



UK Borders Act 2007

2007 CHAPTER 30

Information

40 Supply of Revenue and Customs information

- (1) Her Majesty's Revenue and Customs (HMRC) and the Revenue and Customs Prosecutions Office (the RCPO) may each supply the Secretary of State with information for use for the purpose of—
- (a) administering immigration control under the Immigration Acts;
 - (b) preventing, detecting, investigating or prosecuting offences under those Acts;
 - (c) determining whether to impose, or imposing, penalties or charges under Part 2 of the Immigration and Asylum Act 1999 (c. 33) (carriers' liability);
 - (d) determining whether to impose, or imposing, penalties under section 15 of the Immigration, Asylum and Nationality Act 2006 (c. 13) (restrictions on employment);
 - (e) providing facilities, or arranging for the provision of facilities, for the accommodation of persons under section 4 of the Immigration and Asylum Act 1999;
 - (f) providing support for asylum-seekers and their dependants under Part 6 of that Act;
 - (g) determining whether an applicant for naturalisation under the British Nationality Act 1981 (c. 61) is of good character;
 - (h) determining whether an applicant within subsection (1) of section 58 of the Immigration, Asylum and Nationality Act 2006 (acquisition of British nationality, &c. by adult or young person) for registration under a provision listed in subsection (2) of that section is of good character;
 - (i) determining whether to make an order in respect of a person under section 40 of the British Nationality Act 1981 (deprivation of citizenship);
 - (j) doing anything else in connection with the exercise of immigration and nationality functions.

Status: Point in time view as at 31/03/2008.

Changes to legislation: There are currently no known outstanding effects for the UK Borders Act 2007, Cross Heading: Information. (See end of Document for details)

- (2) This section applies to a document or article which comes into the possession of, or is discovered by, HMRC or the RCPO, or a person acting on behalf of HMRC or the RCPO, as it applies to information.
- (3) The Secretary of State—
- (a) may retain for a purpose within subsection (1) a document or article supplied by virtue of subsection (2);
 - (b) may dispose of a document or article supplied by virtue of subsection (2).
- (4) In subsection (1) “immigration and nationality functions” means functions exercisable by virtue of—
- (a) the Immigration Acts,
 - (b) the British Nationality Act 1981 (c. 61),
 - (c) the Hong Kong Act 1985 (c. 15),
 - (d) the Hong Kong (War Wives and Widows) Act 1996 (c. 41), or
 - (e) the British Nationality (Hong Kong) Act 1997 (c. 20).
- (5) A power conferred by this section on HMRC or the RCPO may be exercised on behalf of HMRC or the RCPO by a person who is authorised (generally or specifically) for the purpose.
- (6) The following provisions (which relate to the supply of information to the Secretary of State) shall cease to have effect—
- (a) section 20(1)(d) of the Immigration and Asylum Act 1999 (c. 33),
 - (b) section 130 of the Nationality, Immigration and Asylum Act 2002 (c. 41), and
 - (c) paragraphs 17 and 20 of Schedule 2 to the Commissioners for Revenue and Customs Act 2005 (c. 11).

Commencement Information

II S. 40 in force at 31.1.2008 by S.I. 2008/99, art. 2(m)

41 Confidentiality

- (1) A person to whom relevant information is supplied (whether before or after the commencement of this section) may not disclose that information.
- (2) Information is relevant information if it is supplied by or on behalf of HMRC or the RCPO under—
- (a) section 20 of the Immigration and Asylum Act 1999,
 - (b) section 130 of the Nationality, Immigration and Asylum Act 2002,
 - (c) section 36 of the Immigration, Asylum and Nationality Act 2006 (c. 13) (except in so far as that section relates to information supplied to a chief officer of police), or
 - (d) section 40 of this Act.
- (3) But subsection (1) does not apply to a disclosure—
- (a) which is made for a purpose within section 40(1),
 - (b) which is made for the purposes of civil proceedings (whether or not within the United Kingdom) relating to an immigration or nationality matter,

Status: Point in time view as at 31/03/2008.

Changes to legislation: There are currently no known outstanding effects for the UK Borders Act 2007, Cross Heading: Information. (See end of Document for details)

- (c) which is made for the purposes of a criminal investigation or criminal proceedings (whether or not within the United Kingdom) relating to an immigration or nationality matter,
 - (d) which is made in pursuance of an order of a court,
 - (e) which is made with the consent (which may be general or specific) of HMRC or the RCPO, depending on by whom or on whose behalf the information was supplied, or
 - (f) which is made with the consent of each person to whom the information relates.
- (4) Subsection (1) is subject to any other enactment permitting disclosure.
- (5) The reference in subsection (1) to a person to whom relevant information is supplied includes a reference to a person who is or was acting on behalf of that person.
- (6) The reference in subsection (2) to information supplied under section 40 of this Act includes a reference to documents or articles supplied by virtue of subsection (2) of that section.
- (7) In subsection (3) “immigration or nationality matter” means a matter in respect of which the Secretary of State has immigration and nationality functions (within the meaning given in section 40(4)).
- (8) In subsection (4) “enactment” does not include—
- (a) an Act of the Scottish Parliament,
 - (b) an Act of the Northern Ireland Assembly, or
 - (c) an instrument made under an Act within paragraph (a) or (b).

Commencement Information

12 S. 41 in force at 31.1.2008 by S.I. 2008/99, art. 2(m)

42 Wrongful disclosure

- (1) An offence is committed by a person who contravenes section 41 by disclosing information relating to a person whose identity—
- (a) is specified in the disclosure, or
 - (b) can be deduced from it.
- (2) Subsection (1) does not apply to the disclosure of information about internal administrative arrangements of HMRC or the RCPO (whether relating to Commissioners, officers, members of the RCPO or others).
- (3) It is a defence for a person (P) charged with an offence under this section of disclosing information to prove that P reasonably believed—
- (a) that the disclosure was lawful, or
 - (b) that the information had already and lawfully been made available to the public.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or

Status: Point in time view as at 31/03/2008.

Changes to legislation: There are currently no known outstanding effects for the UK Borders Act 2007, Cross Heading: Information. (See end of Document for details)

- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.
- (5) The reference in subsection (4)(b) to 12 months shall be treated as a reference to six months—
- (a) in the application of this section to Northern Ireland;
 - (b) in the application of this section to England and Wales, in relation to an offence under this section committed before the commencement of section 282 of the Criminal Justice Act 2003 (c. 44) (imprisonment on summary conviction for certain offences in England and Wales);
 - (c) in the application of this section to Scotland, until the commencement of section 45(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) (corresponding provision in Scotland).
- (6) A prosecution for an offence under this section may be instituted—
- (a) in England and Wales, only with the consent of the Director of Public Prosecutions;
 - (b) in Northern Ireland, only with the consent of the Director of Public Prosecutions for Northern Ireland.

Commencement Information

I3 S. 42 in force at 31.1.2008 by S.I. 2008/99, art. 2(m)

43 Supply of police information, etc.

In section 131 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (police, etc.), for the words from “determining” to the end substitute “—

- (a) determining whether an applicant for naturalisation under the British Nationality Act 1981 is of good character;
- (b) determining whether an applicant within subsection (1) of section 58 of the Immigration, Asylum and Nationality Act 2006 for registration under a provision listed in subsection (2) of that section 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.”

Commencement Information

I4 S. 43 in force at 31.1.2008 by S.I. 2008/99, art. 2(m)

44 Search for evidence of nationality

- (1) This section applies where an individual has been arrested on suspicion of the commission of an offence and an immigration officer or a constable suspects—
- (a) that the individual may not be a British citizen, and
 - (b) that nationality documents relating to the individual may be found on—
 - (i) premises occupied or controlled by the individual,
 - (ii) premises on which the individual was arrested, or

Status: Point in time view as at 31/03/2008.

Changes to legislation: There are currently no known outstanding effects for the UK Borders Act 2007, Cross Heading: Information. (See end of Document for details)

- (iii) premises on which the individual was, immediately before being arrested.
- (2) The immigration officer or constable may enter and search the premises for the purpose of finding those documents.
- (3) The power of search may be exercised only with the written authority of a senior officer; and for that purpose—
 - (a) “senior officer” means—
 - (i) in relation to an immigration officer, an immigration officer of at least the rank of chief immigration officer, and
 - (ii) in relation to a constable, a constable of at least the rank of inspector, and
 - (b) a senior officer who gives authority must arrange for a written record to be made of—
 - (i) the grounds for the suspicions in reliance on which the power of search is to be exercised, and
 - (ii) the nature of the documents sought.
- (4) The power of search may not be exercised where the individual has been released without being charged with an offence.
- (5) In relation to an individual “nationality document” means a document showing—
 - (a) the individual's identity, nationality or citizenship,
 - (b) the place from which the individual travelled to the United Kingdom, or
 - (c) a place to which the individual is proposing to go from the United Kingdom.

Commencement Information

I5 S. 44 in force at 31.3.2008 by S.I. 2008/309, art. 3(b)

45 Search for evidence of nationality: other premises

- (1) This section applies where an individual—
 - (a) has been arrested on suspicion of the commission of an offence, and
 - (b) has not been released without being charged with an offence.
- (2) If, on an application made by an immigration officer or a constable, a justice of the peace is satisfied that there are reasonable grounds for believing that—
 - (a) the individual may not be a British citizen,
 - (b) nationality documents relating to the individual may be found on premises specified in the application,
 - (c) the documents would not be exempt from seizure under section 46(2), and
 - (d) any of the conditions in subsection (3) below applies,the justice of the peace may issue a warrant authorising an immigration officer or constable to enter and search the premises.
- (3) The conditions are that—
 - (a) it is not practicable to communicate with any person entitled to grant entry to the premises;

Status: Point in time view as at 31/03/2008.

Changes to legislation: There are currently no known outstanding effects for the UK Borders Act 2007, Cross Heading: Information. (See end of Document for details)

- (b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the nationality documents;
 - (c) entry to the premises will not be granted unless a warrant is produced;
 - (d) the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer or constable arriving at the premises can secure immediate entry.
- (4) Sections 28J and 28K of the Immigration Act 1971 (c. 77) (warrants: application and execution) apply, with any necessary modifications, to warrants under this section.
- (5) In the application of this section to Scotland a reference to a justice of the peace shall be treated as a reference to the sheriff or a justice of the peace.

Commencement Information

I6 S. 45 in force at 31.3.2008 by S.I. 2008/309, art. 3(b)

46 Seizure of nationality documents

- (1) An immigration officer or constable searching premises under section 44 or 45 may seize a document which the officer or constable thinks is a nationality document in relation to the arrested individual.
- (2) Subsection (1) does not apply to a document which—
- (a) in relation to England and Wales or Northern Ireland, is subject to legal professional privilege, or
 - (b) in relation to Scotland, is an item subject to legal privilege within the meaning of section 412 of the Proceeds of Crime Act 2002 (c. 29).
- (3) An immigration officer or constable may retain a document seized under subsection (1) while the officer or constable suspects that—
- (a) the individual to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and
 - (b) retention of the document may facilitate the individual's removal.
- (4) Section 28I of the Immigration Act 1971 (c. 77) (seized material: access and copying) shall have effect in relation to a document seized and retained by an immigration officer.
- (5) Section 21 of the Police and Criminal Evidence Act 1984 (c. 60) or Article 23 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (seized material: access and copying) shall have effect in relation to a document seized and retained by a constable in England and Wales or Northern Ireland.

Commencement Information

I7 S. 46 in force at 31.3.2008 by S.I. 2008/309, art. 3(b)

Status: Point in time view as at 31/03/2008.

Changes to legislation: There are currently no known outstanding effects for the UK Borders Act 2007, Cross Heading: Information. (See end of Document for details)

47 Police civilians

In Part 2 of Schedule 4 to the Police Reform Act 2002 (c. 30) (powers exercisable by police civilians: investigating officers) after paragraph 18 (entry and search after arrest) insert—

Entry and search for evidence of nationality after arrest

“18A Where a designation applies this paragraph to any person—

- (a) sections 44 to 46 of the UK Borders Act 2007 (entry, search and seizure after arrest) shall apply to that person (with any necessary modifications) as if a reference to a constable included a reference to that person, and
- (b) a provision of the 1984 Act which applies to constables in connection with any of those sections shall apply (with any necessary modifications) to that person.”

Commencement Information

18 S. 47 in force at 31.3.2008 by S.I. 2008/309, art. 3(b)

Status:

Point in time view as at 31/03/2008.

Changes to legislation:

There are currently no known outstanding effects for the UK Borders Act 2007, Cross Heading: Information.