

Immigration Bill

Factsheet: Removal directions (clause 1)

Immigration Minister Mark Harper:

“Legal migrants make an important contribution to British society, but it is vital that those here illegally can be removed quickly and easily.

“Our current system is too complex and allows individuals to file spurious appeals, frustrate the process and delay their removal.

“This is why we’re proposing a new system that cuts down bureaucratic red tape, streamlines decisions and notifications and restricts the number of opportunities for appeals.”

Background

The current process for enforcing the removal of people unlawfully in the UK is a complex one, with a number of stages needing to be completed before an individual can be removed. A decision must first be made regarding an individual’s immigration status, if they have any, and then further decisions must be taken regarding their removal. This creates an unnecessarily bureaucratic process, which can lead to migrants being left in limbo, unclear when they need to leave the UK. With multiple decision points, the current system provides individuals with multiple opportunities to bring challenges throughout the process. This increases the risk of further delay before removal takes place.

What we are going to do:

We want to adopt a system where only one decision is made, encompassing both a person’s immigration status and their removability. This will inform the individual that they cannot stay in the UK where they have no valid leave to be here, and enable Immigration Enforcement to remove them if they do not leave voluntarily.

The single decision will apply to:

- people who make applications to the Home Office for leave to stay in the UK;
- people who have not made an application, but where the Home Office receives information (e.g. from a sponsor) that leads to the person’s leave being curtailed or revoked; and
- people unlawfully in the UK who are encountered by immigration officers.

The purpose of the new single removal notice is twofold: to leave a migrant in no doubt that their application has been refused and they are now liable to removal, with no further notification required to enable that to happen, but also to ensure that migrants are given notice that they are under a duty to tell the Home Office of any asylum, human rights or European free movement reasons why they believe they are entitled to stay.

We will also use this new process to advise migrants to seek legal advice as early as possible. This will then mean that if someone chooses to wait until such time as they are encountered by an enforcement team and detained before raising grounds why they should not be removed, it is highly likely we will certify these grounds and allow the migrant to be removed, if those grounds could have been raised earlier.

We will continue to encourage people with no right to be in the UK to depart voluntarily – this is better for them and more cost-effective for the taxpayer. The options for voluntary departure will be set out in the decision notice and will be emphasised during contact management and reporting events. We will only seek to detain and enforce the removal of those migrants who are unwilling to depart of their own volition or are non-compliant.

How we are going to do it:

- Replacing separate powers to give removal decisions with a single power which allows us to remove individuals who require, but do not have, leave to remain in the UK.

Benefits:

- Migrants will have less uncertainty over whether they are liable to removal from the UK as they will not have to wait for a separate removal decision when an application is refused.
- Increased efficiency of decision making leading to a reduction in administrative delays between refusal and removal.
- Fewer steps in the removal process provide fewer opportunities for legal challenges which are likely to delay and possibly frustrate the removal of someone here illegally.

Next steps

- We have published draft Regulations on the Removal of Family Members.¹
- Subject to completion of the parliamentary process, the new powers will be in force from summer 2014.
- Before commencement of this power the Government will ensure that appropriate guidance and training is in place for decision-makers.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264750/Draft_Regulations_-_Removal_of_Family_Members.pdf

Q&A

Will this lead to more people being removed?

Speeding-up the administrative process of removal itself, combined with increased clarity on people's removability and other measures in the Bill, will make it easier for the Home Office to remove more people than currently.

Will all removal decisions be enforced?

We have always preferred people with no right to be in the UK to depart voluntarily as this is better for them, allowing them to leave with dignity, and more cost-effective for the taxpayer. However we will pursue enforcement action against those who are not prepared to leave voluntarily, subject to our human rights obligations.

Will this new removal process be applied to people who arrive in the UK after it commences or will it affect those who are already in the UK?

It will affect any decisions taken from the date of commencement where the individual has no leave, or which will result in them having no leave to enter or remain in the UK.

**Home Office
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