

Immigration Acts 2014 and 2016 – Implementation update

This report provides a short update on the implementation of provisions contained in the Immigration Acts of 2014 and 2016 as they apply to Scotland. Both Acts have varying and potentially significant impacts on local authorities, their communities and their employees.

Duty on banks and building societies to check immigration status and close accounts

Measures requiring banks to check the immigration status of existing account holders came into force on 30 October 2017. The new checks require banks to run the identity of every current account holder against a Home Office supplied database created by anti-fraud organisation Cifas. There has been a requirement for banks and building societies to check applications for new current accounts against this list since the 2014 Act.

If a person is identified as being disqualified from holding an account, then, under the Immigration Act 2014, the bank or building society must close their accounts (or restrict access where the person is a signatory or identified beneficiary, or the account is jointly held with a non-disqualified person). A person may be disqualified if they are in the UK and need leave to enter or remain (under the Immigration Act 1971) and don't have leave to be here. This could be because they:

- never had leave to enter or remain (because they entered the UK illegally)
- had leave, but stayed after it expired or was revoked
- are an European Economic Area national subject to deportation action who has exhausted all rights of appeal

The Home Office also has the power under the Immigration Act 2014 to apply for a freezing order in relation to current accounts for disqualified persons.

This may result in increased demand for local authority services from people who become destitute as they are no longer able to access their funds and have bank accounts closed resulting in them being unable to pay their rent, bills or purchase necessities such as food.

Additionally, there is a concern that, due to errors in the system, some people who are lawfully in the UK will also have their accounts incorrectly frozen or closed. A [report by the Independent Chief Inspector of Borders and Immigration](#) in 2016 found that of the data sampled from the database, 10% of people on it were incorrectly listed as '*disqualified persons*'. This may affect local authority employees as well as people within the community.

Where a person who has had their bank account closed wishes to query it, they must contact the [UK Visas and Immigration complaints hub](#) to re-apply to open a current account or re-open an existing account. As this service aims to respond within 20 working days to 95% of cases it is possible that those who are victims of database error may go some time before their accounts are reinstated which may result in hardship or even destitution. This could lead to an increase in demand for local authority services.

Right to Rent

The 2014 Act introduced a requirement for landlords, letting agents and householders in England make sure prospective tenants or occupants have a right to rent. This is done by a check to their immigration status. Failure to do so can result in criminal penalties. The 2016 Act increased the penalties to landlords, letting agents and householders and also increased their powers of eviction. These provisions can be extended to Scotland by the UK Government.

There is currently no implementation date for extending the right to rent restrictions of either the 2014 or 2016 Acts to Scotland. Extension to Scotland would require secondary legislation and parliamentary time. COSLA is aware of a Home Office desire to extend the legislation, to meet the Conservative Party's manifesto commitment. However, so far, the required legislative process has not been initiated or scheduled. COSLA remains in regular contact with the Home Office on developments in this area.

Changes to Asylum Support

Sections 66 and 68 of the 2016 Act would introduce significant changes to the support for destitute adults and families who are applying, or have previously applied and been unsuccessful, for asylum in the UK when they are commenced.

There is currently no commencement date for implementing the changes to asylum support in the 2016 Act. COSLA remains in regular contact with the Home Office on developments in this area.

Extension of National Transfer Scheme for Unaccompanied Asylum Seeking Children

In December 2017 the UK Government started the process of laying the secondary legislation to extend the provisions regarding the National Transfer Scheme of unaccompanied asylum seeking children to Scotland (sections 69-72 of the Immigration Act 2016). This is affirmative legislation and requires debating time in both Parliamentary Houses. There is no date for commencement yet, but it is anticipated in the first quarter of 2018.

There will be a paper to the COSLA Leaders meeting in January 2018 on this issue. The scheme remains voluntary at this time and local authorities will be able to choose whether or not they are able to participate.

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