



Immigration Act 2016

2016 CHAPTER 19

PART 3

ENFORCEMENT

Powers of immigration officers etc

51 Search for nationality documents by detainee custody officers etc

- (1) The Secretary of State may direct a detainee custody officer, prison officer or prisoner custody officer to exercise any of the powers in subsection (6) in relation to—
 - (a) a detained person who is detained in a removal centre, prison or young offender institution, or
 - (b) a person who is detained in a short-term holding facility.
- (2) The Secretary of State may direct a prison officer or prisoner custody officer to exercise any of the powers in subsection (6) in relation to a person detained in a prison or young offender institution—
 - (a) who has been recommended for deportation by a court under section 3(6) of the Immigration Act 1971,
 - (b) in respect of whom the Secretary of State has made a deportation order under section 5(1) of that Act,
 - (c) to whom a notice has been given in accordance with regulations under section 105 of the Nationality, Immigration and Asylum Act 2002 (notice of decision) of a decision to make a deportation order against that person, or
 - (d) in respect of whom the Secretary of State must make, or has made, a deportation order under section 32(5) of the UK Borders Act 2007.
- (3) In this section and section 52 “relevant officer” means a detainee custody officer, prison officer or prisoner custody officer.
- (4) The Secretary of State may give a direction in relation to a person detained as mentioned in subsection (1) or (2) only if the Secretary of State has reasonable grounds

Status: This is the original version (as it was originally enacted).

- to believe a relevant nationality document will be found if a power in subsection (6) is exercised in relation to the person.
- (5) A relevant officer to whom a direction is given under subsection (1) or (2) must (if able to do so) comply with it.
- (6) The powers referred to in subsections (1), (2) and (4) are—
- (a) to require the person to hand over to the relevant officer all relevant nationality documents in his or her possession,
 - (b) to search for such documents and to take possession of any that the relevant officer finds,
 - (c) to inspect any relevant nationality documents obtained in the course of the exercise of a power in paragraph (a) or (b), and
 - (d) to seize and retain any such documents so obtained.
- (7) The power in subsection (6)(b) is a power to search any of the following—
- (a) the person;
 - (b) anything the person has with him or her;
 - (c) the person's accommodation in the removal centre, short-term holding facility, prison or young offender institution;
 - (d) any item of the person's property in the removal centre, short-term holding facility, prison or young offender institution.
- (8) A full search may be carried out under subsection (7)(a); but such a search may not be carried out in the presence of—
- (a) another person detained as mentioned in subsection (1) or (2), or
 - (b) a person of the opposite sex.
- (9) An intimate search may not be carried out under subsection (7)(a).
- (10) A relevant officer may if necessary use reasonable force for the purposes of exercising a power in subsection (6)(a) or (b).
- (11) A relevant officer must pass a relevant nationality document seized and retained under subsection (6)(d) to the Secretary of State as soon as is reasonably practicable.
- (12) The Secretary of State may retain a relevant nationality document which comes into the Secretary of State's possession under subsection (11) while the Secretary of State suspects that—
- (a) a person to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and
 - (b) retention of the document may facilitate the removal.
- (13) If subsection (12) does not apply to a document which comes into the Secretary of State's possession under this section, the Secretary of State may—
- (a) arrange for the document to be returned in accordance with subsection (14), or
 - (b) if the Secretary of State thinks that it would not be appropriate to return the document, dispose of the document in such manner as the Secretary of State thinks appropriate.
- (14) A document which is required to be returned in accordance with this subsection must be returned to—
- (a) the person who was previously in possession of it, or

- (b) if it was not found in the possession of a person, the location in which it was found.

(15) In this section and section 52—

“full search” means a search which involves the removal of an item of clothing which—

- (a) is being worn wholly or partly on the trunk, and
- (b) is being so worn either next to the skin or next to an article of underwear;

“intimate search” means a search which consists of a physical examination of a person’s body orifices other than the mouth;

“nationality document” means a document which might—

- (a) establish a person’s identity, nationality or citizenship, or
- (b) indicate the place from which a person has travelled to the United Kingdom or to which a person is proposing to go.

(16) For the purposes of this section and section 52 a nationality document is “relevant” if it relates to a person who is liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts.

(17) In this section the following expressions have the same meaning as in Part 8 of the Immigration and Asylum Act 1999 (see section 147)—

- “detained person”;
- “detainee custody officer”;
- “prisoner custody officer”;
- “removal centre”;
- “short-term holding facility”.