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24. Fingerprinting/ Taking fingerprints/ Powers

Section 141 of the 1999 Act, which came into force on 11 December 2000 gives power to take fingerprints in immigration cases from the following specified categories: -

- ◆ Any person who, on being required to do so by an IO on his arrival in the UK, fails to produce a valid passport with photograph or some other document satisfactorily establishing his identity and nationality and citizenship. [Group A]
- ◆ any person who has been refused leave to enter the UK but granted temporary admission under paragraph 21 of Schedule 2 to the 1971 Act if an IO reasonably suspects he might break any condition imposed on him relating to residence as to reporting to the police or an IO. [Group B]
- ◆ Any person in respect of whom a relevant immigration decision has been made. "Relevant immigration decision" means a decision of the kind mentioned in section 82(2) (g), (h), (l), (j),

(k) of the Nationality, Immigration and Asylum Act 2002[Group C] Fingerprints may be taken from the time C is given notice of the decision until the time the decision ceases to have effect (or, in the case of a deportation order, it is revoked or otherwise ceases to have effect). This was amended by section 15 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.

- ◆ where an individual has been arrested under paragraph 17 of Schedule 2 to the Immigration Act 1971; [Group D]
- ◆ where an individual has made a claim for asylum [Group E]
- ◆ Where an individual is a dependant of someone who falls into one of the above categories. [Group F]
- ◆ IAN Act 2006 – Enhances existing fingerprint provisions under Para 16 of Schedule 2 to the 1971 act.

24.1. EURODAC

The EURODAC Regulation was adopted on 11 December 2000 to establish a computerised central database of fingerprint images, as well as the electronic means for EU Member States to transmit fingerprint images and to receive results from the Central Unit database based in Luxembourg. EURODAC enables the fingerprints of asylum applicants and certain other third country nationals over the age of 14, principally those apprehended in connection with crossing the external frontier of the EU, to be compared solely in order to support the application of the Dublin Convention and its eventual successor, Dublin II. The system commenced on 15 January 2003.

EURODAC identifies:

- ◆ Those over the age of 14 who have applied for asylum in a Member State after 15 January 2003
- ◆ Certain categories of those who enter illegally or are found on the EU territory unlawfully after 15 January 2003. These are included because they may also be subject to the provisions of Dublin if they later claim asylum.

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Comprehensive checks and quick responses from EURODAC (max.24 hours) will result in a greater proportion of UK applicants being identified and returned to other EU states under the provisions of the Dublin Convention. The possible match or “hit” identified by the EURODAC Central Unit will be transmitted automatically to the Immigration Fingerprinting Bureau (IFB) who will manually verify that it is a match. The results of the Eurodac searches are then automatically transmitted via e-mail to the location code where the fingerprints were taken and to Third Country Unit (TCU). It will be TCU’s responsibility to inform the office where the application was made, obtain the file and take appropriate action under the Dublin mechanisms leading to the applicant’s transfer (refer to the chapter on Third Country cases).

Should IFB be required to scan on any sets of fingerprints, IFB1 should be fully completed with the individual’s correct demographic data/ reason for fingerprinting/and correct Eurodoc category code (should a Eurodac search be required).

The appropriate UK EURODAC category **must** be clearly marked on the fingerprint form (IFB1) as follows:

UK EURODAC Category	UK Definition
Category 1 (Mandatory)	Asylum (main app. and depts) 14+ years old
Category 2 (Mandatory)	Apprehended in connection with irregular crossing of UK border from outside EU territory. Non-asylum 14+ years old
Category 3 (Discretionary)	Encountered illegally present in UK. Non-asylum 14+ years old

EURODAC categories 2&3 apply even when fingerprints are taken from someone who has not claimed asylum.

NB EURODAC data cannot be used for potential prosecution action against an applicant who is a EURODAC match. The data can only be used for the sole purpose of supporting the application of the Dublin convention and its eventual successor, Dublin II. **Under no circumstances should IO’s carry out checks against Eurodac on behalf of Police.**

24.2. Use of ‘QuickCheck’ Units

Fingerprints checking on 'QuickCheck' units should only be done when individuals fall under one of the above categories or under paragraph 18(2) of Schedule 2 to the 1971 Act (**see also:** 24) unless they consent to undergo a check. The 'QuickCheck' units do not record fingerprints; the templates of the fingerprints are simply transmitted to the Immigration and Asylum Fingerprint System (IAFS) database for searching and then they are automatically deleted. A fingerprint expert does NOT verify the results of these searches.

24.3. Notification Form IS 86

Every individual to be fingerprinted under section 141 of the 1999 Act is to be served with form IS86 notifying the individual that he is to be fingerprinted, explaining why he is to be fingerprinted and also explaining when the fingerprints will be destroyed.

24.3.1. Fingerprint Record – (Form IFB1)

When a set of fingerprints are taken all sections of the IFB1 form should be fully completed. If the set is captured electronically on a 'Livescan' workstation all demographic details are to be fully completed before electronically transmitting to the IFB. If the set of fingerprints are taken by the ink and the paper method they should be transmitted via a 'Cardscan' workstation where available. The original set of fingerprints (IFB1) should be sent within 24 hours to the IFB. No sets of fingerprints (IFB1) should be retained on file. All original IFB1 forms are to be submitted to the IFB within 24 hours of taking.

24.4. Persons authorised to take fingerprints

Under Section 141(5) of the 1999 Act those authorised to take fingerprints are: a constable; an IO; a prison officer; an officer of the Secretary of State authorised for the purpose; or a person who is employed by detention centre contractors.

24.5. Fingerprinting Juveniles and Dependants

Fingerprints may not be taken from a person between the ages of 5 and 16 unless in the presence of an adult (18 years or older) who is the child's parent, guardian or person who, for the time being takes responsibility for the child. (Section 141(3) of the 1999 Act refers). In the latter

case the adult may not be an officer of the Secretary of State, i.e., a Home Office employee, a police officer, prison officer, a person employed under a detention centre contract or a person authorised by the Secretary of State to take fingerprints. The decision to do so must be confirmed by a CIO (or other suitably designated person depending on the type of 'authorised person') (section 141 (12) of the 1999 Act). CIOs should only refuse to authorise the taking of fingerprints in exceptional circumstances, identified below, and should refer to an Inspector grade or above if refusing authority.

- ◆ Where there is a serious health risk to either the child or a member of staff.
- ◆ If the child is distressed.

Where a deferral of fingerprinting is made, arrangements should be made to fingerprint the child as soon as possible thereafter.

In accordance with section 141(13), where it is reasonably believed that a person is over 16 he should be treated accordingly and there is nothing to prevent fingerprints being taken if he falls into one of the categories specified in section 141(7) of the 1999 Act.

Section 141(14) of the 1999 Act [Group F] defines a person as a dependant of another if:

- ◆ he is that person's spouse or child under the age of 18; and
- ◆ he does not have a right of abode in the United Kingdom or ILE/ILR

Where it is felt that force is necessary to take the fingerprints of a minor refer to 26.4.5 before doing so.

24.5. Attendance for fingerprinting

Normally, those subject to fingerprinting should be fingerprinted immediately so that fingerprint results are known when considering service of papers and detention. However, under section 142 of the 1999 Act they may be required to attend at a specified place for fingerprinting. (Note also that the person must be given a period of at least 7 days in which to attend) Where this is necessary form IS 96 (or equivalent) should be used. Those who fail to comply may be arrested

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without warrant by a constable or IO (unless the requirement has ceased to have effect). Before such a person is released he may be fingerprinted. He may be moved to a place where his fingerprints can be taken.

24.6. Destruction of fingerprints

Section 143 of the 1999 Act (as amended) requires that if they have not already been destroyed (see below), fingerprints must be destroyed before the end of 10 years beginning with the day on which they were taken.

If it is proved that an individual is a British Citizen or a Commonwealth citizen who has the right of abode in the United Kingdom as a result of section 2(1)(b) of the 1971 Act fingerprints must be destroyed as soon as reasonably practicable.

Fingerprints taken from a dependant must be destroyed when fingerprints taken from the person whose dependant he is, have to be destroyed.

It is the responsibility of IFB to destroy fingerprint records within the specified time period or upon notification.

24.8. Procedures for fingerprinting

Take fingerprints as soon as possible after it is established that a person and any dependants is/are liable to be fingerprinted.

Fingerprints may be taken in enforcement offices, which have the correct facilities, or in a police station (this has been agreed with the police). IO's must not take fingerprints for immigration purposes on police live-scan units as they are not stored on the IAFS database they are only searched. A separate set of fingerprints will need to be taken on an IFB1 for immigration purposes and processed as detailed below.

- ◆ tell the applicant that he is to be fingerprinted and explain that it is normal procedure;
- ◆ where prints are being taken under section 141 of the 1999 Act give him form IS86 which explains his liability to be fingerprinted;
- ◆ Carry out a check using a 'Quick-Check' portable unit. This will only check whether someone's fingerprints are already in the collection. Take careful note of the unique identification number

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given at the time the check is initiated and with the result and the result details (please note that this is an automated check and not validated by a fingerprinting expert);

- ◆ Fully complete the written details on Form IFB1 (do not use any other form) including reason for taking fingerprints and if they are required for a Eurodac search and the Eurodac category;
- ◆ Check fingerprint quality and that IFB1 have been completed correctly. If fingerprint quality is inadequate destroy and take another set;
- ◆ do not make or keep copies of the IFB1;
- ◆ transmit the set of fingerprints to the IFB via a 'Cardscan' workstation if available and send the IFB1 to the IFB. If there is no access to a 'Cardscan' workstation send the form by IDS or 1st class recorded delivery within 24 hours to:

The Immigration Fingerprint Bureau (IFB),
5th Floor, Lunar House,
Wellesley Road. Croydon, CR9 2BY

- ◆ Note the port file and HO file, if possible, that fingerprints have been taken including the name of the officer who took the prints and the 'Quick-Check' result, including unique identification number and/or IFB barcode number.

24.9. 'Quick-Check' confirmation/elimination checks

An individual's consent is required before checks are made on a 'Quick-Check' unit to confirm a person's claim (e.g. that he has already applied for asylum and been fingerprinted) or eliminate him from an enquiry (e.g. where an absconder whose prints are on record is being sought).

24.10. Taking fingerprints under paragraph 18(2) of Schedule 2 to the 1971 Act

If it is considered necessary to take a set of prints for identification purposes, where a person is detained under paragraph 16 of Schedule 2 to the 1971 Act*, fingerprints can be taken under paragraph 18(2) of Schedule 2 to the 1971 Act (see paragraph 18 (2A)) for identification purposes either on form IFB1 or on a 'Quick Check' unit. Local files should be minuted to the effect that a

search has taken place and the result. IFB1s should be sent to IFB for searching with a clear indication that they have been taken under paragraph 18 (2) of Schedule 2 to the 1971 Act so that they can be processed appropriately and deleted when necessary.

*Paragraph 16(2) of Schedule 2 to the 1971 Act, as substituted by section 140 of the 1999 Act, and amended by the 2002 Act states that if there are reasonable grounds for suspecting that a person is someone in respect of whom directions may be given under paragraphs 8 to 10 or 12 to 14 of Schedule 2 to the 1971 Act, he may be detained pending (a) a decision whether or not to give such directions, (b) his removal in pursuance of such directions. Such persons can be fingerprinted for identification purposes under paragraph 18 (2) of Schedule 2 to the 1971 Act.

24.11. Fingerprinting detained persons

Section 141 of the 1999 Act came into force on 11 December 2000 (see chapter 25). It extended the power to fingerprint those subject to immigration control contained in the 1971 Act and replaced the provisions for fingerprinting asylum seekers set out in the now repealed section 3 of the Asylum and Immigration Appeals Act 1993. It may still be necessary to use powers contained in the 1971 Act in order to take fingerprints for identification purposes.

Paragraph 18(2) of Schedule 2 to the 1971 Act states: "Where a person is detained under paragraph 16, any immigration officer, constable or prison officer, or any person authorised by the Secretary of State, may take all such steps as may be reasonably necessary for photographing, measuring or otherwise identifying him." Paragraph 18(2A) makes clear that this includes the power to take fingerprints.

Paragraph 2(4) of Schedule 3 to the 1971 Act states: "In relation to detention under sub-paragraph (2) or (3)... paragraphs 17 and 18 of Schedule 2 to this Act shall apply as they apply in relation to detention under paragraph 16 of that Schedule."

A person who is detained under paragraph 16(2) Schedule 2 of the 1971 Act can have his fingerprints taken under paragraph 18(2) Schedule 2 of that Act either on form IFB1 or on a quick check unit. **See also:** quick check units.

Therefore, illegal entrants, persons liable to administrative removal and seaman deserters (and those reasonably suspected to be), and those who have been served a notice of intention to deport or where a DO is in force, **if they are detained in accordance with the 1971 Act**, (this only applies to designated places of detention, not enforcement offices), may be fingerprinted with a view to identification (i.e. to check against existing records, not to create a new record for future reference).

Where a person is fingerprinted under either the powers in the 1971 Act or the powers in the 1999 Act, you are required to comply with the relevant parts of the PACE Codes of Practice provisions on fingerprinting as modified by the Immigration (PACE Codes of Practice No 2 and Amendment) Direction 2000.

Although there is provision to take prints by force, IOs must not exercise this power unless they have been specifically trained. Non-designated IOs must rely on the police to take fingerprints where the use of force is necessary, but only with the consent of a police Inspector.

24.11.1 Requesting checks with other agencies

All requests for fingerprint checks with other agencies e.g. Police; Interpol, other immigration services etc. are to be made through IFB. IO's with access to Cardscan can, subject to meeting the criteria, request that fingerprints are also searched against the police database (IDENT1). The request must be authorised by a CIO. If the search results in a positive match against the police database, IFB will fax the result to the officer requesting on a dedicated fax number. On receipt of a PNC200 request form the PNC report will be faxed out by the IFB to a PNC authorised officer on a dedicated fax number. You will be notified of "No Match" results.

24.12. Use of force when taking fingerprints

Section 146 of the 1999 Act states that an IO exercising any power conferred on him by either the 1971 Act or the 1999 Act may, if necessary, use reasonable force. However, IOs must not exercise their power to use reasonable force unless they have been trained in its use. Only those IOs designated to exercise the existing power of arrest and the powers of entry, search and seizure are suitably trained. Non-designated IOs must rely on the police to take fingerprints where the use of force is necessary to take fingerprints or where it has been assessed that there is a realistic threat of violent behaviour.

24.12.1. Use of force when taking fingerprints of a minor

A person exercising the power to take fingerprints may use reasonable force (see above). There are no specific limits based on the age of the applicant when applying these provisions. However officers should not need to use more than normal force to take the fingerprints of a minor save in the most exceptional of cases.

Normal force means taking the child's hand and using only enough force to press the fingers on to the ink pad and then on to the paper to take clear prints. On no account should force beyond this be used without authority from at least Inspector level. Inspectors should authorise force, which goes beyond normal force only in clear cases of attempted fraud/abuse of the immigration control. Staff should avoid physical contact with the applicants other than in the actual process of obtaining the impression of the fingerprint. Consideration should also be given to a deferral before authorising more than normal force.

24.13. Requests for Expert Statements for Prosecution of Fraudulent Applicants

Fingerprint experts will prepare and forward to the relevant crime intelligence team expert witness statements for all prosecution cases. The request should be made direct to IFB via fax giving full details of both identities used by the applicant.

NB Fingerprint Experts will only prepare statements if they have hard copies of the IFB1 form for both identities. It is therefore imperative that all IFB1 forms are sent to IFB as soon as possible. In the case of an urgent request for a statement where the IFB1 form is still at the port/enforcement office, please courier the form to IFB.

24.14. Fingerprints for Documentation Purposes

Where fingerprints are required for Emergency Travel Documents, it is the responsibility of the LEO to arrange for a set to be taken from the subject. In those cases where this is not possible, the IFB may be able to provide a certified copy of the fingerprints held on their database. Any request to IFB should be faxed to;

and must include:

- ◆ the name of the applicant

- ◆ the port/local reference number
- ◆ IFB barcode [if known]
- ◆ the applicants date of birth
- ◆ full details of the case

A copy of the prints will then be sent directly to Travel Documents and NOT to the requesting port.

24.15. Fingerprinting of Corpses

Under **no** circumstances should IS officers agree to fingerprint corpses using the IS quick Check equipment or lend the equipment for police officers to use themselves.

Police officers who require prints to be checked against the Immigration and Asylum Fingerprint System (IAFS) database should take them themselves and submit them to the IFB. They must contact IFB before they submit the fingerprints.

Any queries regarding fingerprinting should be made to the IFB.

If the relevant casework section decides that asylum is to be refused, they will provide a Reasons for Refusal Letter (RFRL) stating the reasons for the decision. Asylum Decision Service Unit will now serve refusal of asylum letters (RFRLs) by post in illegal entry, administrative removal and seaman deserter cases, where an undated IS151B* is also on the Home Office file. In order for this to happen, the enforcement office needs to send a signed, but undated IS151B to ACU1 when issuing a SEF or having conducted an asylum interview. ADSU will send out the RFRL, date the IS151B and post it along with a Notice of Appeal (IS87 (United Kingdom)) and relevant one-stop (if not already served) to the refused applicant.

Simultaneous with service, ADSU will send a memorandum to the enforcement office dealing advising them when asylum has been refused and the address to which the papers have been sent. The relevant casework section will also arrange for ACID to be updated. To ensure proper service of papers officers must notify the relevant casework section of changes of address and of any change of enforcement office dealing until the decision on asylum is made.

If asylum or Humanitarian Protection (HP) or Discretionary Leave (DL) is granted, the IS papers will not be served and the immigration office dealing will be notified.

If there is no undated IS151B on the Home Office file, the RFRL will be sent to the enforcement office dealing to serve on the offender (**see also**: documentation and consular access).

*the equivalent form for seaman deserters is an IS85D.

24.16 Photographing

All asylum applicants and their dependants must be photographed irrespective of any documentation held. Four photographs should be taken and attached to the inside front cover of the file before temporary release is granted. Consideration should also be given to taking photographs for documentation purposes with the applicant's consent.

24.17 ARC (Application Registration Card)

The ARC replaces the Standard Acknowledgement Letter (SAL) and should be issued to every applicant and any dependant aged 5 years or over (except in repeat asylum cases). In those locations where it is not possible to fabricate an ARC, a SAL should be issued irrespective of whether the applicant is eligible for NASS support under the NEAT provisions.

24.18 SCF/ SEF cover letter

This should be issued, with an information document, in all cases where a SC SEF (Self Completion SEF) has been issued. It is therefore not appropriate for Repeat Applicant cases, Dublin, Oakington or detained cases. The applicant's name and date of return (10 working days) of the SC SEF should be entered.

The following are not working days:

- ◆ a Saturday or Sunday
- ◆ A Bank Holiday
- ◆ Christmas Day
- ◆ 27th to 31st December
- ◆ Good Friday.

