

# UK BORDERS ACT 2007

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## EXPLANATORY NOTES

### SUMMARY

#### *Powers at ports*

3. [Sections 1-4](#) provide for the Secretary of State to designate immigration officers acting at ports in England and Wales and Northern Ireland to have the power to detain an individual pending the arrival of a police constable and create offences of absconding from detention, and assaulting or obstructing an immigration officer in the course of exercising this power and the punishments associated with each. The meaning of “port” for these purposes is also defined.

#### *Biometric registration*

4. [Sections 5](#) and [6](#) confer a power to make regulations to require those subject to immigration control to apply for a document recording external physical characteristics - a "biometric immigration document" - and to require a biometric immigration document to be used for specified immigration purposes, in connection with specified immigration procedures, and in specified circumstances where a question arises about a person's status in relation to nationality or immigration.
5. [Sections 7 to 15](#) deal with the effects and consequences of non-compliance with compulsory registration, including associated penalties, appeal rights and also provide for the use and destruction of an individual's biometric records.

#### *Treatment of claimants*

6. [Section 16](#) amends section 3(1)(c) of the Immigration Act 1971 to provide that reporting and residency conditions may be imposed on those with limited leave to enter or remain in the UK.
7. [Section 17](#) provides that an asylum-seeker remains eligible for support during an appeal related to his asylum claim. Support will be available also for those qualifying as dependants for support purposes.
8. [Section 18](#) provides for a power of arrest without warrant for an immigration officer in connection with offences under sections 105 and 106 of the Immigration and Asylum Act 1999 (offences relating to asylum support fraud). It also provides that certain associated powers for immigration officers shall apply to those offences.
9. [Section 19](#) defines the conditions under which late evidence may not be included in an appeal against the refusal of a Points-based application.
10. [Section 20](#) amends section 42 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and in doing so provides new powers to (i) over-cost charge in respect of applications or processes in connection with the sponsorship of migrants and (ii) to cross-subsidise between certain in-country services and between certain in-country and overseas services.

11. [Section 21](#) makes provision for the Secretary of State to issue a code of practice to keep children safe from harm while they are in the United Kingdom. The provision imposes a duty on the Border and Immigration Agency to have regard to the code in the exercise of its functions.

### ***Enforcement***

12. [Sections 22-23](#) create an offence of assaulting an immigration officer and give immigration officers the power to arrest a person who has committed or is about to commit such an offence.
13. [Sections 24 to 26](#) deal with the conditions under which cash may be seized and detained property forfeited and disposed of.
14. [Sections 27 and 28](#) cover the arrest of individuals who knowingly employ an illegal worker and searches that may be made by immigration officers for personnel records.
15. [Section 29](#) is an amendment that ensures that acts committed after an asylum seeker has arrived in the United Kingdom but before they have entered will be covered by the offence of facilitating an asylum-seeker's entry to the United Kingdom.
16. [Section 30](#) is an amendment that ensures that those non-UK citizens who commit acts of facilitation whilst outside of the UK in order to secure the illegal entry of individuals to the UK fall within the scope of the various facilitation offences.
17. [Section 31](#) amends existing trafficking for exploitation offences to ensure that acts committed after a person has arrived in the United Kingdom, but before they have entered, will be covered by the offences. This section will also extend the extraterritorial application of the trafficking offences to cover acts of facilitation carried out overseas, irrespective of the nationality of the person carrying out the acts.

### ***Deportation of criminals***

18. [Sections 32-39](#) detail the conditions and procedure under which a foreign national prisoner will be automatically deported. They specify those foreign nationals subject to compulsory deportation and the sentences that will trigger it. They also detail permissible appeals, timings of deportation and detention beyond the end of sentence. Clarity around the sentences and the definitions of key phrases in these sections is given in section 38.

### ***Information***

19. [Sections 40 to 43](#) deal with the information sharing arrangements between the Border and Immigration Agency, HM Revenue and Customs (HMRC) and Revenue and Customs Prosecution Office. This includes confidentiality and wrongful disclosure.
20. [Sections 44 to 46](#) allow an immigration officer or a police constable to search premises for evidence of an arrested individual's nationality and to retain and copy these documents. Section 47 enables a designated police civilian to exercise these powers.

### ***Border and Immigration Inspectorate***

21. [Sections 48 to 56](#) establish a single independent inspectorate for the Border and Immigration Agency. This will replace the existing inspecting bodies.