



# Immigration Act 1971

## 1971 CHAPTER 77

### [<sup>F1</sup>PART 3A

#### MARITIME ENFORCEMENT

##### Textual Amendments

**F1** Pt. 3A inserted (31.5.2016) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), [Sch. 14 para. 7](#); S.I. 2016/603, reg. 2(d)

#### [<sup>F2</sup>28LA Enforcement powers in relation to ships: United Kingdom

- (1) An immigration officer or an enforcement officer may exercise the powers set out in Part A1 of Schedule 4A (“Part A1 powers”) in relation to any of the following in United Kingdom waters, foreign waters or international waters—
  - (a) a United Kingdom ship;
  - (b) a ship without nationality;
  - (c) a foreign ship;
  - (d) a ship registered under the law of a relevant territory.
- (2) But Part A1 powers may be exercised only—
  - (a) for the purpose of preventing, detecting, investigating or prosecuting a relevant offence, and
  - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before an immigration officer or an enforcement officer may exercise Part A1 powers in relation to—
  - (a) a United Kingdom ship in foreign waters,
  - (b) a ship without nationality,
  - (c) a foreign ship, or
  - (d) a ship registered under the law of a relevant territory.]

*Status: Point in time view as at 24/08/2022.*

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### Textual Amendments

- F2** S. 28LA inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), s. 87(1), **Sch. 7 para. 2**; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)

## 28M Enforcement powers in relation to ships: England and Wales

- (1) [<sup>F3</sup>An English and Welsh constable] may exercise the powers set out in Part 1 of Schedule 4A (“Part 1 powers”) in relation to any of the following in England and Wales waters—
- (a) a United Kingdom ship;
  - (b) a ship without nationality;
  - (c) a foreign ship;
  - (d) a ship registered under the law of a relevant territory.
- (2) But Part 1 powers may be exercised only—
- (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 25, [<sup>F4</sup>or 25A], and
  - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before <sup>F5</sup>... an English and Welsh constable <sup>F6</sup>... may exercise Part 1 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.
- (4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part 1 powers in relation to the ship.

### Textual Amendments

- F3** Words in s. 28M(1) substituted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), s. 87(1), **Sch. 7 para. 3(a)**; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F4** Words in s. 28M(2)(a) substituted (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), reg. 1(2), **Sch. 1 para. 1(1)(a)(vii)** (with Sch. 1 para. 1(5))
- F5** Words in s. 28M(3) omitted (28.6.2022) by virtue of Nationality and Borders Act 2022 (c. 36), s. 87(1), **Sch. 7 para. 3(b)(i)**; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F6** Words in s. 28M(3) omitted (28.6.2022) by virtue of Nationality and Borders Act 2022 (c. 36), s. 87(1), **Sch. 7 para. 3(b)(ii)**; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)

### Modifications etc. (not altering text)

- C1** 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)

## 28N Enforcement powers in relation to ships: Scotland

- (1) [<sup>F7</sup>A Scottish constable] may exercise the powers set out in Part 2 of Schedule 4A (“Part 2 powers”) in relation to any of the following in Scotland waters—
- (a) a United Kingdom ship;

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- (b) a ship without nationality;
  - (c) a foreign ship;
  - (d) a ship registered under the law of a relevant territory.
- (2) But Part 2 powers may be exercised only—
- (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 25 [<sup>F8</sup>or 25A], and
  - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before <sup>F9</sup>... a Scottish constable <sup>F10</sup>... may exercise Part 2 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.
- (4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part 2 powers in relation to the ship.

#### Textual Amendments

- F7** Words in s. 28N(1) substituted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), s. 87(1), **Sch. 7 para. 4(a)**; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F8** Words in s. 28N(2)(a) substituted (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), reg. 1(2), **Sch. 1 para. 1(I)(a)(viii)** (with Sch. 1 para. 1(5))
- F9** Words in s. 28N(3) omitted (28.6.2022) by virtue of Nationality and Borders Act 2022 (c. 36), s. 87(1), **Sch. 7 para. 4(b)(i)**; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F10** Words in s. 28N(3) omitted (28.6.2022) by virtue of Nationality and Borders Act 2022 (c. 36), s. 87(1), **Sch. 7 para. 4(b)(ii)**; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)

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

- C1** 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)

## 28O Enforcement powers in relation to ships: Northern Ireland

- (1) [<sup>F11</sup>A Northern Ireland constable] may exercise the powers set out in Part 3 of Schedule 4A (“Part 3 powers”) in relation to any of the following in Northern Ireland waters—
- (a) a United Kingdom ship;
  - (b) a ship without nationality;
  - (c) a foreign ship;
  - (d) a ship registered under the law of a relevant territory.
- (2) But Part 3 powers may be exercised only—
- (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 25 [<sup>F12</sup>or 25A], and
  - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before <sup>F13</sup>... a Northern Ireland constable <sup>F14</sup>... may exercise Part 3 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom.

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- (4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part 3 powers in relation to the ship.

#### Textual Amendments

- F11** Words in s. 28O(1) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\), s. 87\(1\), Sch. 7 para. 5\(a\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F12** Words in s. 28O(2)(a) substituted (31.12.2020) by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\), reg. 1\(2\), Sch. 1 para. 1\(1\)\(a\)\(ix\)](#) (with Sch. 1 para. 1(5))
- F13** Words in s. 28O(3) omitted (28.6.2022) by virtue of [Nationality and Borders Act 2022 \(c. 36\), s. 87\(1\), Sch. 7 para. 5\(b\)\(i\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F14** Words in s. 28O(3) omitted (28.6.2022) by virtue of [Nationality and Borders Act 2022 \(c. 36\), s. 87\(1\), Sch. 7 para. 5\(b\)\(ii\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)

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

- C1** 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)

## 28P Hot pursuit of ships in United Kingdom waters

- (1) [<sup>F15</sup>An English and Welsh constable] may exercise Part 1 powers in relation to a ship in Scotland waters or in Northern Ireland waters if—
- (a) the ship is pursued there,
  - (b) immediately before the pursuit of the ship, the ship was in England and Wales waters, and
  - (c) the condition in subsection (7) is met.
- (2) Part 1 powers may be exercised under subsection (1) only—
- (a) for the purpose mentioned in subsection (2)(a) of section 28M, and
  - (b) (if relevant) in accordance with subsections (3) and (4) of that section.
- (3) [<sup>F16</sup>A Scottish constable] may exercise Part 2 powers in relation to a ship in England and Wales waters or in Northern Ireland waters if—
- (a) the ship is pursued there,
  - (b) immediately before the pursuit of the ship, the ship was in Scotland waters, and
  - (c) the condition in subsection (7) is met.
- (4) Part 2 powers may be exercised under subsection (3) only—
- (a) for the purpose mentioned in subsection (2)(a) of section 28N, and
  - (b) (if relevant) in accordance with subsections (3) and (4) of that section.
- (5) [<sup>F17</sup>A Northern Ireland constable] may exercise Part 3 powers in relation to a ship in England and Wales waters or in Scotland waters if—
- (a) the ship is pursued there,
  - (b) immediately before the pursuit of the ship, the ship was in Northern Ireland waters, and
  - (c) the condition in subsection (7) is met.

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- (6) Part 3 powers may be exercised under subsection (5) only—
  - (a) for the purpose mentioned in subsection (2)(a) of section 28O, and
  - (b) (if relevant) in accordance with subsections (3) and (4) of that section.
- (7) The condition referred to in subsection (1)(c), (3)(c) and (5)(c) is that—
  - (a) before the pursuit of the ship, a signal is given for it to stop, and
  - (b) the pursuit of the ship is not interrupted.
- (8) The signal referred to in subsection (7)(a) must be given in such a way as to be audible or visible from the ship.
- (9) For the purposes of subsection (7)(b), pursuit is not interrupted by reason only of the fact that—
  - (a) the method of carrying out the pursuit, or
  - (b) the identity of the ship or aircraft carrying out the pursuit, changes during the course of the pursuit.
- (10) Nothing in this Part affects any other legal right of hot pursuit that a constable<sup>F18</sup>... may have.

#### Textual Amendments

- F15** Words in s. 28P(1) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\), s. 87\(1\), Sch. 7 para. 6\(a\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F16** Words in s. 28P(3) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\), s. 87\(1\), Sch. 7 para. 6\(b\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F17** Words in s. 28P(5) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\), s. 87\(1\), Sch. 7 para. 6\(c\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)
- F18** Words in s. 28P(10) omitted (28.6.2022) by virtue of [Nationality and Borders Act 2022 \(c. 36\), s. 87\(1\), Sch. 7 para. 6\(d\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)

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

- C1** 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)

### [<sup>F19</sup>28PA] Power to seize and dispose of ships etc.

- (1) This section applies if—
  - (a) an immigration officer has reasonable grounds to suspect that a ship has been used in the commission of a relevant offence, and
  - (b) the ship is in United Kingdom waters or otherwise in the United Kingdom.
- (2) Subject to subsection (3), the immigration officer may seize the ship and any property relating to the operation or use of the ship.
- (3) The authority of the Secretary of State is required before an immigration officer may seize anything under this section.
- (4) If an immigration officer seizes a foreign ship or a ship registered under the law of a relevant territory, the Secretary of State must notify the home state or relevant territory in question that the ship has been seized.

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- (5) In subsection (4) “home state”, in relation to a foreign ship, means—
- (a) the State in which the ship is registered, or
  - (b) the State whose flag the ship is otherwise entitled to fly.
- (6) Where a ship without nationality, or property relating to the operation or use of a ship without nationality, is seized under this section—
- (a) section 26 of the UK Borders Act 2007 (disposal of property) and any regulations made under that section do not apply in respect of that ship or other property, and
  - (b) subsections (7) to (12) apply instead.
- (7) The Secretary of State may—
- (a) return the ship or other property to the person whom the Secretary of State believes to be its owner, or
  - (b) after the relevant period—
    - (i) dispose of the ship or other property, or
    - (ii) determine that the ship or other property is to be retained to be used in the course of, or in connection with, a function under the Immigration Acts.
- (8) On the making of a determination under subsection (7)(b)(ii), the ship or other property vests in the Secretary of State.
- (9) The relevant period is the period of 31 days beginning with the date on which the ship or other property was seized.
- (10) Before exercising a power under subsection (7)(b), the Secretary of State must make reasonable efforts to—
- (a) ascertain the identity of the owner of the ship or other property, and
  - (b) subject to subsection (11), notify that person that the ship or other property has been seized.
- (11) The Secretary of State is not required to notify a person under subsection (10)(b) if to do so may prejudice any criminal investigation or criminal proceedings.
- (12) Disposal under this section may be in any manner the Secretary of State thinks fit, including—
- (a) by sale;
  - (b) by dismantling;
  - (c) by destruction;
  - (d) by donation of the ship or other property to a charity or other not-for-profit body.]

#### **Textual Amendments**

**F19** S. 28PA inserted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), s. 87(1), [Sch. 7 para. 7](#); [S.I. 2022/590](#), regs. 1(2), 2, [Sch. 1 para. 22](#) (with [Sch. 2 para. 8](#))

## **28Q Interpretation of Part 3A**

- (1) In this Part—

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“the Convention” means the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) and any modifications of that Convention agreed after the passing of this Act that have entered into force in relation to the United Kingdom;

“enforcement officer” means—

- (a) a person who is a commissioned officer of any of Her Majesty's ships, or
- (b) a person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force;

“England and Wales waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales;

“English and Welsh constable” means only a person who is—

- (a) a member of a police force in England and Wales,
- (b) a member of the British Transport Police Force, or
- (c) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013, or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964;

“foreign ship” means a ship which—

- (a) is registered in a State other than the United Kingdom, or
- (b) is not so registered but is entitled to fly the flag of a State other than the United Kingdom;

[<sup>F20</sup>“foreign waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant territory or any State other than the United Kingdom;]

[<sup>F20</sup>“international waters” means waters beyond the territorial sea of the United Kingdom or of any other State or relevant territory;]

“Northern Ireland constable” means only a person who is—

- (a) a member of the Police Service of Northern Ireland,
- (b) a member of the Police Service of Northern Ireland Reserve, or
- (c) a person appointed as a special constable in Northern Ireland by virtue of provision incorporating section 79 of the Harbours, Docks, and Piers Clauses Act 1847;

“Northern Ireland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Northern Ireland;

[<sup>F20</sup>“Part A1 powers” means the powers set out in Part A1 of Schedule 4A;]

“Part 1 powers” means the powers set out in Part 1 of Schedule 4A;

“Part 2 powers” means the powers set out in Part 2 of that Schedule;

“Part 3 powers” means the powers set out in Part 3 of that Schedule;

[<sup>F20</sup>“relevant offence” means—

- (a) an offence under section 24(A1), (B1), (D1) or (E1), 24B, 25 or 25A,
- (b) an offence under section 25B to the extent that the section continues to apply by virtue of regulation 5(7) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309),
- (c) an offence under section 21 of the Immigration, Asylum and Nationality Act 2006, or
- (d) an offence under section 1 of the Criminal Attempts Act 1981 or Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order

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1983 (S.I. 1983/1120 (N.I. 13)), or in Scotland at common law, of attempting to commit an offence mentioned in paragraph (a) to (c);”  
 and]

“relevant territory” means—

- (a) the Isle of Man;
- (b) any of the Channel Islands;
- (c) a British overseas territory;

“Scottish constable” means only a person who is a constable, within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012 (asp 8);

“Scotland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Scotland;

[<sup>F21</sup>“ship” includes—

- (a) every description of vessel (including a hovercraft), and
- (b) any other structure (whether with or without means of propulsion) constructed or used to carry persons, goods, plant or machinery by water;]

“ship without nationality” means a ship which—

- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant territory, or
- (b) sails under the flags of two or more States or relevant territories, or under the flags of a State and relevant territory, using them according to convenience;

“United Kingdom ship” means a ship which—

- (a) is registered under Part 2 of the Merchant Shipping Act 1995,
- (b) is a Government ship within the meaning of that Act,
- (c) is not registered in any State or relevant territory but is wholly owned by persons each of whom has a United Kingdom connection, or
- (d) is registered under an Order in Council under section 1 of the Hovercraft Act 1968.

[<sup>F20</sup>“United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom’s territorial sea;]

(2) For the purposes of paragraph (c) of the definition of “United Kingdom ship” in subsection (1), a person has a “United Kingdom connection” if the person is—

- (a) a British citizen, a British overseas territories citizen or a British Overseas citizen,
- (b) an individual who is habitually resident in the United Kingdom, or
- (c) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.]

#### Textual Amendments

**F20** Words in s. 28Q inserted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), s. 87(1), [Sch. 7 para. 8\(a\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)

**F21** Words in s. 28Q substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), s. 87(1), [Sch. 7 para. 8\(b\)](#); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 22 (with Sch. 2 para. 8)



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