

Immigration Act 2016

Duty to supply information to Secretary of State

Section 55 of the Immigration Act 2016 commences on 12 July 2016

This inserts a new **section 20A into the Immigration and Asylum Act 1999** which places a **duty** on bodies listed in new **Schedule A1** to that Act (inserted by schedule 9 to the Immigration Act 2016) to supply nationality documents to the Secretary of State where directed to do so, subject to certain safeguards.

It ensures that the Secretary of State can require the provision of nationality documents which are lawfully in the possession of specified public authorities.

In using the duty, Home Office immigration officials acting on behalf of the Secretary of State may direct the supply of documents **only** where they suspect that an individual to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts and that the document may facilitate the removal.

This does **not** require the listed bodies to collect data or information on behalf of the Secretary of State, or to seize documents from people, as it only applies where the Secretary of State has reasonable grounds for believing that a document is already lawfully in their possession – that is to say, that they hold the document for the purposes of their own functions.

A **nationality document** is defined as a document which establishes a person's identity, nationality or citizenship, or indicate the place from which they embarked for the United Kingdom to where they are proposing to travel.

A nationality document can be retained for as long as it is suspected that the individual to whom it relates is liable to removal from the UK and whilst that document may assist with that individual's removal.

Nothing in this section overrides any existing restriction on the disclosure of information however imposed (e.g. the Data Protection Act 1998, Regulation of Investigatory Powers Act 2000.)

SCHEDULE A1
PERSONS TO WHOM SECTION 20A APPLIES

Law enforcement

- 1 The chief officer of police for a police area in England and Wales.
- 2 The chief constable of the Police Service of Scotland.
- 3 The Chief Constable of the Police Service of Northern Ireland.
- 4 The Chief Constable of the British Transport Police Force.
- 5 A Port Police Force established under an order made under section 14 of the Harbours Act 1964.
- 6 The Port Police Force established under Part 10 of the Port of London Act 1968.
- 7 A Port Police Force established under section 79 of the Harbours, Docks and Piers Clauses Act 1847.
- 8 The National Crime Agency.

Local government

- 9 A county council or district council in England.
- 10 A London borough council.
- 11 The Greater London Authority.
- 12 The Common Council of the City of London in its capacity as a local authority.
- 13 The Council of the Isles of Scilly.
- 14 A county council or a county borough council in Wales.
- 15 A council constituted under section 2 of the Local Government etc (Scotland) Act 1994.
- 16 A district council in Northern Ireland.

Regulatory bodies

- 17 The Gangmasters and Labour Abuse Authority.
- 18 The Security Industry Authority.

Health bodies

- 19 An NHS trust established under section 25 of the National Health Service Act 2006 or under section 18 of the National Health Service (Wales) Act 2006.
- 20 An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006.
- 21 A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.
- 22 A National Health Service Trust established under section 12A of the National Health Service (Scotland) Act 1978.
- 23 A Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (SI 1991/194 (NI 1)).

Education bodies

- 24 The proprietor of a school or 16 to 19 Academy within the meaning of the Education Act 1996 (see sections 4 and 579(1) of that Act).
- 25 The governing body of an institution within the further education sector within the meaning of the Further and Higher Education Act 1992 (see sections 90 and 91 of that Act).
- 26 The governing body of a qualifying institution within the meaning of Part 2 of the Higher Education Act 2004 (see sections 11 and 21 of that Act).
- 27 The proprietor or governing body of a school within the meaning of the Education (Scotland) Act 1980 (see section 135(1) of that Act).
- 28 The proprietor or governing body of a post-16 education body within the meaning of the Further and Higher Education (Scotland) Act 2005 (see section 35 of that Act).
- 29 The proprietor of a school within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (SI 1986/594 (NI 3)) (see Article 2(2) of that Order).
- 30 The governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997 (SI 1997/1772 (NI 15)) (see Article 2(2) of that Order).
- 31 The governing body of a higher education institution as defined by Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993 (SI 1993/2810 (NI 12)).

Registration officials

- 32 The Registrar General for England and Wales.
- 33 A superintendent registrar of births, deaths and marriages.
- 34 A registrar of births, deaths and marriages.
- 35 A civil partnership registrar within the meaning of Chapter 1 of Part 2 of the Civil Partnership Act 2004 (see section 29 of that Act).
- 36 The Registrar General for Scotland.
- 37 A district registrar within the meaning of section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.
- 38 A senior registrar within the meaning of that section.
- 39 An assistant registrar within the meaning of that section.
- 40 The Registrar General for Northern Ireland.
- 41 A person appointed under Article 31(1) or (3) of the Marriage (Northern Ireland) Order 2003 (SI 2003/413 (NI 3)).
- 42 A person appointed under section 152(1) or (3) of the Civil Partnership Act 2004.

Other bodies: Northern Ireland

- 43 The Northern Ireland Housing Executive.

Key Questions and Answers

➤ **Why do you require other authorities to provide nationality documents?**

While illegal migrants may hide their documents from an immigration officer, they often provide them to other partner agencies in order to access other services. This power provides that listed bodies must supply nationality documents to the Secretary of State when directed to do so.

➤ **Will the listed bodies be required to seize documents?**

No, the direction is only for documents which are already lawfully in the possession of the listed bodies.

➤ **Won't these powers allow you to make random/ speculative requests for documents?**

No, the Secretary of State must have reasonable grounds to believe that the public authority is in possession of a nationality document before exercising the power.

➤ **Does this affect medical information?**

No, we do not want confidential medical information about a person's health. If an individual has medical reasons why they should not be removed from the UK then it is for them to disclose that information to immigration officials. We will only contact relevant health bodies for nationality documents as a last resort.

➤ **What if the document is required by the listed body for its own purposes?**

If the original document is required to be retained by the particular body listed in the schedule for its own functions, then a copy must be supplied to the Secretary of State instead.

Home Office

July 2016