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Dear Mr Bolwell,

Thank you for your email of the 15 December which has been passed to me to reply.

There is no statute governing the granting, refusal, and use of British passports. Passports are issued at the discretion of the Secretary of State under the Royal Prerogative, which is an executive power that does not require legislation. The Identity and Passport Service (IPS) and Foreign and Commonwealth Office (FCO), depending whether it is in the UK or abroad, are responsible for carrying out the direction of the Secretary of State for all matters relating to passports for British nationals.

Although there is no legal requirement for a British citizen to hold a passport when travelling from or entering the United Kingdom (apart from the Republic of Ireland), the Immigration authorities both in this country and overseas need to be satisfied as to the identity and nationality of each individual. A passport is the most convenient document for this purpose and a passport check is used also as part of the security measures employed in airports, international rail stations, and ports.

There are a number of reasons why airline, ferry, shipping and rail staff may check the identity of passengers before they make an international journey. These include checks for security purposes and to ensure that the carrier is meeting its obligations under carriers' liability legislation. The United Kingdom legislation is the Immigration (Carriers' Liability) Act 1987, which applies only to carriers bringing passengers from foreign destinations to the United Kingdom. The Act was introduced in March 1987 in an attempt to reduce the increasing number of passengers arriving in the United Kingdom with forged passports, forged visas, no visas, and in many instances no passports or travel documents.





The Act places an obligation upon air and sea carriers to ensure that passengers to the United Kingdom hold valid passports or travel documents, and, where necessary, valid visas. If a carrier brings to the United Kingdom a passenger who is inadequately documented, the carrier renders itself liable to a charge under the Act, which currently stands at £2,000 per passenger. Over 40 countries have similar legislation.

There are other reasons why a passport is required:

- Many countries (including all continental European countries) require overseas residents and visitors to be able to provide proof of identity and nationality, either in the form of a national identity card or valid passport.
- In some countries there is a legal obligation to carry either a national identity card or valid passport at all times.
- Where a holder experiences unforeseen difficulty when abroad, proof of nationality provided by a British passport will enable access to the protection and services provided by British consular posts.
- When returning to the United Kingdom, a passport is required to satisfy immigration controls.

As stated in the caution in all passports, a passport remains the property of Her Majesty's Government and may be withdrawn at any time; therefore it is not your personal property and cannot be sold or used as collateral. While it is true that a passport may be withdrawn at any time, in practice this is limited to the specific circumstances below:

- Persons found no longer to be entitled to a British passport or who have been granted a passport in error
- Where a passport is found to be fraudulent or so damaged that it is not suitable for use
- Where a passport has previously been declared lost or stolen
- Persons under the age of 18 years whose journey is known to be contrary to a Court Order; or to the wishes of a parent or other person or authority awarded custody or care and control.
- Where it is known a person is to be arrested under a warrant issued in the United Kingdom or is wanted by the police on suspicion of a serious crime.
- Where a person's past or proposed activities are so demonstrably undesirable that the grant or continued enjoyment of passport facilities would be contrary to the public interest.
- Until a person repatriated at public expense, has paid the cost of repatriation.

If passport facilities are wrongly refused or withdrawn, courts can if requested investigate the case. R. v. the Secretary of State for Foreign and Commonwealth Affairs ex parte Everett [1988] provides useful guidelines on the likely attitude of the courts to a complaint that an applicant has been wrongly refused passport facilities. These are summarised as follows:





- The Secretary of State is entitled to have a general policy for refusing passport facilities to certain classes of person.
- The fair implementation of that policy requires that when a passport is refused, sufficient information is given to allow the individual to understand the reason(s) for refusal. This also enables the person to challenge that decision if it is based on wrong information or false assumptions.
- Fair implementation of that policy also requires that when notifying the reason(s)
  for the refusal of passport facilities, the individual is advised that if there are any
  exceptional reasons which might call for the issue of a passport these will be
  considered.

In summary, the passport does not belong to you and whilst strictly you are not required to hold a passport to travel you will in practice find that a passport is requested by carriers before they allow you to travel to fulfill their own requirements.

I hope that the above answers your questions.

Yours sincerely,

Diane Lambert

Head of Parliamentary and Correspondence Management Team

**Chief Executive Office** 



