

## THE IMMIGRATION (PLACES OF DETENTION) DIRECTION 2021

Made

Coming in to operation

23 November 2021

The Secretary of State, in exercise of the powers conferred by paragraph 18(1) of Schedule 2 to the Immigration Act 1971<sup>a</sup>, and that paragraph as applied by paragraph 2(4) of Schedule 3 to that Act, article 4(1), (1A) and (1B) of the Channel Tunnel (International Arrangements) Order 1993<sup>b</sup> ("the 1993 Order"), article 4(1) of the Channel Tunnel (Miscellaneous Provisions) Order 1994<sup>c</sup> ("the 1994 Order"), section 10(7) of the Immigration and Asylum Act 1999<sup>d</sup> ("the 1999 Act"), article 11(1) and 11(2) of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003<sup>e</sup> ("the 2003 Order") and section 36(4) of the UK Borders Act 2007<sup>f</sup> ("the 2007 Act"), hereby makes the following Direction:-

### Citation and commencement

This Direction may be cited as the Immigration (Places of Detention) Direction 2021 and shall come into operation on 23 November 2021.

<sup>a</sup> 1971 c.77

<sup>b</sup> S.I. 1993/1813, as amended by S.I. 1994/1405, S.I. 1996/2283, S.I. 2000/913, S.I. 2000/1775, S.I. 2001/178, S.I. 2001/418, S.I. 2001/1554, S.I. 2001/3707, S.I. 2003/2799, S.I. 2005/3389, S.I. 2006/1003, S.I. 2006/2626, S.I. 2007/2907, S.I. 2007/3579, S.I. 2011/1043, S.I. 2012/1264, S.I. 2012/1547, S.I. 2013/3032, S.I. 2014/1814, S.I. 2015/856, the Data Protection Act 2018 (c.12), the Counter-Terrorism and Border Security Act 2019 (c.3), S.I. 2019/419 and S.I. 2020/915

<sup>c</sup> S.I. 1994/1405, as amended by S.I. 2004/2589, S.I. 2007/2908, S.I. 2007/3579, S.I. 2011/1043, S.I. 2015/856, the Data Protection Act 2018 (c.3), S.I. 2019/419 and S.I. 2020/915

<sup>d</sup> 1999 c.33.

<sup>e</sup> S.I. 2003/2818 as amended by S.I. 2005/3389, S.I. 2006/1003, S.I. 2006/2908, S.I. 2011/1786, S.I. 2012/1547, S.I. 2013/3032, S.I. 2019/419, S.I. 2019/745 and S.I. 2021/784.

<sup>f</sup> 2007 c.30.

## **Interpretation**

### **2 In this Direction —**

"the Act" means the Immigration Act 1971;

"control zone" has the same meaning as in the 1993 Order and includes a control zone within the meaning of the 1994 Order and the 2003 Order;

"detained person" has the same meaning as in section 147 of the 1999 Act<sup>e</sup>.

"hospital" has, in England and Wales, the same meaning as in the Mental Health Act 1983<sup>h</sup>, in Scotland, the same meaning as in the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>i</sup>, and in Northern Ireland, the same meaning as in the Mental Health (Northern Ireland) Order 1986<sup>j</sup>;

"place of safety" has, in England and Wales, the same meaning as in the Children and Young Persons Act 1933<sup>k</sup>, in Scotland, the same meaning as in the Children's Hearings (Scotland) Act 2011<sup>l</sup> and, in Northern Ireland, means a home provided under Part VII of the Children (Northern Ireland) Order 1995<sup>m</sup>, any police station, any hospital or surgery, or any other suitable place, the occupier of which is willing temporarily to receive a person under the age of 18;

<sup>e</sup> Section 147 is amended by sections 62 and 66 of the Nationality, Immigration and Asylum Act 2002 (c.41), by section 25 of the Borders Citizenship and Immigration Act 2009 (c.11) and by section 6 of the Immigration Act 2014.

<sup>h</sup> 1983 c.20.

<sup>i</sup> 2003 asp 13.

<sup>j</sup> S.I. 1986/595 (N.I.4), as amended by the Health and Personal Social Services (NI) Order 1994, S.I. 1994/429 (N.I.2), S.I. 2003/435 (N.I.10), S.I. 2005/2078 (S.9), S.I. 2008/1216 (N.I.1), S.I. 2008/1769 (N.I.2), the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c.1), the Northern Ireland Act 2009 (c.3), the Department of Justice Act (Northern Ireland) 2010 (c.3), S.I. 2010/976, S.I. 2011/115, S.I. 2011/2085, the Justice Act (Northern Ireland) 2015 (c.9), the Mental Capacity Act (Northern Ireland) 2016 (c.18), the Public Services Ombudsman Act (Northern Ireland) 2016 (c.4), S.I. 2018/1360, S.I. 2019/1514, the Counter-Terrorism and Sentencing Act 2021 (c.11), S.I. 2021/8 and S.I. 2021/101.

<sup>k</sup> 1933 23 Geo.5.c.12, as amended by the Children and Young Persons Act 1969 (c.54).

<sup>l</sup> 2011 asp 1.

<sup>m</sup> S.I. 1995/755 (N.I.2).

"pre-departure accommodation" has the same meaning as in section 147 of the 1999 Act;

"short-term holding facility" has the same meaning as in section 147 of the 1999 Act; and

"supplementary control zone" and "tunnel system" have the same meanings as in the 1993 Order.

### **Places of Detention**

3. (1) Subject to paragraph 4 below, the places where a person may be detained under paragraph 16(1), (1A), (1B) or (2) of Schedule 2 to the Act<sup>a</sup> (detention of persons in order to examine or remove) shall be as follows-

(a) any place used by an immigration officer for the purposes of his functions at the port at which that person is seeking leave to enter or to enter or has been refused leave to enter, as the case may be, or in a control zone or supplementary control zone, or a control area designated under paragraph 26 of Schedule 2 to the Immigration Act 1971<sup>a</sup>;

(b) any place specifically provided for the purpose of detention —

<sup>a</sup> Paragraph 16 is amended by section 140 and paragraph 60 of Schedule 14 to the Immigration and Asylum Act 1999 (c.33), section 73(5) of the Nationality, Immigration and Asylum Act 2002 (c.41), section 42(3) of the Immigration, Asylum and Nationality Act 2006, section 5(2) of the Immigration Act 2014 and section 60(10) of the Immigration Act 2016.

<sup>a</sup> Paragraph 26 is modified by the Channel Tunnel (International Arrangements) Order 1993.

- (i) at any port;
  - (ii) at any place used by an immigration officer for the purposes of his functions;
  - (iii) in a control zone or a supplementary control zone.
- (c) any short-term holding facility, including:
- (i) any police station;
  - (ii) any premises at which appeals under Part V of the Nationality, Immigration and Asylum Act 2002<sup>p</sup> or under the Special Immigration Appeals Commission Act 1997<sup>q</sup>, are heard or any place specially provided for the purpose of detention in the vicinity of such premises;
- (d) any pre-departure accommodation;
- (e) any hospital;
- (f) any young offender institution, prison or remand centre or, in the case of a person under the age of 18, any place of safety;
- (g) Brook House Immigration Removal Centre, Gatwick Airport, West Sussex;
- (h) Colnbrook Immigration Removal Centre, Colnbrook by-pass, Harmondsworth, Middlesex;
- (i) Derwentside Immigration Removal Centre, Corbridge Road, Consett, County Durham

<sup>p</sup> 2002 c.41.

<sup>q</sup> 1997 c.68.

(j) Dungavel House Immigration Removal Centre, Strathaven, Lanarkshire;

(k) Harmondsworth Immigration Removal Centre, Colnbrook by-pass, Harmondsworth, Middlesex;

(l) Tinsley House Immigration Removal Centre, Gatwick Airport, West Sussex;

(m) Yarl's Wood Immigration Removal Centre, Clapham, Bedfordshire;

(n) any vehicle which has been specifically designed or adapted for use as a mobile detention facility and approved by the Secretary of State for such use.

(2) A person detained under paragraph 2(1), (2) or (3) of Schedule 3 to the Act (detention pending deportation) or under section 36(1) of the 2007 Act (detention) may be detained in any such place as is mentioned in sub-paragraph (1)(b) to (m) above.

#### **Detention for more than five consecutive days**

4. (1) Subject to sub-paragraph (2) below, a detained person shall not continue to be detained in any place as is mentioned in paragraph 3(1)(a), (b), (c), or (n) if a period of five consecutive days has elapsed since the day on which the person was first so detained.

(2) If, at the time of expiry of the period referred to in sub-paragraph (1) it is proposed, in accordance with a direction under any of paragraphs 8 to 10 or 12 to 14 of Schedule 2 to the Act or section 10 of the 1999 Act, to remove the person from the United Kingdom within a period of not more than two days, he may be detained in any such place as is mentioned in paragraph 3(1)(a), (b), (c), or (n) above for a further period of not more than two days.

#### **Revocation**

5. The Immigration (Places of Detention) Direction 2014 (No.2) is revoked.

Home Office

22/11/ 2021



Parliamentary Under Secretary of State