



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 9

#### MISCELLANEOUS AND GENERAL

#### CHAPTER 1

#### MISCELLANEOUS

#### *Requirements to confirm nationality*

#### **160 Requirement to produce nationality document**

In the UK Borders Act 2007, after section 46 (seizure of nationality documents) insert—

#### **“46A Requirement to produce nationality document**

- (1) This section applies where—
  - (a) an individual has been arrested on suspicion of the commission of an offence, and
  - (b) the individual is to be released after arrest (whether or not on bail)—
    - (i) before a decision is taken on whether the individual should be charged with an offence, or
    - (ii) after being charged with an offence.
- (2) Before the individual is released an immigration officer or a constable may give the individual a notice requiring the production of a nationality document not later than 72 hours after the individual is released.
- (3) A notice may be given under subsection (2) only if the immigration officer or constable giving it suspects that the individual may not be a British citizen.

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*Changes to legislation: Policing and Crime Act 2017, Section 160 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) A notice under subsection (2) must be given in writing.
- (5) The notice must include statements that—
  - (a) the individual to whom it is given must produce the nationality document not later than 72 hours after the individual is released, and
  - (b) an offence may be committed if an individual fails to comply with a notice given under this section.
- (6) The notice must also set out—
  - (a) the person to whom the document must be produced, and
  - (b) the means by which the document must be produced.
- (7) In this section, and in sections 46B and 46C—
  - “nationality document” means a passport relating to the individual or, if there is no passport relating to the individual, one or more documents that enable the individual's nationality or citizenship to be established;
  - “passport” means—
    - (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
    - (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or
    - (c) a document that can be used (in some or all circumstances) instead of a passport.

#### **46B Retention of nationality document etc**

- (1) An immigration officer or constable may retain a nationality document produced in response to a notice under section 46A (2) while the immigration officer or constable suspects that—
  - (a) the 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
  - (b) retention of the document may facilitate the individual's removal.
- (2) Section 28I of the Immigration Act 1971 (seized material: access and copying) has effect in relation to a nationality document produced by an individual in response to a notice under section 46A (2) and retained by an immigration officer as if the nationality document had been seized when the individual had custody or control of it.
- (3) Section 21 of the Police and Criminal Evidence Act 1984 or Article 23 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (seized material: access and copying) has effect in relation to a nationality document produced by an individual in response to a notice under section 46A (2) and retained by a constable in England and Wales or Northern Ireland as if the nationality document had been seized when the individual had custody or control of it.

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#### **46C Offence of failing to produce nationality document**

- (1) A person commits an offence if, without reasonable excuse, the person fails to comply with a notice given in accordance with section 46A.
- (2) The fact that a person deliberately destroyed or disposed of a nationality document is not a reasonable excuse for the purposes of subsection (1) unless the destruction or disposal was—
  - (a) for a reasonable cause, or
  - (b) beyond the control of the person charged with the offence.
- (3) In subsection (2)(a) “reasonable cause” does not include the purpose of—
  - (a) delaying the handling or resolution of a claim or application or the taking of a decision,
  - (b) increasing the chances of success of a claim or application, or
  - (c) complying with instructions given by a person who offers advice about, or facilitates, immigration into the United Kingdom, unless in the circumstances of the case it is unreasonable to expect non-compliance with the instructions or advice.
- (4) A person who is guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction in England and Wales, to either or both of the following—
    - (i) imprisonment for a term not exceeding 51 weeks (or 6 months if the offence was committed before the commencement of section 281(5) of the Criminal Justice Act 2003);
    - (ii) a fine;
  - (b) on summary conviction in Scotland, to either or both of the following—
    - (i) imprisonment for a term not exceeding 12 months;
    - (ii) a fine not exceeding level 5 on the standard scale;
  - (c) on summary conviction in Northern Ireland, to either or both of the following—
    - (i) imprisonment for a term not exceeding 6 months;
    - (ii) a fine not exceeding level 5 on the standard scale.”

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#### **Commencement Information**

**II** S. 160 in force for specified purposes at Royal Assent, see s. 183

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)