

Status: Point in time view as at 11/10/2017.

Changes to legislation: Counter-Terrorism and Security Act 2015, SCHEDULE 5 is up to date with all changes known to be in force on or before 17 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)

SCHEDULES

SCHEDULE 5

Section 25

AVIATION, MARITIME AND RAIL SECURITY

Modifications etc. (not altering text)

- C1** [Sch. 5](#) extended (Jersey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Counter-Terrorism and Security \(Jersey\) Order 2017 \(S.I. 2017/982\)](#), [art. 2\(g\)](#), [Sch. 7](#)

PART 1

PASSENGER, CREW AND SERVICE INFORMATION

Amendments of the Immigration Act 1971

- 1 (1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended as follows.
- (2) In paragraph 27 (requirement to provide passenger lists etc), in sub-paragraph (5), after paragraph (b) insert—
- “(ba) may require a responsible person to be able to receive, in a specified form and manner, communications sent by the Secretary of State or an immigration officer relating to the information.”
- (3) In paragraph 27B (passenger information or service information), after sub-paragraph (8) insert—
- “(8A) The officer may require a carrier to be able to receive communications from the officer in such form and manner as the Secretary of State may direct.”
- (4) After paragraph 27B insert—
- “27B(1) The Secretary of State may make regulations requiring responsible persons in respect of ships or aircraft—
- (a) which have arrived, or are expected to arrive, in the United Kingdom, or
- (b) which have left, or are expected to leave, the United Kingdom, to supply information to the Secretary of State or an immigration officer.
- (2) The following information may be required under sub-paragraph (1)—
- (a) information about the persons on board;
- (b) information about the voyage or flight.
- (3) The regulations must—

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- (a) specify or describe the classes of ships or aircraft to which they apply;
 - (b) specify the information required to be supplied;
 - (c) specify the time by which the information must be supplied;
 - (d) specify the form and manner in which the information must be supplied.
- (4) The regulations may require responsible persons to be able to receive, in a specified form and manner, communications sent by the Secretary of State or an immigration officer relating to the information.
- (5) For the purposes of this paragraph, the following are responsible persons in respect of a ship or aircraft—
- (a) the owner or agent, and
 - (b) the captain.
- (6) Regulations under this paragraph may make different provision for different purposes, and in particular may make different provision for different types of carrier, journey or person on board.
- (7) The power to make regulations under this paragraph is exercisable by statutory instrument; but no regulations under this paragraph are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- 27B(1) The Secretary of State may make regulations imposing penalties for failure to comply with—
- (a) an order under paragraph 27(2) (order requiring passenger list or particulars of member of crew),
 - (b) any request or requirement under paragraph 27B (passenger and service information), or
 - (c) regulations under paragraph 27BA (passenger, crew and service information).
- (2) Regulations under sub-paragraph (1) may in particular make provision—
- (a) about how a penalty is to be calculated;
 - (b) about the procedure for imposing a penalty;
 - (c) about the enforcement of penalties;
 - (d) allowing for an appeal against a decision to impose a penalty;
- and the regulations may make different provision for different purposes.
- (3) Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.
- (4) The regulations must provide that no penalty may be imposed on a person for failure to comply with an order under paragraph 27(2), a request or requirement under paragraph 27B or regulations under paragraph 27BA where—
- (a) proceedings have been instituted against the person under section 27 in respect of the same failure; or

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- (b) the failure consists of a failure to provide information that the person has also been required to provide under section 32 or 32A of the Immigration, Asylum and Nationality Act 2006 and—
 - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 32B of that Act, or
 - (ii) proceedings have been instituted against the person under section 34 of that Act in respect of a failure to provide that information; or
 - (c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 24 of that Act.
- (5) Any penalty paid by virtue of this paragraph must be paid into the Consolidated Fund.
- (6) The power to make regulations under this paragraph is exercisable by statutory instrument; but no regulations under this paragraph are to be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”
- (5) Omit paragraph 27C (notification of non-EEA arrivals).
- 2 In section 27 of that Act (offences by persons connected with ships or aircraft or with ports)—
 - (a) the existing provision becomes subsection (1);
 - (b) at the end insert—
 - “(2) Proceedings may not be instituted against a person under subsection (1)(a)(i) or (1)(b)(iv) for a failure to provide information or otherwise to comply with a requirement imposed under paragraph 27, 27B or 27BA of Schedule 2 where—
 - (a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of regulations made under—
 - (i) paragraph 27BB of Schedule 2,
 - (ii) section 32B of the Immigration, Asylum and Nationality Act 2006, or
 - (iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or
 - (b) proceedings have been instituted against the person under section 34 of the Immigration, Asylum and Nationality Act 2006 in respect of a failure to provide the same information.”
- 3 *Amendments consequential upon paragraph 1*
Omit section 19 of the Immigration and Asylum Act 1999.

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- 4 In Schedule 7 to the Terrorism Act 2000 (port and border controls), in paragraph 17 (provision of passenger information), in sub-paragraph (6), for “or 27B” substitute “, 27B or 27BA”.

Amendments of the Immigration, Asylum and Nationality Act 2006

- 5 The Immigration, Asylum and Nationality Act 2006 is amended as set out in paragraphs 6 to 8.

- 6 In section 32 (passenger and crew information: police powers), at the end of subsection (6) insert—

“(e) may include a requirement for the owner or agent of a ship or aircraft to be able to receive, in a specified form and manner, communications relating to the information.”

- 7 After that section insert—

“32A Regulations requiring information to be provided to police

- (1) The Secretary of State may make regulations requiring responsible persons in relation to ships or aircraft—
- (a) which have arrived, or are expected to arrive, in the United Kingdom, or
 - (b) which have left, or are expected to leave, the United Kingdom,
- to provide information to the police.
- (2) The following information may be required under subsection (1)—
- (a) information about the persons on board;
 - (b) information about the voyage or flight.
- (3) Regulations may impose a requirement to provide the information only if the Secretary of State thinks it necessary—
- (a) in the case of a requirement to provide information to the police in England and Wales, for police purposes;
 - (b) in the case of a requirement to provide information to the police in Scotland, for police purposes which are or relate to reserved matters (within the meaning of the Scotland Act 1998);
 - (c) in the case of a requirement to provide information to the police in Northern Ireland, for police purposes which are or relate to excepted or reserved matters (within the meaning of the Northern Ireland Act 1998).

In this subsection “police purposes” has the same meaning as in section 32.

- (4) The regulations must—
- (a) specify or describe the classes of ships or aircraft to which they apply;
 - (b) specify the information required to be provided;
 - (c) specify the time by which the information must be provided;
 - (d) specify the form and manner in which the information must be provided.

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- (5) The regulations may require responsible persons to be able to receive, in a specified form and manner, communications sent by the police, the Secretary of State or an immigration officer relating to the information.
- (6) Regulations under this section—
 - (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) shall be made by statutory instrument, and
 - (d) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (7) For the purposes of this section, the following are responsible persons in respect of a ship or aircraft—
 - (a) the owner or agent, and
 - (b) the captain.

32B Penalty for breach of section 32 or 32A

- (1) The Secretary of State may make regulations imposing penalties for failure to comply with a requirement imposed—
 - (a) under section 32(2) (provision of passenger, crew or service information), or
 - (b) by regulations made under section 32A (regulations requiring information to be provided to police).
- (2) Regulations under subsection (1) may in particular make provision—
 - (a) about how a penalty is to be calculated;
 - (b) about the procedure for imposing a penalty;
 - (c) about the enforcement of penalties;
 - (d) allowing for an appeal against a decision to impose a penalty;and the regulations may make different provision for different purposes.
- (3) Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.
- (4) The regulations must provide that no penalty may be imposed on a person for failure to comply with a requirement imposed under section 32(2) or by regulations made under section 32A where—
 - (a) proceedings have been instituted against the person under section 34 in respect of the same failure, or
 - (b) the failure consists of a failure to provide information that the person has also been required to provide under paragraph 27, 27B or 27BA of Schedule 2 to the Immigration Act 1971 and—
 - (i) a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under paragraph 27BB of that Schedule, or
 - (ii) proceedings have been instituted against the person under section 27 of that Act in respect of a failure to provide that information, or

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- (c) the failure consists of a failure to provide information that the person has also been required to provide under an authority-to-carry scheme made under section 22 of the Counter-Terrorism and Security Act 2015 and a penalty has been imposed on the person in respect of a failure to provide that information by virtue of regulations made under section 24 of that Act.
- (5) Any penalty paid by virtue of this section must be paid into the Consolidated Fund.
- (6) 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.”
- 8 (1) Section 34 (offence of failure to provide passenger information etc) is amended as follows.
- (2) In subsection (1), for “imposed under section 32(2) or (3) or 33(2)” substitute “imposed—
- (a) under section 32(2) or (3) or 33(2), or
 - (b) by regulations made under section 32A”.
- (3) After subsection (1) insert—
- “(1A) Proceedings may not be instituted against a person under subsection (1) for a failure to comply with a requirement imposed under section 32(2) or by regulations made under section 32A where—
- (a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of regulations made under—
 - (i) section 32B,
 - (ii) paragraph 27BB of Schedule 2 to the Immigration Act 1971, or
 - (iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or
 - (b) proceedings have been instituted against the person under section 27 of the Immigration Act 1971 in respect of a failure to provide the same information.”
- (4) In subsection (2), at the end insert “, and
- (c) where a person fails without reasonable excuse to comply with a requirement imposed by regulations made under section 32A to provide information to the police in England and Wales—
 - (i) if the required information does not relate to a reserved matter (within the meaning of the Scotland Act 1998), the person shall not be treated as having committed the offence in Scotland (but has committed the offence in England and Wales);
 - (ii) if the required information does not relate to an excepted or reserved matter (within the meaning of the Northern Ireland Act 1998), the person shall not be treated as

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having committed the offence in Northern Ireland (but has committed the offence in England and Wales).”

PART 2

DIRECTIONS ETC RELATING TO AVIATION, SHIPPING AND RAIL

Amendments of the Aviation Security Act 1982: information and directions

- 9 (1) The Aviation Security Act 1982 is amended as follows.
- (2) In section 11 (power to require information)—
- (a) in subsection (2), for the words from “a date” to “before” substitute “a period before the end of”;
 - (b) in subsection (4) omit “(not being less than seven days from the date on which the change of circumstances occurs)”.
- (3) In section 12 (power to impose restrictions in relation to aircraft), in subsection (1) (b), for “fly unless such searches of the aircraft” substitute “fly in or into the United Kingdom unless such searches (of persons or property or of the aircraft itself) ”.
- (4) In section 16 (limitations on scope of directions under sections 12 to 14), in subsection (5), for paragraph (a) (including the word “and” at the end) substitute—
- “(a) it shall have effect only in relation to—
 - (i) aircraft registered in the United Kingdom, or
 - (ii) a requirement not to cause or permit an aircraft to fly in or into the United Kingdom unless certain things have, or have not, been done, and”.
- (5) In section 24 (service of documents)—
- (a) at the end of subsection (2) insert “, or
 - (f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;
 - (b) after subsection (9) insert—
 - “(10) Regulations under this section—
 - (a) may make different provision for different cases,
 - (b) may include incidental, supplemental or transitional provision,
 - (c) shall be made by the Secretary of State by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (6) In section 38(1) (interpretation), in paragraph (b) of the definition of “aircraft registered or operating in the United Kingdom”, for the words from “flights” to “aerodromes” substitute “a flight any part of which is ”.
- 10 In consequence of the amendments made by paragraph 9(2), in Schedule 1 to the Aviation and Maritime Security Act 1990 (amendments of the Aviation Security Act 1982) omit paragraph 2(3) and (5).

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Amendments of the Aviation Security Act 1982: civil penalties for breach of directions

11 (1) Part 2 of the Aviation Security Act 1982 (protection of aircraft etc against acts of violence) is amended as follows.

(2) After section 22 insert—

“22A Civil penalties for failure to provide information or comply with a direction

- (1) The Secretary of State may make regulations imposing penalties for—
 - (a) failure to comply with a requirement imposed by a notice under section 11 (notice requiring information);
 - (b) making a false statement in furnishing information required by a notice under that section;
 - (c) failure to comply with a direction under any of sections 12 to 14.
- (2) Regulations under subsection (1) may in particular make provision—
 - (a) about how a penalty is to be calculated;
 - (b) about the procedure for imposing a penalty;
 - (c) about the enforcement of penalties;
 - (d) allowing for an appeal against a decision to impose a penalty;
 and the regulations may make different provision for different purposes.
- (3) Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.
- (4) The regulations must provide that no penalty may be imposed on a person for failure to comply with the requirements of a notice under section 11, or for making a false statement in furnishing information required by such a notice, where proceedings have been instituted against the person for an offence under section 11(5) in respect of the same failure or false statement.
- (5) The regulations must provide that no penalty may be imposed on a person for failure to comply with a direction under any of sections 12 to 14 where proceedings have been instituted against the person for an offence under any of those sections in respect of the same failure.
- (6) Any penalty paid by virtue of this section must be paid into the Consolidated Fund.
- (7) Regulations under this section are to be made by statutory instrument; and any such statutory instrument may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.”

(3) In section 11 (power to require information), after subsection (5) insert—

“(5A) Proceedings for an offence under subsection (5) above may not be instituted against a person who has paid a penalty in respect of the same failure, or the same false statement, by virtue of regulations made under section 22A.”

(4) In section 12 (power to impose restrictions in relation to aircraft), after subsection (9) insert—

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“(9A) Proceedings for an offence under subsection (9) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”

- (5) In section 13 (power to require aerodrome managers to promote searches at aerodromes), after subsection (4) insert—

“(4ZA) Proceedings for an offence under subsection (4) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”

- (6) In section 13A (power to require other persons to promote searches), after subsection (3) insert—

“(3A) Proceedings for an offence under subsection (3) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”

- (7) In section 14 (general power to direct measures for purposes of protecting aircraft etc against acts of violence), after subsection (7) insert—

“(7ZA) Proceedings for an offence under subsection (7)(a) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.”

Amendments of the Aviation and Maritime Security Act 1990: information and directions

- 12 (1) Part 3 of the Aviation and Maritime Security Act 1990 (protection of ships and harbour areas against acts of violence) is amended as follows.
- (2) In section 19 (power of Secretary of State to require information)—
- (a) in subsection (2), for the words from “a date” to “before” substitute “a period before the end of”;
 - (b) in subsection (4), omit “(not being less than seven days from the date on which the change of circumstances occurs)”.
- (3) In section 21 (power to impose restrictions in relation to ships), in subsection (1)—
- (a) in the opening words, after “is in” insert “, or appears to the Secretary of State to be likely to enter, ”;
 - (b) in paragraph (b), for “go to sea unless such searches of the ship” substitute “enter or (as the case may be) to leave a harbour area unless such searches (of persons or property or of the ship itself) ”.
- (4) In section 26 (limitations on scope of directions under sections 21 to 24), in subsection (5), for paragraph (a) (including the word “and” at the end) substitute—
- “(a) it shall have effect only in relation to—
 - (i) British ships, or
 - (ii) a requirement not to cause or permit a ship to enter a harbour area unless certain things have, or have not, been done, and”.
- (5) In section 45 (service of documents)—
- (a) at the end of subsection (2) insert “, or

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- (f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;
- (b) after subsection (9) insert—
 - “(9A) Regulations under subsection (2)(f)—
 - (a) may make different provision for different cases,
 - (b) may include incidental, supplemental or transitional provision,
 - (c) shall be made by the Secretary of State by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

II Sch. 5 para. 12 in force at 1.10.2015 by S.I. 2015/1729, art. 2

Amendments of the Channel Tunnel (Security) Order 1994: information and directions

- 13 (1) Part 3 of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (protection of Channel Tunnel trains and the tunnel system against acts of violence) is amended as follows.
- (2) In article 11 (powers of Secretary of State to require information)—
 - (a) in paragraph (2), for the words from “a date” to “before” substitute “ a period before the end of ”;
 - (b) in paragraph (4) omit “(not being less than seven days from the date on which the change of circumstances occurs)”.
 - (3) In article 13 (power to impose restrictions in relation to Channel Tunnel trains), in paragraph (1)(b), for “unless such searches of the train” substitute “ in or into the United Kingdom unless such searches (of persons or property or of the train itself) ”.
 - (4) In article 36 (service of documents)—
 - (a) at the end of paragraph (2) insert “, or
 - (f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.”;
 - (b) after paragraph (8) insert—
 - “(9) Regulations under paragraph (2)(f)—
 - (a) may make different provision for different cases,
 - (b) may include incidental, supplemental or transitional provision,
 - (c) shall be made by the Secretary of State by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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Commencement Information

I2 Sch. 5 para. 13 in force at 1.10.2015 by S.I. 2015/1729, art. 2

14 The amendments made by paragraph 13 do not affect the power to make further subordinate legislation amending or revoking the amended provisions.

Commencement Information

I3 Sch. 5 para. 14 in force at 1.10.2015 by S.I. 2015/1729, art. 2

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