



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 6

#### IMMIGRATION PROCEDURE

##### *Applications*

VALID FROM 01/04/2003

#### **118 Leave pending decision on variation application**

The following shall be substituted for section 3C of the Immigration Act 1971 (c. 77) (continuation of leave to enter or remain pending decision on application for variation)—

##### **“3C Continuation of leave pending variation decision**

- (1) This section applies if—
  - (a) a person who has limited leave to enter or remain in the United Kingdom applies to the Secretary of State for variation of the leave,
  - (b) the application for variation is made before the leave expires, and
  - (c) the leave expires without the application for variation having been decided.
- (2) The leave is extended by virtue of this section during any period when—
  - (a) the application for variation is neither decided nor withdrawn,
  - (b) an appeal under section 82(1) of the Nationality, Asylum and Immigration Act 2002 could be brought against the decision on the

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)

- application for variation (ignoring any possibility of an appeal out of time with permission), or
- (c) an appeal under that section against that decision is pending (within the meaning of section 104 of that Act).
- (3) Leave extended by virtue of this section shall lapse if the applicant leaves the United Kingdom.
- (4) A person may not make an application for variation of his leave to enter or remain in the United Kingdom while that leave is extended by virtue of this section.
- (5) But subsection (4) does not prevent the variation of the application mentioned in subsection (1)(a).
- (6) In this section a reference to an application being decided is a reference to notice of the decision being given in accordance with regulations under section 105 of that Act (notice of immigration decision).”

## 119 Deemed leave on cancellation of notice

In paragraph 6(3) of Schedule 2 to the Immigration Act 1971 (c. 77) (deemed leave on cancellation of notice of refusal) after “and the immigration officer does not at the same time give him indefinite or limited leave to enter” there shall be inserted “ or require him to submit to further examination ”.

VALID FROM 01/04/2003

## 120 Requirement to state additional grounds for application

- (1) This section applies to a person if—
- he has made an application to enter or remain in the United Kingdom, or
  - an immigration decision within the meaning of section 82 has been taken or may be taken in respect of him.
- (2) The Secretary of State or an immigration officer may by notice in writing require the person to state—
- his reasons for wishing to enter or remain in the United Kingdom,
  - any grounds on which he should be permitted to enter or remain in the United Kingdom, and
  - any grounds on which he should not be removed from or required to leave the United Kingdom.
- (3) A statement under subsection (2) need not repeat reasons or grounds set out in—
- the application mentioned in subsection (1)(a), or
  - an application to which the immigration decision mentioned in subsection (1)(b) relates.

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)

- C1** S. 120 applied (1.4.2003) by S.I. 2000/2326, reg. 26A (as inserted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003](#) (S.I. 2003/549), [reg. 2\(7\)](#))

VALID FROM 10/02/2003

### 121 Compliance with procedure

The following shall be inserted after section 31A(3) of the Immigration Act 1971 (procedural requirements for application)—

- “(3A) Regulations under this section may provide that a failure to comply with a specified requirement of the regulations—
- (a) invalidates an application,
  - (b) does not invalidate an application, or
  - (c) invalidates an application in specified circumstances (which may be described wholly or partly by reference to action by the applicant, the Secretary of State, an immigration officer or another person).”

VALID FROM 10/02/2003

### *Work permit*

### 122 Fee for work permit, &c.

- (1) The Secretary of State may by regulations require an application for an immigration employment document to be accompanied by a fee prescribed in the regulations.
- (2) In subsection (1) “immigration employment document” means—
  - (a) a work permit, and
  - (b) any other document which relates to employment and is issued for a purpose of immigration rules or in connection with leave to enter or remain in the United Kingdom.
- (3) Regulations under subsection (1)—
  - (a) may make provision which applies generally or only in specified cases or circumstances (or except in specified cases or circumstances), and
  - (b) may make different provision for different cases or circumstances.
- (4) In particular, regulations by virtue of subsection (3)(a) which create an exception may make provision by reference to an arrangement with the Secretary of State under which a payment is made in respect of—
  - (a) a specified number or class of applications, or
  - (b) a specified period of time.
- (5) Regulations under subsection (1)—
  - (a) must be made by statutory instrument, and

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section—

“immigration rules” has the meaning given by section 33(1) of the Immigration Act 1971 (c. 77) (interpretation), and

“work permit” has the meaning given by that section.

VALID FROM 01/04/2004

### 123 Advice about work permit, &c.

(1) Section 82 of the Immigration and Asylum Act 1999 (c. 33) (immigration advice and services: interpretation) shall be amended as follows.

(2) In the definition of “relevant matters” in subsection (1), after paragraph (b) there shall be inserted—

“(ba) an application for an immigration employment document;”.

(3) At the end of the section add—

“(3) In the definition of “relevant matters” in subsection (1) “immigration employment document” means—

(a) a work permit (within the meaning of section 33(1) of the Immigration Act 1971 (interpretation)), and

(b) any other document which relates to employment and is issued for a purpose of immigration rules or in connection with leave to enter or remain in the United Kingdom.”

#### Commencement Information

**II** S. 123 wholly in force at 1.4.2004; s. 123 not in force at Royal Assent see s. 162; s. 123 in force at 1.4.2004 by [S.I. 2003/754](#), [art. 2](#), [Sch. 1](#) (as amended by [S.I. 2003/1339](#) and [S.I. 2003/2993](#))

VALID FROM 18/07/2012

#### *Authority-to-carry scheme*

### 124 Authority to carry

(1) Regulations made by the Secretary of State may authorise him to require a person (a “carrier”) to pay a penalty if the carrier brings a passenger to the United Kingdom and—

(a) the carrier was required by an authority-to-carry scheme to seek authority under the scheme to carry the passenger, and

(b) the carrier did not seek authority before the journey to the United Kingdom commenced or was refused authority under the scheme.

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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) An “authority-to-carry scheme” is a scheme operated by the Secretary of State which requires carriers to seek authority to bring passengers to the United Kingdom.
- (3) An authority-to-carry scheme must specify—
  - (a) the class of carrier to which it applies (which may be defined by reference to a method of transport or otherwise), and
  - (b) the class of passenger to which it applies (which may be defined by reference to nationality, the possession of specified documents or otherwise).
- (4) The Secretary of State may operate different authority-to-carry schemes for different purposes.
- (5) Where the Secretary of State makes regulations under subsection (1) he must—
  - (a) identify in the regulations the authority-to-carry scheme to which they refer, and
  - (b) lay the authority-to-carry scheme before Parliament.
- (6) Regulations under subsection (1) may, in particular—
  - (a) apply or make provision similar to a provision of sections 40 to 43 of and Schedule 1 to the Immigration and Asylum Act 1999 (c. 33) (charge for passenger without document);
  - (b) do anything which may be done under a provision of any of those sections;
  - (c) amend any of those sections.
- (7) Regulations by virtue of subsection (6)(a) may, in particular—
  - (a) apply a provision with modification;
  - (b) apply a provision which confers power to make legislation.
- (8) The grant or refusal of authority under an authority-to-carry scheme shall not be taken to determine whether a person is entitled or permitted to enter the United Kingdom.
- (9) Regulations under this section—
  - (a) must 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.

### *Evasion of procedure*

## 125 Carriers’ liability

Schedule 8 (which amends Part II of the Immigration and Asylum Act 1999 (carriers’ liability)) shall have effect.

### Commencement Information

- I2** S. 125 partly in force; s. 125 not in force at Royal Assent see s. 162(2); s. 125 in force at 14.11.2002 and 8.12.2002 for certain purposes by [S.I. 2002/2811](#), art. 2, [Sch.](#)

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)

VALID FROM 10/02/2003

*Provision of information by traveller*

VALID FROM 01/04/2003

**126 Physical data: compulsory provision**

- (1) The Secretary of State may by regulations—
- (a) require an immigration application to be accompanied by specified information about external physical characteristics of the applicant;
  - (b) enable an authorised person to require an individual who makes an immigration application to provide information about his external physical characteristics;
  - (c) enable an authorised person to require an entrant to provide information about his external physical characteristics.
- (2) In subsection (1) “immigration application” means an application for—
- (a) entry clearance,
  - (b) leave to enter or remain in the United Kingdom, or
  - (c) variation of leave to enter or remain in the United Kingdom.
- (3) Regulations under subsection (1) may not—
- (a) impose a requirement in respect of a person to whom section 141 of the Immigration and Asylum Act 1999 (c. 33) (fingerprinting) applies, during the relevant period within the meaning of that section, or
  - (b) enable a requirement to be imposed in respect of a person to whom that section applies, during the relevant period within the meaning of that section.
- (4) Regulations under subsection (1) may, in particular—
- (a) require, or enable an authorised person to require, the provision of information in a specified form;
  - (b) require an individual to submit, or enable an authorised person to require an individual to submit, to a specified process by means of which information is obtained or recorded;
  - (c) make provision about the effect of failure to provide information or to submit to a process (which may, in particular, include provision for an application to be disregarded or dismissed if a requirement is not satisfied);
  - (d) confer a function (which may include the exercise of a discretion) on an authorised person;
  - (e) require an authorised person to have regard to a code (with or without modification);
  - (f) require an authorised person to have regard to such provisions of a code (with or without modification) as may be specified by direction of the Secretary of State;

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)

- (g) make provision about the use and retention of information provided (which may include provision permitting the use of information for specified purposes which do not relate to immigration);
  - (h) make provision which applies generally or only in specified cases or circumstances;
  - (i) make different provision for different cases or circumstances.
- (5) Regulations under subsection (1) must—
- (a) include provision about the destruction of information obtained or recorded by virtue of the regulations,
  - (b) require the destruction of information at the end of the period of ten years beginning with the day on which it is obtained or recorded in a case for which destruction at the end of another period is not required by or in accordance with the regulations, and
  - (c) include provision similar to section 143(2) and (10) to (13) of the Immigration and Asylum Act 1999 (c. 33) (fingerprints: destruction of copies and electronic data).
- (6) In so far as regulations under subsection (1) require an individual under the age of 16 to submit to a process, the regulations must make provision similar to section 141(3) to (5) and (13) of the Immigration and Asylum Act 1999 (fingerprints: children).
- (7) In so far as regulations under subsection (1) enable an authorised person to require an individual under the age of 16 to submit to a process, the regulations must make provision similar to section 141(3) to (5), (12) and (13) of that Act (fingerprints: children).
- (8) Regulations under subsection (1)—
- (a) must be made by statutory instrument, and
  - (b) shall not be made unless a draft of the regulations has been laid before and approved by resolution of each House of Parliament.
- (9) In this section—
- “authorised person” has the meaning given by section 141(5) of the Immigration and Asylum Act 1999 (authority to take fingerprints),
  - “code” has the meaning given by section 145(6) of that Act (code of practice),
  - “entrant” has the meaning given by section 33(1) of the Immigration Act 1971 (c. 77) (interpretation),
  - “entry clearance” has the meaning given by section 33(1) of that Act, and
  - “external physical characteristics” includes, in particular, features of the iris or any other part of the eye.

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)

VALID FROM 10/12/2004

### 127 Physical data: voluntary provision

- (1) The Secretary of State may operate a scheme under which an individual may supply, or submit to the obtaining or recording of, information about his external physical characteristics to be used (wholly or partly) in connection with entry to the United Kingdom.
- (2) In particular, the Secretary of State may—
  - (a) require an authorised person to use information supplied under a scheme;
  - (b) make provision about the collection, use and retention of information supplied under a scheme (which may include provision requiring an authorised person to have regard to a code);
  - (c) charge for participation in a scheme.
- (3) In this section the following expressions have the same meaning as in section 126—
  - (a) “authorised person”,
  - (b) “code”, and
  - (c) “external physical characteristics”.

### 128 Data collection under Immigration and Asylum Act 1999

- (1) The following shall be added at the end of section 144 of the Immigration and Asylum Act 1999 (c. 33) (collection of data about external physical characteristics) (which becomes subsection (1))—
 

“(2) In subsection (1) “external physical characteristics” includes, in particular, features of the iris or any other part of the eye.”
- (2) The following shall be inserted after section 145(2) of that Act (codes of practice)—
 

“(2A) A person exercising a power under regulations made by virtue of section 144 must have regard to such provisions of a code as may be specified.”

VALID FROM 10/02/2003

### *Disclosure of information by public authority*

VALID FROM 30/07/2003

### 129 Local authority

- (1) The Secretary of State may require a local authority to supply information for the purpose of establishing where a person is if the Secretary of State reasonably suspects that—



**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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 person has committed an offence under section 24(1)(a), (b), (c), (e) or (f), 24A(1) or 26(1)(c) or (d) of the Immigration Act 1971 (c. 77) (illegal entry, deception, &c.), and
  - (b) the person is or has been resident in the local authority's area.
- (2) A local authority shall comply with a requirement under this section.
- (3) In the application of this section to England and Wales "local authority" means—
- (a) a county council,
  - (b) a county borough council,
  - (c) a district council,
  - (d) a London borough council,
  - (e) the Common Council of the City of London, and
  - (f) the Council of the Isles of Scilly.
- (4) In the application of this section to Scotland "local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).
- (5) In the application of this section to Northern Ireland—
- (a) a reference to a local authority shall be taken as a reference to the Northern Ireland Housing Executive, and
  - (b) the reference to a local authority's area shall be taken as a reference to Northern Ireland.

VALID FROM 01/04/2003

### 130 Inland Revenue

- (1) The Commissioners of Inland Revenue may supply the Secretary of State with information for the purpose of establishing where a person is if the Secretary of State reasonably suspects—
- (a) that the person does not have leave to enter or remain in the United Kingdom, and
  - (b) that the person does not have permission to work in accordance with section 1(2) of the Immigration Act 1971 (c. 77) (general principles).
- (2) The Commissioners of Inland Revenue may supply the Secretary of State with information for the purpose of establishing where a person is if the Secretary of State reasonably suspects that the person has undertaken employment in the United Kingdom in breach of—
- (a) a condition attached to leave to enter or remain in the United Kingdom,
  - (b) a restriction imposed under paragraph 21 of Schedule 2 to the Immigration Act 1971 (control of entry), or
  - (c) a restriction imposed under paragraph 2 of Schedule 3 to that Act (deportation).
- (3) The Commissioners of Inland Revenue may supply the Secretary of State with information for the purpose of determining whether an applicant for naturalisation under the British Nationality Act 1981 (c. 61) is of good character.

*Status: Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)*

- (4) The Commissioners of Inland Revenue may supply the Secretary of State with information for the purpose of applying, in the case of an applicant for entry clearance within the meaning of section 33 of the Immigration Act 1971, a provision of rules under section 3 of that Act relating to maintenance or accommodation.
- (5) Information supplied to the Secretary of State under any of subsections (1) to (4) may be supplied by him to another person only—
  - (a) for a purpose specified in any of those subsections,
  - (b) for the purpose of legal proceedings, or
  - (c) with consent (which may be general or specific) of the Commissioners of Inland Revenue, for a purpose for which the Commissioners could supply the information.
- (6) A power of the Commissioners of Inland Revenue under this section—
  - (a) may be exercised on their behalf only by a person authorised (generally or specifically) for the purpose, and
  - (b) may be exercised despite any statutory or other requirement of confidentiality.

#### Modifications etc. (not altering text)

- C2 S. 130 restricted (7.4.2005 at 5:45pm) by [Commissioners for Revenue and Customs Act 2005](#) (c. 11), ss. 16, 17, 53(1), [Sch. 2 para. 20](#) (with s. 22); S.I. 2005/1126, [art. 2\(1\)](#)

### 131 Police, &c.

Information may be supplied under section 20 of the Immigration and Asylum Act 1999 (c. 33) (supply of information to Secretary of State) for use for the purpose of determining whether an applicant for naturalisation under the British Nationality Act 1981 is of good character.

### 132 Supply of document, &c. to Secretary of State

- (1) Section 20 of the Immigration and Asylum Act 1999 (supply of information to Secretary of State) shall be amended as follows.
- (2) After subsection (1) insert—
 

“(1A) This section also applies to a document or article which—

  - (a) comes into the possession of a person listed in subsection (1) or someone acting on his behalf, or
  - (b) is discovered by a person listed in subsection (1) or someone acting on his behalf.”
- (3) In subsection (2) after “information” insert “, document or article ”.
- (4) After subsection (2) insert—
 

“(2A) The Secretary of State may—

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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) retain for immigration purposes a document or article supplied to him under subsection (2), and
- (b) dispose of a document or article supplied to him under subsection (2) in such manner as he thinks appropriate (and the reference to use in subsection (2) includes a reference to disposal)."

(5) In subsection (6) after "information" insert " , documents or articles ".

### 133 Medical inspectors

(1) This section applies to a person if an immigration officer acting under Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry, &c.) has brought the person to the attention of—

- (a) a medical inspector appointed under paragraph 1(2) of that Schedule, or
- (b) a person working under the direction of a medical inspector appointed under that paragraph.

(2) A medical inspector may disclose to a health service body—

- (a) the name of a person to whom this section applies,
- (b) his place of residence in the United Kingdom,
- (c) his age,
- (d) the language which he speaks,
- (e) the nature of any disease with which the inspector thinks the person may be infected,
- (f) relevant details of the person's medical history,
- (g) the grounds for an opinion mentioned in paragraph (e) (including the result of any test or examination which has been carried out), and
- (h) the inspector's opinion about action which the health service body should take.

(3) A disclosure may be made under subsection (2) only if the medical inspector thinks it necessary for the purpose of—

- (a) preventative medicine,
- (b) medical diagnosis,
- (c) the provision of care or treatment, or
- (d) the management of health care services.

(4) For the purposes of this section "health service body" in relation to a person means a body which carries out functions in an area which includes his place of residence and which is—

- (a) in relation to England—
  - (i) a Primary Care Trust established under section 16A of the National Health Service Act 1977 (c. 49),
  - (ii) a National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19),
  - (iii) a Strategic Health Authority established under section 8 of the National Health Service Act 1977,
  - (iv) a Special Health Authority established under section 11 of that Act, or
  - (v) the Public Health Laboratory Service Board,

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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) in relation to Wales—
  - (i) a Health Authority or Local Health Board established under section 8 or 16BA of that Act,
  - (ii) a National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990, or
  - (iii) the Public Health Laboratory Service Board,
- (c) in relation to Scotland—
  - (i) a Health Board, Special Health Board or National Health Service Trust established under section 2 or 12A of the National Health Service (Scotland) Act 1978 (c. 29), or
  - (ii) the Common Services Agency for the Scottish Health Service established under section 10 of that Act, or
- (d) in relation to Northern Ireland—
  - (i) a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)),
  - (ii) a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)), or
  - (iii) the Department of Health, Social Services and Public Safety.

VALID FROM 30/07/2003

*Disclosure of information by private person*

**134 Employer**

- (1) The Secretary of State may require an employer to supply information about an employee whom the Secretary of State reasonably suspects of having committed an offence under—
  - (a) section 24(1)(a), (b), (c), (e) or (f), 24A(1) or 26(1)(c) or (d) of the Immigration Act 1971 (c. 77) (illegal entry, deception, &c.),
  - (b) section 105(1)(a), (b) or (c) of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seeker: fraud), or
  - (c) section 106(1)(a), (b) or (c) of that Act (support for asylum-seeker: fraud).
- (2) The power under subsection (1) may be exercised to require information about an employee only if the information—
  - (a) is required for the purpose of establishing where the employee is, or
  - (b) relates to the employee's earnings or to the history of his employment.
- (3) In this section a reference to an employer or employee—
  - (a) includes a reference to a former employer or employee, and
  - (b) shall be construed in accordance with section 8(8) of the Asylum and Immigration Act 1996 (c. 49) (restrictions on employment).
- (4) Where—

*Status:* Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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) a business (the “employment agency”) arranges for one person (the “worker”) to provide services to another (the “client”), and
  - (b) the worker is not employed by the employment agency or the client,
- this section shall apply as if the employment agency were the worker’s employer while he provides services to the client.

### **135 Financial institution**

- (1) The Secretary of State may require a financial institution to supply information about a person if the Secretary of State reasonably suspects that—
  - (a) the person has committed an offence under section 105(1)(a), (b) or (c) or 106(1)(a), (b) or (c) of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seeker: fraud),
  - (b) the information is relevant to the offence, and
  - (c) the institution has the information.
- (2) In this section “financial institution” means—
  - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8) to accept deposits, and
  - (b) a building society (within the meaning given by the Building Societies Act 1986 (c. 53)).

### **136 Notice**

- (1) A requirement to provide information under section 134 or 135 must be imposed by notice in writing specifying—
  - (a) the information,
  - (b) the manner in which it is to be provided, and
  - (c) the period of time within which it is to be provided.
- (2) A period of time specified in a notice under subsection (1)(c)—
  - (a) must begin with the date of receipt of the notice, and
  - (b) must not be less than ten working days.
- (3) A person on whom a notice is served under subsection (1) must provide the Secretary of State with the information specified in the notice.
- (4) Information provided under subsection (3) must be provided—
  - (a) in the manner specified under subsection (1)(b), and
  - (b) within the time specified under subsection (1)(c).
- (5) In this section “working day” means a day which is not—
  - (a) Saturday,
  - (b) Sunday,
  - (c) Christmas Day,
  - (d) Good Friday, or
  - (e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in any part of the United Kingdom.

*Status: Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)*

### **137 Disclosure of information: offences**

- (1) A person commits an offence if without reasonable excuse he fails to comply with section 136(3).
- (2) 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 three months,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.

### **138 Offence by body**

- (1) Subsection (2) applies where an offence under section 137 is committed by a body corporate and it is proved that the offence—
  - (a) was committed with the consent or connivance of an officer of the body, or
  - (b) was attributable to neglect on the part of an officer of the body.
- (2) The officer, as well as the body, shall be guilty of the offence.
- (3) In this section a reference to an officer of a body corporate includes a reference to—
  - (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary, and
  - (c) if the affairs of the body are managed by its members, a member.
- (4) Where an offence under section 137 is committed by a partnership (other than a limited partnership), each partner shall be guilty of the offence.
- (5) Subsection (1) shall have effect in relation to a limited partnership as if—
  - (a) a reference to a body corporate were a reference to a limited partnership, and
  - (b) a reference to an officer of the body were a reference to a partner.

### **139 Privilege against self-incrimination**

- (1) Information provided by a person pursuant to a requirement under section 134 or 135 shall not be admissible in evidence in criminal proceedings against that person.
- (2) This section shall not apply to proceedings for an offence under section 137.

## *Immigration services*

### **140 Immigration Services Commissioner**

- (1) The following shall be inserted after paragraph 7(1) of Schedule 5 to the Immigration and Asylum Act 1999 (c. 33) (investigation by Commissioner: power of entry)—
  - “(1A) This paragraph also applies if the Commissioner is investigating a matter under paragraph 5(5) and—
    - (a) the matter is of a kind described in paragraph 5(3)(a), (b) or (d) (for which purpose a reference to an allegation shall be treated as a reference to a suspicion of the Commissioner), and

---

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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) there are reasonable grounds for believing that particular premises are being used in connection with the provision of immigration advice or immigration services by a registered person.”
- (2) The following shall be inserted after paragraph 3 of Schedule 6 to the Immigration and Asylum Act 1999 (c. 33) (registration by Commissioner)—

**“Variation of registration**

- 3A The Commissioner may vary a person’s registration—
- (a) so as to make it have limited effect in any of the ways mentioned in paragraph 2(2); or
  - (b) so as to make it have full effect.”
- (3) The following shall be inserted after section 87(3)(e) of the Immigration and Asylum Act 1999 (Immigration Services Tribunal: jurisdiction) (before the word “or”)—
- “(ea) to vary a registration under paragraph 3A of that Schedule;”.

*Immigration control*

**141 EEA ports: juxtaposed controls**

- (1) The Secretary of State may by order make provision for the purpose of giving effect to an international agreement which concerns immigration control at an EEA port (whether or not it also concerns other aspects of frontier control at the port).
- (2) An order under this section may make any provision which appears to the Secretary of State—
- (a) likely to facilitate implementation of the international agreement (including those aspects of the agreement which relate to frontier control other than immigration control), or
  - (b) appropriate as a consequence of provision made for the purpose of facilitating implementation of the agreement.
- (3) In particular, an order under this section may—
- (a) provide for a law of England and Wales to have effect, with or without modification, in relation to a person in a specified area or anything done in a specified area;
  - (b) provide for a law of England and Wales not to have effect in relation to a person in a specified area or anything done in a specified area;
  - (c) provide for a law of England and Wales to be modified in its effect in relation to a person in a specified area or anything done in a specified area;
  - (d) disapply or modify an enactment in relation to a person who has undergone a process in a specified area;
  - (e) disapply or modify an enactment otherwise than under paragraph (b), (c) or (d);
  - (f) make provision conferring a function (which may include—
    - (i) provision conferring a discretionary function;
    - (ii) provision conferring a function on a servant or agent of the government of a State other than the United Kingdom);
  - (g) create or extend the application of an offence;

---

**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)

---

- (h) impose or permit the imposition of a penalty;
  - (i) require the payment of, or enable a person to require the payment of, a charge or fee;
  - (j) make provision about enforcement (which may include—
    - (i) provision conferring a power of arrest, detention or removal from or to any place;
    - (ii) provision for the purpose of enforcing the law of a State other than the United Kingdom);
  - (k) confer jurisdiction on a court or tribunal;
  - (l) confer immunity or provide for indemnity;
  - (m) make provision about compensation;
  - (n) impose a requirement, or enable a requirement to be imposed, for a person to co-operate with or to provide facilities for the use of another person who is performing a function under the order or under the international agreement (which may include a requirement to provide facilities without charge);
  - (o) make provision about the disclosure of information.
- (4) An order under this section may—
- (a) make provision which applies generally or only in specified circumstances;
  - (b) make different provision for different circumstances;
  - (c) amend an enactment.
- (5) An order under this section—
- (a) must be made by statutory instrument,
  - (b) may not be made unless the Secretary of State has consulted with such persons as appear to him to be appropriate, and
  - (c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (6) In this section—
- “EEA port” means a port in an EEA State from which passengers are commonly carried by sea to or from the United Kingdom,
- “EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time),
- “frontier control” means the enforcement of law which relates to, or in so far as it relates to, the movement of persons or goods into or out of the United Kingdom or another State,
- “immigration control” means arrangements made in connection with the movement of persons into or out of the United Kingdom or another State,
- “international agreement” means an agreement made between Her Majesty’s Government and the government of another State, and
- “specified area” means an area (whether of the United Kingdom or of another State) specified in an international agreement.



**Status:** Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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)

VALID FROM 01/04/2003

### *Country information*

#### **142 Advisory Panel on Country Information**

- (1) The Secretary of State shall appoint a group of not fewer than ten nor more than 20 individuals (to be known as the Advisory Panel on Country Information).
- (2) The Secretary of State shall appoint one member of the Advisory Panel as its Chairman.
- (3) The function of the Advisory Panel shall be to consider and make recommendations to the Secretary of State about the content of country information.
- (4) In this section “country information” means information about conditions in countries outside the United Kingdom which the Secretary of State compiles and makes available, for purposes connected with immigration, to—
  - (a) immigration officers, and
  - (b) other officers of the Secretary of State.
- (5) The function of the Advisory Panel shall be shared among its members in accordance with arrangements made by the Chairman.
- (6) A member of the Advisory Panel shall hold and vacate office in accordance with the terms of his appointment (which may include provision about retirement, resignation or dismissal).
- (7) The Secretary of State may—
  - (a) pay fees and allowances to members of the Advisory Panel;
  - (b) defray expenses of members of the Advisory Panel;
  - (c) make staff and other facilities available to the Advisory Panel.

**Status:**

Point in time view as at 08/01/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Nationality, Immigration and Asylum Act 2002, Part 6 is up to date with all changes known to be in force on or before 11 June 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.