



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART VII

#### POWER TO ARREST, SEARCH AND FINGERPRINT

##### *Power to enter and search premises*

#### **131 Entry and search of premises.**

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

##### **“28D Entry and search of premises.**

- (1) If, on an application made by an immigration officer, a justice of the peace is satisfied that there are reasonable grounds for believing that—
  - (a) a relevant offence has been committed,
  - (b) there is material on premises specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence,
  - (c) the material is likely to be relevant evidence,
  - (d) the material does not consist of or include items subject to legal privilege, excluded material or special procedure material, and
  - (e) any of the conditions specified in subsection (2) applies,he may issue a warrant authorising an immigration officer to enter and search the premises.
- (2) The conditions are that—
  - (a) it is not practicable to communicate with any person entitled to grant entry to the premises;
  - (b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;

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- (c) entry to the premises will not be granted unless a warrant is produced;
  - (d) the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry to them.
- (3) An immigration officer may seize and retain anything for which a search has been authorised under subsection (1).
- (4) “Relevant offence” means an offence under section 24(1)(a), (b), (c), (d), (e) or (f), section 24A or section 25.
- (5) In relation to England and Wales, expressions which are given a meaning by the <sup>M1</sup>Police and Criminal Evidence Act 1984 have the same meaning when used in this section.
- (6) In relation to Northern Ireland, expressions which are given a meaning by the <sup>M2</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 have the same meaning when used in this section.
- (7) In the application of subsection (1) to Scotland—
- (a) read the reference to a justice of the peace as a reference to the sheriff or a justice of the peace; and
  - (b) in paragraph (d), omit the reference to excluded material and special procedure material.”

**Marginal Citations**

**M1** 1984 c. 60.

**M2** S.I. 1989/1341 (N.I. 12).

**132 Entry and search of premises following arrest.**

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

**“28E Entry and search of premises following arrest.**

- (1) This section applies if a person is arrested for an offence under this Part at a place other than a police station.
- (2) An immigration officer may enter and search any premises—
  - (a) in which the person was when arrested, or
  - (b) in which he was immediately before he was arrested,
 for evidence relating to the offence for which the arrest was made (“relevant evidence”).
- (3) The power may be exercised—
  - (a) only if the officer has reasonable grounds for believing that there is relevant evidence on the premises; and
  - (b) only to the extent that it is reasonably required for the purpose of discovering relevant evidence.
- (4) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching—

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- (a) any dwelling in which the arrest took place or in which the arrested person was immediately before his arrest; and
  - (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.
- (5) An officer searching premises under subsection (2) may seize and retain anything he finds which he has reasonable grounds for believing is relevant evidence.
- (6) Subsection (5) does not apply to items which the officer has reasonable grounds for believing are items subject to legal privilege.”
- (2) In the 1971 Act, in Schedule 2 after paragraph 25, insert—

### **Entry and search of premises**

- “25A (1) This paragraph applies if—
- (a) a person is arrested under this Schedule; or
  - (b) a person who was arrested by a constable (other than under this Schedule) is detained by an immigration officer under this Schedule.
- (2) An immigration officer may enter and search any premises—
- (a) occupied or controlled by the arrested person, or
  - (b) in which that person was when he was arrested, or immediately before he was arrested,
- for relevant documents.
- (3) The power may be exercised—
- (a) only if the officer has reasonable grounds for believing that there are relevant documents on the premises;
  - (b) only to the extent that it is reasonably required for the purpose of discovering relevant documents; and
  - (c) subject to sub-paragraph (4), only if a senior officer has authorised its exercise in writing.
- (4) An immigration officer may conduct a search under sub-paragraph (2)—
- (a) before taking the arrested person to a place where he is to be detained; and
  - (b) without obtaining an authorisation under sub-paragraph (3)(c), if the presence of that person at a place other than one where he is to be detained is necessary to make an effective search for any relevant documents.
- (5) An officer who has conducted a search under sub-paragraph (4) must inform a senior officer as soon as is practicable.
- (6) The officer authorising a search, or who is informed of one under sub-paragraph (5), must make a record in writing of—
- (a) the grounds for the search; and
  - (b) the nature of the documents that were sought.

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- (7) An officer searching premises under sub-paragraph (2)—
  - (a) may seize and retain any documents he finds which he has reasonable grounds for believing are relevant documents; but
  - (b) may not retain any such document for longer than is necessary in view of the purpose for which the person was arrested.
- (8) But sub-paragraph (7)(a) does not apply to documents which the officer has reasonable grounds for believing are items subject to legal privilege.
- (9) “Relevant documents” means any documents which might—
  - (a) establish the arrested person’s identity, nationality or citizenship; or
  - (b) indicate the place from which he has travelled to the United Kingdom or to which he is proposing to go.
- (10) “Senior officer” means an immigration officer not below the rank of chief immigration officer.”

**133 Entry and search of premises following arrest under section 25(1) of the 1971 Act.**

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

**“28F Entry and search of premises following arrest under section 25(1).**

- (1) An immigration officer may enter and search any premises occupied or controlled by a person arrested for an offence under section 25(1).
- (2) The power may be exercised—
  - (a) only if the officer has reasonable grounds for suspecting that there is relevant evidence on the premises;
  - (b) only to the extent that it is reasonably required for the purpose of discovering relevant evidence; and
  - (c) subject to subsection (3), only if a senior officer has authorised it in writing.
- (3) The power may be exercised—
  - (a) before taking the arrested person to a place where he is to be detained; and
  - (b) without obtaining an authorisation under subsection (2)(c), if the presence of that person at a place other than one where he is to be detained is necessary for the effective investigation of the offence.
- (4) An officer who has relied on subsection (3) must inform a senior officer as soon as is practicable.
- (5) The officer authorising a search, or who is informed of one under subsection (4), must make a record in writing of—
  - (a) the grounds for the search; and
  - (b) the nature of the evidence that was sought.

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- (6) An officer searching premises under this section may seize and retain anything he finds which he has reasonable grounds for suspecting is relevant evidence.
- (7) “Relevant evidence” means evidence, other than items subject to legal privilege, that relates to the offence in question.
- (8) “Senior officer” means an immigration officer not below the rank of chief immigration officer.”

**Changes to legislation:**

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

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

- s. 10(12) inserted by [2023 c. 37 s. 10\(6\)](#)
- s. 40(1)-(1C) substituted for s. 40(1) by [2022 c. 36 s. 76\(2\)](#)
- s. 40(4A)(4B) inserted by [2022 c. 36 s. 76\(5\)](#)
- 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(3A)(b)(iv) inserted by [2022 c. 36 s. 13\(2\)\(c\)\(ii\)](#)
- 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. 98A(5) inserted by [2022 c. 36 s. 13\(4\)](#)
- 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\(2\)\(b\)](#)