



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 6

#### IMMIGRATION PROCEDURE

##### *Applications*

#### **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  - (a) the application for variation is neither decided nor withdrawn,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 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).

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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)*

- (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 ”.

### [<sup>F1</sup>120 Requirement to state additional grounds for application

- (1) Subsection (2) applies to a person (“P”) if—
  - (a) P has made a protection claim or a human rights claim,
  - (b) P has made an application to enter or remain in the United Kingdom, or
  - (c) a decision to deport or remove P has been or may be taken.
- (2) The Secretary of State or an immigration officer may serve a notice on P requiring P to provide a statement setting out—
  - (a) P's reasons for wishing to enter or remain in the United Kingdom,
  - (b) any grounds on which P should be permitted to enter or remain in the United Kingdom, and
  - (c) any grounds on which P 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—
  - (a) P's protection or human rights claim,
  - (b) the application mentioned in subsection (1)(b), or
  - (c) an application to which the decision mentioned in subsection (1)(c) relates.
- (4) Subsection (5) applies to a person (“P”) if P has previously been served with a notice under subsection (2) and—
  - (a) P requires leave to enter or remain in the United Kingdom but does not have it, or
  - (b) P has leave to enter or remain in the United Kingdom only by virtue of section 3C <sup>F2</sup>... of the Immigration Act 1971 (continuation of leave pending decision or appeal).
- (5) Where P's circumstances have changed since the Secretary of State or an immigration officer was last made aware of them (whether in the application or claim mentioned in subsection (1) or in a statement under subsection (2) or this subsection) so that P has—

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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) additional reasons for wishing to enter or remain in the United Kingdom,
- (b) additional grounds on which P should be permitted to enter or remain in the United Kingdom, or
- (c) additional grounds on which P should not be removed from or required to leave the United Kingdom,

P must, as soon as reasonably practicable, provide a supplementary statement to the Secretary of State or an immigration officer setting out the new circumstances and the additional reasons or grounds.

(6) In this section—

“human rights claim” and “protection claim” have the same meanings as in Part 5;

references to “grounds” are to grounds on which an appeal under Part 5 may be brought (see section 84).]

#### Textual Amendments

- F1** S. 120 substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 55](#); [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2)(3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))
- F2** Words in s. 120(4)(b) omitted (1.12.2016) by virtue of [Immigration Act 2016 \(c. 19\)](#), [ss. 64\(3\)](#), 94(1) (with s. 64(5)); [S.I. 2016/1037](#), reg. 5(h)

#### 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\(7\)](#))
- C2** S. 120 applied (with modifications) by [S.I. 2006/1003](#), Sch. 2 para. 4(8)(9) (as substituted (6.4.2015) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2015 \(S.I. 2015/694\)](#), reg. 2, [Sch. 1 para. 16\(b\)](#))
- C3** S. 120 applied (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), reg. 1(2)(b), [Sch. 2 para. 2\(2\)](#))
- C4** S. 120 applied (with modifications) (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), [Sch. 2 paras. 1-3](#))

## 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).”

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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)*

### Work permit

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

- [<sup>F3</sup>(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
  - (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.]

#### Textual Amendments

- F3** S. 122 ceases to have effect (2.4.2007) and repealed (2.4.2007) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), ss. 52, 61, 62, [Sch. 2 para. 5](#), [Sch. 3](#); S.I. 2007/1109, art. 5, [Sch.](#) (subject to saving in entry in [Sch.](#))

#### 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—

*Status: Point in time view as at 30/10/2020.*

**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 03 August 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)*

“(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**

- I1** 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](#))

*Authority-to-carry scheme*

**F4 124 Authority to carry**

.....

**Textual Amendments**

- F4** S. 124 omitted (31.3.2015) by virtue of [Counter-Terrorism and Security Act 2015 \(c. 6\)](#), **ss. 22(10)**, [52\(3\)\(b\)](#); [S.I. 2015/956](#), **reg. 2**

*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.**
- I3** S. 125 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263](#), **art. 2**

*Provision of information by traveller*

**126 Physical data: compulsory provision**

- (1) The Secretary of State may by regulations—
  - (a) require an immigration application to be accompanied by specified [<sup>F5</sup>biometric information] ;
  - (b) enable an authorised person to require an individual who makes an immigration application to provide [<sup>F6</sup>biometric information] ;

Status: Point in time view as at 30/10/2020.

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 03 August 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)

- (c) enable an authorised person to require an entrant to provide [<sup>F7</sup>biometric information] .
- (2) In subsection (1) “immigration application” means an application for—
  - (a) entry clearance,
  - (b) leave to enter or remain in the United Kingdom, <sup>F8</sup>...
  - (c) variation of leave to enter or remain in the United Kingdom.
  - [<sup>F9</sup>(d) a transit visa (within the meaning of section 41 of the Immigration and Asylum Act 1999), or
  - (e) a document issued as evidence that a person who is not a national of an EEA state or Switzerland is entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972.]
- (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 [<sup>F10</sup>biometric] 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 [<sup>F11</sup>biometric] information is obtained or recorded;
  - (c) make provision about the effect of failure to provide [<sup>F12</sup>biometric] 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;
  - [<sup>F13</sup>(fa) provide for biometric information to be recorded on any document issued as a result of the application in relation to which the information was provided;]
  - <sup>F14</sup>(g) .....
  - (h) make provision which applies generally or only in specified cases or circumstances;
  - (i) make different provision for different cases or circumstances.
- <sup>F15</sup>(5) .....
- (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).

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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)*

(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.

[<sup>F16</sup>(8A) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to biometric information provided in accordance with regulations under subsection (1) as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act.]

(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),

[<sup>F17</sup>“ biometric information ” has the meaning given by section 15 of the UK Borders Act 2007,]

“code” has the meaning given by section 145(6) of that Act (code of practice),

[<sup>F18</sup>“ document ” includes a card or sticker and any other method of recording information (whether in writing or by the use of electronic or other technology or by a combination of methods),]

“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,

<sup>F19</sup> ...

#### Textual Amendments

- F5** Words in s. 126(1)(a) substituted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 2 para. 3(2)(a)**; S.I. 2014/1820, art. 3(z)
- F6** Words in s. 126(1)(b) substituted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 2 para. 3(2)(b)**; S.I. 2014/1820, art. 3(z)
- F7** Words in s. 126(1)(c) substituted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 2 para. 3(2)(b)**; S.I. 2014/1820, art. 3(z)
- F8** Word in s. 126(2)(b) omitted (1.3.2015) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 19(a)**; S.I. 2015/371, art. 3(b)
- F9** S. 126(2)(d)(e) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 8(2)**, 75(3); S.I. 2014/1820, art. 3(g)
- F10** Word in s. 126(4)(a) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 2 para. 3(3)**; S.I. 2014/1820, art. 3(z)
- F11** Word in s. 126(4)(b) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 2 para. 3(3)**; S.I. 2014/1820, art. 3(z)
- F12** Word in s. 126(4)(c) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 2 para. 3(3)**; S.I. 2014/1820, art. 3(z)
- F13** S. 126(4)(fa) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), **ss. 8(3)**, 75(3); S.I. 2014/1820, art. 3(g)

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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)*

- F14** S. 126(4)(g) omitted (1.3.2015) by virtue of Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 19(b)**; S.I. 2015/371, art. 3(b)
- F15** S. 126(5) omitted (1.3.2015) by virtue of Immigration Act 2014 (c. 22), s. 75(3), **Sch. 9 para. 19(c)**; S.I. 2015/371, art. 3(b)
- F16** S. 126(8A) inserted (28.7.2014) by Immigration Act 2014 (c. 22), **ss. 14(3)**, 75(3); S.I. 2014/1820, art. 3(m)
- F17** Words in s. 126(9) inserted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 2 para. 3(4)**; S.I. 2014/1820, art. 3(z)
- F18** Words in s. 126(9) inserted (28.7.2014) by Immigration Act 2014 (c. 22), **ss. 8(4)**, 75(3); S.I. 2014/1820, art. 3(g)
- F19** Words in s. 126(9) omitted (28.7.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), **Sch. 2 para. 3(5)**; S.I. 2014/1820, art. 3(z)

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

- C5** Ss. 126-128 extended (Jersey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by **The Immigration (Biometric Information) (Jersey) Order 2018** (S.I. 2018/1358), art. 3, **Sch. 2**
- C6** S. 126(4)-(7) applied by 1981 c. 61, s. 41(IZB) (as inserted (28.7.2014) by Immigration Act 2014 (c. 22), **ss. 10(3)**, 75(3); S.I. 2014/1820, art. 3(i))

**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, [<sup>F20</sup>biometric information] 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 [<sup>F21</sup>biometric] information supplied under a scheme;
  - (b) make provision about the collection, use and retention of [<sup>F21</sup>biometric] 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”,
  - [<sup>F22</sup>(aa) biometric information”, and]
  - (b) “code”, <sup>F23</sup>...
  - <sup>F24</sup>(c) .....

**Textual Amendments**

- F20** Words in s. 127(1) substituted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 2 para. 4(2)**; S.I. 2014/1820, art. 3(z)
- F21** Word in s. 127(2)(a)(b) inserted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 2 para. 4(3)**; S.I. 2014/1820, art. 3(z)
- F22** S. 127(3)(aa) inserted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 2 para. 4(4)(a)**; S.I. 2014/1820, art. 3(z)
- F23** Word in s. 127(3)(b) omitted (28.7.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), **Sch. 2 para. 4(4)(b)**; S.I. 2014/1820, art. 3(z)



*Status: Point in time view as at 30/10/2020.*

*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 03 August 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)*

**F24** S. 127(3)(c) omitted (28.7.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 2 para. 4\(4\)\(c\)](#); [S.I. 2014/1820](#), art. 3(z)

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

**C5** Ss. 126-128 extended (Jersey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Immigration \(Biometric Information\) \(Jersey\) Order 2018 \(S.I. 2018/1358\)](#), art. 3, [Sch. 2](#)

## 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.”

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

**C5** Ss. 126-128 extended (Jersey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Immigration \(Biometric Information\) \(Jersey\) Order 2018 \(S.I. 2018/1358\)](#), art. 3, [Sch. 2](#)

### *Disclosure of information by public authority*

## 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—

- (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.

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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) 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.

## <sup>F25</sup>130 Inland Revenue

.....

### Textual Amendments

**F25** S. 130 repealed (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), ss. 40(6)(b), 59(2), [Sch.](#); S.I. 2008/99, art. 2(m)(n)

## 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 <sup>F26</sup>—

- (a) determining whether an applicant for naturalisation under the British Nationality Act 1981 is of good character;
- <sup>F27</sup>(b) determining whether, for the purposes of an application referred to in section 41A of the British Nationality Act 1981, the person for whose registration the application is made is of good character;
- (ba) determining whether, for the purposes of an application under section 1 of the Hong Kong (War Wives and Widows) Act 1996, the woman for whose registration the application is made is of good character;
- (bb) determining whether, for the purposes of an application under section 1 of the British Nationality (Hong Kong) Act 1997 for the registration of an adult or young person within the meaning of subsection (5A) of that section, the person is of good character;]
- (c) determining whether to make an order in respect of a person under section 40 of the British Nationality Act 1981.]

### Textual Amendments

**F26** S. 131(a)-(c) substituted for words (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), ss. 43, 59(2); S.I. 2008/99, art. 2(m)

**F27** S. 131(b)(ba)(bb) substituted for s. 131(b) (13.1.2010) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), ss. 47(4), 58(2); S.I. 2009/2731, art. 4(f)

## 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.

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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) 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—

- (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—

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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) in relation to England—
- [<sup>F28</sup>(ai) the Secretary of State,]
  - <sup>F29</sup>(i) . . . . .
  - [<sup>F30</sup>(ia) the National Health Service Commissioning Board,
  - (ib) a clinical commissioning group established under section 14D of the National Health Service Act 2006,
  - (ic) a local authority in relation to the exercise of functions under section 2B or 111 of, or any of paragraphs 1 to 7B or 13 of Schedule 1 to, the National Health Service Act 2006,]
  - (ii) a National Health Service Trust established under [<sup>F31</sup>section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006],
  - [<sup>F32</sup>(iia) an NHS foundation trust,]
  - <sup>F33</sup>(iii) . . . . .
  - <sup>F34</sup>(iv) . . . . . <sup>F35</sup> . . . . .
  - <sup>F35</sup>(v) . . . . . <sup>F36</sup> . . . . .
  - <sup>F36</sup>(vi) . . . . .
- (b) in relation to Wales—
- [<sup>F37</sup>(i) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006,][<sup>F38</sup>or]
  - (ii) a National Health Service Trust established under [<sup>F39</sup>section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006], <sup>F40</sup> . . . . .
  - (iii) <sup>F40</sup> . . . . . <sup>F34</sup> . . . . .
  - <sup>F34</sup>(iv) . . . . .
- (c) in relation to Scotland—
- [<sup>F41</sup>(ai) the Secretary of State,]
  - (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), <sup>F42</sup> . . . . .
  - (ii) the Common Services Agency for the Scottish Health Service established under section 10 of that Act, or
  - [<sup>F43</sup>(iia) Healthcare Improvement Scotland established under section 10A of the 1978 Act, ][<sup>F44</sup>or]
  - <sup>F45</sup>(iii) . . . . .
- (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)), <sup>F46</sup> . . . . .
  - [<sup>F47</sup>(iia) the Regional Agency for Public Health and Social Well-being established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009, or]
  - (iii) the Department of Health, Social Services and Public Safety <sup>F48</sup> . . . . .
  - <sup>F48</sup>(iv) . . . . .

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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)*

### Textual Amendments

- F28** S. 133(4)(ai) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(2)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F29** S. 133(4)(a)(i) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 107(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F30** S. 133(4)(a)(ia)-(ic) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 107(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F31** Words in s. 133(4)(a)(ii) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 228(b)** (with Sch. 3 Pt. 1)
- F32** S. 133(4)(a)(iia) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 128**; S.I. 2004/759, **art. 2**
- F33** S. 133(4)(a)(iii) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 107(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F34** S. 133(4)(b)(iv) and word omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(3)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F35** S. 133(4)(a)(v) and preceding word repealed (1.4.2005) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 190, 196, 199, Sch. 13 para. 12(a), **Sch. 14 Pt. 7**; S.I. 2005/457, **art. 2**
- F36** S. 133(4)(a)(vi) and word omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(2)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F37** S. 133(4)(b)(i) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 228(e)** (with Sch. 3 Pt. 1)
- F38** Word in s. 133(4)(b) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(3)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F39** Words in s. 133(4)(b)(ii) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 228(f)** (with Sch. 3 Pt. 1)
- F40** S. 133(4)(b)(iii) and preceding word repealed (1.4.2005) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 190, 196, 199, Sch. 13 para. 12(b), **Sch. 14 Pt. 7**; S.I. 2005/457, **art. 2**
- F41** S. 133(4)(c)(ai) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(4)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F42** Word in s. 133(4)(c) repealed (1.4.2005) by Health Protection Agency Act 2004 (c. 17), ss. 11, 12, Sch. 3 para. 17(4)(a), **Sch. 4**; S.I. 2005/121, **art. 2(2)**
- F43** S. 133(4)(c)(iia) inserted (28.10.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011 (S.I. 2011/2581), **Sch. 2 para. 5**
- F44** Word in s. 133(4)(c) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(4)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F45** S. 133(4)(c)(iii) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(4)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F46** Word in s. 133(4)(d) repealed (1.4.2005) by Health Protection Agency Act 2004 (c. 17), ss. 11, 12, Sch. 3 para. 17(5)(a), **Sch. 4**; S.I. 2005/121, **art. 2(2)**
- F47** S. 133(4)(d)(iia) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(5)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F48** S. 133(4)(d)(iv) and word omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 12(5)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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)*

### *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—
  - (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 [F<sup>49</sup>Part 4A] 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)).

#### **Textual Amendments**

- F49** Words in s. 135(2)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 96](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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)*

### **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.

### **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.

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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) 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
    - (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).



*Status: Point in time view as at 30/10/2020.*

**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 03 August 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 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;
  - (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,

*Status: Point in time view as at 30/10/2020.*

*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 03 August 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 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.

### *Country information*

## <sup>F50</sup> 142 Advisory Panel on Country Information

.....

#### **Textual Amendments**

**F50** S. 142 repealed (1.4.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 54\(d\)](#), 59(2); S.I. 2008/309, art. 4(e)

**Status:**

Point in time view as at 30/10/2020.

**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 03 August 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.