



Home Office

Authority to Carry Scheme 2015

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AUTHORITY TO CARRY SCHEME 2015

Context

1. The threat from terrorism is real and changing. There is a need to prevent or disrupt the exit from, entry to or return to the UK of individuals who pose a terrorism-related threat, or other threat to the UK or its interests. This includes mitigating the threat of an attack on aircraft operating to the UK (or onward from the UK) or, should the threat change further, an attack on a ship or international train operating to the UK.
2. The Home Secretary has the power to exclude or deport individuals from the UK. For EEA nationals¹, the power to exclude or deport on the grounds of public policy or public security is set out in the Immigration (European Economic Area) Regulations 2006; for third country nationals, the relevant power to deport is contained in the Immigration Act 1971 and the power to exclude is a prerogative power given effect through the immigration rules.
3. The visa regime, applicable to those who need a visa to travel to the UK, can be used as a means of preventing the travel of those who pose a threat to the UK. Visa nationals who do not have a visa and are therefore inadequately documented for travel to the UK should be prevented from travelling by a carrier under the Carriers' Liability arrangements set out in Part 2 of the Immigration and Asylum Act 1999².
4. However, the visa regime is only applicable to those who require a visa to travel to the UK, and despite the existence of an order excluding or deporting a person from the UK, the existence of an UN or EU travel ban or a refusal of leave to enter in advance of travel, an individual who does not require a visa for the UK may still be able to travel. Carriers will not always be aware of an exclusion or deportation order, travel ban or other restriction on a person's travel and so would not be in a position to deny boarding.
5. Primary legislation³ has been passed, replacing previous provision⁴, to allow the Secretary of State to introduce an Authority to Carry (ATC) Scheme requiring a carrier to seek authority from the Secretary of State to carry persons on aircraft, ships or trains which are arriving (or expected to arrive) or leaving (or expected to leave) the UK. This Scheme, the Authority to Carry Scheme 2015, is the first scheme to be made under the Counter-Terrorism and Security Act 2015.

¹ "EEA national" has the meaning given at Regulation 2 of the Immigration (European Economic Area) Regulations 2006.

² Sections 40 to 40B of the Immigration and Asylum Act 1999 provide for a charge to be imposed on the owner of a ship or aircraft where a person requiring leave to enter arrives in the UK and fails to produce a valid "immigration document" which satisfactorily establishes identity and nationality or citizenship, and if the individual requires a visa, a visa of the required kind. Legislation on carrier liability for detention and removal costs is contained in Paragraphs 8 to 16 and 19 of Schedule 2 to the 1971 Immigration Act.

³ Sections 22-23, Counter-Terrorism and Security Act 2015

⁴ Section 124, Nationality, Immigration and Asylum Act 2002

6. This Scheme requires a carrier which has been served with a written requirement (under paragraph 27 and 27B of Schedule 2 to the Immigration Act 1971 or under section 32 of the Immigration, Asylum and Nationality Act 2006) to provide specified passenger, crew and service information in a specified manner and form to:
 - a) Seek authority to carry a person;
 - b) Provide specified information by a specified time before travel;
 - c) Provide and receive information in a specified manner and form (such as by means of an interactive messaging system); and
 - d) Not carry a person they have been refused authority to carry.
7. If a carrier breaches a requirement of this Scheme, the carrier may be liable to a financial penalty.
8. The civil penalty regime for failure to comply with this Scheme is set out in The Authority to Carry Scheme (Civil Penalties) Regulations 2015.

Purpose

- 9 The purpose of this Scheme is to prevent certain individuals from travelling to or from the UK when that is necessary in the public interest.

Classes of carrier to which the Scheme applies

10. This Scheme applies to all carriers operating to and from the UK that have been required by the Secretary of State or an immigration officer under paragraph 27 and 27B of Schedule 2 to the Immigration Act 1971 or by a police officer under section 32 of the Immigration, Asylum and Nationality Act 2006, to submit information comprising passenger or crew information.
11. Where information has been required from a carrier in respect of some of its routes only, this Scheme will only apply to that carrier in respect of those routes.
12. The Scheme also applies to carriers operating to and from the UK which provide passenger and crew information to the Secretary of State other than as a consequence of being served a written requirement. These carriers are also required to make a request for authority to carry the passengers and crew for whom they have provided information voluntarily. They are not required to provide specified information by a specified time, or to provide the information in a specified manner and form, but the provision of information will be treated as a request for authority to carry and they may be liable to a financial penalty if they carry a person whom they were refused authority to carry.

Classes of passenger or crew to whom the Scheme applies

13. This Scheme applies to all passengers and crew travelling, or expected to travel, to or from the UK on a class of carrier to which this scheme applies, except for carriers providing information voluntarily. Where passenger and crew information is provided voluntarily, this Scheme applies to all passengers and crew in respect of whom information is provided.

Persons in respect of whom authority to carry may be refused

14. Authority to carry to the UK may be refused in respect of the following persons:
- a) Individuals who are assessed by the Secretary of State to pose a direct threat to the security of an aircraft, ship or train or persons or property on board;
 - b) Individuals who are the subject of a Temporary Exclusion Order made under Chapter 2 of Part 1 of the Counter-Terrorism and Security Act 2015;
 - c) Individuals listed by the United Nations or European Union as being subject to travel restrictions (to the extent the individual is seeking to travel in breach of those restrictions);
 - d) EEA nationals or accompanying/joining third country national family members of EEA nationals who are, or in relation to whom the Secretary of State is in the process of making, the subject of an exclusion or deportation order under the Immigration (European Economic Area) Regulations 2006;
 - e) Third country nationals who have been excluded from the UK by the Secretary of State, or in relation to whom the Secretary of State is in the process of making an exclusion decision, under rule 320(6) of the immigration rules;
 - f) Third country nationals who are the subject of a deportation order or whom the Secretary of State is in the process of making the subject of a deportation order;
 - g) Third country nationals who have been or would be refused a visa because of national security, and;
 - h) Individuals who are using an invalid travel document that is, or appears to be, a passport or other document which has been lost, stolen or cancelled, has expired, was not issued by the government or authority by which it purports to have been issued or has undergone an unauthorised alteration.
15. Authority to carry from the UK may be refused in respect of the following persons:
- a) Individuals who pose a direct threat to the security of any aircraft, ship or train or persons or property on board;
 - b) Individuals listed by the United Nations or European Union as being subject to travel restrictions (to the extent the individual is seeking to travel in breach of those restrictions);
 - c) Children⁵ whom the Secretary of State has reasonable grounds to believe are intending to leave the UK for the purposes of involvement in terrorism-related activity;
 - d) Individuals whose travel documents are being retained under powers exercised under Schedule 1 of the Counter-Terrorism and Security Act 2015;
 - e) Individuals who are the subject of post-custodial licence conditions preventing travel from the UK following a conviction for a terrorism-related offence;

⁵ Children means persons under the age of eighteen years.

- f) Individuals who are the subject of a travel measure preventing their travel outside the UK under the Terrorism Prevention and Investigation Measures Act 2011, and
- g) Individuals in respect of whom the Secretary of State has cancelled a passport issued to the person or has not issued a passport on the basis that the person to whom the passport was issued or who applied for the passport has or may have been, or will or may become, involved in activities so undesirable that it is contrary to the public interest for the person to have access to passport facilities.

Process

- 16. Where a carrier is required to provide passenger, crew or service information by the Secretary of State or an immigration officer under paragraph 27 or 27B of Schedule 2 to the Immigration Act 1971 or by a police officer under section 32 of the Immigration, Asylum and Nationality Act 2006, the carrier will be required to provide this information to the Government's Border System in advance of departure in a specified form and manner and at a specified times. The submission of this information will constitute a request by the carrier for authority to carry passengers and crew.
- 17. Carriers providing passenger, crew and service data voluntarily are also required to seek authority to carry in respect of those individuals about whom they provide information. The submission of this information will constitute a request for authority to carry passengers and crew.
- 18. Carriers will be informed by the Home Office if they do not have authority to carry any person. Those persons should not be carried to or from the UK, as appropriate.
- 19. A carrier required under paragraph 27 or 27B of Schedule 2 to the Immigration Act 1971 or under section 32 of the Immigration, Asylum and Nationality Act 2006 to send information in an electronic form compatible with the Government's Border System must seek authority to carry using such a system. A carrier required under any of these powers to be able to receive communications from the recipient of the data must have a system in place to receive notification of the grant or refusal of authority to carry.
- 20. For carriers which do not have or are not required to install a compatible information system (and this will include those yet to be issued with a written requirement to provide passenger or crew information under the Immigration Act 1971 or the Immigration, Asylum and Nationality Act 2006 which provide information voluntarily), the carrier will be notified by telephone of the details of any individual in respect of whom authority to carry is refused. The initial message will be relayed in English and be followed up with a phone call and an email in English confirming details of the refusal of authority to carry the individual concerned. Carriers are responsible for providing contact details and ensuring that they are kept up to date. Refusal of authority to carry may also be communicated by other means in appropriate circumstances.
- 21. If, due to technical failure, the carrier is unable to send the required information, and all other options for providing the information have been exhausted the Home Office will liaise with the carrier to discuss appropriate next steps. The carrier should be aware though that if it does not seek authority to carry in accordance with this Scheme, it will be liable to a financial penalty, unless the carrier can establish that it has a reasonable excuse for avoiding liability.
- 22. Any person in respect of whom the carrier is refused authority to carry will be informed of that decision by the carrier. The carrier will be provided with a notice that includes text to be provided to the individual to explain why they have been denied boarding. This will

include a contact telephone and email address should the individual wish to make further enquiries.

Liability

23. A carrier may be liable to a civil penalty if it is a carrier to whom the Scheme applies and it has breached (i) a requirement to seek authority to carry a person, (ii) a requirement to provide specified information by a specified time, (iii) a requirement to provide specified information in a specified manner and form, (iv) a requirement to be able to receive communications in a specified manner and form, or (v) a requirement not to carry a person when authority to carry has been refused. The level of such a penalty will be an amount not exceeding £50,000 for each breach. The penalty regime is set out in The Authority to Carry Scheme (Civil Penalties) Regulations 2015.
24. A penalty will apply in respect of:
 - a) Every person on the aircraft, ship or train for whom authority to carry was not sought as required.
 - b) Every person carried to or from the UK whom the carrier was denied authority to carry.
25. A penalty will apply to a carrier required to seek authority to carry in respect of passenger and crew information provided voluntarily, but only where it carries a person in respect of whom authority to carry to or from the UK was refused.
26. A carrier will have a defence to the payment of a penalty where the carrier shows that it has a reasonable excuse for any liability for a penalty under the Regulations.
27. This Scheme does not affect any other obligations on carriers. Carriers will continue to be responsible for detention and removal costs should any of their passengers be refused leave to enter the UK on arrival. Carriers will also be liable to a financial penalty under carriers' liability legislation when an inadequately documented person is carried to the UK.
28. This Scheme will come into force on the same day as The Authority to Carry Scheme (Civil Penalties) Regulations 2015.

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