

Anti-social Behaviour, Crime and Policing Bill Fact Sheet

Fact sheet: Power to seize invalid travel documents (clause 131 and Schedule 7)

Background

1. A British passport is issued, withdrawn or refused to be issued in accordance with powers under the Royal Prerogative. There are criteria for the refusal or withdrawal of such a passport on public interest grounds. The public interest criteria were updated in a Written Ministerial Statement on 25 April 2013. These criteria provide that a passport may be refused to or withdrawn from a person whose past, present or proposed activities, actual or suspected, are believed by the Home Secretary to be so undesirable that the grant or continued enjoyment of passport facilities is contrary to the public interest.¹ This could include people who seek to travel on a British passport to engage in terrorism or other serious criminal activity abroad which then impacts on the UK – for example, a person who travels abroad to undergo terrorist training and then returns to the UK to carry out an attack.
2. There are no statutory powers for the specific purpose of enforcing the return of a cancelled passport. The measures in Schedule 7 aim to protect our borders and maintain the integrity and security of the British passport. To this end, they provide for two new sets of powers, the focus of which is to ensure that cancelled passports or other invalid documents do not remain in the possession of individuals who may seek to pass them off as valid travel documents. The first set of powers is exercisable at the border, where they will be used against people who may intend either to circumvent immigration controls or evade justice by seeking to travel in and out of the UK on forged or cancelled travel documents. The second set of powers is exercisable elsewhere in the UK, and can be used to seize a passport that has been cancelled on public interest grounds by the Home Secretary.

Powers at the border

3. These powers can be used by Border Force officers (immigration officers and/or designated customs officials) and police officers at the border in order to disrupt attempts to use invalid travel documents to enter or leave Great Britain or Northern Ireland or to travel by air within the UK. Invalid travel documents include those that are cancelled, expired, not issued by the government or authority by which they purport to be issued or that have been altered in an unauthorised way.
4. At present, Border Force officers can examine people entering or leaving the UK for the purpose of determining their immigration status, and have powers of arrest in cases where there is a reasonable suspicion that a person has committed a criminal offence. However, they have no specific power to require a person to hand over a cancelled passport for the purpose of inspecting and seizing it.

¹ <https://www.gov.uk/government/speeches/the-issuing-withdrawal-or-refusal-of-passports>

5. Schedule 7 rectifies this situation by providing for clear powers at the border to:
 - require a person to hand over an invalid document;
 - search a person, as well as his or her possessions and vehicle, for such a document;
 - inspect and retain documents for up to seven days, for their validity to be checked.
6. Failing to hand over a document will be an offence, as will obstructing or frustrating a search. The maximum penalty for each will be six months' imprisonment, or a fine, or both.

“In country” powers

7. The second set of powers is available only to police officers and can be exercised “in country”, or away from border areas. Unlike the border powers, which can be used in respect of any invalid travel document, they relate specifically to passports that have been cancelled on public interest grounds.
8. Schedule 7 to the Bill therefore provides that where there are reasonable grounds to believe a person has a passport which has been cancelled by the Home Secretary on public interest grounds and for which the Home Secretary has issued an authorisation for the passport to be recovered, a police officer may:
 - require a person to hand over travel documents for inspection;
 - search a person, his or her possessions and vehicle, and any premises where the officer is lawfully present to exercise the new powers;
 - inspect and retain any travel document for up to seven days for its validity to be checked.
9. Again, failing to hand over a document will be an offence, as will obstructing or frustrating a search. The maximum penalty for each will be six months' imprisonment, or a fine, or both.

Home Office
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