



Immigration, Asylum and Nationality Act 2006

2006 CHAPTER 13

Information

27 Documents produced or found

- (1) For paragraph 4(4) of Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry: documents) substitute—

“(4) Where a passport or other document is produced or found in accordance with this paragraph an immigration officer may examine it and detain it—

- (a) for the purpose of examining it, for a period not exceeding 7 days;
- (b) for any purpose, until the person to whom the document relates is given leave to enter the United Kingdom or is about to depart or be removed following refusal of leave or until it is decided that the person does not require leave to enter;
- (c) after a time described in paragraph (b), while the immigration officer thinks that the document may be required in connection with proceedings in respect of an appeal under the Immigration Acts or in respect of an offence.

- (5) For the purpose of ascertaining that a passport or other document produced or found in accordance with this paragraph relates to a person examined under paragraph 2, 2A or 3 above, the person carrying out the examination may require the person being examined to provide information (whether or not by submitting to a process by means of which information is obtained or recorded) about his external physical characteristics (which may include, in particular, fingerprints or features of the iris or any other part of the eye).”

- (2) Paragraph 4(2A) of that Schedule shall cease to have effect.

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

II S. 27 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#) (with art. 4(6)(7))

28 Fingerprinting

- (1) Section 141 of the Immigration and Asylum Act 1999 (c. 33) (fingerprinting) shall be amended as follows.
- (2) In subsection (7)(d) for “arrested under paragraph 17 of Schedule 2 to the 1971 Act;” substitute “detained under paragraph 16 of Schedule 2 to the 1971 Act or arrested under paragraph 17 of that Schedule;”.
- (3) In subsection (8)(d) for “arrest;” substitute “detention or arrest;”.
- (4) At the end add—

“(17) Section 157(1) applies to this section (in so far as it relates to removal centres by virtue of subsection (5)(e)) as it applies to Part VIII.”

Commencement Information

I2 [S. 28](#) in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

29 Attendance for fingerprinting

For section 142(2) of the Immigration and Asylum Act 1999 (c. 33) (attendance for fingerprinting: timing) substitute—

- “(2) In the case of a notice given to a person of a kind specified in section 141(7)(a) to (d) or (f) (in so far as it applies to a dependant of a person of a kind specified in section 141(7)(a) to (d)), the notice—
- (a) must require him to attend during a specified period of at least seven days beginning with a day not less than seven days after the date given in the notice as its date of issue, and
 - (b) may require him to attend at a specified time of day or during specified hours.
- (2A) In the case of a notice given to a person of a kind specified in section 141(7)(e) or (f) (in so far as it applies to a dependant of a person of a kind specified in section 141(7)(e)), the notice—
- (a) may require him to attend during a specified period beginning with a day not less than three days after the date given in the notice as its date of issue,
 - (b) may require him to attend on a specified day not less than three days after the date given in the notice as its date of issue, and
 - (c) may require him to attend at a specified time of day or during specified hours.”

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I3 [S. 29](#) in force at 31.8.2006 by [S.I. 2006/2226](#), [art. 3](#), [Sch. 1](#)

30 Proof of right of abode

For section 3(9) of the Immigration Act 1971 (c. 77) (proof of right of abode) substitute—

“(9) A person seeking to enter the United Kingdom and claiming to have the right of abode there shall prove it by means of—

- (a) a United Kingdom passport describing him as a British citizen,
- (b) a United Kingdom passport describing him as a British subject with the right of abode in the United Kingdom,
- (c) an ID card issued under the Identity Cards Act 2006 describing him as a British citizen,
- (d) an ID card issued under that Act describing him as a British subject with the right of abode in the United Kingdom, or
- (e) a certificate of entitlement.”

Commencement Information

I4 [S. 30](#) in force at 16.6.2006 by [S.I. 2006/1497](#), [art. 3](#), [Sch.](#)

31 Provision of information to immigration officers

(1) Schedule 2 to the Immigration Act 1971 (controls on entry: administration) shall be amended as follows.

(2) In paragraph 27 (provision of passenger lists, &c.) for sub-paragraph (2) substitute—

“(2) The Secretary of State may by order require, or enable an immigration officer to require, a responsible person in respect of a ship or aircraft to supply—

- (a) a passenger list showing the names and nationality or citizenship of passengers arriving or leaving on board the ship or aircraft;
- (b) particulars of members of the crew of the ship or aircraft.

(3) An order under sub-paragraph (2) may relate—

- (a) to all ships or aircraft arriving or expected to arrive in the United Kingdom;
- (b) to all ships or aircraft leaving or expected to leave the United Kingdom;
- (c) to ships or aircraft arriving or expected to arrive in the United Kingdom from or by way of a specified country;
- (d) to ships or aircraft leaving or expected to leave the United Kingdom to travel to or by way of a specified country;
- (e) to specified ships or specified aircraft.

(4) For the purposes of sub-paragraph (2) the following are responsible persons in respect of a ship or aircraft—

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the owner or agent, and
 - (b) the captain.
- (5) An order under sub-paragraph (2)—
 - (a) may specify the time at which or period during which information is to be provided,
 - (b) may specify the form and manner in which information is to be provided,
 - (c) shall be made by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In paragraph 27B (passenger information)—
 - (a) in each place after “passenger information” insert “ or service information ”, and
 - (b) after sub-paragraph (9) insert—

“(9A) “Service information” means such information relating to the voyage or flight undertaken by the ship or aircraft as may be specified.”
- (4) In section 27 of the Immigration Act 1971 (c. 77) (offences)—
 - (a) in paragraph (b)(iv) for “the requirements of paragraph 27B or 27C of Schedule 2” substitute “ a requirement imposed by or under Schedule 2 ”, and
 - (b) in paragraph (c) omit “as owner or agent of a ship or aircraft or”.

Commencement Information

I5 S. 31 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), [art. 2\(d\)](#)

32 Passenger and crew information: police powers

- (1) This section applies to ships and aircraft which are—
 - (a) arriving, or expected to arrive, in the United Kingdom, or
 - (b) leaving, or expected to leave, the United Kingdom.
- (2) The owner or agent of a ship or aircraft shall comply with any requirement imposed by a constable of the rank of superintendent or above to provide passenger or service information.
- (3) A passenger or member of crew shall provide to the owner or agent of a ship or aircraft any information that he requires for the purpose of complying with a requirement imposed by virtue of subsection (2).
- (4) A constable may impose a requirement under subsection (2) only if he thinks it necessary—
 - (a) in the case of a constable in England, Wales or Northern Ireland, for police purposes, or
 - (b) in the case of a constable in Scotland, for police purposes which are or relate to reserved matters.
- (5) In this section—

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) “passenger or service information” means information which is of a kind specified by order of the Secretary of State and which relates to—
 - (i) passengers,
 - (ii) members of crew, or
 - (iii) a voyage or flight,
 - (b) “police purposes” has the meaning given by section 21(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure by Secretary of State), and
 - (c) “reserved matters” has the same meaning as in the Scotland Act 1998 (c. 46).
- (6) A requirement imposed under subsection (2)—
- (a) must be in writing,
 - (b) may apply generally or only to one or more specified ships or aircraft,
 - (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect,
 - (d) must state—
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided.
- (7) The Secretary of State may make an order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).
- (8) An order under subsection (5)(a)—
- (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) may specify the form and manner in which information is to be provided,
 - (d) shall be made by statutory instrument, and
 - (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

- C1** S. 32 modified by SI 1993/1813, Sch. 4 para. 3A(a) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, **2(4)**)

Commencement Information

- I6** S. 32 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), **art. 2(e)**

VALID FROM 01/04/2008

33 Freight information: police powers

- (1) This section applies to ships, aircraft and vehicles which are—
- (a) arriving, or expected to arrive, in the United Kingdom, or
 - (b) leaving, or expected to leave, the United Kingdom.

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) If a constable of the rank of superintendent or above requires a person specified in subsection (3) to provide freight information he shall comply with the requirement.
- (3) The persons referred to in subsection (2) are—
 - (a) in the case of a ship or aircraft, the owner or agent,
 - (b) in the case of a vehicle, the owner or hirer, and
 - (c) in any case, persons responsible for the import or export of the freight into or from the United Kingdom.
- (4) A constable may impose a requirement under subsection (2) only if he thinks it necessary—
 - (a) in the case of a constable in England, Wales or Northern Ireland, for police purposes, or
 - (b) in the case of a constable in Scotland, for police purposes which are or relate to reserved matters.
- (5) In this section—
 - (a) “freight information” means information which is of a kind specified by order of the Secretary of State and which relates to freight carried,
 - (b) “police purposes” has the meaning given by section 21(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure by Secretary of State), and
 - (c) “reserved matters” has the same meaning as in the Scotland Act 1998 (c. 46).
- (6) A requirement imposed under subsection (2)—
 - (a) must be in writing,
 - (b) may apply generally or only to one or more specified ships, aircraft or vehicles,
 - (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect, and
 - (d) must state—
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided.
- (7) The Secretary of State may make an order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).
- (8) An order under subsection (5)(a)—
 - (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) may specify the form and manner in which the information is to be provided,
 - (d) shall be made by statutory instrument, and
 - (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

34 Offence

- (1) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed under section 32(2) or (3) or 33(2).
- (2) But—
 - (a) a person who fails without reasonable excuse to comply with a requirement imposed under section 32(2) or 33(2) by a constable in England and Wales or Northern Ireland otherwise than in relation to a reserved matter (within the meaning of the Scotland Act 1998 (c. 46)) shall not be treated as having committed the offence in Scotland (but has committed the offence in England and Wales or Northern Ireland), and
 - (b) a person who fails without reasonable excuse to comply with a requirement which is imposed under section 32(3) for the purpose of complying with a requirement to which paragraph (a) applies—
 - (i) shall not be treated as having committed the offence in Scotland, but
 - (ii) shall be treated as having committed the offence in England and Wales or Northern Ireland.
- (3) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to—
 - (a) imprisonment for a term not exceeding 51 weeks in England and Wales or 6 months in Scotland or Northern Ireland,
 - (b) a fine not exceeding level 4 on the standard scale, or
 - (c) both.
- (4) In relation to a conviction occurring before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference to 51 weeks in subsection (2)(a) shall be taken as a reference to three months.

Modifications etc. (not altering text)

- C2** S. 34 modified by SI 1993/1813, Sch. 4 para. 3A(b) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, **2(4)**)

VALID FROM 01/03/2008

35 Power of Revenue and Customs to obtain information

In section 35(2) and (3) of the Customs and Excise Management Act 1979 (c. 2) (arrivals in the United Kingdom) after “arriving” insert “, or expected to arrive,”.

36 Duty to share information

- (1) This section applies to—
 - (a) the Secretary of State in so far as he has functions under the Immigration Acts,
 - (b) a chief officer of police, and
 - (c) Her Majesty's Revenue and Customs.

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The persons specified in subsection (1) shall share information to which subsection (4) applies and which is obtained or held by them in the course of their functions to the extent that the information is likely to be of use for—
 - (a) immigration purposes,
 - (b) police purposes, or
 - (c) Revenue and Customs purposes.
- (3) But a chief officer of police in Scotland shall share information under subsection (2) only to the extent that it is likely to be of use for—
 - (a) immigration purposes,
 - (b) police purposes, in so far as they are or relate to reserved matters within the meaning of the Scotland Act 1998, or
 - (c) Revenue and Customs purposes other than the prosecution of crime.
- (4) This subsection applies to information which—
 - (a) is obtained or held in the exercise of a power specified by the Secretary of State and the Treasury jointly by order and relates to—
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,
 - (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, or
 - (b) relates to such other matters in respect of travel or freight as the Secretary of State and the Treasury may jointly specify by order.
- (5) The Secretary of State and the Treasury may make an order under subsection (4) which has the effect of requiring information to be shared only if satisfied that—
 - (a) the sharing is likely to be of use for—
 - (i) immigration purposes,
 - (ii) police purposes, or
 - (iii) Revenue and Customs purposes, and
 - (b) the nature of the information is such that there are likely to be circumstances in which it can be shared under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)).
- (6) Information shared in accordance with subsection (2)—
 - (a) shall be made available to each of the persons specified in subsection (1), and
 - (b) may be used for immigration purposes, police purposes or Revenue and Customs purposes (regardless of its source).
- (7) An order under subsection (4) may not specify—
 - (a) a power of Her Majesty's Revenue and Customs if or in so far as it relates to a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (former Inland Revenue matters) applies, or
 - (b) a matter to which that section applies.
- (8) An order under subsection (4)—
 - (a) shall be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (9) In this section—

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“chief officer of police” means—

- (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c. 16),
- (b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77), and
- (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland,

“immigration purposes” has the meaning given by section 20(3) of the Immigration and Asylum Act 1999 (c. 33) (disclosure to Secretary of State),

“police purposes” has the meaning given by section 21(3) of that Act (disclosure by Secretary of State), and

“Revenue and Customs purposes” means those functions of Her Majesty's Revenue and Customs specified in section 21(6) of that Act.

- (10) This section has effect despite any restriction on the purposes for which information may be disclosed or used.

Modifications etc. (not altering text)

- C3** S. 36 modified by SI 1993/1813, Sch. 4 para. 3A(c) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, **2(4)**)

Commencement Information

- I7** S. 36 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), **art. 2(f)**

37 Information sharing: code of practice

- (1) The Secretary of State and the Treasury shall jointly issue one or more codes of practice about—
 - (a) the use of information shared in accordance with section 36(2), and
 - (b) the extent to which, or form or manner in which, shared information is to be made available in accordance with section 36(6).
- (2) A code—
 - (a) shall not be issued unless a draft has been laid before Parliament, and
 - (b) shall come into force in accordance with provision made by order of the Secretary of State and the Treasury jointly.
- (3) The Secretary of State and the Treasury shall jointly from time to time review a code and may revise and re-issue it following a review; and subsection (2) shall apply to a revised code.
- (4) An order under subsection (2)—
 - (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C4** S. 37 modified by SI 1993/1813, Sch. 4 para. 3A(d) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, **2(4)**)

Commencement Information

- I8** S. 37 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), **art. 2(g)**

38 Disclosure of information for security purposes

- (1) A person specified in subsection (2) may disclose information obtained or held in the course of his functions to a person specified in subsection (3) if he thinks that the information is likely to be of use for a purpose specified in—
 - (a) section 1 of the Security Service Act 1989 (c. 5), or
 - (b) section 1 or 3 of the Intelligence Services Act 1994 (c. 13).
- (2) The persons who may disclose information in accordance with subsection (1) are—
 - (a) the Secretary of State in so far as he has functions under the Immigration Acts,
 - (b) a chief officer of police, and
 - (c) Her Majesty's Revenue and Customs.
- (3) The persons to whom information may be disclosed in accordance with subsection (1) are—
 - (a) the Director-General of the Security Service,
 - (b) the Chief of the Secret Intelligence Service, and
 - (c) the Director of the Government Communications Headquarters.
- (4) The information referred to in subsection (1) is information—
 - (a) which is obtained or held in the exercise of a power specified by the Secretary of State and the Treasury jointly by order and relates to—
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,
 - (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, or
 - (b) which relates to such other matters in respect of travel or freight as the Secretary of State and the Treasury may jointly specify by order.
- (5) In subsection (2) “chief officer of police” means—
 - (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996 (c. 16),
 - (b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77), and
 - (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.
- (6) An order under subsection (4) may not specify—
 - (a) a power of Her Majesty's Revenue and Customs if or in so far as it relates to a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (former Inland Revenue matters) applies, or

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) a matter to which that section applies.
- (7) An order under this section—
 - (a) shall be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (8) This section has effect despite any restriction on the purposes for which information may be disclosed or used.

Modifications etc. (not altering text)

- C5** S. 38 modified by SI 1993/1813, Sch. 4 para. 3A(e) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, **2(4)**)

Commencement Information

- I9** S. 38 in force at 5.11.2007 for specified purposes by [S.I. 2007/3138](#), **art. 2(h)**

39 Disclosure to law enforcement agencies

- (1) A chief officer of police may disclose information obtained in accordance with section 32 or 33 to—
 - (a) the States of Jersey police force;
 - (b) the salaried police force of the Island of Guernsey;
 - (c) the Isle of Man constabulary;
 - (d) any other foreign law enforcement agency.
- (2) In subsection (1) “foreign law enforcement agency” means a person outside the United Kingdom with functions similar to functions of—
 - (a) a police force in the United Kingdom, or
 - (b) the Serious Organised Crime Agency.
- (3) In subsection (1) “chief officer of police” means—
 - (a) in England and Wales, the chief officer of police for a police area specified in section 1 of the Police Act 1996,
 - (b) in Scotland, the chief constable of a police force maintained under the Police (Scotland) Act 1967, and
 - (c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.

Modifications etc. (not altering text)

- C6** S. 39 modified by SI 1993/1813, Sch. 4 para. 3A(f) (as inserted (2.1.2008) by [Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2007 \(S.I. 2007/3579\)](#), arts. 1, **2(4)**)

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

40 Searches: contracting out

- (1) An authorised person may, in accordance with arrangements made under this section, search a searchable ship, aircraft, vehicle or other thing for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine under paragraph 2 of Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry: administrative provisions).
- (2) For the purposes of subsection (1)—
 - (a) “authorised” means authorised for the purpose of this section by the Secretary of State, and
 - (b) a ship, aircraft, vehicle or other thing is “searchable” if an immigration officer could search it under paragraph 1(5) of that Schedule.
- (3) The Secretary of State may authorise a specified class of constable for the purpose of this section.
- (4) The Secretary of State may, with the consent of the Commissioners for Her Majesty's Revenue and Customs, authorise a specified class of officers of Revenue and Customs for the purpose of this section.
- (5) The Secretary of State may authorise a person other than a constable or officer of Revenue and Customs for the purpose of this section only if—
 - (a) the person applies to be authorised, and
 - (b) the Secretary of State thinks that the person is—
 - (i) fit and proper for the purpose, and
 - (ii) suitably trained.
- (6) The Secretary of State—
 - (a) may make arrangements for the exercise by authorised constables of the powers under subsection (1),
 - (b) may make arrangements with the Commissioners for Her Majesty's Revenue and Customs for the exercise by authorised officers of Revenue and Customs of the powers under subsection (1), and
 - (c) may make arrangements with one or more persons for the exercise by authorised persons other than constables and officers of Revenue and Customs of the power under subsection (1).
- (7) Where in the course of a search under this section an authorised person discovers an individual whom he thinks an immigration officer might wish to examine under paragraph 2 of that Schedule, the authorised person may—
 - (a) search the individual for the purpose of discovering whether he has with him anything of a kind that might be used—
 - (i) by him to cause physical harm to himself or another,
 - (ii) by him to assist his escape from detention, or
 - (iii) to establish information about his identity, nationality or citizenship or about his journey;
 - (b) retain, and as soon as is reasonably practicable deliver to an immigration officer, anything of a kind described in paragraph (a) found on a search under that paragraph;
 - (c) detain the individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of an immigration officer to whom the individual is to be delivered;

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) take the individual, as speedily as is reasonably practicable, to a place for the purpose of delivering him to an immigration officer there;
 - (e) use reasonable force for the purpose of doing anything under paragraphs (a) to (d).
- (8) Despite the generality of subsection (7)—
- (a) an individual searched under that subsection may not be required to remove clothing other than an outer coat, a jacket or a glove (but he may be required to open his mouth), and
 - (b) an item may not be retained under subsection (7)(b) if it is subject to legal privilege—
 - (i) in relation to a search carried out in England and Wales, within the meaning of the Police and Criminal Evidence Act 1984 (c. 60),
 - (ii) in relation to a search carried out in Scotland, within the meaning of section 412 of the Proceeds of Crime Act 2002 (c. 29), and
 - (iii) in relation to a search carried out in Northern Ireland, within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

Modifications etc. (not altering text)

C7 S. 40 extended by SI 2003/2818, art. 11(1)(g) (as inserted (E.W.S.) (18.11.2006) by [Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) \(Amendment\) Order 2006 \(S.I. 2006/2908\)](#), arts. 1, 2(a))

Commencement Information

I10 S. 40 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

41 Section 40: supplemental

- (1) Arrangements under section 40(6)(c) must include provision for the appointment of a Crown servant to—
- (a) monitor the exercise of powers under that section by authorised persons (other than constables or officers of Revenue and Customs),
 - (b) inspect from time to time the way in which the powers are being exercised by authorised persons (other than constables or officers of Revenue and Customs), and
 - (c) investigate and report to the Secretary of State about any allegation made against an authorised person (other than a constable or officer of Revenue and Customs) in respect of anything done or not done in the purported exercise of a power under that section.
- (2) The authorisation for the purpose of section 40 of a constable or officer of Revenue and Customs or of a class of constable or officer of Revenue and Customs—
- (a) may be revoked, and
 - (b) shall have effect, unless revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.
- (3) The authorisation of a person other than a constable or officer of Revenue and Customs for the purpose of section 40—
- (a) may be subject to conditions,

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) may be suspended or revoked by the Secretary of State by notice in writing to the authorised person, and
 - (c) shall have effect, unless suspended or revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.
- (4) A class may be specified for the purposes of section 40(3) or (4) by reference to—
 - (a) named individuals,
 - (b) the functions being exercised by a person,
 - (c) the location or circumstances in which a person is exercising functions, or
 - (d) any other matter.
- (5) An individual or article delivered to an immigration officer under section 40 shall be treated as if discovered by the immigration officer on a search under Schedule 2 to the Immigration Act 1971 (c. 77).
- (6) A person commits an offence if he—
 - (a) absconds from detention under section 40(7)(c),
 - (b) absconds while being taken to a place under section 40(7)(d) or having been taken to a place in accordance with that paragraph but before being delivered to an immigration officer,
 - (c) obstructs an authorised person in the exercise of a power under section 40, or
 - (d) assaults an authorised person who is exercising a power under section 40.
- (7) But a person does not commit an offence under subsection (6) by doing or failing to do anything in respect of an authorised person who is not readily identifiable—
 - (a) as a constable or officer of Revenue and Customs, or
 - (b) as an authorised person (whether by means of a uniform or badge or otherwise).
- (8) A person guilty of an offence under subsection (6) shall be liable on summary conviction to—
 - (a) imprisonment for a term not exceeding 51 weeks, in the case of a conviction in England and Wales, or six months, in the case of a conviction in Scotland or Northern Ireland,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (9) In relation to a conviction occurring before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in subsection (8)(a) to 51 weeks shall be treated as a reference to six months.

Modifications etc. (not altering text)

- C8** S. 41 extended by SI 2003/2818, art. 11(1)(g) (as inserted (E.W.S.) (18.11.2006) by [Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) \(Amendment\) Order 2006 \(S.I. 2006/2908\)](#), arts. 1, 2(a))

Commencement Information

- I11** S. 41 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

Status: Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

42 Information: embarking passengers

- (1) Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry, &c.) shall be amended as follows.
- (2) In paragraph 3(1) for the words from “and if he is not” to the end substitute—
 - “and, if he is not a British citizen, for the purpose of establishing—
 - (a) his identity;
 - (b) whether he entered the United Kingdom lawfully;
 - (c) whether he has complied with any conditions of leave to enter or remain in the United Kingdom;
 - (d) whether his return to the United Kingdom is prohibited or restricted.
- (1A) An immigration officer who examines a person under sub-paragraph (1) may require him, by notice in writing, to submit to further examination for a purpose specified in that sub-paragraph.”
- (3) After paragraph 16(1A) insert—
 - “(1B) A person who has been required to submit to further examination under paragraph 3(1A) may be detained under the authority of an immigration officer, for a period not exceeding 12 hours, pending the completion of the examination.”
- (4) In paragraph 21(1) after “16” insert “ (1), (1A) or (2) ”.

Commencement Information

I12 S. 42 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

Status:

Point in time view as at 02/01/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

Immigration, Asylum and Nationality Act 2006, Cross Heading: Information is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.