

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

Immigration (Passenger Data) Rules 2014

LN.214/179

Commencement **30.10.2014**

Amending enactments	Relevant current provisions	Commencement date
LN. 2018/124	r. 6	25.5.2018
2019/211	r. 6	1.1.2021
2026/202	r. 2, 3A-3B, 5-6, 8	15.7.2026

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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;

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

“Schengen Authority” means the authority designated or otherwise competent under the law of the Member State referred to in Article 37 and Annex 7(5), respectively, of the TGEU;

“TGEU” means the Agreement in Respect of Gibraltar Between the European Union and the European Atomic Energy Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part.

(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.

Data Transmission for the purposes of Article 37 of the TGEU.

3A.(1) A carrier responsible for a flight originating outside the Schengen area and arriving in Gibraltar, shall transfer a copy of the relevant information sent to the Principal Immigration Officer under rule 3(1) to the Schengen Authority simultaneously and without delay.

(2) A transfer carried out under subrule (1) must be-

(a) carried out electronically;

(b) transmitted to the Schengen Authority by the end of passenger check-in.

(3) A carrier shall notify the Principal Immigration Officer of any transfers made under this rule.

(4) A carrier which fails, without reasonable excuse, to comply with a requirement under this rule to transmit a copy of relevant information sent under rule 3 to the Schengen Authority, on time or which transmits incomplete or false information is guilty of an offence.

Private Flights.

3B.(1) The captain of a private flight arriving from or departing to a third country shall, transmit to the Principal Immigration Officer and the Schengen Authority a general declaration.

(2) The general declaration referred to in subrule (1) shall be transmitted simultaneously and prior to take-off.

(3) The general declaration transmitted under this rule shall include-

(a) a flight plan complying with Annex 2 to the Convention on International Civil Aviation; and

(b) information relating to the identity of all passengers on board.

(4) A flight plan included in accordance with subrule (3)(a) shall include-

- (a) the aircraft identification;
 - (b) the flight rules and the type of flight;
 - (c) the number of aircraft, the aircraft type, and the wake turbulence category;
 - (d) details of the aircraft's communication, navigation, and surveillance equipment and capabilities;
 - (e) the aerodrome of departure;
 - (f) the estimated off-block time;
 - (g) the planned cruising speed;
 - (h) the cruising level;
 - (i) the route to be followed;
 - (j) the aerodrome of destination and the total estimated elapsed time;
 - (k) any alternate aerodrome or aerodromes;
 - (l) fuel endurance; and
 - (m) the total number of persons on board; and
 - (n) details of emergency and survival equipment carried on board.
- (5) Where a flight plan has been submitted during flight, the item of information referred to in-
- (a) subrule (4)(e), shall be an indication of the location from which supplementary information concerning the flight may be obtained, if required; and
 - (b) subrule (4)(f), shall be the time over the first point of the route to which the flight plan relates.
- (6) A transmission under subrule (1) shall be carried out electronically.

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 or the Schengen Authority under rule 3A or 3B.

Information for passengers.

6. In relation to information it has processed for the purposes of rule 3, 3A, 3B a carrier must inform its passengers in accordance with the provisions laid down in the Gibraltar GDPR.

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—

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- (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 rule 3, 3A, 3B, 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.