

These notes refer to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19) which received Royal Assent on 22 July 2004

ASYLUM AND IMMIGRATION (TREATMENT OF CLAIMANTS, ETC.) ACT 2004

EXPLANATORY NOTES

ENFORCEMENT POWERS

Section 14 : Immigration officer: power of arrest

66. [Section 14](#) provides immigration officers with the power of arrest – and ancillary powers of entry, search and seizure – in respect of a number of specified offences. Their powers of arrest are currently restricted to offences under the Immigration Acts. The new power is only to be available where an immigration officer forms a reasonable suspicion that one of the specified offences has been committed in the course of exercising a function under the Immigration Acts. In other words, immigration officers must uncover the evidence of the offences in the course of their usual duties investigating immigration matters. The offences are specified in subsection (2).
67. Subsection (3) provides that certain powers of entry, search and seizure which immigration officers already have in relation to offences under the Immigration Act 1971, shall also apply in relation to the specified offences.

Section 15 : Fingerprinting

68. [Section 15](#) amends section 141 of the Immigration and Asylum Act 1999 which allows fingerprints to be taken from specified persons during specified periods. Section 141 applies to any person in respect of whom removal directions have been given and permits fingerprints to be taken between the time the directions are given and the time when the person is removed or deported (or, if a deportation order has been made against him, its revocation or otherwise ceasing to have effect).
69. As the setting of removal directions no longer attracts a right of appeal (by virtue of changes introduced by the Nationality, Immigration and Asylum Act 2002), directions are now set at the end of the enforcement process, shortly before removal is due to take place. This means that there is now only a short period of time within which fingerprints can be taken. Section 15 amends section 141 of the 1999 Act to allow fingerprints to be taken at the beginning of the enforcement process, notwithstanding that removal directions will not be set until the end of that process. In that respect, it restores the pre-2002 Act position.

Section 16: Information about passengers

70. [Section 16](#) amends paragraph 27B of Schedule 2 to the Immigration Act 1971 to make it clear that an immigration officer may ask a carrier to provide a copy of a document (or part of a document) that relates to a passenger and contains “passenger information” (as that term is defined in paragraph 27B). In particular, this means that the owner of a ship or aircraft which is expected to arrive in the United Kingdom could be requested to provide a copy of the biodata page of the passport (containing a photograph of the holder), of each passenger to be carried to the United Kingdom on that ship or aircraft.

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An officer may ask for copies of documents relating to: (a) a particular ship or aircraft of the carrier, (b) particular ships or aircraft of the carrier, or (c) all of the carrier's ships or aircraft. A request must be in writing and must state the date on which it ceases to have effect (which cannot be more than six months from the date on which it is made).

Section 17: Retention of documents

71. **Section 17** provides the Secretary of State and an immigration officer with the power to retain documents (which could include a passport or birth certificate) whilst it is suspected that the person the document relates to is liable to removal, and that retention of the document may facilitate their removal from the United Kingdom. It complements current powers, such as those in paragraphs 4(2A) and 18(2) of Schedule 2 to the Immigration Act 1971, which already permit the seizure and retention of documents in certain circumstances.

Section 18: Control of entry

72. **Section 18** amends paragraph 2A of Schedule 2 to the Immigration Act 1971. It provides immigration officers with the power to examine a person who arrives with entry clearance that takes effect as leave to enter for the purpose of establishing whether the leave should be cancelled on the grounds that the person's purpose in arriving in the United Kingdom is different from the purpose specified in the entry clearance.