



# UK Borders Act 2007

## 2007 CHAPTER 30

### *Border and Immigration Inspectorate*

#### **48 Establishment**

(1) The Secretary of State shall appoint a person as Chief Inspector of [<sup>F1</sup>the UK Border Agency].

[<sup>F2</sup>(1A) The Chief Inspector shall monitor and report on the efficiency and effectiveness of the performance of functions by the following—

- (a) designated customs officials, and officials of the Secretary of State exercising customs functions;
- (b) immigration officers, and officials of the Secretary of State exercising functions relating to immigration, asylum or nationality;
- (c) the Secretary of State in so far as the Secretary of State has general customs functions;
- (d) the Secretary of State in so far as the Secretary of State has functions relating to immigration, asylum or nationality;
- (e) the Director of Border Revenue and any person exercising functions of the Director.

(1B) The Chief Inspector shall monitor and report on the efficiency and effectiveness of the services provided by a person acting pursuant to arrangements relating to the discharge of a function within subsection (1A).]

(2) [<sup>F3</sup>... In particular, the Chief Inspector shall consider and make recommendations about—

- (a) consistency of approach [<sup>F4</sup>among the persons listed in subsections (1A) and (1B) (the “listed persons”)],
- (b) the practice and performance of [<sup>F5</sup>the listed persons] compared to other persons doing similar things,
- (c) practice and procedure in making decisions,
- (d) the treatment of claimants and applicants,

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- (e) certification under section 94 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (unfounded claim),
- (f) compliance with law about discrimination in the exercise of functions, including reliance on [<sup>F6</sup>section 19D of the Race Relations Act 1976 (c. 74)] [<sup>F6</sup>paragraph 17 of Schedule 3 to the Equality Act 2010 ] (exception for immigration functions),
- (g) practice and procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure),
- [<sup>F7</sup>(ga) practice and procedure in relation to the prevention, detection and investigation of offences,
- (gb) practice and procedure in relation to the conduct of criminal proceedings,
- (gc) whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue,]
- (h) the provision of information,
- (i) the handling of complaints, and
- (j) the content of information about conditions in countries outside the United Kingdom which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

[<sup>F8</sup>(2A) Unless directed to do so by the Secretary of State, the Chief Inspector shall not monitor and report on the exercise by the listed persons of—

- (a) functions at removal centres and short term holding facilities [<sup>F9</sup> and in pre-departure accommodation ], and under escort arrangements, in so far as Her Majesty's Chief Inspector of Prisons has functions under section 5A of the Prison Act 1952 in relation to such functions, and
- (b) functions at detention facilities, in so far as Her Majesty's Inspectors of Constabulary, the Scottish inspectors or the Northern Ireland inspectors have functions by virtue of section 29 of the Borders, Citizenship and Immigration Act 2009 in relation to such functions.]

[<sup>F10</sup>(3) . . . . .

[<sup>F11</sup>(3A) In this section “ customs function ”, “ designated customs official ” and “ general customs function ” have the meanings given by Part 1 of the Borders, Citizenship and Immigration Act 2009. ]

- (4) The Chief Inspector shall not aim to investigate individual cases (although this subsection does not prevent the Chief Inspector from considering or drawing conclusions about an individual case for the purpose of, or in the context of, considering a general issue).

#### Textual Amendments

- F1** Words in s. 48(1) substituted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(1\), 58\(1\)](#) (with s. 36(4))
- F2** S. 48(1A)(1B) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(2\), 58\(1\)](#) (with s. 36(4))
- F3** Words in s. 48(2) repealed (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(3\)\(a\), 58\(1\)](#), [Sch. Pt. 1](#) (with s. 36(4))
- F4** Words in s. 48(2)(a) substituted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(3\)\(b\), 58\(1\)](#) (with s. 36(4))

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- F5** Words in s. 48(2)(b) substituted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(3\)\(c\)](#), 58(1) (with s. 36(4))
- F6** Words in s. 48(2)(f) substituted by 2010 c. 15 Sch. 26 Pt. 1 para. 96 (as inserted) (E.W.S.) (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), [Sch. 1 para. 6](#) (see S.I. 2010/2317, art. 2, with savings in art. 15)
- F7** S. 48(2)(ga)-(gc) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(3\)\(d\)](#), 58(1) (with s. 36(4))
- F8** S. 48(2A) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(4\)](#), 58(1) (with s. 36(4))
- F9** Words in s. 48(2A)(a) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 16](#); S.I. 2014/1820, art. 3(cc)
- F10** S. 48(3) repealed (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(5\)](#), 58(1), [Sch. Pt. 1](#) (with s. 36(4))
- F11** S. 48(3A) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(6\)](#), 58(1) (with s. 36(4))

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

- C1** S. 48(1) extended (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(10\)](#), 58(1) (with s. 36(4))

**Commencement Information**

- I1** S. 48 in force at 1.4.2008 by [S.I. 2008/309](#), [art. 4\(b\)](#)

**49 Chief Inspector: supplemental**

- (1) The Secretary of State shall pay remuneration and allowances to the Chief Inspector.
- (2) The Secretary of State—
  - (a) shall before the beginning of each financial year specify a maximum sum which the Chief Inspector may spend on functions for that year,
  - (b) may permit that to be exceeded for a specified purpose, and
  - (c) shall defray the Chief Inspector's expenditure for each financial year subject to paragraphs (a) and (b).
- (3) The Chief Inspector shall hold and vacate office in accordance with terms of appointment (which may include provision about retirement, resignation or dismissal).
- (4) The Chief Inspector may appoint staff.
- (5) A person who is employed by or in any of the following may not be appointed as Chief Inspector—
  - (a) a government department,
  - (b) the Scottish Administration,
  - (c) the National Assembly for Wales, and
  - (d) a department in Northern Ireland.

**Commencement Information**

- I2** S. 49 in force at 1.4.2008 by [S.I. 2008/309](#), [art. 4\(b\)](#)

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## 50 Reports

- (1) The Chief Inspector shall report in writing to the Secretary of State—
  - (a) once each calendar year, in relation to the performance of the functions under section 48 generally, and
  - (b) at other times as requested by the Secretary of State in relation to specified matters.
- (2) The Secretary of State shall lay before Parliament a copy of any report received under subsection (1).
- (3) But a copy may omit material if the Secretary of State thinks that its publication—
  - (a) is undesirable for reasons of national security, or
  - (b) might jeopardise an individual's safety.

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### Commencement Information

**I3** S. 50 in force at 1.4.2008 by [S.I. 2008/309](#), [art. 4\(b\)](#)

## 51 Plans

- (1) The Chief Inspector shall prepare plans describing the objectives and terms of reference of proposed inspections.
- (2) Plans shall be prepared—
  - (a) at prescribed times and in respect of prescribed periods, and
  - (b) at such other times, and in respect of such other periods, as the Chief Inspector thinks appropriate.
- (3) A plan must—
  - (a) be in the prescribed form, and
  - (b) contain the prescribed information.
- (4) In preparing a plan the Chief Inspector shall consult—
  - (a) the Secretary of State, and
  - (b) prescribed persons.
- (5) As soon as is reasonably practicable after preparing a plan the Chief Inspector shall send a copy to—
  - (a) the Secretary of State, and
  - (b) each prescribed person.
- (6) The Chief Inspector and a prescribed person may by agreement disapply a requirement—
  - (a) to consult the person, or
  - (b) to send a copy of a plan to the person.
- (7) Nothing in this section prevents the Chief Inspector from doing anything not mentioned in a plan.

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**Commencement Information**

- I4** S. 51 in force at 1.4.2008 for specified purposes by [S.I. 2008/309, art. 4\(c\)](#)  
**I5** S. 51 in force at 6.1.2009 in so far as not already in force by [S.I. 2008/3136, art. 2\(b\)](#)

**52 Relationship with other bodies: general**

- (1) The Chief Inspector shall cooperate with prescribed persons in so far as the Chief Inspector thinks it consistent with the efficient and effective performance of the functions under section 48.
- (2) The Chief Inspector may act jointly with prescribed persons where the Chief Inspector thinks it in the interests of the efficient and effective performance of the functions under section 48.
- (3) The Chief Inspector may assist a prescribed person.
- (4) The Chief Inspector may delegate a specified aspect of the functions under section 48 to a prescribed person.

**Commencement Information**

- I6** S. 52 in force at 1.4.2008 for specified purposes by [S.I. 2008/309, art. 4\(d\)](#)  
**I7** S. 52 in force at 6.1.2009 in so far as not already in force by [S.I. 2008/3136, art. 2\(c\)](#)

**53 Relationship with other bodies: non-interference notices**

- (1) Subsection (2) applies if the Chief Inspector believes that—
  - (a) a prescribed person proposes to inspect any aspect of the work of [<sup>F12</sup>a person listed in section 48(1A) or (1B)], and
  - (b) the inspection may impose an unreasonable burden on [<sup>F13</sup>such a person].
- (2) The Chief Inspector may give the prescribed person a notice prohibiting a specified inspection.
- (3) The prescribed person shall comply with the notice, unless the Secretary of State cancels it on the grounds that the inspection would not impose an unreasonable burden on [<sup>F14</sup>a person listed in section 48(1A) or (1B)].
- (4) A notice must—
  - (a) be in the prescribed form, and
  - (b) contain the prescribed information.
- (5) The Secretary of State may by order make provision about—
  - (a) the timing of notices;
  - (b) the publication of notices;
  - (c) the revision or withdrawal of notices.

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#### Textual Amendments

- F12** Words in s. 53(1)(a) substituted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(7\)\(a\), 58\(1\)](#) (with s. 36(4))
- F13** Words in s. 53(1)(b) substituted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(7\)\(b\), 58\(1\)](#) (with s. 36(4))
- F14** Words in s. 53(3) substituted (21.7.2009) by virtue of [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(8\), 58\(1\)](#) (with s. 36(4))

#### Commencement Information

- I8** S. 53 in force at 1.4.2008 for specified purposes by [S.I. 2008/309, art. 4\(d\)](#)
- I9** S. 53 in force at 6.1.2009 in so far as not already in force by [S.I. 2008/3136, art. 2\(c\)](#)

## 54 Abolition of other bodies

The following shall cease to have effect—

- (a) section 19E of the Race Relations Act 1976 (c. 74) (monitor of immigration exception),
- (b) section 34 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (Monitor of Accommodation Centres),
- (c) section 111 of that Act (monitor of certification of claims as unfounded), and
- (d) section 142 of that Act (Advisory Panel on Country Information).

#### Commencement Information

- I10** S. 54 in force at 1.4.2008 by [S.I. 2008/309, art. 4\(e\)](#)

## 55 Prescribed matters

- (1) In sections 48 to 53 “prescribed” means prescribed by order of the Secretary of State.
- (2) An order under any of those sections—
  - (a) may make provision generally or only for specified purposes,
  - (b) may make different provision for different purposes, and
  - (c) may include incidental or transitional provision.
- (3) An order under any of those sections prescribing a person may specify—
  - (a) one or more persons, or
  - (b) a class of person.
- (4) An order under any of those sections—
  - (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

- I11** S. 55 in force at 1.4.2008 by [S.I. 2008/309, art. 4\(f\)](#)

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## 56 Senior President of Tribunals

<sup>F15</sup>(1) .....

- (2) In exercising the function under section 43 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) the Senior President of Tribunals shall have regard to—
- (a) the functions of the Chief Inspector of [<sup>F16</sup>the UK Border Agency], and
  - (b) in particular, the Secretary of State's power to request the Chief Inspector to report about specified matters.

### Textual Amendments

**F15** S. 56(1) repealed (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, [Sch. 3](#) (with [Sch. 4](#))

**F16** Words in s. 56(2)(a) substituted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), [ss. 28\(9\)](#), [58\(1\)](#) (with [s. 36\(4\)](#))

### Commencement Information

**I12** S. 56 in force at 1.4.2008 by [S.I. 2008/309](#), [art. 4\(g\)](#)

## [<sup>F17</sup>56A No rehabilitation for certain immigration or nationality purposes

- (1) Section 4(1), (2) and (3) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) do not apply—
- (a) in relation to any proceedings in respect of a relevant immigration decision or a relevant nationality decision, or
  - (b) otherwise for the purposes of, or in connection with, any such decision.

- (2) In this section—

“immigration officer” means a person appointed by the Secretary of State as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971,

“relevant immigration decision” means any decision, or proposed decision, of the Secretary of State or an immigration officer under or by virtue of the Immigration Acts, or rules made under section 3 of the Immigration Act 1971 (immigration rules), in relation to the entitlement of a person to enter or remain in the United Kingdom (including, in particular, the removal of a person from the United Kingdom, whether by deportation or otherwise),

“relevant nationality decision” means any decision, or proposed decision, of the Secretary of State under or by virtue of—

- (a) the British Nationality Act 1981,
- (b) the British Nationality (Hong Kong) Act 1990, or
- (c) the Hong Kong (War Wives and Widows) Act 1996,

in relation to the good character of a person.

- (3) The references in subsection (2) to the Immigration Acts and to the Acts listed in the definition of “relevant nationality decision” include references to any provision made under section 2(2) of the European Communities Act 1972, or of EU law, which relates to the subject matter of the Act concerned.]

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#### **Textual Amendments**

- F17** S. 56A inserted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 140, 151(1) (with s. 141(7)-(9)); S.I. 2012/2412, art. 2(e)



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