



Immigration Act 2016

2016 CHAPTER 19

PART 3

ENFORCEMENT

Powers of immigration officers etc

49 Duty to pass on items seized under section 48

- (1) This section applies if an immigration officer exercises—
 - (a) the power under section 48 to seize or take away an item on the basis that the item or information contained in it has been obtained in consequence of the commission of, or is evidence in relation to, an offence other than an immigration offence (a “relevant offence”), or
 - (b) a power to that effect in Part 3 of the Immigration Act 1971 as applied by section 14(3) of the Asylum and Immigration (Treatment of Claimants etc) Act 2004.
- (2) Subject to subsection (3), the immigration officer must, as soon as is reasonably practicable after the power is exercised, notify a person who the immigration officer thinks has functions in relation to the investigation of the relevant offence.
- (3) If the immigration officer has reasonable grounds for believing that the item referred to in subsection (1) has also been obtained in consequence of the commission of, or is evidence in relation to, an immigration offence, the immigration officer may notify a person who the immigration officer thinks has functions in relation to the investigation of the relevant offence.
- (4) A person notified under this section of the exercise of a power mentioned in subsection (1) in relation to an item must, as soon as is reasonably practicable after being so notified, inform the immigration officer whether the person will accept the item.
- (5) The person may inform the immigration officer that the person will not accept the item only if—

Status: This is the original version (as it was originally enacted).

- (a) the person does not think the item or information contained in it has been obtained in consequence of the commission of, or is evidence in relation to, an offence,
 - (b) the person does not have functions in relation to the investigation of the relevant offence, or
 - (c) the person thinks that it would be more appropriate for the relevant offence to be investigated by another person with such functions.
- (6) If the person informs the immigration officer that the person will accept the item, the immigration officer must give it to the person as soon as is reasonably practicable.
- (7) Once the item has been given as mentioned in subsection (6), any provision of an enactment which applies to items seized or taken away by the person applies to the item as if it had been seized or taken away by the person for the purposes of the investigation of the relevant offence.
- (8) If the person informs the immigration officer that the person will not accept the item because subsection (5)(a) applies, the immigration officer must, as soon as is reasonably practicable, return the item in accordance with subsection (10).
- (9) If the person informs the immigration officer that the person will not accept the item because subsection (5)(b) or (c) applies, the immigration officer must, as soon as is reasonably practicable—
 - (a) notify the exercise of a power mentioned in subsection (1) in relation to the item to another person (if any) who the immigration officer thinks has functions in relation to the investigation of the relevant offence, or
 - (b) if there is no such person, return the item in accordance with subsection (10).
- (10) An item which must be returned in accordance with this subsection must be returned—
 - (a) to the person from whom it was seized, or
 - (b) if there is no such person, to the place from which it was seized or taken away.
- (11) Where an item to which this section applies or information contained in such an item has been obtained in consequence of the commission of, or is evidence in relation to, more than one offence, references in this section to the relevant offence are to any of those offences.
- (12) A function conferred or imposed by this section on an immigration officer may be exercised by any other immigration officer.
- (13) In this section “enactment” includes—
 - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978,
 - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
 - (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales, and
 - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.