

ILPA information sheet

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Immigration Act 2014: Removals

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The Immigration Act 2014 makes important changes to the procedure for removing people who are unlawfully in the United Kingdom, i.e. people who do not have immigration permission to be here. The new removal procedure has already taken effect for certain groups of people: students and 'foreign criminals' (as defined in the Act). It is intended that in future everyone will be subject to the new procedure. Once fully enacted, these changes will affect anyone who does not have valid leave to be in the United Kingdom. This information sheet provides some basic information about these changes.

What is "removal"?

Removal, also termed "administrative removal", is a term that describes the process whereby a person under immigration control, who requires leave to be in the UK and does not have it, is removed from the UK.

Removal is sometimes incorrectly referred to as "deportation": the two should be distinguished:

- **Removal** – also known as "administrative removal" is the process whereby a person who requires leave to be in the UK but does not have it is brought out of the UK by the immigration authorities. Persons subject to removal include those who were once lawfully in the UK but whose leave has run out (known as an "overstayers") as well as people who entered the UK unlawfully and are later discovered by the authorities.
- **Deportation** – is the term for expelling a person under immigration control from the country where their presence in the UK is deemed not to be "conducive to the public good" by the Home Secretary, or where a court has recommended their deportation after they have been found to have committed a crime.

The current position

Currently a person receives a written decision from the Secretary of State if she plans to remove them; this is called a “removal decision”. This decision is separate from any earlier decision that denied the person leave to remain and thereby led to their becoming unlawfully present in the UK. Sometimes many years elapse between the two decisions leaving some people who wish to challenge their removal in limbo about their position; because those who do not otherwise have a right of appeal must wait for the removal decision to be made before they can exercise a right of appeal to the Tribunal.

The new position

The Immigration Act 2014 provides for a new power for the Secretary of State to remove anyone from the UK if they require leave to enter or remain and do not have it. There is also power to remove the person’s family members. There will no longer be any need for a separate “removal decision” in addition to a decision refusing to grant or extend leave. People will not get further notice that they could be removed; this means that there will no longer be any limbo period as described above.

Will people still have a right of appeal?

Appeal rights are changing at the same time by virtue of other provisions in the Act. As now, a person can only be removed when all their appeals have finished. The new removal power is not linked to any tribunal appeal process but the changes mean that those who have not made an asylum or human rights claim will not have rights of appeal. Appeal rights to the tribunal in other cases will be removed and replaced with an internal Home Office review procedure called “administrative review” (see further ILPA’s Information Sheet: [Immigration Act 2014 – Appeals](#)). A person cannot be removed while their administrative review is ongoing.

When are the changes coming into force?

The changes are already in force for students and for ‘foreign criminal’ deportation cases. As yet we do not have a timeframe for the changes to take effect for everyone else.