

# IMMIGRATION ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Access to Services etc**

#### **Chapter 2: Other Services etc**

#### *National Health Service*

#### **Bank accounts**

#### *Section 40: Prohibition on opening current accounts for disqualified persons*

189. *Subsection (1)* provides that a bank or building society must not open a current account for a person who falls within *subsection (2)* unless one of two conditions has been satisfied.
190. The first condition is that the bank or building society has carried out a “status check” in respect of the applicant, that is a check in relation to their immigration status, and this has indicated the person is not a “disqualified person” for whom an account should not be opened. The second condition is that the bank or building society has been unable to carry out a status check because of circumstances that cannot reasonably be regarded as within its control. This might occur, for example, if it were unable to perform a check because of operational difficulties being encountered by the checking service for an extended period.
191. *Subsection (2)* sets out the persons who may be disqualified from opening a bank account. A person may be disqualified from opening a current account if they are physically present in the UK and require leave to enter or remain in the UK but do not have it.
192. *Subsection (3)* defines what constitutes a “status check” and a “disqualified person” for the purposes of these provisions. A status check means a check with a specified anti-fraud organisation or a specified data-matching authority. A disqualified person is a person who falls within *subsection (2)* and in respect of whom the Secretary of State considers a current account should not be opened. The Secretary of State therefore has discretion as to who should be barred from opening current accounts. This is because there will be some individuals who face legitimate barriers which prevent them from leaving the UK, even though they do not have leave. The Secretary of State may enable these persons to open a current account. *Subsection (3)* provides that the prohibition on opening an account for a disqualified person extends to instances where the disqualified person is applying for a joint account, an account to which that person is to be a signatory or a named beneficiary, and also to instances where the disqualified person is to be added to an existing account as an account holder, signatory or named beneficiary.
193. *Subsection (4)* provides that an anti-fraud organisation specified for the purposes of *subsection (3)(a)* must be an anti-fraud organisation within the meaning set out in section 68 of the Serious Crime Act 2007 and that a data-matching authority specified must be a person or body conducting data matching exercises within the meaning of

*These notes refer to the Immigration Act 2014 (c.22)  
which received Royal Assent on 14 May 2014*

Schedule 9 to the Local Audit and Accountability Act 2014, under or by virtue of that or any other Act. The Government has published a statement of intent that CIFAS will be the organisation specified to be the data-matching authority for the purposes of this section.<sup>1</sup>

194. *Subsection (5)* has the effect that where a bank or building society is unable to carry out a status check because it has not paid a reasonable fee for the status check to be carried out when required to do so, and it opens an account for a disqualified person, it will breach the prohibition on opening current accounts for disqualified persons.
195. *Subsection (6)* provides that where a bank or building society refuses to open a current account in accordance with the requirements of this section, the bank or building society must tell the person of the reason for refusal, if it can do so lawfully. The duty to inform the person of the reason for refusal is to enable the person, if relevant, to contact the immigration authorities if they consider that they are not, or should not be, disqualified from opening an account. However, the duty to inform is subject to any other provision that would prevent a bank or building society from communicating information to the person. For instance, if informing the person would amount to an offence under section 333A of the Proceeds of Crime Act 2002 (tipping off: regulated sector), the bank or building society could not tell them.

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/283962/statement\\_of\\_intent\\_bank\\_accounts.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283962/statement_of_intent_bank_accounts.pdf)