



# Immigration Act 1971

## 1971 CHAPTER 77

### PART III

#### CRIMINAL PROCEEDINGS

##### Modifications etc. (not altering text)

- C1** Pt. III extended (with modifications) (1.8.1993) by [S.I. 1993/1796](#), art. 3(1), Sch. 1 Pt. I (Guernsey), [S.I. 1993/1797](#), art. 3(1), Sch. 1 Pt. I (Jersey) (as amended by [S.I. 2003/1252](#), [art. 3\(b\)](#)) and (17.10.2012) by [S.I. 2012/2593](#), arts. 1, [2\(2\)](#))
- C2** Pt. III extended (Isle of Man) (with modifications) (13.3.2008 for certain purposes and 1.5.2008 otherwise) by [The Immigration \(Isle of Man\) Order 2008 \(S.I. 2008/680\)](#), arts. 1(2), [5](#), [6\(2\)\(b\)](#), 7, [Sch. 3](#), [Sch. 10 Pt. 1](#) (with [Sch. 2 para. 2](#)) (as amended (14.3.2019) by [S.I. 2019/562](#), arts. 1, 5, 11)

#### 24 Illegal entry and similar offences.

- (1) A person who is not [<sup>F1</sup>a British citizen] shall be guilty of an offence punishable on summary conviction with a fine of not more than [<sup>F2</sup>[<sup>F3</sup>level 5]on the standard scale] or with imprisonment for not more than six months, or with both, in any of the following cases:—
- (a) if contrary to this Act he knowingly enters the United Kingdom in breach of a deportation order or without leave;
  - <sup>F4</sup>(aa) .....
  - (b) if, having only a limited leave to enter or remain in the United Kingdom, he knowingly either—
    - (i) remains beyond the time limited by the leave; or
    - (ii) fails to observe a condition of the leave;
  - (c) if, having lawfully entered the United Kingdom without leave by virtue of section 8(1) above, he remains without leave beyond the time allowed by section 8(1);
  - (d) if, without reasonable excuse, he fails to comply with any requirement imposed on him under Schedule 2 to this Act to report to [<sup>F5</sup>a medical officer of

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- health][<sup>F5</sup>the chief administrative medical officer of a Health Board][<sup>F6</sup>or the chief administrative medical officer of a Health and Social Services Board], or to attend, or submit to a test or examination, as required by such an officer;
- (e) if, without reasonable excuse, he fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence [<sup>F7</sup>as to his employment or occupation] or as to reporting to the police [<sup>F8</sup>, to an immigration officer or to the Secretary of State];
- (f) if he disembarks in the United Kingdom from a ship or aircraft after being placed on board under Schedule 2 or 3 to this Act with a view to his removal from the United Kingdom;
- (g) if he embarks in contravention of a restriction imposed by or under an Order in Council under section 3(7) of this Act.

[<sup>F9</sup>(1A) A person commits an offence under subsection (1)(b)(i) above on the day when he first knows that the time limited by his leave has expired and continues to commit it throughout any period during which he is in the United Kingdom thereafter; but a person shall not be prosecuted under that provision more than once in respect of the same limited leave.]

<sup>F10</sup>(2) . . . . .

- (3) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under [<sup>F11</sup>subsection (1)(a) and (c)] above.
- (4) In proceedings for an offence against subsection (1)(a) above of entering the United Kingdom without leave,—
- (a) any stamp purporting to have been imprinted on a passport or other travel document by an immigration officer on a particular date for the purpose of giving leave shall be presumed to have been duly so imprinted, unless the contrary is proved;
- (b) proof that a person had leave to enter the United Kingdom shall lie on the defence if, but only if, he is shown to have entered within six months before the date when the proceedings were commenced.

#### Textual Amendments

- F1** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), **Sch. 4 para. 2** (with [Sch. 8 para. 8](#))
- F2** Words substituted (E.W.) (S.) (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**), and (N.I.) by virtue of S.I. 1984/703 (N.I. 3), **arts. 5, 6**
- F3** Words in s. 24(1) substituted (1.10.1996) by [1996 c. 49, s. 6](#); S.I. 1996/2053, **art. 2**, **Sch. Pt. III**
- F4** S. 24(1)(aa) repealed (14.2.2000) by [1999 c. 33, s. 169\(1\)\(3\)](#), **Sch. 14 para. 50**, **Sch. 16**; S.I. 2000/168, **art. 2**, **Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2**, **Sch.**)
- F5** Words “the chief” to “Health Board” substituted for words “a medical officer of health” (S.) by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 6 para. 155**; continued by [National Health Service \(Scotland\) Act 1978 \(c. 29\)](#), **Sch. 15 para. 10**
- F6** Words inserted (N.I.) by S.R. & O. (N.I.) 1973/256, **Sch. 2**
- F7** Words inserted by [Immigration Act 1988 \(c. 14, SIF 62\)](#), **s. 10**, **Sch. para. 10(3)(4)**
- F8** Words in s. 24(1)(e) substituted (10.2.2003) by [2002 c. 41, s. 62\(9\)](#) (with s. 159); S.I. 2003/1, **art. 2**, **Sch.**
- F9** S. 24(1A) inserted by [Immigration Act 1988 \(c. 14, SIF 62\)](#), **s. 6(1)(3)**

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- F10** S. 24(2) repealed (14.2.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 para. 50, Sch. 16; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F11** Words “subsection (1)(a) and (c)” substituted for “subsection (1)(a), (b)(i) and (c)” by Immigration Act 1988 (c. 14, SIF 62), s. 6(2)(3)

**Modifications etc. (not altering text)**

- C3** S. 24 modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, Sch. 4 para 1(7)
- C4** S. 24(1)(a)(b) amended (S.) by Criminal Justice (Scotland) Act 1980 (c. 62), s. 26, Sch. 1

[<sup>F12</sup>**24A Deception.**

- (1) A person who is not a British citizen is guilty of an offence if, by means which include deception by him—
- (a) he obtains or seeks to obtain leave to enter or remain in the United Kingdom; or
  - (b) he secures or seeks to secure the avoidance, postponement or revocation of enforcement action against him.
- (2) “Enforcement action”, in relation to a person, means—
- (a) the giving of directions for his removal from the United Kingdom (“directions”) under Schedule 2 to this Act or section 10 of the Immigration and Asylum Act 1999;
  - (b) the making of a deportation order against him under section 5 of this Act; or
  - (c) his removal from the United Kingdom in consequence of directions or a deportation order.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) <sup>F13</sup> .....

**Textual Amendments**

- F12** S. 24A inserted (14.2.2000) by 1999 c. 33, s. 28; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F13** S. 24A(4) repealed (10.2.2003) by 2002 c. 41, ss. 156(2), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.

**Modifications etc. (not altering text)**

- C5** S. 24A modified (11.11.1999) by 1999 c. 33, ss. 31(1)(2)(3)(b)(4)(c), 170(3) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

[<sup>F14</sup>**25 Assisting unlawful immigration to member State**

- (1) A person commits an offence if he—
- (a) does an act which facilitates the commission of a breach of immigration law by an individual who is not a citizen of the European Union,

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- (b) knows or has reasonable cause for believing that the act facilitates the commission of a breach of immigration law by the individual, and
  - (c) knows or has reasonable cause for believing that the individual is not a citizen of the European Union.
- (2) In subsection (1) “immigration law” means a law which has effect in a member State and which controls, in respect of some or all persons who are not nationals of the State, entitlement to—
- (a) enter the State,
  - (b) transit across the State, or
  - (c) be in the State.
- (3) A document issued by the government of a member State certifying a matter of law in that State—
- (a) shall be admissible in proceedings for an offence under this section, and
  - (b) shall be conclusive as to the matter certified.
- [<sup>F15</sup>(4) Subsection (1) applies to things done whether inside or outside the United Kingdom.]
- (6) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.]
- [<sup>F16</sup>(7) In this section—
- (a) a reference to a member State includes a reference to a State on a list prescribed for the purposes of this section by order of the Secretary of State (to be known as the “Section 25 List of Schengen Acquis States”), and
  - (b) a reference to a citizen of the European Union includes a reference to a person who is a national of a State on that list.
- (8) An order under subsection (7)(a)—
- (a) may be made only if the Secretary of State thinks it necessary for the purpose of complying with the United Kingdom’s obligations under the Community Treaties,
  - (b) may include transitional, consequential or incidental provision,
  - (c) shall be made by statutory instrument, and
  - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### **Textual Amendments**

- F14** Ss. 25-25C substituted (10.2.2003) for s. 25 by [2002 c. 41, s. 143](#) (with [s. 159](#)); [S.I. 2003/1, art. 2, Sch.](#)
- F15** S. 25(4) substituted for s. 25(4)(5) (31.1.2008) by [UK Borders Act 2007 \(c. 30\), ss. 30\(1\), 59](#); [S.I. 2008/99, art. 2\(1\)](#)
- F16** S. 25(7)(8) added (1.10.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), s. 1\(1\)](#); [S.I. 2004/2523, art. 2, Sch.](#)

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## [<sup>F17</sup>25A Helping asylum-seeker to enter United Kingdom

- (1) A person commits an offence if—
  - (a) he knowingly and for gain facilitates the arrival in [<sup>F18</sup>, or the entry into,] the United Kingdom of an individual, and
  - (b) he knows or has reasonable cause to believe that the individual is an asylum-seeker.
- (2) In this section “asylum-seeker” means a person who intends to claim that to remove him from or require him to leave the United Kingdom would be contrary to the United Kingdom’s obligations under—
  - (a) the Refugee Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999 (c. 33) (interpretation)), or
  - (b) the Human Rights Convention (within the meaning given by that section).
- (3) Subsection (1) does not apply to anything done by a person acting on behalf of an organisation which—
  - (a) aims to assist asylum-seekers, and
  - (b) does not charge for its services.
- (4) [<sup>F19</sup>Subsections (4) and (6)] of section 25 apply for the purpose of the offence in subsection (1) of this section as they apply for the purpose of the offence in subsection (1) of that section.]

### Textual Amendments

- F17** Ss. 25-25C substituted (10.2.2003) for s. 25 by 2002 c. 41, s. 143 (with s. 159); S.I. 2003/1, [art. 2](#), [Sch.](#)
- F18** Words in s. 25A(1)(a) inserted (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 29, 59](#); S.I. 2008/99, [art. 2](#)
- F19** Words in s. 25A(4) substituted (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 30\(2\), 59](#); S.I. 2008/99, [art. 2](#)

## [<sup>F20</sup>25B Assisting entry to United Kingdom in breach of deportation or exclusion order

- (1) A person commits an offence if he—
  - (a) does an act which facilitates a breach of a deportation order in force against an individual who is a citizen of the European Union, and
  - (b) knows or has reasonable cause for believing that the act facilitates a breach of the deportation order.
- (2) Subsection (3) applies where the Secretary of State personally directs that the exclusion from the United Kingdom of an individual who is a citizen of the European Union is conducive to the public good.
- (3) A person commits an offence if he—
  - (a) does an act which assists the individual to arrive in, enter or remain in the United Kingdom,
  - (b) knows or has reasonable cause for believing that the act assists the individual to arrive in, enter or remain in the United Kingdom, and

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- (c) knows or has reasonable cause for believing that the Secretary of State has personally directed that the individual's exclusion from the United Kingdom is conducive to the public good.
- (4) [<sup>F21</sup>Subsections (4) and (6)] of section 25 apply for the purpose of an offence under this section as they apply for the purpose of an offence under that section.]

#### Textual Amendments

- F20** Ss. 25-25C substituted (10.2.2003) for s. 25 by 2002 c. 41, s. 143 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F21** Words in s. 25B(4) substituted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 30(2), 59; S.I. 2008/99, art. 2

#### [<sup>F22</sup>25C Forfeiture of vehicle, ship or aircraft

- (1) This section applies where a person is convicted on indictment of an offence under section 25, 25A or 25B.
- (2) The court may order the forfeiture of a vehicle used or intended to be used in connection with the offence if the convicted person—
- (a) owned the vehicle at the time the offence was committed,
  - (b) was at that time a director, secretary or manager of a company which owned the vehicle,
  - (c) was at that time in possession of the vehicle under a hire-purchase agreement,
  - (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement, or
  - (e) was driving the vehicle in the course of the commission of the offence.
- (3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—
- (a) owned the ship or aircraft at the time the offence was committed,
  - (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft,
  - (c) was at that time in possession of the ship or aircraft under a hire-purchase agreement,
  - (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement,
  - (e) was at that time a charterer of the ship or aircraft, or
  - (f) committed the offence while acting as captain of the ship or aircraft.
- (4) But in a case to which subsection (3)(a) or (b) does not apply, forfeiture may be ordered only—
- (a) in the case of a ship, if subsection (5) or (6) applies;
  - (b) in the case of an aircraft, if subsection (5) or (7) applies.
- (5) This subsection applies where—
- (a) in the course of the commission of the offence, the ship or aircraft carried more than 20 illegal entrants, and
  - (b) a person who, at the time the offence was committed, owned the ship or aircraft or was a director, secretary or manager of a company which owned

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it, knew or ought to have known of the intention to use it in the course of the commission of an offence under section 25, 25A or 25B.

- (6) This subsection applies where a ship's gross tonnage is less than 500 tons.
- (7) This subsection applies where the maximum weight at which an aircraft (which is not a hovercraft) may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.
- (8) Where a person who claims to have an interest in a vehicle, ship or aircraft applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the ship, aircraft or vehicle unless the person has been given an opportunity to make representations.
- (9) In the case of an offence under section 25, the reference in subsection (5)(a) to an illegal entrant shall be taken to include a reference to—
  - (a) an individual who seeks to enter a member State in breach of immigration law [<sup>F23</sup> (for which purpose “member State” and “immigration law” have the meanings given by section 25(2) and (7))], and
  - (b) an individual who is a passenger for the purpose of section 145 of the Nationality, Immigration and Asylum Act 2002 (traffic in prostitution) [<sup>F24</sup> or section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).]
- (10) In the case of an offence under section 25A, the reference in subsection (5)(a) to an illegal entrant shall be taken to include a reference to—
  - (a) an asylum-seeker (within the meaning of that section), and
  - (b) an individual who is a passenger for the purpose of section 145(1) of the Nationality, Immigration and Asylum Act 2002 [<sup>F24</sup> or section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).]
- (11) In the case of an offence under section 25B, the reference in subsection (5)(a) to an illegal entrant shall be taken to include a reference to an individual who is a passenger for the purpose of section 145(1) of the Nationality, Immigration and Asylum Act 2002 [<sup>F24</sup> or section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).]]

#### Textual Amendments

- F22** Ss. 25-25C substituted (10.2.2003) for s. 25 by 2002 c. 41, s. 143 (with s. 159); S.I. 2003/1, **art. 2**, Sch.
- F23** Words in s. 25C(9)(a) substituted (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **s. 1(2)**; S.I. 2004/2523, **art. 2**, Sch.
- F24** Words in s. 25C(9)(b)(10)(b)(11) added (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **s. 5(5)**; S.I. 2004/2999, **art. 2**, Sch.; S.S.I. 2004/494, **art. 2**

#### Modifications etc. (not altering text)

- C6** Ss. 25C, 25D applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **s. 5(4)**; S.I. 2004/2999, **art. 2**, Sch.; S.S.I. 2004/494, **art. 2**
- C7** S. 25C applied (10.2.2003) by 2002 c. 41, s. 146(3) (with s. 159); S.I. 2003/1, **art. 2**, Sch.

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<sup>F26</sup>[<sup>F25</sup> **25D**] [<sup>F25</sup> **Detention of ship, aircraft or vehicle**]

- (1) If a person has been arrested for an offence under [<sup>F27</sup> section 25, 25A or 25B], a senior officer or a constable may detain a relevant ship, aircraft or vehicle—
- (a) until a decision is taken as to whether or not to charge the arrested person with that offence; or
  - (b) if the arrested person has been charged—
    - (i) until he is acquitted, the charge against him is dismissed or the proceedings are discontinued; or
    - (ii) if he has been convicted, until the court decides whether or not to order forfeiture of the ship, aircraft or vehicle.
- (2) A ship, aircraft or vehicle is a relevant ship, aircraft or vehicle, in relation to an arrested person, if it is one which the officer or constable concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under [<sup>F28</sup> section 25C].
- [ A person (other than the arrested person) may apply to the court for the release of a
- <sup>F29</sup>(3) ship, aircraft or vehicle on the grounds that—
- (a) he owns the ship, aircraft or vehicle,
  - (b) he was, immediately before the detention of the ship, aircraft or vehicle, in possession of it under a hire-purchase agreement, or
  - (c) he is a charterer of the ship or aircraft.]
- (4) The court to which an application is made under subsection (3) may, on such security or surety being tendered as it considers satisfactory, release the ship, aircraft or vehicle on condition that it is made available to the court if—
- (a) the arrested person is convicted; and
  - (b) an order for its forfeiture is made under [<sup>F28</sup> section 25C].
- (5) In the application to Scotland of subsection (1), for paragraphs (a) and (b) substitute—
- “(a) until a decision is taken as to whether or not to institute criminal proceedings against the arrested person for that offence; or
  - (b) if criminal proceedings have been instituted against the arrested person—
    - (i) until he is acquitted or, under section 65 or 147 of the <sup>M1</sup>Criminal Procedure (Scotland) Act 1995, discharged or liberated or the trial diet is deserted *simpliciter*;
    - (ii) if he has been convicted, until the court decides whether or not to order forfeiture of the ship, aircraft or vehicle,
 and for the purposes of this subsection, criminal proceedings are instituted against a person at whichever is the earliest of his first appearance before the sheriff on petition, or the service on him of an indictment or complaint.”
- (6) “Court” means—
- (a) in England and Wales—
    - [<sup>F30</sup>(ia) if the arrested person has not been charged, or he has been charged but proceedings for the offence have not begun to be heard, a magistrates' court;]
    - (iii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings;



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- (b) in Scotland, the sheriff; and
  - (c) in Northern Ireland—
    - (i) if the arrested person has not been charged, the magistrates’ court for the county court division in which he was arrested;
    - (ii) if he has been charged but proceedings for the offence have not begun to be heard, the magistrates’ court for the county court division in which he was charged;
    - (iii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings.
- (7) <sup>F31</sup> . . . . .
- (8) “Senior officer” means an immigration officer not below the rank of chief immigration officer.]

**Textual Amendments**

- F25** S. 25A renumbered as s. 25D and title substituted (10.2.2003) by 2002 c. 41, s. 144 (with s. 159); S.I. 2003/1, **art. 2, Sch.**
- F26** S. 25A (since renumbered as s. 25D) inserted (3.4.2000) by 1999 c. 33, s. 38(2)(4); S.I. 2000/464, **art. 2, Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- F27** Words in s. 25D(1) substituted (10.2.2003) by 2002 c. 41, s. 144(2)(a) (with s. 159); S.I. 2003/1, **art. 2, Sch.**
- F28** Words in s. 25D(2)(4) substituted (10.2.2003) by 2002 c. 41, s. 144(2)(b) (with s. 159); S.I. 2003/1, **art. 2, Sch.**
- F29** S. 25D(3) substituted (10.2.2003) by 2002 c. 41, s. 144(2)(c) (with s. 159); S.I. 2003/1, **art. 2, Sch.**
- F30** S. 25D(6)(a)(ia) substituted (1.4.2005) for s. 25D(6)(a)(i)(ii) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 147**; S.I. 2005/910, **art. 3(y)(bb)**
- F31** S. 25D(7) repealed (10.2.2003) by virtue of 2002 c. 41, ss. 144(2)(d), 161, **Sch. 9** (with s. 159); S.I. 2003/1, **art. 2, Sch.**

**Modifications etc. (not altering text)**

- C8** S. 25D applied (10.2.2003) by 2002 c. 41, s. 146(3) (with s. 159); S.I. 2003/1, **art. 2, Sch.**
- C9** Ss. 25C, 25D applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **s. 5(4)**; S.I. 2004/2999, **art. 2, Sch.**; S.S.I. 2004/494, **art. 2**

**Marginal Citations**

- M1** 1995 c. 46.

**26 General offences in connection with administration of Act.**

- (1) A person shall be guilty of an offence punishable on summary conviction with a fine of not more than [<sup>F32</sup>[<sup>F33</sup>level 5] on the standard scale] or with imprisonment for not more than six months, or with both, in any of the following cases—
- (a) if, without reasonable excuse, he refuses or fails to submit to examination under Schedule 2 to this Act;
  - (b) if, without reasonable excuse, he refuses or fails to furnish or produce any information in his possession, or any documents in his possession or control, which he is on an examination under that Schedule required to furnish or produce;

*Status: Point in time view as at 29/02/2008.*

*Changes to legislation: Immigration Act 1971, Part III is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) if on any such examination or otherwise he makes or causes to be made to an immigration officer or other person lawfully acting in the execution of [<sup>F34</sup>a relevant enactment] a return, statement or representation which he knows to be false or does not believe to be true;
  - (d) if, without lawful authority, he alters any [<sup>F35</sup>certificate of entitlement], entry clearance, work permit or other document issued or made under or for the purposes of this Act, or uses for the purposes of this Act, or has in his possession for such use, any passport, [<sup>F35</sup>certificate of entitlement], entry clearance, work permit or other document which he knows or has reasonable cause to believe to be false;
  - (e) if, without reasonable excuse, he fails to complete and produce a landing or embarkation card in accordance with any order under Schedule 2 to this Act;
  - (f) if, without reasonable excuse, he fails to comply with any requirement of regulations under section 4(3) or of an order under section 4(4) above;
  - (g) if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this Act.
- (2) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(c) and (d) above.

[<sup>F36</sup>(3) “Relevant enactment” means—

- (a) this Act;
- (b) the <sup>M2</sup>Immigration Act 1988;
- (c) the <sup>M3</sup>Asylum and Immigration Appeals Act 1993 (apart from section 4 or 5);<sup>F37</sup> . . .
- (d) the Immigration and Asylum Act 1999 (apart from Part VI) [<sup>F38</sup> ; or
- (e) the Nationality, Immigration and Asylum Act 2002 (apart from Part 5).]]

#### Textual Amendments

- F32** Words substituted (E.W.) (S.) (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**), and (N.I.) by virtue of S.I. 1984/703 (N.I. 3), **arts. 5, 6**
- F33** Words in s. 26(1) substituted (1.10.1996) by 1996 c. 49, **s. 6**; S.I. 1996/2053, **art. 2, Sch. Pt. III**
- F34** Words in s. 26(1)(c) substituted (14.2.2000) by 1999 c. 33, **s. 30(1)(2)**; S.I. 2000/168, **art. 2, Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- F35** Words substituted by [British Nationality Act 1981 \(c. 61\)](#), **s. 52(7)**, **Sch. 4 para. 3(1)** (with **Sch. 8 para. 8**)
- F36** S. 26(3) inserted (14.2.2000) by 1999 c. 33, **s. 30(1)(3)**; S.I. 2000/168, **art. 2, Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- F37** Word after s. 26(3)(c) repealed (10.2.2003) by 2002 c. 41, **ss. 151(a), 161, Sch. 9** (with s. 159); S.I. 2003/1, **art. 2, Sch.**
- F38** S. 26(3)(e) and preceding word inserted (10.2.2003) by 2002 c. 41, **s. 151(b)** (with s. 159); S.I. 2003/1, **art. 2, Sch.**

#### Modifications etc. (not altering text)

- C10** S. 26(1)(d) modified (11.11.2000) by 1999 c. 33, **ss. 31(1)(2)(3)(c)(4)(d), 170(3)** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- C11** S. 26(1)(f) amended (S.) by [Criminal Justice \(Scotland\) Act 1980 \(c. 62\)](#), **s. 26, Sch. 1**

*Status: Point in time view as at 29/02/2008.*

*Changes to legislation: Immigration Act 1971, Part III is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### **Marginal Citations**

**M2** 1988 c. 14.

**M3** 1993 c. 23.

### [<sup>F39</sup>26A Registration card

- (1) In this section “registration card” means a document which—
  - (a) carries information about a person (whether or not wholly or partly electronically), and
  - (b) is issued by the Secretary of State to the person wholly or partly in connection with a claim for asylum (whether or not made by that person).
- (2) In subsection (1) “claim for asylum” has the meaning given by section 18 of the Nationality, Immigration and Asylum Act 2002.
- (3) A person commits an offence if he—
  - (a) makes a false registration card,
  - (b) alters a registration card with intent to deceive or to enable another to deceive,
  - (c) has a false or altered registration card in his possession without reasonable excuse,
  - (d) uses or attempts to use a false registration card for a purpose for which a registration card is issued,
  - (e) uses or attempts to use an altered registration card with intent to deceive,
  - (f) makes an article designed to be used in making a false registration card,
  - (g) makes an article designed to be used in altering a registration card with intent to deceive or to enable another to deceive, or
  - (h) has an article within paragraph (f) or (g) in his possession without reasonable excuse.
- (4) In subsection (3) “false registration card” means a document which is designed to appear to be a registration card.
- (5) A person who is guilty of an offence under subsection (3)(a), (b), (d), (e), (f) or (g) shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding ten years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (6) A person who is guilty of an offence under subsection (3)(c) or (h) shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (7) The Secretary of State may by order—
  - (a) amend the definition of “registration card” in subsection (1);
  - (b) make consequential amendment of this section.
- (8) An order under subsection (7)—
  - (a) must be made by statutory instrument, and

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- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.]

**Textual Amendments**

**F39** S. 26A inserted (10.2.2003) by 2002 c. 41, s. 148 (with s. 159); S.I. 2003/1, art. 2, Sch.

**[<sup>F40</sup>26B Possession of immigration stamp**

- (1) A person commits an offence if he has an immigration stamp in his possession without reasonable excuse.
- (2) A person commits an offence if he has a replica immigration stamp in his possession without reasonable excuse.
- (3) In this section—
- (a) “immigration stamp” means a device which is designed for the purpose of stamping documents in the exercise of an immigration function,
  - (b) “replica immigration stamp” means a device which is designed for the purpose of stamping a document so that it appears to have been stamped in the exercise of an immigration function, and
  - (c) “immigration function” means a function of an immigration officer or the Secretary of State under the Immigration Acts.
- (4) A person who is guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.]

**Textual Amendments**

**F40** S. 26B inserted (10.2.2003) by 2002 c. 41, s. 149 (with s. 159); S.I. 2003/1, art. 2, Sch.

**27 Offences by persons connected with ships or aircraft or with ports.**

A person shall be guilty of an offence punishable on summary conviction with a fine of not more than [<sup>F41</sup>[<sup>F42</sup>level 5] on the standard scale] or with imprisonment for not more than six months, or with both, in any of the following cases—

- (a) if, being the captain of a ship or aircraft,—
  - (i) he knowingly permits a person to disembark in the United Kingdom when required under Schedule 2 or 3 to this Act to prevent it, or fails without reasonable excuse to take any steps he is required by or under Schedule 2 to take in connection with the disembarkation or examination of passengers or for furnishing a passenger list or particulars of members of the crew; or
  - (ii) he fails, without reasonable excuse, to comply with any directions given him under Schedule 2 or 3 [<sup>F43</sup>or under the Immigration and Asylum Act 1999]with respect to the removal of a person from the United Kingdom;

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- (b) if, as owner or agent of a ship or aircraft,—
    - (i) he arranges, or is knowingly concerned in any arrangements, for the ship or aircraft to call at a port other than a port of entry contrary to any provision of Schedule 2 to this Act; or
    - (ii) he fails, without reasonable excuse, to take any steps required by an order under Schedule 2 for the supply to passengers of landing or embarkation cards; or
    - (iii) he fails, without reasonable excuse, to make arrangements for <sup>F44</sup>or in connection with] the removal of a person from the United Kingdom when required to do so by directions given under Schedule 2 or 3 to this Act; <sup>F45</sup>or under the Immigration and Asylum Act 1999; or
    - (iv) he fails, without reasonable excuse, to comply with the requirements of paragraph 27B or 27C of Schedule 2;]
  - (c) if, as owner or agent of a ship or aircraft or as a person concerned in the management of a port, he fails, without reasonable excuse, to take any steps required by Schedule 2 in relation to the embarkation or disembarkation of passengers where a control area is designated.
- <sup>F46</sup>(d) . . . . . ]

**Textual Amendments**

- F41** Words substituted: (E.W.) (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), **ss. 38, 46**; (S.) (11.4.1983) by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**); (N.I.) (19.7.1984) by virtue of S.I. 1984/703 (N.I. 3), **arts. 5, 6**
- F42** Words in s. 27 substituted (1.10.1996) by 1996 c. 49, **s. 6**; S.I. 1996/2053, **art. 2, Sch. Pt. III**
- F43** Words in s. 27(a)(ii) inserted (2.10.2000) by 1999 c. 33, **s. 169(1), Sch. 14 paras. 43, 52(1)(2)**; S.I. 2000/2444, **art. 2, Sch. 1** (subject to transitional provisions in **art. 3, Sch. 2 para. 2**) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- F44** Words in s. 27(b)(iii) inserted (1.3.2000) by 1999 c. 33, **s. 169(1), Sch. 14 paras. 43, 52(1)(3)(a)**; S.I. 2000/464, **art. 2, Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- F45** S. 27(b)(iv) and preceding words inserted (3.4.2000) by 1999 c. 33, **s. 169(1), Sch. 14 paras. 43, 52(1)(3)(b)**; S.I. 2000/464, **art. 2, Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- F46** S. 27(d) repealed (2.8.1993) by S.I. 1993/1813, **arts. 9, 1, Sch. 6 Pt. I**

**Modifications etc. (not altering text)**

- C12** S. 27 modified (2.8.1993) by S.I. 1993/1813, **arts. 7(1), 1, Sch. 4 para 1(9)**(as amended (1.12.1997) by S.I. 1994/1405, **art. 8, Sch. 4 para. 11** Table; and as further amended (5.8.2014) by S.I. 2014/1814, **arts. 1, 2(2)**)

**28 Proceedings.**

- (1) Where the offence is one to which, under section 24 <sup>F47</sup>. . . or 26 above, an extended time limit for prosecutions is to apply, then—
  - (a) an information relating to the offence may in England and Wales be tried by a magistrates’ court if it is laid within six months after the commission of the offence, or if it is laid within three years after the commission of the offence and not more than two months after the date certified by <sup>F48</sup>an officer

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- of police above the rank of chief superintendent] to be the date on which evidence sufficient to justify proceedings came to the notice of an officer of [F48 the police force to which he belongs]; and
- (b) summary proceedings for the offence may in Scotland be commenced within six months after the commission of the offence, or within three years after the commission of the offence and not more than two months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings came to his knowledge; and
- (c) a complaint charging the commission of the offence may in Northern Ireland be heard and determined by a magistrates' court if it is made within six months after the commission of the offence, or if it is made within three years after the commission of the offence and not more than two months after the date certified by an officer of police not below the rank of assistant chief constable to be the date on which evidence sufficient to justify the proceedings came to the notice of the police in Northern Ireland.
- (2) For purposes of subsection (1)(b) above proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay; and a certificate of the Lord Advocate as to the date on which such evidence as is mentioned in subsection (1)(b) came to his knowledge shall be conclusive evidence.
- (3) For the purposes of the trial of a person for an offence under this Part of this Act, the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which he may be.
- (4) Any powers exercisable under this Act in the case of any person may be exercised notwithstanding that proceedings for an offence under this Part of this Act have been taken against him.

#### Textual Amendments

- F47** Words in s. 28(1) repealed (10.2.2003) by 2002 c. 41, s. 156(1), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch
- F48** Words substituted by Immigration Act 1988 (c. 14, SIF 62), s. 10, Sch. para. 4

#### Modifications etc. (not altering text)

- C13** S. 28(1) applied (1.4.2003) by 1996 c. 49, s. 8(9) (as added by 2002 c. 41, s. 147(4) (with s. 159)); S.I. 2003/754, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040 and 2003/1339))
- S. 28(1) applied (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(10)
- C14** S. 28(4) modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(b), 48(1)
- C15** S. 28(4) modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)
- S. 28(4) modified (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(b), 59; S.I. 2008/99, art. 2

#### [F49] 28A Arrest without warrant. **E+W**

- (1) [F50 An] immigration officer may arrest without warrant a person—

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- (a) who has committed or attempted to commit an offence under section 24 or 24A; or
  - (b) whom he has reasonable grounds for suspecting has committed or attempted to commit such an offence.
- (2) But subsection (1) does not apply in relation to an offence under section 24(1)(d).
- (3) An immigration officer may arrest without warrant a person—
  - (a) who has committed an offence under [<sup>F51</sup>section 25, 25A or 25B]; or
  - (b) whom he has reasonable grounds for suspecting has committed that offence.
- (4) <sup>F52</sup> .....
- (5) An immigration officer may arrest without warrant a person (“the suspect”) who, or whom he has reasonable grounds for suspecting—
  - (a) has committed or attempted to commit an offence under section 26(1)(g); or
  - (b) is committing or attempting to commit that offence.
- (6) The power conferred by subsection (5) is exercisable only if either the first or the second condition is satisfied.
- (7) The first condition is that it appears to the officer that service of a summons (or, in Scotland, a copy complaint) is impracticable or inappropriate because—
  - (a) he does not know, and cannot readily discover, the suspect’s name;
  - (b) he has reasonable grounds for doubting whether a name given by the suspect as his name is his real name;
  - (c) the suspect has failed to give him a satisfactory address for service; or
  - (d) he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service.
- (8) The second condition is that the officer has reasonable grounds for believing that arrest is necessary to prevent the suspect—
  - (a) causing physical injury to himself or another person;
  - (b) suffering physical injury; or
  - (c) causing loss of or damage to property.
- (9) For the purposes of subsection (7), an address is a satisfactory address for service if it appears to the officer—
  - (a) that the suspect will be at that address for a sufficiently long period for it to be possible to serve him with a summons (or copy complaint); or
  - (b) that some other person specified by the suspect will accept service of a summons (or copy complaint) for the suspect at that address.
- [<sup>F50</sup>An] immigration officer may arrest without warrant a person—
  - (a) who has committed an offence under section 26A or 26B; or
  - (b) whom he has reasonable grounds for suspecting has committed an offence under section 26A or 26B.]
- (10) In relation to the exercise of the powers conferred by subsections (3)(b)<sup>F54</sup> . . . and (5), it is immaterial that no offence has been committed.
- (11) In Scotland the powers conferred by subsections (3)<sup>F55</sup> . . . and (5) may also be exercised by a constable.]

<sup>F53</sup>(9A) [ <sup>F50</sup>An] immigration officer may arrest without warrant a person—

- (a) who has committed an offence under section 26A or 26B; or
- (b) whom he has reasonable grounds for suspecting has committed an offence under section 26A or 26B.]

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### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only

### Textual Amendments

- F49** S. 28A inserted (14.2.2000) by 1999 c. 33, s. 128; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F50** Words in s. 28A(1)(9A) substituted (E.W.) (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 111, [Sch. 7 para. 53](#); S.I. 2005/3495, [art. 2\(1\)\(m\)](#) (subject to [art. 2\(2\)](#))
- F51** Words in s. 28A(3)(a) substituted (10.2.2003) by 2002 c. 41, s. 144(3)(a) (with s. 159); S.I. 2003/1, [art. 2, Sch.](#)
- F52** S. 28A(4) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(b), 161, [Sch. 9](#) (with s. 159); S.I. 2003/1, [art. 2, Sch.](#)
- F53** S. 28A(9A) inserted (10.2.2003) by 2002 c. 41, s. 150(1) (with s. 159); S.I. 2003/1, [art. 2, Sch.](#)
- F54** Words in s. 28A(10) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(c), 161, [Sch. 9](#) (with s. 159); S.I. 2003/1, [art. 2, Sch.](#)
- F55** Words in s. 28A(11) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(d), 161, [Sch. 9](#) (with s. 159); S.I. 2003/1, [art. 2, Sch.](#)

### Modifications etc. (not altering text)

- C16** Ss. 28A, 28CA, 28FA modified (1.1.2007) by [The Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), [reg. 15\(c\)](#)
- C17** S. 28A(1)(3) amended (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 1993/1813, [art. 6, Sch. 3 Pt. I para. 2\(1\)\(a\)\(2\)\(a\)](#) (as substituted (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 2001/1544, [art. 4\(2\)](#))
- C18** S. 28A(3) modified (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 1993/1813, [art. 7\(1\), Sch. 4 para. 1\(9A\)](#) (as inserted (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 2001/1544, [art. 6\(2\)](#))

## [<sup>F49</sup>28A Arrest without warrant. **S**

- (1) A constable or immigration officer may arrest without warrant a person—
  - (a) who has committed or attempted to commit an offence under section 24 or 24A; or
  - (b) whom he has reasonable grounds for suspecting has committed or attempted to commit such an offence.
- (2) But subsection (1) does not apply in relation to an offence under section 24(1)(d).
- (3) An immigration officer may arrest without warrant a person—
  - (a) who has committed an offence under [<sup>F51</sup>section 25, 25A or 25B]; or
  - (b) whom he has reasonable grounds for suspecting has committed that offence.
- (4) <sup>F52</sup>.....
- (5) An immigration officer may arrest without warrant a person (“the suspect”) who, or whom he has reasonable grounds for suspecting—
  - (a) has committed or attempted to commit an offence under section 26(1)(g); or
  - (b) is committing or attempting to commit that offence.



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- (6) The power conferred by subsection (5) is exercisable only if either the first or the second condition is satisfied.
- (7) The first condition is that it appears to the officer that service of a summons (or, in Scotland, a copy complaint) is impracticable or inappropriate because—
- (a) he does not know, and cannot readily discover, the suspect's name;
  - (b) he has reasonable grounds for doubting whether a name given by the suspect as his name is his real name;
  - (c) the suspect has failed to give him a satisfactory address for service; or
  - (d) he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service.
- (8) The second condition is that the officer has reasonable grounds for believing that arrest is necessary to prevent the suspect—
- (a) causing physical injury to himself or another person;
  - (b) suffering physical injury; or
  - (c) causing loss of or damage to property.
- (9) For the purposes of subsection (7), an address is a satisfactory address for service if it appears to the officer—
- (a) that the suspect will be at that address for a sufficiently long period for it to be possible to serve him with a summons (or copy complaint); or
  - (b) that some other person specified by the suspect will accept service of a summons (or copy complaint) for the suspect at that address.
- [ A constable or immigration officer may arrest without warrant a person—
- <sup>F53</sup>(9A) (a) who has committed an offence under section 26A or 26B; or
- (b) whom he has reasonable grounds for suspecting has committed an offence under section 26A or 26B.]
- (10) In relation to the exercise of the powers conferred by subsections (3)(b)<sup>F54</sup> . . . and (5), it is immaterial that no offence has been committed.
- (11) In Scotland the powers conferred by subsections (3)<sup>F55</sup> . . . and (5) may also be exercised by a constable.]

#### Extent Information

- E2** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F49** S. 28A inserted (14.2.2000) by 1999 c. 33, s. 128; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F51** Words in s. 28A(3)(a) substituted (10.2.2003) by 2002 c. 41, s. 144(3)(a) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F52** S. 28A(4) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(b), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F53** S. 28A(9A) inserted (10.2.2003) by 2002 c. 41, s. 150(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F54** Words in s. 28A(10) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(c), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.

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**F55** Words in s. 28A(11) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(d), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.

**Modifications etc. (not altering text)**

**C16** Ss. 28A, 28CA, 28FA modified (1.1.2007) by [The Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), reg. 15(c)

**C17** S. 28A(1)(3) amended (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 1993/1813, art. 6, Sch. 3 Pt. 1 para. 2(1)(a)(2)(a) (as substituted (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 2001/1544, art. 4(2))

**C18** S. 28A(3) modified (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 1993/1813, art. 7(1), Sch. 4 para. 1(9A) (as inserted (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 2001/1544, art. 6(2))

**[<sup>F49</sup>28A Arrest without warrant. N.I.]**

- (1) [<sup>F85</sup>An] immigration officer may arrest without warrant a person—
  - (a) who has committed or attempted to commit an offence under section 24 or 24A; or
  - (b) whom he has reasonable grounds for suspecting has committed or attempted to commit such an offence.
- (2) But subsection (1) does not apply in relation to an offence under section 24(1)(d).
- (3) An immigration officer may arrest without warrant a person—
  - (a) who has committed an offence under [<sup>F51</sup>section 25, 25A or 25B]; or
  - (b) whom he has reasonable grounds for suspecting has committed that offence.
- (4) <sup>F52</sup> .....
- (5) An immigration officer may arrest without warrant a person (“the suspect”) who, or whom he has reasonable grounds for suspecting—
  - (a) has committed or attempted to commit an offence under section 26(1)(g); or
  - (b) is committing or attempting to commit that offence.
- (6) The power conferred by subsection (5) is exercisable only if either the first or the second condition is satisfied.
- (7) The first condition is that it appears to the officer that service of a summons (or, in Scotland, a copy complaint) is impracticable or inappropriate because—
  - (a) he does not know, and cannot readily discover, the suspect’s name;
  - (b) he has reasonable grounds for doubting whether a name given by the suspect as his name is his real name;
  - (c) the suspect has failed to give him a satisfactory address for service; or
  - (d) he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service.
- (8) The second condition is that the officer has reasonable grounds for believing that arrest is necessary to prevent the suspect—
  - (a) causing physical injury to himself or another person;
  - (b) suffering physical injury; or
  - (c) causing loss of or damage to property.

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(9) For the purposes of subsection (7), an address is a satisfactory address for service if it appears to the officer—

- (a) that the suspect will be at that address for a sufficiently long period for it to be possible to serve him with a summons (or copy complaint); or
- (b) that some other person specified by the suspect will accept service of a summons (or copy complaint) for the suspect at that address.

[<sup>F86</sup>An] immigration officer may arrest without warrant a person—  
<sup>F53</sup>(9A) (a) who has committed an offence under section 26A or 26B; or  
(b) whom he has reasonable grounds for suspecting has committed an offence under section 26A or 26B.]

(10) In relation to the exercise of the powers conferred by subsections (3)(b)<sup>F54</sup> . . . and (5), it is immaterial that no offence has been committed.

(11) In Scotland the powers conferred by subsections (3)<sup>F55</sup> . . . and (5) may also be exercised by a constable.]

#### Extent Information

**E3** This version of this provision extends to Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

- F49** S. 28A inserted (14.2.2000) by 1999 c. 33, s. 128; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F51** Words in s. 28A(3)(a) substituted (10.2.2003) by 2002 c. 41, s. 144(3)(a) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F52** S. 28A(4) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(b), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F53** S. 28A(9A) inserted (10.2.2003) by 2002 c. 41, s. 150(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F54** Words in s. 28A(10) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(c), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F55** Words in s. 28A(11) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(d), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F85** Word in s. 28A(1) substituted (N.I.) (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), art. 15, Sch. 1 para. 16
- F86** Word in s. 28A(9A) substituted (N.I.) (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), art. 15, Sch. 1 para. 16

#### Modifications etc. (not altering text)

- C16** Ss. 28A, 28CA, 28FA modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(c)
- C17** S. 28A(1)(3) amended (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 1993/1813, art. 6, Sch. 3 Pt. 1 para. 2(1)(a)(2)(a) (as substituted (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 2001/1544, art. 4(2))
- C18** S. 28A(3) modified (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 1993/1813, art. 7(1), Sch. 4 para. 1(9A) (as inserted (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 2001/1544, art. 6(2))

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## [<sup>F56</sup>28AA Arrest with warrant

- (1) This section applies if on an application by an immigration officer a justice of the peace is satisfied that there are reasonable grounds for suspecting that a person has committed an offence under—
  - (a) section 24(1)(d), or
  - [<sup>F57</sup>(b) section 21(1) of the Immigration, Asylum and Nationality Act 2006.]
- (2) The justice of the peace may grant a warrant authorising any immigration officer to arrest the person.
- (3) In the application of this section to Scotland a reference to a justice of the peace shall be treated as a reference to the sheriff or a justice of the peace.]

### Textual Amendments

- F56** S. 28AA inserted (8.1.2003) by 2002 c. 41, s. 152, (with s. 159), S.I. 2002/2811, art. 2, Sch.
- F57** S. 28AA(1)(b) substituted (29.2.2008) by UK Borders Act 2007 (c. 30), ss. 27, 59; S.I. 2008/309, art. 2 (subject to art. 5)

## [<sup>F58</sup>28B Search and arrest by warrant.

- (1) Subsection (2) applies if a justice of the peace is, by written information on oath, satisfied that there are reasonable grounds for suspecting that a person (“the suspect”) who is liable to be arrested for a relevant offence is to be found on any premises.
- (2) The justice may grant a warrant authorising any immigration officer or constable to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting the suspect.
- (3) Subsection (4) applies if in Scotland the sheriff or a justice of the peace is by evidence on oath satisfied as mentioned in subsection (1).
- (4) The sheriff or justice may grant a warrant authorising any immigration officer or constable to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting the suspect.
- (5) “Relevant offence” means an offence under section 24(1)(a), (b), (c), (d), (e) or (f) [<sup>F59</sup>, 24A][<sup>F60</sup>, 26A or 26B.].]

### Textual Amendments

- F58** S. 28B inserted (14.2.2000) by 1999 c. 33, s. 129; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F59** Words in s. 28B(5) substituted (10.2.2003) by 2002 c. 41, s. 144(4) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F60** Words in s. 28B(5) inserted (10.2.2003) by 2002 c. 41, s. 150(2) (with s. 159); S.I. 2003/1, art. 2, Sch.

### Modifications etc. (not altering text)

- C19** S. 28B modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(11)(a)
- C20** S. 28B modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(a), 48(1)

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- C21** S. 28B modified (1.1.2007) by [The Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), [reg. 15\(a\)](#)
- C22** S. 28B modified (29.2.2008) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [ss. 21\(3\)\(a\)](#), [62](#); [S.I. 2008/310](#), [art. 2\(1\)](#) (subject to [art. 5](#))
- C23** S. 28B modified by [Immigration and Asylum Act 1999 \(c. 33\)](#), [s. 109B\(1\)\(a\)](#) (as inserted (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 18](#), [59](#); [S.I. 2008/99](#), [art. 2](#))
- S. 28B modified (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 23\(2\)\(a\)](#), [59](#); [S.I. 2008/99](#), [art. 2](#)

### [<sup>F61</sup>28C Search and arrest without warrant.

- (1) An immigration officer may enter and search any premises for the purpose of arresting a person for an offence under [<sup>F62</sup>section 25, 25A or 25B].
- (2) The power may be exercised—
  - (a) only to the extent that it is reasonably required for that purpose; and
  - (b) only if the officer has reasonable grounds for believing that the person whom he is seeking is on the premises.
- (3) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching—
  - (a) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any such other dwelling; and
  - (b) any such dwelling in which the officer has reasonable grounds for believing that the person whom he is seeking may be.
- (4) The power may be exercised only if the officer produces identification showing that he is an immigration officer (whether or not he is asked to do so).]

#### Textual Amendments

- F61** S. 28C inserted (14.2.2000) by [1999 c. 33](#), [s. 130](#); [S.I. 2000/168](#), [art. 2](#), [Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252](#), [art. 2](#), [Sch.](#))
- F62** Words in s. 28C(1) substituted (10.2.2003) by [2002 c. 41](#), [s. 144\(5\)](#) (with [s. 159](#)); [S.I. 2003/1](#), [art. 2](#), [Sch.](#)

#### Modifications etc. (not altering text)

- C24** S. 28C applied (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [s. 14\(3\)\(a\)](#); [S.I. 2004/2999](#), [art. 2](#), [Sch.](#)

### [<sup>F63</sup>28CABusiness premises: entry to arrest

- (1) A constable or immigration officer may enter and search any business premises for the purpose of arresting a person—
  - (a) for an offence under section 24,
  - (b) for an offence under section 24A, or
  - (c) under paragraph 17 of Schedule 2.
- (2) The power under subsection (1) may be exercised only—
  - (a) to the extent that it is reasonably required for a purpose specified in subsection (1),

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- (b) if the constable or immigration officer has reasonable grounds for believing that the person whom he is seeking is on the premises,
  - (c) with the authority of the Secretary of State (in the case of an immigration officer) or a Chief Superintendent (in the case of a constable), and
  - (d) if the constable or immigration officer produces identification showing his status.
- (3) Authority for the purposes of subsection (2)(c)—
- (a) may be given on behalf of the Secretary of State only by a civil servant of the rank of at least Assistant Director, and
  - (b) shall expire at the end of the period of seven days beginning with the day on which it is given.
- (4) Subsection (2)(d) applies—
- (a) whether or not a constable or immigration officer is asked to produce identification, but
  - (b) only where premises are occupied.
- (5) Subsection (6) applies where a constable or immigration officer—
- (a) enters premises in reliance on this section, and
  - (b) detains a person on the premises.
- (6) A detainee custody officer may enter the premises for the purpose of carrying out a search.
- (7) In subsection (6)—
- “detainee custody officer” means a person in respect of whom a certificate of authorisation is in force under section 154 of the Immigration and Asylum Act 1999 (c. 33) (detained persons: escort and custody), and
- “search” means a search under paragraph 2(1)(a) of Schedule 13 to that Act (escort arrangements: power to search detained person).]

#### Textual Amendments

**F63** S. 28CA inserted (8.1.2003) by [2002 c. 41, s. 153\(1\)](#) (with [s. 159](#)); S.I. 2002/2811, art. 2, Sch.

#### Modifications etc. (not altering text)

**C25** Ss. 28A, 28CA, 28FA modified (1.1.2007) by [The Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), [reg. 15\(c\)](#)

### [<sup>F64</sup>28D Entry and search of premises.

- (1) If, on an application made by an immigration officer, a justice of the peace is satisfied that there are reasonable grounds for believing that—
- (a) a relevant offence has been committed,
  - (b) there is material on premises specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence,
  - (c) the material is likely to be relevant evidence,
  - (d) the material does not consist of or include items subject to legal privilege, excluded material or special procedure material, and

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- (e) any of the conditions specified in subsection (2) applies,  
he may issue a warrant authorising an immigration officer to enter and search the premises.
- (2) The conditions are that—
- (a) it is not practicable to communicate with any person entitled to grant entry to the premises;
  - (b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
  - (c) entry to the premises will not be granted unless a warrant is produced;
  - (d) the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry to them.
- (3) An immigration officer may seize and retain anything for which a search has been authorised under subsection (1).
- (4) “Relevant offence” means an offence under section 24(1)(a), (b), (c), (d), (e) or (f), [F65 24A, 25, 25A, 25B][F66, 26A or 26B].
- (5) In relation to England and Wales, expressions which are given a meaning by the M4 Police and Criminal Evidence Act 1984 have the same meaning when used in this section.
- (6) In relation to Northern Ireland, expressions which are given a meaning by the M5 Police and Criminal Evidence (Northern Ireland) Order 1989 have the same meaning when used in this section.
- (7) In the application of subsection (1) to Scotland—
- (a) read the reference to a justice of the peace as a reference to the sheriff or a justice of the peace; and
  - (b) in paragraph (d), omit the reference to excluded material and special procedure material.]

#### Textual Amendments

- F64** S. 28D inserted (14.2.2000) by 1999 c. 33, s. 131; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F65** Words in s. 28D(4) substituted (10.2.2003) by 2002 c. 41, s. 144(6) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F66** Words in s. 28D(4) inserted (10.2.2003) by 2002 c. 41, s. 150(3) (with s. 159); S.I. 2003/1, art. 2, Sch.

#### Modifications etc. (not altering text)

- C26** S. 28D modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(11)(a)
- C27** S. 28D modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(a), 48(1)
- C28** S. 28D modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(a)
- C29** S. 28D modified (29.2.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 21(3)(a), 62; S.I. 2008/310, art. 2(1) (subject to art. 5)

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- C30** S. 28D modified by [Immigration and Asylum Act 1999 \(c. 33\), s. 109B\(1\)\(a\)](#) (as inserted (31.1.2008) by [UK Borders Act 2007 \(c. 30\), ss. 18, 59; S.I. 2008/99, art. 2](#))  
S. 28D modified (31.1.2008) by [UK Borders Act 2007 \(c. 30\), ss. 23\(2\)\(a\), 59; S.I. 2008/99, art. 2](#)
- C31** S. 28D(3): powers of seizure extended (1.4.2003) by [2001 c. 16, ss. 50, 52-55, 68, Sch. 1 Pt. 1 para. 15; S.I. 2003/708, art. 2](#)  
S. 28D(3) modified (1.4.2003) by [2001 c. 16, ss. 55, 68, Sch. 1 Pt. 3 para. 95 \(with s. 57\(3\)\); S.I. 2003/708, art. 2](#)

#### Marginal Citations

- M4** [1984 c. 60.](#)  
**M5** [S.I. 1989/1341 \(N.I. 12\).](#)

### [<sup>F67</sup>28E Entry and search of premises following arrest.

- (1) This section applies if a person is arrested for an offence under this Part at a place other than a police station.
- (2) An immigration officer may enter and search any premises—
  - (a) in which the person was when arrested, or
  - (b) in which he was immediately before he was arrested, for evidence relating to the offence for which the arrest was made (“relevant evidence”).
- (3) The power may be exercised—
  - (a) only if the officer has reasonable grounds for believing that there is relevant evidence on the premises; and
  - (b) only to the extent that it is reasonably required for the purpose of discovering relevant evidence.
- (4) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching—
  - (a) any dwelling in which the arrest took place or in which the arrested person was immediately before his arrest; and
  - (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.
- (5) An officer searching premises under subsection (2) may seize and retain anything he finds which he has reasonable grounds for believing is relevant evidence.
- (6) Subsection (5) does not apply to items which the officer has reasonable grounds for believing are items subject to legal privilege.]

#### Textual Amendments

- F67** S. 28E inserted (14.2.2000) by [1999 c. 33, s. 132\(1\); S.I. 2000/168, art. 2, Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252, art. 2, Sch.](#))

#### Modifications etc. (not altering text)

- C32** S. 28E modified (1.5.2004) by [The Accession \(Immigration and Worker Registration\) Regulations 2004 \(S.I. 2004/1219\), reg. 9\(11\)\(b\)](#)
- C33** S. 28E modified (22.9.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), ss. 2\(11\)\(b\), 48\(1\)](#)



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- C34** S. 28E applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(b); S.I. 2004/2999, art. 2, Sch.
- C35** S. 28E modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(b)
- C36** S. 28E modified (29.2.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 21(3)(b), 62; S.I. 2008/310, art. 2(1) (subject to art. 5)
- C37** S. 28E modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)  
S. 28E modified (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(b), 59; S.I. 2008/99, art. 2
- C38** S. 28E(5): powers of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-55, 68, Sch. 1 Pt. 1 para. 15; S.I. 2003/708, art. 2

[<sup>F69</sup>28F [<sup>F68</sup>Entry and search of premises following arrest under section 25, 25A, or 25B].

- (1) An immigration officer may enter and search any premises occupied or controlled by a person arrested for an offence under [<sup>F70</sup>section 25, 25A, 25B].
- (2) The power may be exercised—
  - (a) only if the officer has reasonable grounds for suspecting that there is relevant evidence on the premises;
  - (b) only to the extent that it is reasonably required for the purpose of discovering relevant evidence; and
  - (c) subject to subsection (3), only if a senior officer has authorised it in writing.
- (3) The power may be exercised—
  - (a) before taking the arrested person to a place where he is to be detained; and
  - (b) without obtaining an authorisation under subsection (2)(c),if the presence of that person at a place other than one where he is to be detained is necessary for the effective investigation of the offence.
- (4) An officer who has relied on subsection (3) must inform a senior officer as soon as is practicable.
- (5) The officer authorising a search, or who is informed of one under subsection (4), must make a record in writing of—
  - (a) the grounds for the search; and
  - (b) the nature of the evidence that was sought.
- (6) An officer searching premises under this section may seize and retain anything he finds which he has reasonable grounds for suspecting is relevant evidence.
- (7) “Relevant evidence” means evidence, other than items subject to legal privilege, that relates to the offence in question.
- (8) “Senior officer” means an immigration officer not below the rank of chief immigration officer.]

**Textual Amendments**

- F68** S. 28F: title substituted (10.2.2003) by virtue of 2002 c. 41, s. 144(7) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F69** S. 28F inserted (14.2.2000) by 1999 c. 33, s. 133; S.I. 2000/168, art. 2, Sch. (which amending provision is extended to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

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**F70** Words in s. 28F(1) substituted (10.2.2003) by 2002 c. 41, s. 144(7) (with s. 159); S.I. 2003/1, **art. 2**, Sch.

**Modifications etc. (not altering text)**

**C39** S. 28F applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(b); S.I. 2004/2999, **art. 2**, Sch.

**C40** S. 28F(6): powers of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-55, 68, Sch. 1 Pt. 1 para. 15; S.I. 2003/708, **art. 2**

[<sup>F71</sup> **28FA Search for personnel records: warrant unnecessary**

- (1) This section applies where—
  - (a) a person has been arrested for an offence under section 24(1) or 24A(1),
  - (b) a person has been arrested under paragraph 17 of Schedule 2,
  - (c) a constable or immigration officer reasonably believes that a person is liable to arrest for an offence under section 24(1) or 24A(1), or
  - (d) a constable or immigration officer reasonably believes that a person is liable to arrest under paragraph 17 of Schedule 2.
- (2) A constable or immigration officer may search business premises where the arrest was made or where the person liable to arrest is if the constable or immigration officer reasonably believes—
  - (a) that a person has committed an immigration employment offence in relation to the person arrested or liable to arrest, and
  - (b) that employee records, other than items subject to legal privilege, will be found on the premises and will be of substantial value (whether on their own or together with other material) in the investigation of the immigration employment offence.
- (3) A constable or officer searching premises under subsection (2) may seize and retain employee records, other than items subject to legal privilege, which he reasonably suspects will be of substantial value (whether on their own or together with other material) in the investigation of—
  - (a) an immigration employment offence, or
  - (b) an offence under section 105 or 106 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seeker: fraud).
- (4) The power under subsection (2) may be exercised only—
  - (a) to the extent that it is reasonably required for the purpose of discovering employee records other than items subject to legal privilege,
  - (b) if the constable or immigration officer produces identification showing his status, and
  - (c) if the constable or immigration officer reasonably believes that at least one of the conditions in subsection (5) applies.
- (5) Those conditions are—
  - (a) that it is not practicable to communicate with a person entitled to grant access to the records,
  - (b) that permission to search has been refused,
  - (c) that permission to search would be refused if requested, and

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- (d) that the purpose of a search may be frustrated or seriously prejudiced if it is not carried out in reliance on subsection (2).
- (6) Subsection (4)(b) applies—
  - (a) whether or not a constable or immigration officer is asked to produce identification, but
  - (b) only where premises are occupied.
- (7) In this section “immigration employment offence” means [<sup>F72</sup>an offence under section 21 of the Immigration, Asylum and Nationality Act 2006](employment).]

#### Textual Amendments

**F71** S. 28FA inserted (8.1.2003) by 2002 c. 41, s. 154 (with s. 159); S.I. 2002/2811, art. 2, Sch.

**F72** Words in s. 28FA(7) substituted (29.2.2008) by UK Borders Act 2007 (c. 30), ss. 28, 59; S.I. 2008/309, art. 2 (subject to art. 5)

#### Modifications etc. (not altering text)

**C41** Ss. 28A, 28CA, 28FA modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(c)

### [<sup>F73</sup>28FB Search for personnel records: with warrant

- (1) This section applies where on an application made by an immigration officer in respect of business premises a justice of the peace is satisfied that there are reasonable grounds for believing—
  - (a) that an employer has provided inaccurate or incomplete information under section 134 of the Nationality, Immigration and Asylum Act 2002 (compulsory disclosure by employer),
  - (b) that employee records, other than items subject to legal privilege, will be found on the premises and will enable deduction of some or all of the information which the employer was required to provide, and
  - (c) that at least one of the conditions in subsection (2) is satisfied.
- (2) Those conditions are—
  - (a) that it is not practicable to communicate with a person entitled to grant access to the premises,
  - (b) that it is not practicable to communicate with a person entitled to grant access to the records,
  - (c) that entry to the premises or access to the records will not be granted unless a warrant is produced, and
  - (d) that the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry.
- (3) The justice of the peace may issue a warrant authorising an immigration officer to enter and search the premises.
- (4) Subsection (7)(a) of section 28D shall have effect for the purposes of this section as it has effect for the purposes of that section.
- (5) An immigration officer searching premises under a warrant issued under this section may seize and retain employee records, other than items subject to legal privilege,

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which he reasonably suspects will be of substantial value (whether on their own or together with other material) in the investigation of—

- (a) an offence under section 137 of the Nationality, Immigration and Asylum Act 2002 (disclosure of information: offences) in respect of a requirement under section 134 of that Act, or
- (b) an offence under section 105 or 106 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seeker: fraud).]

#### Textual Amendments

**F73** S. 28FB inserted (8.1.2003) by 2002 c. 41, s. 154 (with s. 159); S.I. 2002/2811, art. 2, Sch. (subject to transitional provision in art. 6 of the said S.I. 2002/2811)

#### [<sup>F74</sup>28G Searching arrested persons.

- (1) This section applies if a person is arrested for an offence under this Part at a place other than a police station.
- (2) An immigration officer may search the arrested person if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (3) The officer may search the arrested person for—
  - (a) anything which he might use to assist his escape from lawful custody; or
  - (b) anything which might be evidence relating to the offence for which he has been arrested.
- (4) The power conferred by subsection (3) may be exercised—
  - (a) only if the officer has reasonable grounds for believing that the arrested person may have concealed on him anything of a kind mentioned in that subsection; and
  - (b) only to the extent that it is reasonably required for the purpose of discovering any such thing.
- (5) A power conferred by this section to search a person is not to be read as authorising an officer to require a person to remove any of his clothing in public other than an outer coat, jacket or glove; but it does authorise the search of a person's mouth.
- (6) An officer searching a person under subsection (2) may seize and retain anything he finds, if he has reasonable grounds for believing that that person might use it to cause physical injury to himself or to another person.
- (7) An officer searching a person under subsection (3) may seize and retain anything he finds, if he has reasonable grounds for believing—
  - (a) that that person might use it to assist his escape from lawful custody; or
  - (b) that it is evidence which relates to the offence in question.
- (8) Subsection (7)(b) does not apply to an item subject to legal privilege.]

#### Textual Amendments

**F74** S. 28G inserted (14.2.2000) by 1999 c. 33, s. 134(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

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**Modifications etc. (not altering text)**

- C42** S. 28G modified (1.5.2004) by [The Accession \(Immigration and Worker Registration\) Regulations 2004 \(S.I. 2004/1219\)](#), [reg. 9\(11\)\(b\)](#)
- C43** S. 28G modified (22.9.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 2\(11\)\(b\)](#), 48(1)
- C44** S. 28G applied (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [s. 14\(3\)\(c\)](#); [S.I. 2004/2999](#), [art. 2](#), Sch.
- C45** S. 28G modified (1.1.2007) by [The Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), [reg. 15\(b\)](#)
- C46** S. 28G modified (29.2.2008) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [ss. 21\(3\)\(b\)](#), 62; [S.I. 2008/310](#), [art. 2\(1\)](#) (subject to art. 5)
- C47** S. 28G modified by [Immigration and Asylum Act 1999 \(c. 33\)](#), [s. 109B\(1\)\(b\)](#) (as inserted (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 18](#), 59; [S.I. 2008/99](#), [art. 2](#))
- S. 28G modified (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 23\(2\)\(b\)](#), 59; [S.I. 2008/99](#), [art. 2](#)
- C48** S. 28G(7): powers of seizure extended (1.4.2003) by [2001 c. 16](#), [ss. 51-54](#), 68, Sch. 1 Pt. 2 para. 78; [S.I. 2003/708](#), [art. 2](#)

[<sup>F75</sup> **28H Searching persons in police custody.**

- (1) This section applies if a person—
  - (a) has been arrested for an offence under this Part; and
  - (b) is in custody at a police station or in police detention at a place other than a police station.
- (2) An immigration officer may, at any time, search the arrested person in order to see whether he has with him anything—
  - (a) which he might use to—
    - (i) cause physical injury to himself or others;
    - (ii) damage property;
    - (iii) interfere with evidence; or
    - (iv) assist his escape; or
  - (b) which the officer has reasonable grounds for believing is evidence relating to the offence in question.
- (3) The power may be exercised only to the extent that the custody officer concerned considers it to be necessary for the purpose of discovering anything of a kind mentioned in subsection (2).
- (4) An officer searching a person under this section may seize anything he finds, if he has reasonable grounds for believing that—
  - (a) that person might use it for one or more of the purposes mentioned in subsection (2)(a); or
  - (b) it is evidence relating to the offence in question.
- (5) Anything seized under subsection (4)(a) may be retained by the police.
- (6) Anything seized under subsection (4)(b) may be retained by an immigration officer.
- (7) The person from whom something is seized must be told the reason for the seizure unless he is—
  - (a) violent or appears likely to become violent; or
  - (b) incapable of understanding what is said to him.

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- (8) An intimate search may not be conducted under this section.
- (9) The person carrying out a search under this section must be of the same sex as the person searched.
- (10) “Custody officer”—
- (a) in relation to England and Wales, has the same meaning as in the <sup>M6</sup>Police and Criminal Evidence Act 1984;
  - (b) in relation to Scotland, means the officer in charge of a police station; and
  - (c) in relation to Northern Ireland, has the same meaning as in the <sup>M7</sup>Police and Criminal Evidence (Northern Ireland) Order 1989.
- (11) “Intimate search”—
- (a) in relation to England and Wales, has the meaning given by section 65 of the Act of 1984;
  - (b) in relation to Scotland, means a search which consists of the physical examination of a person’s body orifices other than the mouth; and
  - (c) in relation to Northern Ireland, has the same meaning as in the 1989 Order.
- (12) “Police detention”—
- (a) in relation to England and Wales, has the meaning given by section 118(2) of the 1984 Act; and
  - (b) in relation to Northern Ireland, has the meaning given by Article 2 of the 1989 Order.
- (13) In relation to Scotland, a person is in police detention if—
- (a) he has been taken to a police station after being arrested for an offence; or
  - (b) he is arrested at a police station after attending voluntarily at the station, accompanying a constable to it or being detained under section 14 of the <sup>M8</sup>Criminal Procedure (Scotland) Act 1995,
- and is detained there or is detained elsewhere in the charge of a constable, but is not in police detention if he is in court after being charged.]

#### **Textual Amendments**

**F75** S. 28H inserted (14.2.2000) by 1999 c. 33, s. 135(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

#### **Modifications etc. (not altering text)**

**C49** S. 28H modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(11)(b)

**C50** S. 28H modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(b), 48(1)

**C51** S. 28H applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(c); S.I. 2004/2999, art. 2, Sch.

**C52** S. 28H modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(b)

**C53** S. 28H modified (29.2.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 21(3)(b), 62; S.I. 2008/310, art. 2(1) (subject to art. 5)

**C54** S. 28H modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)

S. 28H modified (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(b), 59; S.I. 2008/99, art. 2

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#### **Marginal Citations**

- M6** 1984 c. 60.  
**M7** S.I. 1989/1341 (N.I. 12).  
**M8** 1995 c. 43.

#### **[<sup>F76</sup>281 Seized material: access and copying.**

- (1) If a person showing himself—
  - (a) to be the occupier of the premises on which seized material was seized, or
  - (b) to have had custody or control of the material immediately before it was seized,asks the immigration officer who seized the material for a record of what he seized, the officer must provide the record to that person within a reasonable time.
- (2) If a relevant person asks an immigration officer for permission to be granted access to seized material, the officer must arrange for him to have access to the material under the supervision—
  - (a) in the case of seized material within subsection (8)(a), of an immigration officer;
  - (b) in the case of seized material within subsection (8)(b), of a constable.
- (3) An immigration officer may photograph or copy, or have photographed or copied, seized material.
- (4) If a relevant person asks an immigration officer for a photograph or copy of seized material, the officer must arrange for—
  - (a) that person to have access to the material for the purpose of photographing or copying it under the supervision—
    - (i) in the case of seized material within subsection (8)(a), of an immigration officer;
    - (ii) in the case of seized material within subsection (8)(b), of a constable;or
  - (b) the material to be photographed or copied.
- (5) A photograph or copy made under subsection (4)(b) must be supplied within a reasonable time.
- (6) There is no duty under this section to arrange for access to, or the supply of a photograph or copy of, any material if there are reasonable grounds for believing that to do so would prejudice—
  - (a) the exercise of any functions in connection with which the material was seized; or
  - (b) an investigation which is being conducted under this Act, or any criminal proceedings which may be brought as a result.
- (7) “Relevant person” means—
  - (a) a person who had custody or control of seized material immediately before it was seized, or
  - (b) someone acting on behalf of such a person.
- (8) “Seized material” means anything—

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- (a) seized and retained by an immigration officer, or
  - (b) seized by an immigration officer and retained by the police,
- under this Part.]

#### Textual Amendments

**F76** S. 28I inserted (14.2.2000) by 1999 c. 33, s. 136(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

#### Modifications etc. (not altering text)

**C55** S. 28I applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(d); S.I. 2004/2999, art. 2, Sch.

**C56** S. 28I applied by Immigration and Asylum Act 1999 (c. 33), s. 109B(2)(a) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)

S. 28I applied (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(3)(a), 59; S.I. 2008/99, art. 2

S. 28I applied (31.3.2008) by UK Borders Act 2007 (c. 30), ss. 46(4), 59; S.I. 2008/309, art. 3

#### [<sup>F77</sup> 28J Search warrants: safeguards.

- (1) The entry or search of premises under a warrant is unlawful unless it complies with this section and section 28K.
- (2) If an immigration officer applies for a warrant, he must—
  - (a) state the ground on which he makes the application and the provision of this Act under which the warrant would be issued;
  - (b) specify the premises which it is desired to enter and search; and
  - (c) identify, so far as is practicable, the persons or articles to be sought.
- (3) In Northern Ireland, an application for a warrant is to be supported by a complaint in writing and substantiated on oath.
- (4) Otherwise, an application for a warrant is to be made ex parte and supported by an information in writing or, in Scotland, evidence on oath.
- (5) The officer must answer on oath any question that the justice of the peace or sheriff hearing the application asks him.
- (6) A warrant shall authorise an entry on one occasion only.
- (7) A warrant must specify—
  - (a) the name of the person applying for it;
  - (b) the date on which it is issued;
  - (c) the premises to be searched; and
  - (d) the provision of this Act under which it is issued.
- (8) A warrant must identify, so far as is practicable, the persons or articles to be sought.
- (9) Two copies of a warrant must be made.
- (10) The copies must be clearly certified as copies.
- (11) “Warrant” means a warrant to enter and search premises issued to an immigration officer under this Part or under paragraph 17(2) of Schedule 2.]



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#### Textual Amendments

**F77** S. 28J inserted (14.2.2000) by 1999 c. 33, s. 137; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

#### Modifications etc. (not altering text)

**C57** S. 28J applied by 1999 c. 33, s. 109B(2)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)

S. 28J applied (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(3)(b), 59; S.I. 2008/99, art. 2

S. 28J applied (with modifications) (31.3.2008) by UK Borders Act 2007 (c. 30), ss. 45(4), 59; S.I. 2008/309, art. 3

### [<sup>F78</sup>28K Execution of warrants.

- (1) A warrant may be executed by any immigration officer.
- (2) A warrant may authorise persons to accompany the officer executing it.
- (3) Entry and search under a warrant must be—
  - (a) within one month from the date of its issue; and
  - (b) at a reasonable hour, unless it appears to the officer executing it that the purpose of a search might be frustrated.
- (4) If the occupier of premises which are to be entered and searched is present at the time when an immigration officer seeks to execute a warrant, the officer must—
  - (a) identify himself to the occupier and produce identification showing that he is an immigration officer;
  - (b) show the occupier the warrant; and
  - (c) supply him with a copy of it.
- (5) If—
  - (a) the occupier is not present, but
  - (b) some other person who appears to the officer to be in charge of the premises is present,subsection (4) has effect as if each reference to the occupier were a reference to that other person.
- (6) If there is no person present who appears to the officer to be in charge of the premises, the officer must leave a copy of the warrant in a prominent place on the premises.
- (7) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.
- (8) An officer executing a warrant must make an endorsement on it stating—
  - (a) whether the persons or articles sought were found; and
  - (b) whether any articles, other than articles which were sought, were seized.
- (9) A warrant which has been executed, or has not been executed within the time authorised for its execution, must be returned—
  - [<sup>F79</sup>(a) if issued by a justice of the peace in England and Wales, to the designated officer for the local justice area in which the justice was acting when he issued the warrant;]

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- (b) if issued by a justice of the peace in Northern Ireland, to the clerk of petty sessions for the petty sessions district in which the premises are situated;
  - (c) if issued by a justice of the peace in Scotland, to the clerk of the district court for the commission area for which the justice of the peace was appointed;
  - (d) if issued by the sheriff, to the sheriff clerk.
- (10) A warrant returned under subsection (9)(a) must be retained for 12 months by the [F80 designated officer] .
- (11) A warrant issued under subsection (9)(b) or (c) must be retained for 12 months by the clerk.
- (12) A warrant returned under subsection (9)(d) must be retained for 12 months by the sheriff clerk.
- (13) If during that 12 month period the occupier of the premises to which it relates asks to inspect it, he must be allowed to do so.
- (14) “Warrant” means a warrant to enter and search premises issued to an immigration officer under this Part or under paragraph 17(2) of Schedule 2.]

#### Textual Amendments

- F78** S. 28K inserted (14.2.2000) by 1999 c. 33, s. 138; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F79** S. 28K(9)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), Sch. 8 para. 148(2); S.I. 2005/910, art. 3(y)(bb)
- F80** Words in s. 28K(10) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), Sch. 8 para. 148(3); S.I. 2005/910, art. 3(y)(bb)

#### Modifications etc. (not altering text)

- C58** S. 28K applied by Immigration and Asylum Act 1999 (c. 33), s. 109B(2)(c) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)
- S. 28K applied (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(c), 59; S.I. 2008/99, {act. 2}
- S. 28K applied (with modifications) (31.3.2008) by UK Borders Act 2007 (c. 30), ss. 45(4), 59; S.I. 2008/309, art. 3
- C59** S. 28K(9)(a)(10) amended (*temp.* until 1.4.2001) by 1999 c. 33, s. 169(2), Sch. 15 para. 4(b); S.I. 2000/168, art. 2, Sch; S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)

#### [F81] 28L Interpretation of Part III.

- [ In this Part, “premises” and “items subject to legal privilege” have the same meaning—
- [F82(1)] (a) in relation to England and Wales, as in the <sup>M9</sup>Police and Criminal Evidence Act 1984;
- (b) in relation to Northern Ireland, as in the <sup>M10</sup>Police and Criminal Evidence (Northern Ireland) Order 1989; and
- (c) in relation to Scotland, as in section [F83]412 of the Proceeds of Crime Act 2002].]

[F84(2) In this Part “business premises” means premises (or any part of premises) not used as a dwelling.

(3) In this Part “employee records” means records which show an employee’s—

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- (a) name,
  - (b) date of birth,
  - (c) address,
  - (d) length of service,
  - (e) rate of pay, or
  - (f) nationality or citizenship.
- (4) The Secretary of State may by order amend section 28CA(3)(a) to reflect a change in nomenclature.
- (5) An order under subsection (4)—
- (a) must be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F81** S. 28L inserted (14.2.2000) by 1999 c. 33, s. 139(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F82** S. 28L renumbered (8.1.2003) as s. 28L(1) by virtue of 2002 c. 41, s. 155(1) (with s. 159); S.I. 2002/2811, art. 2, Sch.
- F83** Words in s. 28L(1)(c) substituted (24.2.2003) by 2002 c. 29, s. 456, Sch. 11 para. 6; S.I. 2003/120, art. 2, Sch. (subject to transitional provisions and savings in arts. 3-6 (as amended by S.I. 2003/333, art. 14))
- F84** S. 28L(2)-(5) inserted (8.1.2003) by 2002 c. 41, s. 155(2) (with s. 159); S.I. 2002/2811, art. 2, Sch.

#### Modifications etc. (not altering text)

- C60** S. 28L(1) applied by Immigration and Asylum Act 1999 (c. 33), s. 109B(2)(d) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)
- S. 28L(1) applied (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(3)(d), 59; S.I. 2008/99, art. 2

#### Marginal Citations

- M9** 1984 c. 60.
- M10** S.I. 1989/1341 (N.I. 12).

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