

THE IMMIGRATION (PLACES OF DETENTION) DIRECTION 2009

Made 2009

Coming into operation 2009

The Secretary of State, in exercise of the powers conferred on him by paragraph 18(1) of Schedule 2 to the Immigration Act 1971^a, 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^b (“the 1993 Order”), article 4(1) of the Channel Tunnel (Miscellaneous Provisions) Order 1994^c (“the 1994 Order”), section 10(7) of the Immigration and Asylum Act 1999^d (“the 1999 Act”) and article 11(1) and 11(2) of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003^e (“the 2003 Order”) hereby makes the following Direction:-

Citation and commencement

1 This Direction may be cited as the Immigration (Places of Detention) Direction 2009 and shall come into operation on signature.

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;

^a 1971 c.77.

^b S.I. 1993/1813, as amended by the Channel Tunnel (International Arrangements) (Amendment) Order 1996 (S.I. 1996/2283) and the Channel Tunnel (International Arrangements) (Amendment No. 3) Order 2001 (S.I. 2001/1554).

^c S.I. 1994/1405.

^d 1999 c.33.

^e S.I. 2003/2818.

“supplementary control zone” and “tunnel system” have the same meanings as in the 1993 Order;

“hospital” has, in England and Wales, the same meaning as in the Mental Health Act 1983^f, in Scotland, the same meaning as in the Mental Health (Care and Treatment) (Scotland) Act 2003^g, and in Northern Ireland, the same meaning as in the Mental Health (Northern Ireland) Order 1986^h;

“place of safety” has, in England and Wales, the same meaning as in the Children and Young Persons Act 1933ⁱ, in Scotland, the same meaning as in the Children (Scotland) Act 1995^j and, in Northern Ireland, means a home provided under Part VII of the Children (Northern Ireland) Order 1995^k, 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; and

“short-term holding facility” has the same meaning as in the 1999 Act.

Places of Detention

3. (1) Subject to paragraph 4 below, the places where a person may be detained under paragraph 16(1), (1A) or (2) of Schedule 2 to the Act^l (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

^f 1983 c.20.

^g 2003 asp 13.

^h 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).

ⁱ 1933 23 Geo.5.c.12, as amended by the Children and Young Persons Act 1969 (c.34).

^j 1995 c.36.

^k S.I. 1995/755 (N.I.2).

^l Paragraph 16 is amended by paragraph 60 of Schedule 14 to the Immigration and Asylum Act 1999 (c.33) and section 73(5) of the Nationality, Immigration and Asylum Act 2002 (c.41).

control zone, or a control area designated under paragraph 26 of Schedule 2 to the Immigration Act 1971^m;

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

(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;

(d) any premises at which appeals under Part V of the Nationality, Immigration and Asylum Act 2002ⁿ, under Part IV of the Anti-terrorism, Crime and Security Act 2001^o or under the Special Immigration Appeals Commission Act 1997^p, are heard or any place specially provided for the purpose of detention in the vicinity of such premises;

(e) any police station;

(f) any hospital, young offender institution, prison or remand centre or, in the case of a person under the age of 18, any place of safety;

(g) Campsfield House Immigration Removal Centre, Kidlington, Oxford;

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

(i) Oakington Reception Centre, Oakington, Cambridgeshire;

^m Paragraph 26 is modified by the Channel Tunnel (International Arrangements) Order 1993.

ⁿ 2002 c.41.

^o 2001 c.24.

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

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

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

(m) Lindholme Immigration Removal Centre, Bawtry Road, Hatfield Woodhouse, Doncaster, South Yorkshire;

(n) Haslar Immigration Removal Centre, Gosport, Hampshire;

(o) Dover Immigration Removal Centre, The Citadel, Western Heights, Dover, Kent;

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

(q) Brook House Immigration Removal Centre, Gatwick Airport, West Sussex;

(r) 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(2) or (3) of Schedule 3 to the Act (detention pending deportation) or under section 36(1) of the UK Border Act 2007^q (detention) may be detained in any such place as is mentioned in sub-paragraph (1)(b) to (q) above.

Detention for more than five consecutive days

4. (1) Subject to sub-paragraph (2) below, a person shall not continue to be detained in any place as is mentioned in paragraph 3(1) (a) to (e) or (r) if a period of five

consecutive days has elapsed since the day on which a 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) to (e) or (r) above for a further period of not more than two days.

Revocation

5. The Immigration (Places of Detention) Direction 2008 is revoked.

Home Office

2009

Minister of State