

Changes to legislation: Immigration Act 2016, SCHEDULE 8 is up to date with all changes known to be in force on or before 04 August 2023. 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

SCHEDULES

SCHEDULE 8

Section 54

AMENDMENTS TO SEARCH WARRANT PROVISIONS

Immigration Act 1971 (c. 77)

1 The Immigration Act 1971 is amended as follows.

Commencement Information

II Sch. 8 para. 1 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(k)

2 (1) Section 28D (entry and search of premises) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (b) for “specified in the application” substitute “ mentioned in subsection (1A) ”, and
- (b) at the end of paragraph (e) insert “ in relation to each set of premises specified in the application, ”.

(3) After subsection (1) insert—

“(1A) The premises referred to in subsection (1)(b) above are—

- (a) one or more sets of premises specified in the application, or
- (b) subject to subsection (2A), any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).

(1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied—

- (a) that because of the particulars of the offence referred to in paragraph (a) of subsection (1), there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the material referred to in paragraph (b) of that subsection, and
- (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.

(1C) Subject to subsection (2A), the warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice issues the warrant.

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(1D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.”

(4) In subsection (2) after “conditions” insert “ referred to in subsection (1)(e) ”.

(5) After subsection (2) insert—

“(2A) A justice of the peace in Scotland may not issue—

- (a) an all premises warrant under this section, or
- (b) a warrant under this section authorising multiple entries.”

(6) In subsection (7)—

- (a) for “subsection (1)” substitute “ this section ”,
- (b) in paragraph (a) for “the reference” substitute “ references ” and for “a reference” substitute “ references ”, and
- (c) in paragraph (b) for “paragraph (d)” substitute “ subsection (1)(d) ”.

Commencement Information

I2 Sch. 8 para. 2 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(k)

3 (1) Section 28FB (search for personnel records with warrant) is amended as follows.

(2) In subsection (1)—

- (a) after “business premises” insert “ mentioned in subsection (1A) ”, and
- (b) at the end of paragraph (c) insert “ in relation to each set of premises specified in the application. ”

(3) After subsection (1) insert—

“(1A) The premises referred to in subsection (1) above are—

- (a) one or more sets of premises specified in the application, or
- (b) subject to subsection (3C), any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).

(1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied—

- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the records referred to in subsection (1)(b), and
- (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.”

(4) In subsection (2) for “Those conditions are” substitute “ The conditions referred to in subsection (1)(c) are ”.

(5) After subsection (3) insert—

“(3A) Subject to subsection (3C), the warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the

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peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice issues the warrant.

(3B) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.

(3C) A justice of the peace in Scotland may not issue—

- (a) an all premises warrant under this section, or
- (b) a warrant under this section authorising multiple entries.”

Commencement Information

I3 Sch. 8 para. 3 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(k)

4 (1) Section 28J (search warrants: safeguards) is amended as follows.

(2) In subsection (2)—

(a) after paragraph (a) insert—

“(aa) if the application is for a warrant authorising entry and search on more than one occasion, state the ground on which the officer applies for such a warrant, and whether the officer seeks a warrant authorising an unlimited number of entries, or (if not) the maximum number of entries desired;”, and

(b) for paragraph (b) substitute—

“(b) specify the matters set out in subsection (2A) below; and”.

(3) After subsection (2) insert—

“(2A) The matters which must be specified pursuant to subsection (2)(b) above are—

- (a) if the application relates to one or more sets of premises specified in the application, each set of premises which it is desired to enter and search;
- (b) if the application relates to any premises occupied or controlled by a person specified in the application—
 - (i) as many sets of premises which it is desired to enter and search as it is reasonably practicable to specify;
 - (ii) the person who is in occupation or control of those premises and any others which it is desired to enter and search;
 - (iii) why it is necessary to search more premises than those specified under sub-paragraph (i);
 - (iv) why it is not reasonably practicable to specify all the premises which it is desired to enter and search.”

(4) In subsection (6) at the end insert “ unless it specifies that it authorises multiple entries ”.

(5) After subsection (6) insert—

“(6A) If it specifies that it authorises multiple entries, it must also specify whether the number of entries authorised is unlimited, or limited to a specified maximum.”

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(6) In subsection (7) for paragraph (c) substitute—

“(c) each set of premises to be searched, or (in the case of an all premises warrant) the person who is in occupation or control of premises to be searched, together with any premises under the person's occupation or control which can be specified and which are to be searched; and”.

(7) For subsection (9) substitute—

“(9) Two copies must be made of a warrant which specifies only one set of premises and does not authorise multiple entries; and as many copies as are reasonably required may be made of any other kind of warrant.”

(8) After subsection (10) insert—

“(10A) All premises warrant” means a warrant issued in response to an application of the kind mentioned in section 24E(6)(b), 28D(1A)(b) or 28FB(1A)(b) or paragraph 25A(6AA)(b) of Schedule 2.

(10B) References in this section to a warrant authorising multiple entries is to a warrant of the kind mentioned in section 24E(8), 28D(1C) or 28FB(3A) or paragraph 25A(6AC) of Schedule 2.”

Commencement Information

I4 Sch. 8 para. 4 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(k)

5 (1) Section 28K (execution of warrants) is amended as follows.

(2) After subsection (2) insert—

“(2A) A person so authorised has the same powers as the officer whom the person accompanies in respect of—

- (a) the execution of the warrant, and
- (b) the seizure or detention of anything to which the warrant relates.

(2B) But the person may exercise those powers only in the company, and under the supervision, of an immigration officer.”

(3) In subsection (3) for “one month” substitute “ three months ”.

(4) After subsection (3) insert—

“(3A) If the warrant is an all premises warrant, no premises which are not specified in it may be entered or searched unless an immigration officer of at least the rank of chief immigration officer has in writing authorised them to be entered.

(3B) No premises may be entered or searched for the second or any subsequent time under a warrant which authorises multiple entries unless an immigration officer of at least the rank of chief immigration officer has in writing authorised that entry to those premises.”

(5) In subsection (4)(a) after “and” insert “ , if not in uniform, ”.

(6) After subsection (8) insert—

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“(8A) Unless the warrant is a warrant specifying one set of premises only, the officer must comply with subsection (8) separately in respect of each set of premises entered and searched.

(8B) Subject to subsection (8C), a warrant must be returned in accordance with subsection (9)—

- (a) when it has been executed, or
- (b) in the case of a specific premises warrant which has not been executed, an all premises warrant or any warrant authorising multiple entries, on the expiry of the period of three months referred to in subsection (3) or sooner.

(8C) Subsection (8B) does not apply to a warrant issued by a justice of the peace in Scotland or by the sheriff if the warrant has been executed.”

(7) In subsection (9) for the words from “A warrant” to “its execution,” substitute “ The warrant ”.

(8) After subsection (13) insert—

“(13A) In subsection (8B)—

“specific premises warrant” means a warrant which is not an all premises warrant;

“all premises warrant” means a warrant issued in response to an application of the kind mentioned in section 24E(6)(b), 28D(1A)(b) or 28FB(1A)(b) or paragraph 25A(6AA)(b) of Schedule 2.

(13B) The reference in subsection (8B) to a warrant authorising multiple entries is to a warrant of the kind mentioned in section 24E(8), 28D(1C) or 28FB(3A) or paragraph 25A(6AC) of Schedule 2.”

Commencement Information

I5 Sch. 8 para. 5 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(k)

6 (1) Paragraph 25A of Schedule 2 (search of premises for nationality documents) is amended as follows.

(2) In sub-paragraph (6A)—

- (a) for “specified in the application” substitute “ mentioned in sub-paragraph (6AA) ”, and
- (b) at the end of paragraph (b) insert “ in relation to each set of premises specified in the application, ”.

(3) After sub-paragraph (6A) insert—

“(6AA) The premises referred to in sub-paragraph (6A) above are—

- (a) one or more sets of premises specified in the application, or
- (b) subject to sub-paragraph (6BA), any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).

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(6AB) If the application is for an all premises warrant, the justice of the peace must also be satisfied—

- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the relevant documents, and
- (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.

(6AC) Subject to sub-paragraph (6BA), the warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice issues the warrant.

(6AD) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.”

(4) In sub-paragraph (6B) after “conditions” insert “ mentioned in sub-paragraph (6A) (b) ”.

(5) After sub-paragraph (6B) insert—

“(6BA) A justice of the peace in Scotland may not issue—

- (a) an all premises warrant under this paragraph, or
- (b) a warrant under this paragraph authorising multiple entries.”

(6) In sub-paragraph (6C) for “sub-paragraph (6A)” substitute “ sub-paragraphs (6A) to (6BA) ”.

Commencement Information

I6 Sch. 8 para. 6 in force at 1.12.2016 by [S.I. 2016/1037](#), [reg. 5\(k\)](#)

UK Borders Act 2007 (c. 30)

7 (1) Section 45 of the UK Borders Act 2007 (search of premises for nationality documents) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (b) for “specified in the application” substitute “ mentioned in subsection (2A) ”, and
- (b) at the end of paragraph (d) insert “ in relation to each set of premises specified in the application, ”.

(3) After subsection (2) insert—

“(2A) The premises referred to in subsection (2)(b) above are—

- (a) one or more sets of premises specified in the application, or
- (b) subject to subsection (3A), any premises occupied or controlled by a person specified in the application, including such sets of premises

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as are so specified (in which case the application is for an “all premises warrant”).

(2B) If the application is for an all premises warrant, the justice of the peace must also be satisfied—

- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the nationality documents, and
- (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.

(2C) Subject to subsection (3A), the warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice issues the warrant.

(2D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.”

(4) In subsection (3) after “conditions” insert “ mentioned in subsection (2)(d) ”.

(5) After subsection (3) insert—

“(3A) A justice of the peace in Scotland may not issue—

- (a) an all premises warrant under this section, or
- (b) a warrant under this section authorising multiple entries.”

Commencement Information

I7 [Sch. 8 para. 7](#) in force at 1.12.2016 by [S.I. 2016/1037](#), [reg. 5\(k\)](#)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)