

IMMIGRATION ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Miscellaneous

Schedule 8: Embarkation checks

Part 1: Functions Exercisable by Designated Persons

Examinations by designated person

408. *Paragraph 2* of this Schedule allows for powers of examination exercisable by an immigration officer to be exercised by a designated person.
409. *Paragraphs 2(1) and (2)* amend paragraph 3 of Schedule 2 to the 1971 Act to allow a “designated person” to exercise the power of examination in relation to any person who is embarking or seeking to embark in the UK.
410. *Paragraph 2(3)* replaces sub-paragraph (1A) of paragraph 3 of Schedule 2 so that, whether the initial examination is undertaken by an immigration officer or designated person, a person so examined may be required by notice in writing given by an immigration officer, to submit to further examination.

Information and Documents

411. *Paragraph 3* of this Schedule amends paragraph 4 of Schedule 2 to the 1971 Act to enable a designated person to require information and documents relevant to an examination.
412. *Paragraph 3(2)* amends paragraph 4(1) of Schedule 2 so that a passenger examined under paragraph 3(1) is under a duty to provide the immigration officer or the designated person with all such information in his possession as that person may require for the purpose of either his, or any other person’s, functions under that paragraph. So, a designated person can require such information as may be necessary to allow an immigration officer to locate the passenger in order to give him written notice that he is required to submit to further examination.
413. *Paragraph 3(3)* amends paragraph 4(2) of Schedule 2 to require a person examined under paragraph 3, if so required by an immigration officer or a designated person, to produce a specified document or to declare whether they are carrying or have carried a document of a type which the immigration officer or designated person consider relevant for the purposes of the examination.
414. *Paragraph 3(4)* amends paragraph 4(3) of Schedule 2 to confirm that an immigration officer can exercise the power of search set out in that paragraph, even if they did not commence the examination or require the person to produce documents under paragraph 4(2)(b).

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

415. *Paragraph 3(5)* amends paragraph 4(4) of Schedule 2 to confirm that any immigration officer may exercise the power to examine and detain a passport or other document, even if they did not commence the examination. Where a passport or other document is produced or found in accordance with this paragraph, an immigration officer may examine it and detain it.
416. *Paragraph 3(6)* inserts new sub-paragraphs (4A) and (4B) into paragraph 4 of Schedule 2. New sub-paragraph (4A) provides the power for a “designated person” to be able to examine and detain a passport or other document produced during the examination. Where this power is exercised, the designated person must deliver the passport or document to an immigration officer as soon as reasonably practicable. The new sub-paragraph (4B) provides for an immigration officer to treat a document delivered to him under this paragraph as though he had found the document himself under sub-paragraph (4)(a), (b) or (c).
417. *Paragraph 3(7)* amends paragraph 4(5) of Schedule 2 so that a passenger examined under paragraph 3 may be required to provide biometric information (in particular, fingerprints or features of the iris or any other part of the eye) to either an immigration officer or a designated person, where this is necessary to determine whether a passport or other document relates to that person.

Embarkation cards

418. *Paragraph 4* of this Schedule amends paragraph 5 of Schedule 2 to the 1971 Act to enable the Secretary of State to make provision by order to require passengers embarking in the UK to produce embarkation cards to a designated person.

Designations

419. *Paragraph 5* of this Schedule inserts new paragraph 5A in Schedule 2 to the 1971 Act to make provision in relation to designated persons.
420. New paragraph 5A(2) of Schedule 2 to the 1971 Act provides that a designation will be subject to such limitations as may be specified in the designation.
421. New paragraph 5A(3) sets out that a limitation under paragraph (5A)(2) may in particular relate to the functions that are exercised by that designated person.
422. New paragraph 5A(4) provides that a designation may be permanent or for a specified period and may in either case be withdrawn or varied.
423. New paragraph 5A(5) provides that the power to designate, or to withdraw or vary a designation, is exercised by the Secretary of State giving notice to the person in question.
424. New paragraph 5A(6) provides that the Secretary of State may designate a person under this paragraph only if satisfied that the person is capable of effectively carrying out the functions that are exercisable by virtue of the designation, has received adequate training in respect of the exercise of those functions, and is otherwise a suitable person to exercise those functions.

Directions to carriers and operators of ports

425. *Paragraph 6* inserts new paragraph 5B in Schedule 2 to the 1971 Act to enable the Secretary of State to direct carriers and port operators to make specified arrangements for the exercise of functions by designated persons.
426. New paragraph 5B(1) makes provision for the Secretary of State to direct carriers or port operators to make arrangements for “designated persons” to exercise a specified function in relation to persons of a specified description. So a carrier or port operator may be required to make arrangements for designated persons to exercise the power

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of examination in respect of embarking passengers travelling on a specified route, or from a specified port.

427. New paragraph 5B(2) provides that such a direction must specify the port where, and the date (or dates) and time (or times) when a function is to be exercised under the arrangements.
428. New paragraph 5B(3) requires a direction under this paragraph to be given in writing.
429. New paragraph 5B(4) provides that a direction given under this paragraph may specify a description of persons by reference to destination, route, date and time of travel to which it applies.
430. New paragraph 5B(5) defines “function” and “specified” in directions under this paragraph.