

## Schedule 10 IA 2016 and Bail



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## *R (Humnyntski) v SSHD* [2020] EWHC 1912 (Admin)

- Delays in providing bail address rendered detention unlawful
- Systemic failures to provide bail addresses unlawful.
- Paragraph 2(1) requires that any grant of bail must be made subject to conditions. The conditions that may be imposed include “a condition about the person’s residence” (paragraph 2(1)(c)).

## *R (Humnyntski) v SSHD* [2020] EWHC 1912 (Admin)

- Paragraph 9 of Schedule 10 states:

“Powers of Secretary of State to enable person to meet bail conditions

- (1) Sub-paragraph (2) applies where— (a) a person is on immigration bail subject to a condition requiring the person to reside at an address specified in the condition, and (b) the person would not be able to support himself or herself at the address unless the power in subparagraph (2) were exercised
- (2) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of that person at that address.
- (3) But the power in sub-paragraph (2) applies only to the extent that the Secretary of State thinks that there are exceptional circumstances which justify the exercise of the power.

See para [165]: SSHD failed to consider if there were exceptional circs.

## **Paragraph 1 to Schedule 10 to Immigration Act 2016**

-Paragraph 1(1) of Schedule 10 to the Immigration Act 2016 provides that the Secretary of State may grant a person bail if the person is being detained under (a) paragraph 16(1), (1A) or (2) of Schedule 2 to the 1971 Act, under (b) paragraph 2(1), (2) or (3) of Schedule 3 to the 1971 Act, under (c) section 62 of the 2002 Act, or under (d) section 36(1) of the UK Borders Act 2007.

-Paragraph 1(2) to schedule 10 to the Immigration Act 2016 provides:

(2) The Secretary of State may grant a person bail if the person is liable to detention under a provision mentioned in subparagraph 1.

-Paragraph 1(5) to schedule 10 provides that

(5) A person may be granted and remain on immigration bail even if the person can no longer be detained if (a) the person is liable to detention under a provision mentioned in sub paragraph 1, or (b) the Secretary of State is considering whether to make a deportation order against the person under section 5(1)

## Paragraph 10 to Schedule 10 to Immigration Act 2016

- (1) An immigration officer or a constable may arrest without warrant a person on immigration bail if the immigration officer or constable—
- (a) has reasonable grounds for believing that the person is likely to fail to comply with a bail condition, or
  - (b) has reasonable grounds for suspecting that the person is failing, or has failed, to comply with a bail condition.
- (9) A person arrested under this paragraph—
- (a) must, as soon as is practicable after the person's arrest, be brought before the relevant authority, and
  - (b) may be detained under the authority of the Secretary of State in the meantime.
- (10) The relevant authority is—
- (a) the Secretary of State, if the Secretary of State granted immigration bail to the arrested person or the First-tier Tribunal has directed that the power in [paragraph 6\(1\)](#) is exercisable by the Secretary of State in relation to that person, or
  - (b) otherwise, the First-tier Tribunal.
- (11) Where an arrested person is brought before the relevant authority, the relevant authority must decide whether the arrested person has broken or is likely to break any of the bail conditions.
- (12) If the relevant authority decides the arrested person has broken or is likely to break any of the bail conditions, the relevant authority must—
- (a) direct that the person is to be detained under the provision mentioned in [paragraph 1\(1\)](#) under which the person is liable to be detained, or
  - (b) grant the person bail subject to the same or different conditions, subject to sub-paragraph (14).
- (13) If the relevant authority decides the person has not broken and is not likely to break any of the bail conditions, the relevant authority must grant the person bail subject to the same conditions (but this is subject to sub-paragraph (14), and does not prevent the subsequent exercise of the powers in [paragraph 6](#)).

# Thank you for listening

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