



Immigration, Asylum and Nationality Act 2006

2006 CHAPTER 13

Information

40 Searches: contracting out

- (1) An authorised person may, in accordance with arrangements made under this section, search a searchable ship, aircraft, vehicle or other thing for the purpose of satisfying himself whether there are individuals whom an immigration officer might wish to examine under paragraph 2 of Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry: administrative provisions).
- (2) For the purposes of subsection (1)—
 - (a) “authorised” means authorised for the purpose of this section by the Secretary of State, and
 - (b) a ship, aircraft, vehicle or other thing is “searchable” if an immigration officer could search it under paragraph 1(5) of that Schedule.
- (3) The Secretary of State may authorise a specified class of constable for the purpose of this section.
- (4) The Secretary of State may, with the consent of the Commissioners for Her Majesty's Revenue and Customs, authorise a specified class of officers of Revenue and Customs for the purpose of this section.
- (5) The Secretary of State may authorise a person other than a constable or officer of Revenue and Customs for the purpose of this section only if—
 - (a) the person applies to be authorised, and
 - (b) the Secretary of State thinks that the person is—
 - (i) fit and proper for the purpose, and
 - (ii) suitably trained.
- (6) The Secretary of State—

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- (a) may make arrangements for the exercise by authorised constables of the powers under subsection (1),
 - (b) may make arrangements with the Commissioners for Her Majesty's Revenue and Customs for the exercise by authorised officers of Revenue and Customs of the powers under subsection (1), and
 - (c) may make arrangements with one or more persons for the exercise by authorised persons other than constables and officers of Revenue and Customs of the power under subsection (1).
- (7) Where in the course of a search under this section an authorised person discovers an individual whom he thinks an immigration officer might wish to examine under paragraph 2 of that Schedule, the authorised person may—
- (a) search the individual for the purpose of discovering whether he has with him anything of a kind that might be used—
 - (i) by him to cause physical harm to himself or another,
 - (ii) by him to assist his escape from detention, or
 - (iii) to establish information about his identity, nationality or citizenship or about his journey;
 - (b) retain, and as soon as is reasonably practicable deliver to an immigration officer, anything of a kind described in paragraph (a) found on a search under that paragraph;
 - (c) detain the individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of an immigration officer to whom the individual is to be delivered;
 - (d) take the individual, as speedily as is reasonably practicable, to a place for the purpose of delivering him to an immigration officer there;
 - (e) use reasonable force for the purpose of doing anything under paragraphs (a) to (d).
- (8) Despite the generality of subsection (7)—
- (a) an individual searched under that subsection may not be required to remove clothing other than an outer coat, a jacket or a glove (but he may be required to open his mouth), and
 - (b) an item may not be retained under subsection (7)(b) if it is subject to legal privilege—
 - (i) in relation to a search carried out in England and Wales, within the meaning of the Police and Criminal Evidence Act 1984 (c. 60),
 - (ii) in relation to a search carried out in Scotland, within the meaning of section 412 of the Proceeds of Crime Act 2002 (c. 29), and
 - (iii) in relation to a search carried out in Northern Ireland, within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

Modifications etc. (not altering text)

- C1 S. 40 extended by SI 2003/2818, art. 11(1)(g) (as inserted (E.W.S.) (18.11.2006) by [Nationality, Immigration and Asylum Act 2002 \(Juxtaposed Controls\) \(Amendment\) Order 2006 \(S.I. 2006/2908\)](#), arts. 1, 2(a))

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Commencement Information

II S. 40 in force at 31.8.2006 by [S.I. 2006/2226](#), art. 3, [Sch. 1](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act excluded by [2024 c. 8 s. 2\(5\)\(a\)](#)⁵

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 32(5)(d) and word inserted by [2006 c. 48 s. 14\(3\)](#)
- s. 33(5)(d) and word inserted by [2006 c. 48 s. 14\(3\)](#)
- s. 38(5A) inserted by [2006 c. 48 s. 14\(5\)](#)