



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 9 **U.K.**

#### MISCELLANEOUS AND GENERAL

### CHAPTER 1 **U.K.**

#### MISCELLANEOUS

#### *Requirements to confirm nationality*

#### 159 Requirement to state nationality **E+W+N.I.**

In the UK Borders Act 2007, after section 43 (supply of police information) insert—

#### **“43A Requirement to state nationality**

- (1) An individual who is arrested for an offence must state his or her nationality if required to do so by an immigration officer or a constable in accordance with this section.
- (2) A requirement may be imposed on an individual under subsection (1) only if the immigration officer or constable suspects that the individual may not be a British citizen.
- (3) When imposing a requirement under subsection (1) the immigration officer or constable must inform the individual that an offence may be committed if the individual fails to comply with a requirement imposed under this section.
- (4) The immigration officer or constable must make a written record of the imposition of a requirement under subsection (1) as soon as practicable.
- (5) The written record is to be made in the presence of the individual where this is practicable.

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**Changes to legislation:** *Policing and Crime Act 2017, Cross Heading: Requirements to confirm nationality is up to date with all changes known to be in force on or before 19 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) View outstanding changes*

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### **43B Offence of not giving nationality**

- (1) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed in accordance with section 43A, whether by providing false or incomplete information or by providing no information.
- (2) Information provided by a person in response to a requirement imposed in accordance with section 43A is not admissible in evidence in criminal proceedings against that person other than proceedings for an offence under this section.
- (3) A person who is guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction in England and Wales, to either or both of the following—
    - (i) imprisonment for a term not exceeding 51 weeks (or 6 months if the offence was committed before the commencement of section 281(5) of the Criminal Justice Act 2003);
    - (ii) a fine;
  - (b) on summary conviction in Northern Ireland, to either or both of the following—
    - (i) imprisonment for a term not exceeding 6 months;
    - (ii) a fine not exceeding level 5 on the standard scale.”

#### **Commencement Information**

**II** [S. 159](#) in force for specified purposes at Royal Assent, see [s. 183](#)

## **160 Requirement to produce nationality document U.K.**

In the UK Borders Act 2007, after section 46 (seizure of nationality documents) insert—

### **“46A Requirement to produce nationality document**

- (1) This section applies where—
  - (a) an individual has been arrested on suspicion of the commission of an offence, and
  - (b) the individual is to be released after arrest (whether or not on bail)—
    - (i) before a decision is taken on whether the individual should be charged with an offence, or
    - (ii) after being charged with an offence.
- (2) Before the individual is released an immigration officer or a constable may give the individual a notice requiring the production of a nationality document not later than 72 hours after the individual is released.
- (3) A notice may be given under subsection (2) only if the immigration officer or constable giving it suspects that the individual may not be a British citizen.
- (4) A notice under subsection (2) must be given in writing.

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- (5) The notice must include statements that—
- (a) the individual to whom it is given must produce the nationality document not later than 72 hours after the individual is released, and
  - (b) an offence may be committed if an individual fails to comply with a notice given under this section.
- (6) The notice must also set out—
- (a) the person to whom the document must be produced, and
  - (b) the means by which the document must be produced.
- (7) In this section, and in sections 46B and 46C—
- “nationality document” means a passport relating to the individual or, if there is no passport relating to the individual, one or more documents that enable the individual's nationality or citizenship to be established;
- “passport” means—
- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
  - (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or
  - (c) a document that can be used (in some or all circumstances) instead of a passport.

#### **46B Retention of nationality document etc**

- (1) An immigration officer or constable may retain a nationality document produced in response to a notice under section 46A (2) while the immigration 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.
- (2) Section 28I of the Immigration Act 1971 (seized material: access and copying) has effect in relation to a nationality document produced by an individual in response to a notice under section 46A (2) and retained by an immigration officer as if the nationality document had been seized when the individual had custody or control of it.
- (3) Section 21 of the Police and Criminal Evidence Act 1984 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) has effect in relation to a nationality document produced by an individual in response to a notice under section 46A (2) and retained by a constable in England and Wales or Northern Ireland as if the nationality document had been seized when the individual had custody or control of it.

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#### **46C Offence of failing to produce nationality document**

- (1) A person commits an offence if, without reasonable excuse, the person fails to comply with a notice given in accordance with section 46A.
- (2) The fact that a person deliberately destroyed or disposed of a nationality document is not a reasonable excuse for the purposes of subsection (1) unless the destruction or disposal was—
  - (a) for a reasonable cause, or
  - (b) beyond the control of the person charged with the offence.
- (3) In subsection (2)(a) “reasonable cause” does not include the purpose of—
  - (a) delaying the handling or resolution of a claim or application or the taking of a decision,
  - (b) increasing the chances of success of a claim or application, or
  - (c) complying with instructions given by a person who offers advice about, or facilitates, immigration into the United Kingdom, unless in the circumstances of the case it is unreasonable to expect non-compliance with the instructions or advice.
- (4) A person who is guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction in England and Wales, to either or both of the following—
    - (i) imprisonment for a term not exceeding 51 weeks (or 6 months if the offence was committed before the commencement of section 281(5) of the Criminal Justice Act 2003);
    - (ii) a fine;
  - (b) on summary conviction in Scotland, to either or both of the following—
    - (i) imprisonment for a term not exceeding 12 months;
    - (ii) a fine not exceeding level 5 on the standard scale;
  - (c) on summary conviction in Northern Ireland, to either or both of the following—
    - (i) imprisonment for a term not exceeding 6 months;
    - (ii) a fine not exceeding level 5 on the standard scale.”

#### **Commencement Information**

**I2** [S. 160](#) in force for specified purposes at Royal Assent, see [s. 183](#)

#### **161 Pilot schemes U.K.**

- (1) The Secretary of State may by regulations made by statutory instrument provide for any provision of sections 159 and 160 to come into force for a period of time to be specified in or under the regulations for the purpose of assessing the effectiveness of the provision.
- (2) Regulations under subsection (1) may make different provision for different purposes or different areas.
- (3) More than one set of regulations may be made under subsection (1).

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- (4) Provision included in regulations under subsection (1) does not affect the provision that may be included in relation to sections 159 and 160 in regulations under section 183 (commencement).

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**Commencement Information**

**I3** [S. 161](#) in force for specified purposes at Royal Assent, see [s. 183](#)

**162 Requirement to give information in criminal proceedings** **E+W**

In the Courts Act 2003, after section 86 (alteration of place fixed for Crown Court trial) insert—

**“86A Requirement to give information in criminal proceedings**

- (1) A person who is a defendant in proceedings in a criminal court must provide his or her name, date of birth and nationality if required to do so at any stage of proceedings by the court.
- (2) Criminal Procedure Rules must specify the stages of proceedings at which requirements are to be imposed by virtue of subsection (1) (and may specify other stages of proceedings when such requirements may be imposed).
- (3) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed by virtue of subsection (1), whether by providing false or incomplete information or by providing no information.
- (4) Information provided by a person in response to a requirement imposed by virtue of subsection (1) is not admissible in evidence in criminal proceedings against that person other than proceedings for an offence under this section.
- (5) A person guilty of an offence under subsection (3) is liable on summary conviction to either or both of the following—
  - (a) imprisonment for a term not exceeding 51 weeks (or 6 months if the offence was committed before the commencement of section 281(5) of the Criminal Justice Act 2003), or
  - (b) a fine.
- (6) The criminal court before which a person is required to provide his or her name, date of birth and nationality may deal with any suspected offence under subsection (3) at the same time as dealing with the offence for which the person was already before the court.
- (7) In this section a “criminal court” is, when dealing with any criminal cause or matter—
  - (a) the Crown Court;
  - (b) a magistrates' court.”

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**Commencement Information**

**I4** [S. 162](#) in force for specified purposes at Royal Assent, see [s. 183](#)

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**15** [S. 162](#) in force at 13.11.2017 in so far as not already in force by [S.I. 2017/1017](#), [reg. 2](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)