



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART VII

POWER TO ARREST, SEARCH AND FINGERPRINT

Search warrants

137 Search warrants: safeguards.

In the 1971 Act, after section 28I, insert—

“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;

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- (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.”

138 Execution of warrants.

In the 1971 Act, after section 28J, insert—

“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.

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- (9) A warrant which has been executed, or has not been executed within the time authorised for its execution, must be returned—
- (a) if issued by a justice of the peace in England and Wales, to the justices' chief executive appointed by the magistrates' court committee whose area includes the petty sessions area for which the justice acts;
 - (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 justices' chief executive.
- (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."

139 Interpretation.

- (1) In the 1971 Act, after section 28K, insert—

"28L Interpretation of Part III.

In this Part, "premises" and "items subject to legal privilege" have the same meaning—

- (a) in relation to England and Wales, as in the ^{M1}Police and Criminal Evidence Act 1984;
- (b) in relation to Northern Ireland, as in the ^{M2}Police and Criminal Evidence (Northern Ireland) Order 1989; and
- (c) in relation to Scotland, as in section 33 of the ^{M3}Criminal Law (Consolidation) (Scotland) Act 1995."

- (2) In the 1971 Act, in Schedule 2, after paragraph 25D insert—

"25E Section 28L applies for the purposes of this Schedule as it applies for the purposes of Part III."

Annotations:

Marginal Citations

M1 1984 c. 60.

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M2 S.I. 1989/1341 (N.I. 12).
M3 1995 c. 39.

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

- Act amendment to earlier affecting provision S.I. 1994/1405, art. 7 by S.I. 2007/3579 art. 3(c)

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

- s. 72(10) repealed by 2004 c. 19 Sch. 4
- s. 94(2A)-(2C) inserted by 2016 c. 19 Sch. 11 para. 3(3)
- s. 94(2D) inserted by 2016 c. 19 Sch. 11 para. 7(4)
- s. 94(3)(3A) substituted for s. 94(3) by 2002 c. 41 s. 44(4) (This amendment is repealed (prosp.) by 2016 c. 19, Sch. 11 para. 41)
- s. 94(3A)-(3D) inserted by 2016 c. 19 Sch. 11 para. 3(5)
- s. 95A inserted by 2016 c. 19 Sch. 11 para. 9
- s. 96(1A) inserted by 2016 c. 19 Sch. 11 para. 10(3)
- s. 97(8)(9) inserted by 2016 c. 19 Sch. 11 para. 11(4)
- s. 98A inserted by 2016 c. 19 Sch. 11 para. 13
- s. 103(4)(a) words substituted by 2004 c. 19 s. 10(4)(b)
- s. 103(5)(b) word substituted by S.I. 2008/2833 Sch. 3 para. 183(ii)
- s. 103A(1) words substituted by 2004 c. 19 s. 10(5)
- s. 103A(1) heading words substituted by 2004 c. 19 s. 10(5)
- s. 103A(1) words substituted by S.I. 2008/2833 Sch. 3 para. 184
- s. 125(2)(ba) inserted by 2016 c. 19 Sch. 11 para. 22(3)(b)
- s. 146(2)(za) inserted by 2016 c. 19 s. 44(9)
- s. 166(5)(ca) substituted for word in s. 166(5)(c) by 2016 c. 19 Sch. 11 para. 24(2)
- s. 166(5A)(5B) inserted by 2016 c. 19 Sch. 11 para. 24(3)
- s. 166(6)(aa) substituted for word in s. 166(6)(a) by 2016 c. 19 Sch. 11 para. 24(4)
- Sch. 2 para. 21 modified by 2002 c. 41 s. 23(2)(a)
- Sch. 3 para. 2(5) modified by 2002 c. 41 s. 23(2)(b)