This Statutory Instrument is to be made in consequence of defects in S.I. 2021/311 and is being issued free of charge to all known recipients of that Statutory Instrument.

Draft Order laid before Parliament under section 141(5)(c) of the Nationality, Immigration and Asylum Act 2002, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2021 No. 0000

IMMIGRATION

The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) (No. 2) Order 2021

Made - - - -	***
Coming into force - -	***

The Secretary of State, in exercise of the powers conferred by section 141(1) of the Nationality, Immigration and Asylum Act 2002(**a**), makes the following Order.

The Secretary of State has consulted with such people as appear to her to be appropriate in accordance with section 141(5)(b) of the Nationality, Immigration and Asylum Act 2002.

In accordance with section 141(5)(c) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) (No. 2) Order 2021.

(2) This Order comes into force on the seventh day after the day on which it is made.

(3) This Order extends to the United Kingdom.

Amendment of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2021

2. In the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2021(**b**), in article 2(7) (amendment of Schedule 2 to the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003), omit the words from "(f) after paragraph 5 insert—" to the end of the Order.

(**a**) 2002 c. 41; section 141 was amended by regulation 12(4) of the Immigration, Nationality and Asylum (EU Exit) Regulations (S.I. 2019/745).
(**b**) S.I. 2021/311.

Amendment of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003

3. In the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003(**a**), in Schedule 2 (modification of applied enactments), after paragraph 4 insert—

"**The UK Borders Act 2007**

4A. In section 2 of the UK Borders Act 2007(**b**) (detention)—

(a) in subsection (1)—

(i) omit "in England, Wales or Northern Ireland";

(ii) in paragraph (a) omit "or Article 26(1)" to the end;

(iii) after paragraph (aa), insert—

"(ab) may be liable to arrest by a constable under section 24(1), (2) or (3) of the Police and Criminal Evidence Act 1984 if the act or omission had taken place in England, or";

(b) omit subsection (1A);

(c) in subsection (2)(a) after "constable" insert "or an officer belonging to the French Republic";

(d) in subsection (2)(d) after "constable", in each place where it appears, insert "or an officer belonging to the French Republic";

(e) omit subsection (5)."

Name
Parliamentary Under Secretary of State
Home Office

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2021 (S.I. 2021/311) to correct errors relating to the modification of the UK Borders Act 2007 (c. 30) in article 2(7)(f).

Article 2 omits the words from article 2(7)(f) of S.I. 2021/311 to the end of the Order, omitting text which was mistakenly formatted as though it were a separate article 3 of that Order rather than an inserted new paragraph 6 in Schedule 2 to the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818) ("the 2003 Order").

Article 3 amends the 2003 Order to add a new paragraph to the end of Schedule 2 (modification of applied enactments), to modify section 2(1) of the UK Borders Act 2007 to ensure it functions correctly at the juxtaposed controls. Additionally, the insertion now reflects the effect of S.I. 2020/1309, which revoked paragraph 5 of Schedule 2 to the 2003 Order, and the enactment of the Extradition (Provisional Arrest) Act 2002 (c.18), which inserted paragraph (aa) into section 2(1) of the UK Borders Act 2007.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

(**a**) S.I. 2003/2818; relevant amending instruments are S.I. 2006/2908, 2013/3032 and 2020/1309.

(**b**) 2007 c. 30; amended by section 52(1) of the Borders, Citizenship and Immigration Act 2009 (c. 11), section 10(8) of the Counter-Terrorism and Security Act 2015 (c. 6), S.I. 2018/46 and paragraphs 27 and 28 of the Schedule to the Extradition (Provisional Arrest) Act 2020 (c. 18).

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