

*Status: This version of this schedule contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Illegal Migration Act 2023, Schedule 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

Section 15

#### ELECTRONIC DEVICES ETC

PROSPECTIVE

#### *Introduction*

- 1 In this Schedule “relevant person” means a person who—
- (a) is liable to be detained under paragraph 16(2C) of Schedule 2 to the Immigration Act 1971 (illegal migrants), and
  - (b) entered or arrived in the United Kingdom as mentioned in section 2(2) of this Act on or after the day this Schedule came into force.

#### **Commencement Information**

- II** Sch. 2 para. 1 not in force at Royal Assent, see [s. 68\(1\)](#)

- 2 (1) In this Schedule—
- “appropriate adult”, in relation to a person, means—
- (a) a person appearing to an immigration officer to be the person’s parent or guardian,
  - (b) if the person is in the care of a relevant authority or voluntary organisation, a person representing that authority or organisation,
  - (c) a registered social worker, or
  - (d) if no person within a preceding paragraph is available, any responsible person aged 18 or over who is not an immigration officer or a person employed for, or engaged on, purposes relating to a relevant function;
- “container” has the meaning given by section 1 of the Customs and Excise Management Act 1979;
- “intimate search” has the meaning given by section 28H of the Immigration Act 1971;
- “item subject to legal privilege” has the meaning given by section 65(1) of the Criminal Justice and Police Act 2001;
- “local authority”—
- (a) in relation to England, means a county council, a district council for an area for which there is no county council, a London borough council, the Common Council of the City of London in its capacity as a local authority or the Council of the Isles of Scilly;
  - (b) in relation to Wales, means a county council or a county borough council;

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(c) in relation to Scotland, means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

“registered social worker” means a person registered as a social worker in a register maintained by—

- (a) Social Work England,
- (b) Social Care Wales,
- (c) the Scottish Social Services Council, or
- (d) the Northern Ireland Social Care Council;

“relevant article” means anything which appears to an immigration officer to be a thing on which relevant information is or may be stored in electronic form;

“relevant authority”—

- (a) in relation to England and Wales and Scotland, means a local authority;
- (b) in relation to Northern Ireland, means an authority within the meaning of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)) (see Article 2(2) of that Order);

“relevant function” means—

- (a) any function of an immigration officer, or
- (b) any function of the Secretary of State in relation to immigration, asylum or nationality;

“relevant information” means any information which appears to an immigration officer or the Secretary of State to be relevant to a relevant function;

“ship” has the meaning given by section 28Q of the Immigration Act 1971;

“vehicle” includes—

- (a) any ship, train (including any locomotive and railway rolling stock of any description), aircraft or bicycle, and
- (b) anything designed or adapted for towing by a vehicle;

“voluntary organisation”—

- (a) in relation to England and Wales, has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);
- (b) in relation to Scotland, has the same meaning as in Part 2 of the Children (Scotland) Act 1995 (see section 93(1) of that Act);
- (c) in relation to Northern Ireland, has the same meaning as in the Children (Northern Ireland) Order 1995 (see Article 74(1) of that Order).

- (2) In paragraph (d) of the definition of “appropriate adult”, the reference to purposes relating to a relevant function does not include the purpose of performing the functions of an “appropriate adult” for the purposes of this Schedule.

#### Commencement Information

**I2** Sch. 2 para. 2 not in force at Royal Assent, see [s. 68\(1\)](#)

#### Commencement Information

**I1** Sch. 2 para. 1 not in force at Royal Assent, see [s. 68\(1\)](#)

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**I2** Sch. 2 para. 2 not in force at Royal Assent, see [s. 68\(1\)](#)

PROSPECTIVE

*Power to search relevant persons*

- 3 (1) An immigration officer may search a relevant person for any relevant article, if the officer has reasonable grounds to suspect that the relevant person is in possession of a relevant article.
- (2) The power of an immigration officer under this paragraph to search a person—
- (a) authorises the search of their mouth;
  - (b) authorises the officer to require the person to remove an outer coat, jacket or glove (but no other clothing) in public;
  - (c) if the conditions in [sub-paragraph \(3\)](#) are met, authorises the officer to require the person to remove any clothing;
  - (d) does not authorise the carrying out of an intimate search.
- (3) The conditions referred to in [sub-paragraph \(2\)\(c\)](#) are—
- (a) that the search is not carried out in public;
  - (b) that the person carrying out the search is of the same sex as the person searched;
  - (c) that the only persons present when the search is carried out are immigration officers, any person present at the request of the person searched, and any person present as a result of [paragraph \(e\)](#);
  - (d) that, subject to any exceptions made at the request of the person searched, the persons present when the search is carried out are of the same sex as the person searched;
  - (e) that if it appears to the person carrying out the search that the person searched is under the age of 18, an appropriate adult is present when the search is carried out.

**Commencement Information**

**I3** Sch. 2 para. 3 not in force at Royal Assent, see [s. 68\(1\)](#)

PROSPECTIVE

*Power to search vehicles and containers*

- 4 (1) An immigration officer may search a vehicle or container listed in [sub-paragraph \(2\)](#) for any relevant article, if the officer has reasonable grounds to suspect that a relevant article that is or has been in the possession of a relevant person is in the vehicle.
- (2) The vehicles and containers referred to in [sub-paragraph \(1\)](#) are—
- (a) a vehicle or container in which the relevant person was when encountered by an immigration officer or constable;

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- (b) a vehicle or container which an immigration officer has reasonable grounds to suspect the relevant person was in at the time of their arrival in the United Kingdom;
- (c) a ship or container which an immigration officer has reasonable grounds to suspect the relevant person was in at any time during a journey which ended with their arrival in the United Kingdom.

#### Commencement Information

**I4** Sch. 2 para. 4 not in force at Royal Assent, see [s. 68\(1\)](#)

PROSPECTIVE

#### *Power to search premises*

- 5
- (1) This paragraph applies to premises in which a relevant person was when, or immediately before being, encountered by an immigration officer or a constable.
  - (2) An immigration officer may search the premises for any relevant article if—
    - (a) the officer is lawfully on the premises, and
    - (b) the officer has reasonable grounds to suspect that a relevant article that is or has been in the possession of the relevant person is on the premises.

#### Commencement Information

**I5** Sch. 2 para. 5 not in force at Royal Assent, see [s. 68\(1\)](#)

PROSPECTIVE

#### *Power to search property*

- 6
- (1) This paragraph applies to property which an immigration officer has reasonable grounds to suspect has been in the possession of a relevant person.
  - (2) An immigration officer may search the property for any relevant article if the officer has reasonable grounds to suspect that the property includes a relevant article.

#### Commencement Information

**I6** Sch. 2 para. 6 not in force at Royal Assent, see [s. 68\(1\)](#)

PROSPECTIVE

#### *Power of seizure*

- 7 An immigration officer may seize any relevant article that—

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- (a) is found on a search under this Schedule, or
- (b) appears to the officer to be, or have been, in the possession of a relevant person.

#### Commencement Information

**I7** Sch. 2 para. 7 not in force at Royal Assent, see [s. 68\(1\)](#)

#### *Power of retention*

- 8 (1) A relevant article seized under [paragraph 7](#)—
- (a) may be retained by an immigration officer or the Secretary of State, for so long as the officer or Secretary of State considers its retention necessary for a purpose relating to a relevant function;
  - (b) must, subject to any provision made under [sub-paragraph \(2\)](#), be returned when it ceases to be retained under this paragraph.
- (2) The Secretary of State may by regulations make, in relation to a relevant article retained under [sub-paragraph \(1\)](#)—
- (a) provision applying (with or without modifications) section 49 of the Immigration Act 2016 (duty to pass on certain seized items), or
  - (b) provision corresponding, or similar, to the provision made by that section.

#### Commencement Information

**I8** Sch. 2 para. 8 not in force at Royal Assent, see [s. 68\(1\)](#)

**I9** [Sch. 2 para. 8](#) in force at 28.9.2023 for specified purposes by [S.I. 2023/989, reg. 2\(b\)\(i\)](#)

PROSPECTIVE

#### *Power to access, copy and use information stored on relevant article*

- 9 The Secretary of State or an immigration officer may—
- (a) access and examine any information stored on a relevant article that is retained under [paragraph 8](#);
  - (b) copy and retain any relevant information that is stored on the relevant article;
  - (c) use any information retained under [paragraph \(b\)](#) for any purpose relating to a relevant function.

#### Commencement Information

**I10** Sch. 2 para. 9 not in force at Royal Assent, see [s. 68\(1\)](#)

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*Relevant articles containing items subject to legal privilege*

- 10 (1) The Secretary of State may by regulations make provision about relevant articles that contain (or may contain) items subject to legal privilege.
- (2) The provision that may be made includes in particular—
- (a) provision modifying this Schedule as it applies in relation to such relevant articles;
  - (b) provision applying (with or without modifications) any provision made by or under Part 2 of the Criminal Justice and Police Act 2001 (powers of seizure);
  - (c) provision corresponding, or similar, to any provision made by or under that Part.

**Commencement Information**

**I11** Sch. 2 para. 10 not in force at Royal Assent, see [s. 68\(1\)](#)

**I12** [Sch. 2 para. 10](#) in force at 28.9.2023 for specified purposes by [S.I. 2023/989](#), [reg. 2\(b\)\(ii\)](#)

*Extension of powers to other persons*

- 11 (1) The Secretary of State may by regulations provide—
- (a) that references in this Schedule to an immigration officer include a person of a description specified in the regulations;
  - (b) that a person of a description so specified may, if necessary, use reasonable force in the exercise of any function conferred by virtue of the regulations.
- (2) The descriptions of person that may be specified in the regulations include persons designated by the Secretary of State, in accordance with the regulations.

If they do so, the regulations must contain such safeguards relating to the designation of persons as the Secretary of State considers appropriate.

**Commencement Information**

**I13** [Sch. 2 para. 11](#) in force at 28.9.2023 for specified purposes by [S.I. 2023/989](#), [reg. 2\(b\)\(iii\)](#)

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