



# Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

## 2004 CHAPTER 19

### *Enforcement powers*

#### **14 Immigration officer: power of arrest**

- (1) Where an immigration officer in the course of exercising a function under the Immigration Acts forms a reasonable suspicion that a person has committed or attempted to commit an offence listed in subsection (2), he may arrest the person without warrant.
- (2) Those offences are—
  - (a) the offence of conspiracy at common law (in relation to conspiracy to defraud),
  - (b) at common law in Scotland, any of the following offences—
    - (i) fraud,
    - (ii) conspiracy to defraud,
    - (iii) uttering and fraud,
    - <sup>F1</sup>(iv) .....
    - (v) theft, and
    - (vi) reset,
  - <sup>F2</sup>(ba) an offence under section 24(A1) of the Marriage (Scotland) Act 1977 (c.15) (offences) , ]
  - (c) an offence under section 57 of the Offences against the Person Act 1861 (c. 100) (bigamy),
  - (d) an offence under section 3 or 4 of the Perjury Act 1911 (c. 6) (false statements),
  - (e) an offence under section 7 of that Act (aiding, abetting &c.) if it relates to an offence under section 3 or 4 of that Act,
  - (f) an offence under section 53 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49) (knowingly giving false information to district registrar, &c.),

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- (g) an offence under any of the following provisions of the Theft Act 1968 (c. 60)
- (i) section 1 (theft),
  - <sup>F3</sup>(ii) .....
  - <sup>F4</sup>(iii) .....
  - (iv) section 17 (false accounting), and
  - (v) section 22 (handling stolen goods),
- (h) an offence under section 1, <sup>F5</sup>..., 17 or 21 of the Theft Act (Northern Ireland) 1969 (c. 16) (N.I.),
- [<sup>F6</sup>(ha) an offence under either of the following provisions of the Fraud Act 2006—
- (i) section 1 (fraud);
  - (ii) section 11 (obtaining services dishonestly),]

<sup>F7</sup>(i) .....

<sup>F8</sup>(j) .....

(k) an offence under Article 8 or 9 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)),

(l) an offence under Article 12 of that Order if it relates to an offence under Article 8 or 9 of that Order,

(m) an offence under any of the following provisions of the Forgery and Counterfeiting Act 1981 (c. 45)—

    - (i) section 1 (forgery),
    - (ii) section 2 (copying false instrument),
    - (iii) section 3 (using false instrument),
    - (iv) section 4 (using copy of false instrument), and
    - (v) section 5(1) and (3) (false documents),

<sup>F9F10F11</sup>(n) .....

<sup>F12</sup>(o) .....

<sup>F9F10F11</sup>(p) .....

[<sup>F13</sup>(q) an offence under any of sections 4 to 6 of the Identity Documents Act 2010.]

[<sup>F14</sup>(r) an offence under section 1 or 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015]

[<sup>F15</sup>(r) an offence under section 2 of the Modern Slavery Act 2015.]

[<sup>F16</sup>(r) an offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015).]

(3) The following provisions of the Immigration Act 1971 (c. 77) shall have effect for the purpose of making, or in connection with, an arrest under this section as they have effect for the purpose of making, or in connection with, arrests for offences under that Act—

    - (a) section 28C (entry and search before arrest),
    - (b) sections 28E and 28F (entry and search after arrest),
    - (c) sections 28G and 28H (search of arrested person), and
    - (d) section 28I (seized material).

(4) In section 19D(5)(a) of the Race Relations Act 1976 (c. 74) (permitted discrimination)

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- (a) for “(within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002)” substitute “ (within the meaning of section 44 of the Asylum and Immigration (Treatment of Claimants, etc. ) Act 2004) ”, and
- (b) at the end add “and excluding section 14 of the Asylum and Immigration (Treatment of Claimants, etc. ) Act 2004”.

#### Textual Amendments

- F1** S. 14(2)(b)(iv) omitted (16.12.2014) by virtue of The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229) , art. 1(2) , **Sch. 5 para. 16(a)**
- F2** S. 14(2)(ba) inserted (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229) , art. 1(2) , **Sch. 5 para. 16(b)**
- F3** S. 14(2)(g)(ii) repealed (15.1.2007) by Fraud Act 2006 (c. 35) , s. 15(1) , Sch. 1 para. 35(1) , **3** (with Sch. 2 para. 11 ) ; S.I. 2006/3200 , art. 2
- F4** S. 14(2)(g)(iii) repealed (15.1.2007) by Fraud Act 2006 (c. 35) , s. 15(1) , Sch. 1 para. 35(1) , **3** (with Sch. 2 para. 11 ) ; S.I. 2006/3200 , art. 2
- F5** Words in s. 14(2)(h) repealed (15.1.2007) by Fraud Act 2006 (c. 35) , s. 15(1) , Sch. 1 para. 35(1) , **3** (with Sch. 2 para. 11 ) ; S.I. 2006/3200 , art. 2
- F6** S. 14(2)(ha) inserted (15.1.2007) by Fraud Act 2006 (c. 35) , s. 15(1) , **Sch. 1 para. 35(2)** (with Sch. 2 para. 11 ) ; S.I. 2006/3200 , art. 2
- F7** S. 14(2)(i) repealed (15.1.2007) by Fraud Act 2006 (c. 35) , s. 15(1) , Sch. 1 para. 35(1) , **3** (with Sch. 2 para. 11 ) ; S.I. 2006/3200 , art. 2
- F8** S. 14(2)(j) repealed (15.1.2007) by Fraud Act 2006 (c. 35) , s. 15(1) , Sch. 1 para. 35(1) , **3** (with Sch. 2 para. 11 ) ; S.I. 2006/3200 , art. 2
- F9** S. 14(2)(n)(p) repealed (N.I.) (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2) , s. 28(2) , **Sch. 5**
- F10** S. 14(2)(n)(p) omitted (E.W.) (31.7.2015) by virtue of Modern Slavery Act 2015 (c. 30) , s. 61(1) , **Sch. 5 para. 6(4)(a)** ; S.I. 2015/1476 , **reg. 2(j)** (with reg. 3)
- F11** S. 14(2)(n)(p) omitted (S.) (17.12.2016) by virtue of The Human Trafficking and Exploitation (Scotland) Act 2015 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1031) , art. 1(1) , **Sch. para. 2(a)** (with art. 4(2))
- F12** S. 14(2)(o) omitted (17.12.2016) by virtue of The Human Trafficking and Exploitation (Scotland) Act 2015 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1031) , art. 1(1) , **Sch. para. 2(b)** (with art. 4(3))
- F13** S. 14(2)(q) substituted (21.1.2011) by Identity Documents Act 2010 (c. 40) , s. 14(2) , Sch. para. 18
- F14** S. 14(2)(r) inserted (N.I.) (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2) , s. 28(2) , **Sch. 4 para. 6**
- F15** S. 14(2)(r) inserted (E.W.) (31.7.2015) by Modern Slavery Act 2015 (c. 30) , s. 61(1) , **Sch. 5 para. 6(4)(b)** ; S.I. 2015/1476 , **reg. 2(j)**
- F16** S. 14(2)(r) inserted (S.) (17.12.2016) by The Human Trafficking and Exploitation (Scotland) Act 2015 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1031) , art. 1(1) , **Sch. para. 2(d)** (with art. 4(2))

#### Commencement Information

- I1** S. 14 in force at 1.12.2004 by S.I. 2004/2999 , art. 2 , **Sch.**

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**15 Fingerprinting**

(1) Section 141 of the Immigration and Asylum Act 1999 (c. 33) (fingerprinting) shall be amended as follows.

<sup>F17</sup>(2) .....

<sup>F18</sup>(3) .....

(4) In subsection (9) for paragraph (c) substitute—

“(c) for C—

- (i) the time when the relevant immigration decision ceases to have effect, whether as a result of an appeal or otherwise, or
- (ii) if a deportation order has been made against him, its revocation or its otherwise ceasing to have effect;”.

<sup>F19</sup>(5) .....

**Textual Amendments**

**F17** S. 15(2) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

**F18** S. 15(3) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

**F19** S. 15(5) repealed (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 60](#) table; [S.I. 2014/2771](#), art. 2(e) (with arts. 9-11) (as amended (2.3.2015 and 6.4.2015) by [S.I. 2015/371](#), arts. 1(2) (3), 7, 8; and with transitional provisions and savings in [S.I. 2014/2928](#), art. 2 (which S.I. is revoked (6.4.2015) by [S.I. 2015/371](#), arts. 1(3), 9))

**Commencement Information**

**I2** S. 15 in force at 1.10.2004 by [S.I. 2004/2523](#), art. 2, [Sch.](#)

PROSPECTIVE

**16 Information about passengers**

In paragraph 27B of Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry: provision of information about passengers) after sub-paragraph (4) insert—

“(4A) The officer may ask the carrier to provide a copy of all or part of a document that relates to a passenger and contains passenger information.”

**17 Retention of documents**

Where a document comes into the possession of the Secretary of State or an immigration officer in the course of the exercise of an immigration function, the Secretary of State or an immigration officer may retain the document while he suspects that—

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- (a) a person to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and
- (b) retention of the document may facilitate the removal.

**Commencement Information**

**I3** S. 17 in force at 1.12.2004 by S.I. 2004/2999, art. 2, Sch.

**18 Control of entry**

After paragraph 2A(2) of Schedule 2 to the Immigration Act 1971 (control of entry: persons arriving with leave to enter) insert—

“(2A) Where the person’s leave to enter derives, by virtue of section 3A(3), from an entry clearance, he may also be examined by an immigration officer for the purpose of establishing whether the leave should be cancelled on the grounds that the person’s purpose in arriving in the United Kingdom is different from the purpose specified in the entry clearance.”

**Commencement Information**

**I4** S. 18 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

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