

Subsidiary Legislation made under s. 5(1)(g) and 67.

IMMIGRATION (PASSENGER DATA) RULES 2014

(LN. 2014/179)

Commencement **30.10.2014**

Amending enactments	Relevant current provisions	Commencement date
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Immigration, Asylum and Refugee

IMMIGRATION (PASSENGER DATA) RULES 2014

**Subsidiary
2014/179**

In exercise of the powers conferred on it by section 5(1)(g) and 67 of the Immigration, Asylum and Refugee Act and of all other enabling powers, the Government has made the following Rules—

Title and commencement.

1. These Rules may be cited as the Immigration (Passenger Data) Rules 2014 and come into operation on the day of publication.

Interpretation.

2.(1) In these Rules—

“authorised person” has the same meaning as in regulation 2 of the Civil Aviation (Air Navigation) Regulations 2009;

“Collector of Customs” has the same meaning as in the Imports and Exports Act 1986;

“Commissioner of Police” means the person appointed as such under section 32 of the Police Act 2006;

“Director” has the same meaning as in section 2 of the Civil Aviation Act 2009;

“immigration purposes” includes—

- (a) the administration of immigration control under the Act, and
- (b) the prevention, detection, investigation and prosecution of criminal offences under the Act;

“Principal Immigration Officer” means the person appointed as such under section 4 of the Act; and

“relevant information” means the information listed in rule 3.(2).

(2) Other terms used in these Rules shall be construed consistently with equivalent terms used in Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data.

Data transmission.

3.(1) The Principal Immigration Officer may require a carrier to transmit to him electronically, relevant information concerning the passengers being carried, or about to be carried, by that carrier into or out of Gibraltar.

- (2) The relevant information referred to in subrule (1) shall comprise—
- (a) the number and type of travel document used;
 - (b) nationality;
 - (c) full names;
 - (d) the date of birth;
 - (e) the code of transport;
 - (f) the departure and arrival time of the transportation;
 - (g) the total number of passengers carried on that transport; and
 - (h) the initial point of embarkation.
- (3) A requirement under subrule (1)—
- (a) must be in writing;
 - (b) must state the date on which it ceases to have effect; and
 - (c) continues in force until that date, (unless withdrawn earlier by written notice by the Principal Immigration Officer).
- (4) The relevant information must be transmitted to the Principal Immigration Officer by the end of passenger check-in.
- (5) Where a carrier notifies the Principal Immigration Officer that it is impossible for the relevant information to be transmitted electronically, the Principal Immigration Officer may agree to accept the transmission of that information in another way, so long as the information is received by the Principal Immigration Officer in accordance with subrule (4).
- (6) A carrier which fails, without reasonable excuse, to comply with a requirement of the Principal Immigration Officer to transmit relevant information to him on time or which transmits incomplete or false information is guilty of an offence.

Retention of data.

- 4.(1) The Principal Immigration Officer must store the relevant information he receives pursuant to rule 3 on a temporary file and, subject to subrules (2) and (3), delete it within 24 hours after transmission.

(2) The Principal Immigration Officer may store the relevant information he receives pursuant to rule 3 where it appears to him likely to be of use for the purpose of exercising statutory functions relating to immigration purposes subject, however, to the Data Protection Act 2004.

(3) The Principal Immigration Officer may disclose any of the relevant information he receives pursuant to rule 3 to—

- (a) the Chief Executive Officer of the Borders and Coastguard Agency;
- (b) the Collector of Customs;
- (c) the Commissioner of Police;
- (d) any other person or body which is engaged in law enforcement,

to the extent that the information is to be used for law enforcement purposes subject, however, to the Data Protection Act 2004.

Deletion of data.

5. A carrier must delete, within 24 hours of the arrival of the means of transportation referred to in rule 3.(1), the relevant information it has collected and transmitted to the Principal Immigration Officer under rule 3.

Information for passengers.

6. In relation to information it has processed for the purposes of rule 3 a carrier must inform its passengers in accordance with the provisions laid down in section 10 of the Data Protection Act 2004, and the information referred to in section 10.(2)(d) of that Act shall be regarded as necessary for the purposes of that section.

Sanctions for offences.

7.(1) A person guilty of an offence under these Rules shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(2) Where an offence under this rule has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any—

- (a) director,
- (b) manager,

- (c) secretary,
- (d) other similar officer of the body corporate, or
- (e) any person who was purporting to act in any such capacity,

that person as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, subrule (2) shall apply in relation to the acts and defaults of a member in connection with that member's functions of management as if that member were a director of the body corporate.

(4) Where a limited partnership is guilty of an offence under these Rules and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Other sanctions.

8. In any case where the Principal Immigration Officer informs the Director or an authorised person of a very serious case where a carrier has failed to transmit or delete data, or transmits incomplete or false data, or has failed to provide information as required by rules 3, 5 or 6 he may exercise his powers under the Civil Aviation Act to direct that carrier, or the commander of an aircraft that is being operated by that carrier, that he is not to permit that aircraft to make any flight of such description as may be specified in the direction, until the direction is revoked by the Director or by an authorised person, and the Director or authorised person may take such steps as may be necessary to detain the aircraft.

Carrier's Liability.

9. Compliance with these Rules shall be without prejudice to any obligations under the Carriers' Liability Act, 2002.