



Illegal Migration Act 2023

2023 CHAPTER 37

PROSPECTIVE

Age assessments etc

57 Decisions relating to a person's age

- (1) This section applies if a relevant authority decides the age of a person (“P”) who meets the four conditions in section 2 (duty to make arrangements for removal), whether that decision is for the purposes of this Act or otherwise.
- (2) If the decision is made on an age assessment under section 50 or 51 of the Nationality and Borders Act 2022, P may not bring an appeal against the decision under section 54(2) of that Act.
- (3) Subsections (4) and (5) apply if P makes an application for judicial review of—
 - (a) the decision mentioned in subsection (1), or
 - (b) any decision to make arrangements for the person's removal from the United Kingdom under this Act which is taken on the basis of that decision.
- (4) The application does not prevent the exercise of any duty or power under this Act to make arrangements for the person's removal from the United Kingdom.
- (5) The court or tribunal must determine the application on the basis that the person's age is a matter of fact to be determined by the relevant authority; and accordingly the court or tribunal—
 - (a) may grant relief only on the basis that the decision was wrong in law, and
 - (b) may not grant relief on the basis that the court or tribunal considers the decision mentioned in subsection (1) was wrong as a matter of fact.
- (6) In this section “relevant authority” means—
 - (a) the Secretary of State,
 - (b) an immigration officer,

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Changes to legislation: There are currently no known outstanding effects for the Illegal Migration Act 2023, Cross Heading: Age assessments etc. (See end of Document for details)

- (c) a designated person within the meaning of Part 4 (age assessments) of the Nationality and Borders Act 2022,
 - (d) a local authority within the meaning of that Part, subject to subsection (7), or
 - (e) a public authority within the meaning of that Part which is specified in regulations under section 50(1)(b) of that Act (referral of age-disputed person for age assessment).
- (7) This section applies in relation to a decision of a local authority which is a decision within subsection (1) only if it is for the purposes, or also for the purposes, of the local authority deciding whether or how to exercise any of its functions under relevant children’s legislation within the meaning of Part 4 of the Nationality and Borders Act 2022.
- (8) For the purposes of this section, the cases in which a relevant authority decides the age of a person on an age assessment under section 50 or 51 of the Nationality and Borders Act 2022 include where a relevant authority is treated by virtue of regulations under section 58 of this Act as having decided that a person is over the age of 18.
- (9) This section applies only in relation to a decision which is made after this section comes into force.
- (10) The Nationality and Borders Act 2022 is amended as follows.
- (11) In section 54(6) (appeals relating to age assessments)—
- (a) omit the “and” at the end of paragraph (a), and
 - (b) at the end of paragraph (b) insert “, and
 - (c) [section 57](#) of the Illegal Migration Act 2023 (decisions relating to a person’s age).”
- (12) In section 56(1) (new information following age assessment or appeal), for paragraph (b) (and the “and” at the end of that paragraph) substitute—
- “(b) an appeal under section 54(2)—
 - (i) could no longer be brought (ignoring any possibility of an appeal out of time),
 - (ii) has been finally determined, or
 - (iii) may not be brought as a result of [section 57\(2\)](#) of the Illegal Migration Act 2023 (age assessments relating to removal under that Act), and”.

Commencement Information

- II** S. 57 not in force at Royal Assent, see [s. 68\(1\)](#)

58 Age assessments: power to make provision about refusal to consent to scientific methods

- (1) The Secretary of State may make regulations about the effect of a decision by a relevant person (“P”) not to consent to the use of a specified scientific method for the purposes of an age assessment of P where there are no reasonable grounds for P’s decision.
- (2) The regulations may provide that, in the circumstances set out in the regulations—

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- (a) section 52(7) of the Nationality and Borders Act 2022 (refusal to consent to scientific methods to be taken to damage credibility) does not apply, and
 - (b) P is to be treated as if the decision-maker had decided that P was over the age of 18.
- (3) In this section—
- “age assessment” means an assessment under section 50 or 51 of the Nationality and Borders Act 2022;
 - “decision-maker” and “specified scientific method” have the same meanings as in Part 4 of the Nationality and Borders Act 2022 (see section 49 of that Act);
 - “relevant person” means a person who meets the four conditions in section 2 (duty to make arrangements for removal).
- (4) In Part 4 of the Nationality and Borders Act 2022 (age assessments)—
- (a) in section 52 (use of scientific methods in age assessments), in subsection (7), at the end insert “(See also section 58 of the Illegal Migration Act 2023 (power to make provision about refusal to consent to scientific methods).)”;
 - (b) in section 53 (regulations about age assessments), in subsection (1)(a)(iv), after “method,” insert “the circumstances in which a person may be considered to have reasonable grounds for a decision not to consent and”.

Commencement Information

12 S. 58 not in force at Royal Assent, see [s. 68\(1\)](#)

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Changes to legislation:

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