

Immigration Act 2016

Factsheet – Banks (Section 45)

What are we going to do?

- Make it harder for illegal migrants to live and work in the UK by working with banks and building societies to restrict their access to bank accounts.

How will we do it?

- Require banks and building societies to do regular checks on the immigration status of current account holders.
- Ensure action is taken by banks and building societies where existing account holders are known to be unlawfully present in the UK.

Immigration Minister James Brokenshire said:

“We want it to be much harder for illegal immigrants to stay in the UK when they have no right to do so.

“The Immigration Act 2014 restricted access to the NHS, bank accounts and renting property.

“But we are going further with this Bill - ensuring banks and building societies check the immigration status of account holders and then freeze or close accounts belonging to those here illegally.”

Background

- The Immigration Act 2014 prohibited banks and building societies from opening current accounts for individuals who are in the UK unlawfully.
- The new Immigration Act will go further and include measures to prevent known illegal migrants from continuing to operate existing bank accounts. This includes accounts opened before the 2014 Act prohibition came into force and, importantly, accounts which were opened during a period of lawful stay but where the migrant has remained in the UK after their leave to remain in the UK expired.
- Under this Act, banks and building societies will be required to check regularly whether they are operating a current account for a person known by the Home Office to be in the UK illegally.
- If a bank establishes that a customer is an illegal migrant, they will have a duty to report the match and details of any other accounts they provide to the Home Office.
- Measures in the Act will provide the Home Office with a graduated, escalating range of options which could be deployed where a current account holder is confirmed to be unlawfully present. These include:
 - Requiring banks and building societies to close the illegal migrant’s accounts as soon as reasonably practicable. This measure will be used in

routine cases to disrupt the illegal migrant's ability to remain in the UK and to encourage them to leave voluntarily.

- Granting the power for the Home Office to apply to the courts to freeze the current account until the illegal migrant leaves the UK. Use of this power will be targeted towards hard-to-remove cases with significant funds, to leverage co-operation with the removal process.
- Prosecuting individuals for the new criminal offence of working illegally (also created by the Bill) and recovering wages as proceeds of crime. This measure will be used where there is clear evidence that the assets are the proceeds of illegal working and the person meets the criteria for prosecution.
- These measures are intended to make it harder to live a settled life unlawfully in the UK and to incentivise voluntary departure.
- The fraud prevention organisation Cifas estimates that the UK financial service sector has saved £75 million in avoided fraud as a consequence of the Home Office sharing data on known immigration offenders.

Key Questions and Answers

- **Will the individual still be able to access their funds for essential living needs if their account is frozen?**
Yes. The level of funds available to meet reasonable living and legal expenses will be determined by the courts in such cases.
- **Won't these new measures impose a disproportionate burden on small banks and building societies?**
The Government has published a full impact assessment on this measure. We have met representatives of the financial services sector to discuss the likely impact of the measures and have taken steps to ensure they are effective in helping to incentivise voluntary departure without imposing an excessive burden on business.
- **What will happen when one party to a joint account is a 'disqualified person' whilst the other is not?**
Banks will have a duty to close accounts but can delay if they are taking action to recover debt or manage the effect on third parties who would be significantly adversely affected by the closure of an account. Where an illegal migrant can be removed from an account without closure this will also satisfy the duty.
- **If a bank or building society takes all reasonable steps to check the immigration status of existing customers but fails to identify them as illegal migrants, what repercussions are there?**
If the bank has conducted checks as required by the legislation there would be no repercussions. The new requirements in the Act will be supervised by the Financial Conduct Authority.