



# Immigration Act 2016

## 2016 CHAPTER 19

### PART 3

#### ENFORCEMENT

##### *Powers of immigration officers etc*

#### **48 Seizure and retention in relation to offences**

- (1) This section applies if an immigration officer is lawfully on any premises.
- (2) The immigration officer may seize anything which the officer finds in the course of exercising a function under the Immigration Acts if the officer has reasonable grounds for believing—
  - (a) that it has been obtained in consequence of the commission of an offence, and
  - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (3) The immigration officer may seize anything which the officer finds in the course of exercising a function under the Immigration Acts if the officer has reasonable grounds for believing—
  - (a) that it is evidence in relation to an offence, and
  - (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.
- (4) The immigration officer may require any information which is stored in any electronic form and is accessible from the premises to be produced if the officer has reasonable grounds for believing—
  - (a) that—
    - (i) it is evidence in relation to an offence, or
    - (ii) it has been obtained in consequence of the commission of an offence, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) that it is necessary to seize it in order to prevent it being concealed, lost, tampered with or destroyed.
- (5) The reference in subsection (4) to information which is stored in any electronic form being produced is to such information being produced in a form—
- (a) in which it can be taken away, and
  - (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (6) This section does not authorise an immigration officer to seize an item which the officer has reasonable grounds for believing is an item subject to legal privilege.
- (7) Anything seized by an immigration officer under this section which relates to an immigration offence may be retained so long as is necessary in all the circumstances and in particular—
- (a) may be retained, except as provided for by subsection (8)—
    - (i) for use as evidence at a trial for an offence, or
    - (ii) for forensic examination or for investigation in connection with an offence, and
  - (b) may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.
- (8) Nothing may be retained for a purpose mentioned in subsection (7)(a) if a photograph or copy would be sufficient for that purpose.
- (9) Section 28I of the Immigration Act 1971 (seized material: access and copying) applies to anything seized and retained under this section which relates to an immigration offence as it applies to anything seized and retained by an immigration officer under Part 3 of that Act.
- (10) This section does not apply in relation to anything which may be seized by an immigration officer under—
- (a) section 19 of the Police and Criminal Evidence Act 1984 as applied by an order under section 23 of the Borders, Citizenship and Immigration Act 2009, or
  - (b) Article 21 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (SI 1989/1341 (NI 12)) as applied by that section.
- (11) In this section and section 49 “immigration offence” means an offence which relates to an immigration or nationality matter.