**Don’t let an upset officer spoil your holiday**

Those of you travelling out of Northern Ireland and /or travelling to GB this summer should take a moment to read this.

There are about 245 million passenger movements every year in the UK. On average each day 5-7 people are examined for more than a hour.

The police in Northern Ireland or in GB have extensive powers given to them under the Terrorism Act 2000 schedule 7. The powers apply not only to travel by air or boat but also to the Enterprise train service.

The Act provides specific powers to stop, question, search and if necessary, detain you. The procedure is referred to as an examination. The person who carries out the examination is known as an examining officer. Your property can be seized, you can be strip searched and your fingerprints and other intimate data can be acquired by the state.

The power to stop, question, search and, if necessary, detain you **does not require any suspicion or prior authority.**

There is no requirement for police officers to be in uniform to exercise these powers. They will usually, but not always, wear civilian clothes.

 **You need not be cautioned for the purposes of an examination.**

You are under a legal duty to provide any documents or information that the examining officer requests. You may be asked to:

* Give any information in your possession which the examining officer requests;
* Provide the examining officer with either a valid passport that includes a photograph or another document which satisfactorily establishes your identity;
* Declare whether you have with you documents of a kind specified by the examining officer;
* Give the examining officer on request any document which you have with you and which is of a kind specified by the officer.

Information requested by an examining officer may include passwords or Personal Identification Numbers (PINs) to electronic data devices you have.

Examining officers must give you a reasonable opportunity to produce the required documents.

**If you fail to comply with any of these requirements, you commit an offence under paragraph 18(1) of Schedule 7 of the Terrorism Act 2000.**

There is no requirement for examining officers to make a record of such an encounter if it does not progress beyond initial screening questions. Initial screening questions may include, but not be limited to, those that seek to establish your identity, destination , details of your method of travel and the purpose of your travel.

If you are being examined and **you have not been detained** youmay make the following **requests:**

* To have a friend, relative or someone known to you, or likely to take an interest in your welfare, informed that they you are being questioned and of where the examination is taking place;
* To consult in person, or in writing or on the telephone, privately with a solicitor. Examination will not be delayed pending the arrival of a solicitor. This request can be made at any time while being questioned.
* The person being examined, however, **does not have a right** to have someone informed or to contact a solicitor while being examined; this will be at the discretion of the examining officer.

Police conducting an examination should:

* Explain to you that the examination is part of counter-terrorism policing at the port/UK border and does not necessarily mean that they are suspected of being involved
in terrorism.
* Tell you that the reason for the examination is to determine whether or not you are involved in the commission, preparation or instigation of acts of terrorism.
* Explain their role.
* If not in uniform, have force identification readily available.
* Either verbally or in writing, explain that you are being examined under Schedule 7 of the Terrorism Act 2000.
* Either verbally or in writing, explain that the examining officer has the power to detain you should you refuse to cooperate and try to leave.

The maximum time permitted for examinations and detentions under Schedule 7 of the Terrorism Act 2000 is six hours. The examining officer must keep the length of the examination to the minimum required.

No suspicion or prior authority is required for a search at a port or border area for the purpose of determining involvement in the commission, preparation or instigation of acts of terrorism. The examining officer may:

* Search you.
* Search anything you have with you (including a vehicle) or which belongs to you and which is on a ship, aircraft or international train.
* Search anything that you have with you or which belongs to you and which the examining officer reasonably believes has been, or is about to be, on a ship, aircraft or international train (this includes a vehicle). It also includes property that has travelled with you but which may not be immediately with you , eg, luggage yet to be collected from a luggage carousel.
* Search a ship, aircraft or international train for anything that you had with you.

Unlike many other police powers, Schedule 7 of the Terrorism Act 2000 places no restriction on the removal of headgear or footwear in public. Searches of people should take place out of the view of the public.

All searches of baggage and belongings must be undertaken in a respectful and careful manner.

An examining officer may use reasonable force to carry out the search. They may also authorise another person to search on their behalf. Once authorised, that other person can, if necessary, use reasonable force to search.

Requirements under the Police and Criminal Evidence Act 1984 Code A, regarding the recording and the issue of search forms to a person being searched, do not apply to searches carried out under Schedule 7 of the Terrorism Act 2000. Consequently, there is no requirement for any Notice of Search to be provided for the search of that person, their vehicle or belongings, or any vessel, aircraft or international train.

In most cases property will be returned to you at the conclusion of the examination. An examining officer may, however, seize and detain anything which is given to them during the examination or which is found during the search:

* For a period not exceeding seven days beginning with the day on which the property was seized for the purpose of examination;
* Where it is believed it may be required as evidence in any criminal proceedings;
* Where it may be needed in connection with a decision by the Secretary of State on whether to make a deportation order under the Immigration Act 1971.

Where a Schedule 7 examination search does not reveal evidence that you have been concerned in the commission, preparation or instigation of acts of terrorism, but does result in examining officers recovering items related to other crime, or forming reasonable suspicion of other offences, then the examining officer may pass this to local police.

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* For a period not exceeding seven days beginning with the day on which the property was seized for the purpose of examination;
* Where it is believed it may be required as evidence in any criminal proceedings;
* Where it may be needed in connection with a decision by the Secretary of State on whether to make a deportation order under the Immigration Act 1971.

A person being examined and **who has been detained** has the following **rights:**

* To have a friend, relative or someone known to them, or likely to take an interest in their welfare, informed that they are being questioned and of where the examination is taking place;
* To consult in person, or in writing or on the telephone, privately with a solicitor. Examination will not be delayed pending the arrival of a solicitor. This request can be made at any time while being questioned.
* The requests for these rights may only be delayed if the person has been detained at a police station and the delay has been authorised by an officer of at least the rank of superintendent.

Whether or not you have been detained, the examining officer is responsible for facilitating the request for legal advice.

The option of detention is available during an examination. Detention in this context is not the same as arrest. Most examinations are not likely to require that you be detained. Detention may be appropriate if the person being examined becomes uncooperative and insists on trying to leave. Detention is an option to compel the person to remain with the examining officer at the port or border area, and allows reasonable force to be used if necessary, for the officer to complete the examination.

Force cannot be used in order to compel you to answer any questions posed.

Detention may also be necessary if, for any reason, the examining officer cannot complete the examination at a port and it is necessary to take you to another place. Where you are detained under Schedule 7, you may be taken by an examining officer, or a person acting under an examining officer’s authority, to and from any place where your attendance is required for the purpose of:

• Their examination under that Schedule;
• Establishing their nationality or citizenship;
• Making arrangements for their admission to a country or territory

outside the United Kingdom.

A Notice of Detention (TACT 2) should be served by the examining officer on you if you have been detained. This document sets out the rights of the person detained. The examining officer should explain its contents to the person being examined.

You should be reminded that wilful failure to comply with any duty imposed by Schedule 7 is a criminal offence under paragraph 18(1) of Schedule 7 of the Act.

You will be deemed to be in legal custody throughout the period of your detention.

 If you have been taken to a police station to continue your examination, further questioning must be audio recorded .

No combination of examination and detention can exceed six hours.

Strip searches involve the removal of more than outer clothing and should not be routinely undertaken. They may only be conducted if you have been detained. They must not include an intimate search of body orifices (other than the mouth). Strip searches may be conducted at a port; there must be reasonable grounds to suspect you have something concealed that may be evidence that you are a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism, or where it is suspected that you are in possession of an article that may have been used for such purposes.

Although not bound by the provisions of the Police and Criminal Evidence Act 1984 Code A, the procedures that should be followed for a strip search are similar to the requirements set out in that code.

When conducting strip searches, officers should comply with the Human Rights Act 1998, in particular:

• Article 3, Prohibition of torture, inhumane or degrading treatment;

• Article 8, Right to respect for private life;
• Article 14, Prohibition of discrimination.

The examining officer conducting a strip search should be the same gender as you.

The search must take place in an area where the person being searched cannot be seen by anyone who does not need to be present (including officers not involved in the search), nor by a member of the opposite sex (except an appropriate adult whose presence has been specifically requested by the person being searched).

Except in urgent cases, where there is a risk of serious harm to the person being searched or to others, and whenever a strip search involves the exposure of intimate parts of the body, there should be at least two people present – other you.

People who are strip searched should not normally be required to remove all their clothes at the same time. For example, a man should be allowed to put on his shirt before removing his trousers and a woman should be allowed to put on her blouse and upper garments before further clothing is removed.

A strip search should be conducted as quickly as possible and the person allowed to dress as soon as the procedure is complete.

If the search is of a child, an adult with learning difficulties or a person or with mental health problems, one of the people present should be an appropriate adult.

A search of a child may take place in the absence of the appropriate adult only if the child signifies, in the presence of the appropriate adult, that they would prefer the search to be conducted in the appropriate adult’s absence and the appropriate adult agrees. A record should be made of the child’s decision and this must be signed by the appropriate adult. The presence of more than two officers and an appropriate adult should only be permitted in the most exceptional of circumstances.

If the situation is **urgent** and there is a **risk of serious harm** a strip search of a child can take place without an appropriate adult being present.

Once you have been detained, an ‘authorised person’, as
defined by Schedule 8 section 2(2), may take any steps that are reasonably necessary for photographing, measuring or identifying you, but this does not provide a power to take fingerprints or samples. Authorised person includes examining officers. However, **only an examining officer who is a constable** has the power to take fingerprints and samples for the purpose of a Schedule 7 examination.

The taking of fingerprints and samples may be necessary in order to establish if the person being examined is, or has been, concerned in the commission, preparation or instigation of acts of terrorism. **Fingerprints and samples cannot be taken unless you have been detained. However, a person cannot be detained solely for the taking of fingerprints and/or samples.** The detention must be for the purpose of exercising the power to question the person in order to establish any involvement in the commission, preparation or instigation of acts of terrorism. In furtherance of an examination, the examining officer may deem it necessary to take fingerprints and/or samples from the person detained.

Fingerprints and samples may be taken at a port provided you give your written consent. If you refuse to give such written consent and fingerprints and non- intimate samples are required, the detained person must be taken to a police station and a police officer of at least the rank of superintendent must authorise the taking of fingerprints and non- intimate samples.

The taking of intimate samples must be done at a police station with your consent and authorisation by a police officer of at least the rank of superintendent.

Other than a sample of urine, intimate samples may only be taken by a registered medical practitioner who acts on the authority of a constable. A dental impression should only be taken by a registered dentist who also acts on the authority of a constable.