

SCHEDULE 7A

Article 9

Provisions of the Immigration, Asylum and Nationality Act 2006 as extended to Jersey

Commencement Information

II Sch. 7A comes into force in accordance with **art. 1(1)**

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Information

Passenger and crew information: police powers.

32.—(1) This section applies to ships and aircraft which are—

(a) arriving, or expected to arrive, in Jersey, or

(b) leaving, or expected to leave, Jersey.

(2) The owner or agent of a ship or aircraft shall comply with any requirement imposed by a police officer of the rank of Chief Inspector or above to provide passenger or service information.

(3) A passenger or member of crew shall provide to the owner or agent of a ship or aircraft any information that he requires for the purpose of complying with a requirement imposed by virtue of subsection (2).

(4) A police officer may impose a requirement under subsection (2) only if he thinks it necessary for police purposes.

(5) In this section—

(a) “passenger or service information” means information which is of a kind specified by Order of the Minister and which relates to—

(i) passengers,

(ii) members of crew, or

(iii) a voyage or flight,

(b) “police purposes” means any of the following –

(i) the prevention, detection, investigation or prosecution of criminal offences,

(ii) safeguarding national security,

(iii) such other purposes as may be specified by Order of the Minister, and

(c) “ship” includes –

(i) every description of vessel used in navigation, and

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(ii) hovercraft.

(6) A requirement imposed under subsection (2)–

(a) must be in writing,

(b) may apply generally or only to one or more specified ships or aircraft,

(c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect,

(d) must state–

(i) the information required, and

(ii) the date or time by which it is to be provided,

(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) The Minister may make an Order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights (Jersey) Law 2000).

(8) An Order under subsection (5)(a)–

(a) may apply generally or only to specified cases or circumstances,

(b) may make different provision for different cases or circumstances, and

(c) may specify the form and manner in which information is to be provided.

Orders requiring information to be provided to police.

32A.—(1) The Minister may make provision by Order requiring responsible persons in relation to ships or aircraft—

(a) which have arrived, or are expected to arrive, in Jersey, or

(b) which have left, or are expected to leave, Jersey,

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) An Order under this section may impose a requirement to provide the information only if the Minister thinks it necessary for police purposes.

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

(4) An Order under this section must—

- (a) specify or describe the classes of ships or aircraft to which the Order applies;
- (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.

(5) An Order under this section may require responsible persons to be able to receive, in a specified form and manner, communications sent by the police, the Minister or an immigration officer relating to the information.

(6) An Order under this section—

- (a) may apply generally or only to specified cases or circumstances,
- (b) may make different provision for different cases or circumstances.

(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.

Penalty for breach of section 32 or 32A.

32B.—(1) The Minister may make provision by Order 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 an Order made under section 32A (Orders requiring information to be provided to police).

(2) An Order 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 Order may make different provision for different purposes.

(3) Provision in the Order 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 Order.

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- (4) The Order 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 an Order 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
 - (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 by the Minister by Order 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 an Order made by the Minister under section 24 of that Act.

(5) Any penalty paid by virtue of this section must be paid to the Treasurer of the States and credited to the Annual Income of the States.

Freight information: police powers.

33.—(1) This section applies to ships, aircraft and vehicles which are—

- (a) arriving, or expected to arrive, in Jersey, or
 - (b) leaving, or expected to leave, Jersey.
- (2) If a police officer of the rank of Chief Inspector or above requires a person specified in subsection (3) to provide freight information he shall comply with the requirement.
- (3) The persons referred to in subsection (2) are—
- (a) in the case of a ship or aircraft, the owner or agent,
 - (b) in the case of a vehicle, the owner or hirer, and
 - (c) in any case, persons responsible for the import or export of the freight into or from Jersey.
- (4) A police officer may impose a requirement under subsection (2) only if he thinks it necessary for police purposes.
- (5) In this section—
- (a) “freight information” means information which is of a kind specified by Order of the Minister and which relates to freight carried, and
 - (b) “police purposes” means any of the following—

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- (i) the prevention, detection, investigation or prosecution of criminal offences;
 - (ii) safeguarding national security;
 - (iii) such other purposes as may be specified by Order of the Minister.
- (6) A requirement imposed under subsection (2)–
- (a) must be in writing,
 - (b) may apply generally or only to one or more specified ships, aircraft or vehicles,
 - (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect, and
 - (d) must state–
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided.
- (7) The Minister may make an Order specifying a kind of information under subsection (5) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights (Jersey) Law 2000).
- (8) An Order under subsection (5)–
- (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances,
 - (c) may specify the form and manner in which the information is to be provided.
- Offence.**
- 34.**—(1) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed—
- (a) under section 32(2) or (3) , or 33(2)
 - (b) by an Order made under section 32A.
- (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 an Order 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 an Order made under—
 - (i) section 32B,
 - (ii) paragraph 27BB of Schedule 2 to the Immigration Act 1971, or

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(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.

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction to—

(a) imprisonment for a term not exceeding 6 months,

(b) a fine not exceeding level 3 on the standard scale, or

(c) both.

Disclosure to law enforcement agencies.

39.—(1) The Chief Officer of the States of Jersey Police Force may disclose information obtained in accordance with section 32 or 33 to—

(a) a police force of the United Kingdom;

(b) the salaried police force of the Island of Guernsey;

(c) the Isle of Man constabulary;

(d) any other foreign law enforcement agency.

(2) In subsection (1) “foreign law enforcement agency” means a person outside Jersey with functions similar to functions of—

(a) a police force in the United Kingdom and Islands, or

(b) the National Crime Agency.

Searches: contracting out.

40.—(1) An authorised person may, in accordance with arrangements made under this section, search a searchable ship, aircraft, vehicle or other thing for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine under paragraph 2 of Schedule 2 to the Immigration Act 1971 (control of entry: administrative provisions).

(2) For the purposes of subsection (1)—

(a) “authorised” means authorised for the purpose of this section by the Minister, and

(b) a ship, aircraft, vehicle or other thing is “searchable” if an immigration officer could search it under paragraph 1(5) of that Schedule.

(3) The Minister may authorise a specified class of police officer for the purpose of this section.

(4) The Minister may, with the consent of the Agent of the Impôts, authorise a specified class of officer of the Impôts for the purpose of this section.

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(5) The Minister may authorise a person other than a police officer or officer of the Impôts for the purpose of this section only if—

(a) the person applies to be authorised, and

(b) the Minister thinks that the person is—

(i) fit and proper for the purpose, and

(ii) suitably trained.

(6) The Minister—

(a) may make arrangements for the exercise by authorised police officers of the powers under subsection (1),

(b) may make arrangements with the Agent of the Impôts for the exercise by authorised officers of the Impôts of the powers under subsection (1), and

(c) may make arrangements with one or more persons for the exercise by authorised persons other than police officers and officers of the Impôts of the power under subsection (1).

(7) Where in the course of a search under this section an authorised person discovers an individual whom he thinks an immigration officer might wish to examine under paragraph 2 of that Schedule, the authorised person may—

(a) search the individual for the purpose of discovering whether he has with him anything of a kind that might be used—

(i) by him to cause physical harm to himself or another,

(ii) by him to assist his escape from detention, or

(iii) to establish information about his identity, nationality or citizenship or about his journey;

(b) retain, and as soon as is reasonably practicable deliver to an immigration officer, anything of a kind described in paragraph (a) found on a search under that paragraph;

(c) detain the individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of an immigration officer to whom the individual is to be delivered;

(d) take the individual, as speedily as is reasonably practicable, to a place for the purpose of delivering him to an immigration officer there;

(e) use reasonable force for the purpose of doing anything under paragraphs (a) to (d).

(8) Despite the generality of subsection (7)—

(a) an individual searched under that subsection may not be required to remove clothing other than an outer coat, a jacket or a glove (but he may be required to open his mouth), and

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(b) an item may not be retained under subsection (7)(b) if it is subject to legal privilege within the meaning the Police Procedures and Criminal Evidence (Jersey) Law 2003.

Section 40: supplemental.

41.—(1) Arrangements under section 40(6)(c) must include provision for the appointment of a States' employee (within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005) to—

(a) monitor the exercise of powers under that section by authorised persons (other than police officers or officers of the Impôts),

(b) inspect from time to time the way in which the powers are being exercised by authorised persons (other than police officers or officers of the Impôts), and

(c) investigate and report to the Minister about any allegation made against an authorised person (other than a police officer or officer of the Impôts) in respect of anything done or not done in the purported exercise of a power under that section.

(2) The authorisation for the purpose of section 40 of a police officer or officer of the Impôts or of a class of police officer or officer of the Impôts—

(a) may be revoked, and

(b) shall have effect, unless revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.

(3) The authorisation of a person other than a police officer or officer of the Impôts for the purpose of section 40—

(a) may be subject to conditions,

(b) may be suspended or revoked by the Minister by notice in writing to the authorised person, and

(c) shall have effect, unless suspended or revoked, for such period as shall be specified (whether by reference to dates or otherwise) in the authorisation.

(4) A class may be specified for the purposes of section 40(3) or (4) by reference to—

(a) named individuals,

(b) the functions being exercised by a person,

(c) the location or circumstances in which a person is exercising functions, or

(d) any other matter.

(5) An individual or article delivered to an immigration officer under section 40 shall be treated as if discovered by the immigration officer on a search under Schedule 2 to the Immigration Act 1971.

(6) A person commits an offence if he—

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- (a) absconds from detention under section 40(7)(c),
 - (b) absconds while being taken to a place under section 40(7)(d) or having been taken to a place in accordance with that paragraph but before being delivered to an immigration officer,
 - (c) obstructs an authorised person in the exercise of a power under section 40, or
 - (d) assaults an authorised person who is exercising a power under section 40.
- (7) But a person does not commit an offence under subsection (6) by doing or failing to do anything in respect of an authorised person who is not readily identifiable—
- (a) as a police officer or officer of the Impôts, or
 - (b) as an authorised person (whether by means of a uniform or badge or otherwise).
- (8) A person guilty of an offence under subsection (6) shall be liable on conviction to—
- (a) imprisonment for a term not exceeding twelve months,
 - (b) a fine not exceeding level 3 on the standard scale, or
 - (c) both.

Claimants and applicants

Procedure.

50.—(1) Rules under section 3 of the Immigration Act 1971—

- (a) may require a specified procedure to be followed in making or pursuing an application or claim (whether or not under those rules or any other enactment),
 - (b) may, in particular, require the use of a specified form and the submission of specified information or documents,
 - (c) may make provision about the manner in which a fee is to be paid, and
 - (d) may make provision for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c).
- (2) In respect of any application or claim in connection with immigration (whether or not under the rules referred to in subsection (1) or any other enactment) the Minister—
- (a) may require the use of a specified form,
 - (b) may require the submission of specified information or documents, and
 - (c) may direct the manner in which a fee is to be paid;

and the rules referred to in subsection (1) may provide for the consequences of failure to comply with a requirement under paragraph (a), (b) or (c).

Miscellaneous

Changes to legislation: There are currently no known outstanding effects for the The Immigration (Jersey) Order 2021, SCHEDULE 7A. (See end of Document for details)

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Refugee Convention: construction.

54.—(1) In the construction and application of Article 1(F)(c) of the Refugee Convention the reference to acts contrary to the purposes and principles of the United Nations shall be taken as including, in particular—

(a) acts of committing, preparing or instigating terrorism (whether or not the acts amount to an actual or inchoate offence), and

(b) acts of encouraging or inducing others to commit, prepare or instigate terrorism (whether or not the acts amount to an actual or inchoate offence).

(2) In this section—

“the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and

“terrorism” has the meaning given by Article 2 of the Terrorism (Jersey) Law 2002.

General

Interpretation.

60. In this Act “the Minister” means the Minister for Home Affairs.

Citation.

64. This Act may be cited as the Immigration, Asylum and Nationality Act 2006.

Changes to legislation:

There are currently no known outstanding effects for the The Immigration (Jersey) Order 2021, SCHEDULE 7A.