



# 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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*Status: This is the original version (as it was originally enacted).*

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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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*Status: This is the original version (as it was originally enacted).*

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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.”