



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART VII

#### POWER TO ARREST, SEARCH AND FINGERPRINT

##### *Fingerprinting*

#### **141 Fingerprinting**

- (1) Fingerprints may be taken by an authorised person from a person to whom this section applies.
- (2) Fingerprints may be taken under this section only during the relevant period.
- (3) Fingerprints may not be taken under this section from a person under the age of sixteen (“the child”) except in the presence of a person of full age who is—
  - (a) the child’s parent or guardian; or
  - (b) a person who for the time being takes responsibility for the child.
- (4) The person mentioned in subsection (3)(b) may not be—
  - (a) an officer of the Secretary of State who is not an authorised person;
  - (b) an authorised person.
- (5) “Authorised person” means—
  - (a) a constable;
  - (b) an immigration officer;
  - (c) a prison officer;
  - (d) an officer of the Secretary of State authorised for the purpose; or
  - (e) a person who is employed by a contractor in connection with the discharge of the contractor’s duties under a detention centre contract.
- (6) In subsection (5)(e) “contractor” and “detention centre contract” have the same meaning as in Part VIII.

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*Status: This is the original version (as it was originally enacted).*

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- (7) This section applies to—
- (a) any person (“A”) who, on being required to do so by an immigration officer on his arrival in the United Kingdom, fails to produce a valid passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship;
  - (b) any person (“B”) who has been refused leave to enter the United Kingdom but has been temporarily admitted under paragraph 21 of Schedule 2 to the 1971 Act if an immigration officer reasonably suspects that B might break any condition imposed on him relating to residence or as to reporting to the police or an immigration officer;
  - (c) any person (“C”) in respect of whom—
    - (i) an immigration officer has given directions under paragraph 9(1) of Schedule 2 to the 1971 Act or under section 10;
    - (ii) the Secretary of State has given directions under paragraph 10(1) of Schedule 2 to the 1971 Act (but only in a case where it appears to the Secretary of State that the person is a person in respect of whom directions under paragraph 9 of that Schedule might be given); or
    - (iii) the Secretary of State has given directions under paragraph 1(1) of Schedule 3 to that Act;
  - (d) any person (“D”) who has been arrested under paragraph 17 of Schedule 2 to the 1971 Act;
  - (e) any person (“E”) who has made a claim for asylum;
  - (f) any person (“F”) who is a dependant of any of those persons.
- (8) “The relevant period” begins—
- (a) for A, on his failure to produce the passport or other document;
  - (b) for B, on the decision to admit him temporarily;
  - (c) for C, on the direction being given;
  - (d) for D, on his arrest;
  - (e) for E, on the making of his claim for asylum; and
  - (f) for F, at the same time as for the person whose dependant he is.
- (9) “The relevant period” ends on the earliest of the following—
- (a) the grant of leave to enter or remain in the United Kingdom;
  - (b) for A, B, C or D, his removal or deportation from the United Kingdom;
  - (c) for C, if a deportation order has been made against him, its revocation or otherwise ceasing to have effect;
  - (d) for D, his release if he is no longer liable to be detained under paragraph 16 of Schedule 2 to the 1971 Act;
  - (e) for E, the final determination or abandonment of his claim for asylum; and
  - (f) for F, at the same time as for the person whose dependant he is.
- (10) No fingerprints may be taken from A if the immigration officer considers that A has a reasonable excuse for the failure concerned.
- (11) No fingerprints may be taken from B unless the decision to take them has been confirmed by a chief immigration officer.
- (12) An authorised person may not take fingerprints from a person under the age of sixteen unless his decision to take them has been confirmed—

- (a) if he is a constable, by a person designated for the purpose by the chief constable of his police force;
  - (b) if he is a person mentioned in subsection (5)(b) or (e), by a chief immigration officer;
  - (c) if he is a prison officer, by a person designated for the purpose by the governor of the prison;
  - (d) if he is an officer of the Secretary of State, by a person designated for the purpose by the Secretary of State.
- (13) Neither subsection (3) nor subsection (12) prevents an authorised person from taking fingerprints if he reasonably believes that the person from whom they are to be taken is aged sixteen or over.
- (14) For the purposes of subsection (7)(f), a person is a dependant of another person if—
- (a) he is that person’s spouse or child under the age of eighteen; and
  - (b) he does not have a right of abode in the United Kingdom or indefinite leave to enter or remain in the United Kingdom.
- (15) “Claim for asylum” has the same meaning as in Part VI.

#### **142 Attendance for fingerprinting**

- (1) The Secretary of State may, by notice in writing, require a person to whom section 141 applies to attend at a specified place for fingerprinting.
- (2) The notice—
- (a) must give the person concerned a period of at least seven days within which to attend, beginning not earlier than seven days after the date of the notice; and
  - (b) may require him to attend at a specified time of day or during specified hours.
- (3) A constable or immigration officer may arrest without warrant a person who has failed to comply with a requirement imposed on him under this section (unless the requirement has ceased to have effect).
- (4) Before a person arrested under subsection (3) is released—
- (a) he may be removed to a place where his fingerprints may conveniently be taken; and
  - (b) his fingerprints may be taken (whether or not he is so removed).
- (5) A requirement imposed under subsection (1) ceases to have effect at the end of the relevant period (as defined by section 141).

#### **143 Destruction of fingerprints**

- (1) If they have not already been destroyed, fingerprints must be destroyed before the end of the specified period beginning with the day on which they were taken.
- (2) If a person from whom fingerprints were taken proves that he is—
- (a) a British citizen, or
  - (b) a Commonwealth citizen who has a right of abode in the United Kingdom as a result of section 2(1)(b) of the 1971 Act,
- the fingerprints must be destroyed as soon as reasonably practicable.

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- (3) If a person from whom fingerprints were taken—
  - (a) in the case of E, is given indefinite leave to enter or remain in the United Kingdom, or
  - (b) in any other case, is given leave to enter or remain in the United Kingdom, the fingerprints must be destroyed as soon as reasonably practicable.
- (4) Fingerprints taken from B must be destroyed as soon as reasonably practicable after his removal from the United Kingdom.
- (5) But subsection (4) does not apply if it appears to the Secretary of State that B has failed to comply with a restriction imposed on him under paragraph 21(2) of Schedule 2 to the 1971 Act.
- (6) Fingerprints taken from C must, if the directions cease to have effect, be destroyed as soon as reasonably practicable.
- (7) If a deportation order made against C is revoked, any fingerprints taken from him must be destroyed as soon as reasonably practicable.
- (8) If D ceases to be liable to be detained under paragraph 16 of Schedule 2 to the 1971 Act, fingerprints taken from him must be destroyed as soon as reasonably practicable.
- (9) Fingerprints taken from F must be destroyed when fingerprints taken from the person whose dependant he is have to be destroyed.
- (10) The obligation to destroy fingerprints under this section applies also to copies of fingerprints.
- (11) The Secretary of State must take all reasonably practicable steps to secure—
  - (a) that data which are held in electronic form and which relate to fingerprints which have to be destroyed as a result of this section are destroyed or erased; or
  - (b) that access to such data is blocked.
- (12) The person to whom the data relate is entitled, on request, to a certificate issued by the Secretary of State to the effect that he has taken the steps required by subsection (11).
- (13) A certificate under subsection (12) must be issued within three months of the date of the request for it.
- (14) “Fingerprints” means fingerprints taken under section 141 and references to B, C, D, E and F are to the persons so described in that section.
- (15) “Specified period” means—
  - (a) such period as the Secretary of State may specify by order;
  - (b) if no period is so specified, ten years.

#### **144 Other methods of collecting data about physical characteristics**

The Secretary of State may make regulations containing provisions equivalent to sections 141, 142 and 143 in relation to such other methods of collecting data about external physical characteristics as may be prescribed.