

Immigration Act 2016

Factsheet – Enforcement Officer Powers (Sections 46-58, 62)

What are we going to do?

- Tackle illegal immigration and minimise its impact on public services, communities and businesses in the UK.
- Facilitate greater collaboration between immigration enforcement, the police and other government agencies.

How are we going to do it?

- Equip immigration officers with enhanced search and seizure powers to collect evidence that will help to secure more civil penalties and removals.
- Work more closely with police by aligning existing warrant powers.

Immigration Minister James Brokenshire said:

“Clamping down on illegal immigration – and the unscrupulous people who seek to exploit it for their own gain – requires many different government departments and agencies to work together.

“Enhancing the powers immigration officers have will not only help them carry out their own work more effectively, but will also be of benefit to other law enforcement agencies who are working hard to tackle crime.”

Background

- Immigration officers currently have powers to examine, arrest and detain illegal migrants for the purpose of removal. They also have search powers to find passports and travel documents to aid removal. But if they find other evidence of use to law enforcement partners they cannot always act.
- The Immigration Act will give immigration officers powers to seize and pass on evidence where there are reasonable grounds to believe it has been obtained through, or is evidence of, a crime and where it is necessary to prevent it being concealed, damaged or destroyed.
- Operation Nexus is an ongoing operational and intelligence partnership between Immigration Enforcement and the police, focusing on foreign criminals. This has led to over 3,600 people being removed from the UK since 2012, including 352 “high harm” criminals.
- The Act creates new powers to allow officers to search for and seize evidence of illegal working (such as payslips or timesheets) or of illegal renting (tenancy agreements and letting paperwork).
- Detained migrants and prisoners facing deportation are subject to routine searches for items which may pose a threat to security, but not for nationality documents. This Act creates new powers to search for and seize these documents which will help speed up removal.

- The Act ensures warrants for immigration officers to enter premises are aligned with police warrants.
- The Act also ensures that public authorities have a clear basis on which to pass on information for immigration purposes and allows immigration officials to obtain nationality documents where they are held by listed authorities.
- The Act provides a power to cancel leave extended by statute where conditions of leave have been breached or the applicant uses or has used deception in seeking leave to remain.

Key Questions and Answers

- **Why do immigration officers need even more powers of entry and search - don't they have enough already?**
Immigration officers currently do not have powers to search for and seize evidence where the intention is to take administrative action, either to remove an illegal migrant from the UK or to serve a civil penalty notice on an employer or landlord. This part of the Act provides additional powers of search and seizure, but no extra entry powers.
- **Surely collecting evidence of a crime is a job for the police. Why are we giving these powers to immigration officers?**
Immigration officers are trained in searches and evidence collection. It is perverse that immigration officers would either have to ignore evidence of a non-immigration crime when they come across it, or risk it being removed or destroyed whilst waiting for the police. We are legislating to close this gap.
- **In directing authorities to pass on nationality documents, won't you be turning them into immigration officers?**
No, we will not require authorities to seize nationality documents from people on our behalf. We will only direct them to pass documents to us where we are seeking to remove an illegal migrant and we believe that a particular authority has a document or copy already in their possession.
- **If these new powers are important, why didn't we include them in the Immigration Act 2014?**
We keep our immigration enforcement powers under regular review, but it is important that we create new powers incrementally to allow one package of new measures to be implemented and embedded before we create more. That is the approach that we have taken here.
- **Why are you adding a power to cancel leave extended by statute?**
It is right that it should be possible to cancel a person's leave where that person breaches the conditions of their leave or uses or has used deception to obtain leave. Leave can be cancelled in this way but, following changes in the Immigration Act 2014, it is currently not possible to cancel leave extended by statute. We are restoring the position to what it was before the Immigration Act 2014 by making it possible to cancel leave extended by statute where conditions are breached or deception is used.