



Immigration Act 1971

1971 CHAPTER 77

PART III

CRIMINAL PROCEEDINGS

28 Proceedings.

[^{F1}(A1) Proceedings for an offence under this Part that is committed in the territorial sea adjacent to the United Kingdom may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.]

- (1) Where the offence is one to which, under section [^{F2}24(3)]^{F3} . . . 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 [^{F4}an officer 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 [^{F4}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.

Changes to legislation: Immigration Act 1971, Section 28 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) View outstanding changes

- [^{F5}(1A) Where the offence is one to which, under section 24(3A), 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—
 - (i) within the period of six months beginning with the date of the commission of the offence, or
 - (ii) within the period of three months beginning with the date when the person is first arrested for the offence or under paragraph 10 of Schedule 10 to the Immigration Act 2016 (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i),
 - (b) summary proceedings for the offence may in Scotland be commenced—
 - (i) within the period of six months beginning with the date of the commission of the offence, or
 - (ii) within the period of three months beginning with the date when the person is first arrested for the offence or under paragraph 10 of Schedule 10 to the Immigration Act 2016 (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i), and
 - (c) a complaint charging the commission of an offence under this paragraph may in Northern Ireland be heard and determined by a magistrates' court if it is made—
 - (i) within the period of six months beginning with the date of the commission of the offence, or
 - (ii) within the period of three months beginning with the date when the person is first arrested for the offence or under paragraph 10 of Schedule 10 to the Immigration Act 2016 (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i).]
- (2) For purposes of [^{F6}subsections (1)(b) and (1A)(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 [^{F6}subsections (1) (b) and (1A)(b)] came to his knowledge shall be conclusive evidence.
- [^{F7}(2A) Section 3 of the Territorial Waters Jurisdiction Act 1878 (consent of Secretary of State for certain prosecutions) does not apply to proceedings for an offence under [^{F8}this Part].]
- (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

- F1** S. 28(A1) inserted (12.4.2023) by [Nationality and Borders Act 2022 \(c. 36\)](#), s. 87(1), [Sch. 6 para. 4\(a\)](#); S.I. 2023/283, reg. 3(b)

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- F2** Word in s. 28(1) substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 17(2)**; S.I. 2017/1241, **reg. 2(c)** (with **Sch.**) (as amended by S.I. 2018/31, **reg. 2**)
- F3** 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**
- F4** Words substituted by Immigration Act 1988 (c. 14, SIF 62), s. 10, **Sch. para. 4**
- F5** S. 28(1A) inserted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 17(3)**; S.I. 2017/1241, **reg. 2(c)** (with **Sch.**) (as amended by S.I. 2018/31, **reg. 2**)
- F6** Words in s. 28(2) substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 17(4)**; S.I. 2017/1241, **reg. 2(c)** (with **Sch.**) (as amended by S.I. 2018/31, **reg. 2**)
- F7** S. 28(2A) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 5**; S.I. 2016/603, **reg. 2(d)**
- F8** Words in s. 28(2A) substituted (24.8.2022) by Nationality and Borders Act 2022 (c. 36), s. 87(1), **Sch. 6 para. 4(b)**; S.I. 2022/912, **reg. 2(b)(ii)**

Modifications etc. (not altering text)

- C1** Pt. 3 modified by Immigration Act 2014 (c. 22), s. 33C(6) (as inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), **ss. 39(2)**, 94(1); S.I. 2016/1037, **regs. 2(a)**, 5(c))
- C2** Ss. 24-29: amendment to earlier affecting S.I. 1993/1797, **Sch. 1 Pt. 1** (11.10.2017 coming into force in accordance with art. 1) by The Immigration (Jersey) (Amendment) Order 2017 (S.I. 2017/981), **Sch. Pt. 1 para. 1** (with art. 6)
- C3** 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)**
- C4** 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)
- C5** 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**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [2008 c. 4 s. 133\(7\)\(8\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10(1A)(1B) inserted by [1999 c. 33 Sch. 14 para. 47\(3\)](#)
- s. 24(1)(fa) inserted by [2023 c. 37 s. 10\(2\)](#)
- s. 24C-24F inserted by [2016 c. 19 s. 44\(2\)](#)
- s. 26A(1)(b)(ia) inserted by [2016 c. 19 Sch. 11 para. 25](#)
- s. 27(1)(aa) inserted by [2023 c. 37 s. 10\(3\)\(a\)](#)
- s. 27(1)(ba) inserted by [2023 c. 37 s. 10\(3\)\(b\)](#)
- s. 28CA(1)(bb) substituted for word in s. 28CA(1)(b) by [2016 c. 19 s. 44\(5\)](#)
- Sch. 2 para. 27B(4A) inserted by [2004 c. 19 s. 16](#)
- Sch. 2 para. 26(4) inserted by [2016 c. 19 s. 74\(1\)](#)
- Sch. 2 Pt. 1A inserted by [2016 c. 19 Sch. 13](#)
- Sch. 2 para. 11A inserted by [2023 c. 37 s. 10\(4\)](#)