title, Extent & Commencement

- (1) This Act may be cited as the Immigration & Asylum Act 2014.
- (2) This Act extends to England and Wales, Scotland and Northern Ireland.
- (3) This Act shall come into force upon the receipt of Royal Assent.