

SCHEDULES

SCHEDULE 10

IMMIGRATION BAIL

PART 1

MAIN PROVISIONS

Arrest for breach of immigration bail

- 10 (1) An immigration officer or a constable may arrest without warrant a person on immigration bail if the immigration officer or constable—
- (a) has reasonable grounds for believing that the person is likely to fail to comply with a bail condition, or
 - (b) has reasonable grounds for suspecting that the person is failing, or has failed, to comply with a bail condition.
- (2) Sub-paragraph (3) applies if an appropriate judicial officer is satisfied that there are reasonable grounds for believing that a person liable to be arrested under this paragraph is to be found on any premises.
- (3) The appropriate judicial officer may issue a warrant authorising any immigration officer or constable to enter, by reasonable force if necessary, the premises named in the warrant for the purposes of searching for and arresting that person.
- (4) Sections 28J and 28K of the Immigration Act 1971 (warrants: application and execution) apply, with any necessary modifications, to warrants under sub-paragraph (3).
- (5) Sub-paragraph (6) applies where—
- (a) a warrant under this paragraph is issued for the purposes of the arrest of a person under this paragraph, and
 - (b) an immigration officer or a constable enters premises in reliance on the warrant and detains a person on the premises.
- (6) A detainee custody officer may enter the premises, if need be by reasonable force, for the purpose of carrying out a search.
- (7) In sub-paragraph (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 (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).

Status: This is the original version (as it was originally enacted).

- (8) Paragraphs 25A to 25C of Schedule 2 to the Immigration Act 1971 (entry and search of persons and premises) apply in relation to a person arrested under this paragraph as they apply in relation to a person arrested under that Schedule.
- (9) A person arrested under this paragraph—
- (a) must, as soon as is practicable after the person’s arrest, be brought before the relevant authority, and
 - (b) may be detained under the authority of the Secretary of State in the meantime.
- (10) The relevant authority is—
- (a) the Secretary of State, if the Secretary of State granted immigration bail to the arrested person or the First-tier Tribunal has directed that the power in paragraph 6(1) is exercisable by the Secretary of State in relation to that person, or
 - (b) otherwise, the First-tier Tribunal.
- (11) Where an arrested person is brought before the relevant authority, the relevant authority must decide whether the arrested person has broken or is likely to break any of the bail conditions.
- (12) If the relevant authority decides the arrested person has broken or is likely to break any of the bail conditions, the relevant authority must—
- (a) direct that the person is to be detained under the provision mentioned in paragraph 1(1) under which the person is liable to be detained, or
 - (b) grant the person bail subject to the same or different conditions, subject to sub-paragraph (14).
- (13) If the relevant authority decides the person has not broken and is not likely to break any of the bail conditions, the relevant authority must grant the person bail subject to the same conditions (but this is subject to sub-paragraph (14), and does not prevent the subsequent exercise of the powers in paragraph 6).
- (14) The power in sub-paragraph (12) to grant bail subject to the same conditions and the duty in sub-paragraph (13) to do so do not affect the requirement for the grant of bail to comply with paragraph 2.
- (15) In this paragraph—
- “appropriate judicial officer” means—
 - (a) in relation to England and Wales, a justice of the peace;
 - (b) in relation to Scotland, the sheriff or a justice of the peace;
 - (c) in relation to Northern Ireland, a lay magistrate;
 - “premises”—
 - (a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984;
 - (b) in relation to Scotland, has the same meaning as in section 412 of the Proceeds of Crime Act 2002;
 - (c) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (SI 1989/1341 (NI 12)).