THE IMMIGRATION (PLACES OF DETENTION) DIRECTION 2011

Made 3rd May 2011

Coming into operation 7th May 2011

The Secretary of State, in exercise of the powers conferred 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"), article 11(1) and 11(2) of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003[e] ("the 2003 Order") and section 36(4) of the UK Border Act 2007[f] ("the 2007 Act"), hereby makes the following Direction:-

Citation and commencement

1 This Direction may be cited as the Immigration (Places of Detention) Direction 2011 and shall come into operation on 7th May 2011.

Interpretation

2 In this Direction –

"the Act" means the Immigration Act 1971;

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[a] 1971 c.77.
[b] S.I. 1993/1813, as amended by S.I. 1994/1405, S.I. 1996/2283, S.I. 2000/913, 2000/1775, S.I. 2001/178, S.I. 2001/418, S.I. 2001/1554, S.I. 2001/3707, S.I. 2005/3389, S.I. 2006/1003, S.I. 2006/2626, S.I. 2007/2907 and S.I.2007/3579.
[c] S.I. 1994/1405, as amended by S.I. 2004/2589, S.I. 2007/2908 and S.I. 2007/3579.
[d] 1999 c.33.
[e] S.I. 2003/2818 as amended by S.I. 2005/3389, S.I. 2006/1003 and S.I. 2006/2908.
[f] 2007 c.30.

"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[g].

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

"place of safety" has, in England and Wales, the same meaning as in the Children and Young Persons Act 1933[k], in Scotland, the same meaning as in the Children (Scotland) Act 1995[l] and, in Northern Ireland, means a home provided under Part VII of the Children (Northern Ireland) Order 1995[m], 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 section 147 of the 1999 Act.

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

Places of Detention

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[g] Section 147 is amended by sections 62 and 66 of the Nationality, Immigration and Asylum Act 2002 (c.41) and by section 25 of the Borders Citizenship and Immigration Act 2009 (c.11).
[h] 1983 c.20.
[i] 2003 asp 13.
[j] 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).
[k] 1933 23 Geo.5.c.12, as amended by the Children and Young Persons Act 1969 (c.34).
[l] 1995 c.36.
[m] S.I. 1995/755 (N.I.2).

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[n] (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[o];

(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, including:

(i) any police station;

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

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[n] 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.
[o] Paragraph 26 is modified by the Channel Tunnel (International Arrangements) Order 1993.
[p] 2002 c.41.
[q] 2001 c.24.
[r] 1997 c.68.