



# Immigration Act 1971

## 1971 CHAPTER 77

### PART I

#### REGULATION OF ENTRY INTO AND STAY IN UNITED KINGDOM

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

- C1** Pt. 1 extended (Isle of Man) (with modifications) (13.3.2008 for certain purposes and 1.5.2008 otherwise) by [The Immigration \(Isle of Man\) Order 2008 \(S.I. 2008/680\)](#), arts. 1(2), 5, 6(2)(a), 7, Sch. 3, Sch. 10 Pt. 1 (with Sch. 2 para. 2) (as amended (29.6.2011) by [S.I. 2011/1408](#), art. 1, Sch. paras. 1, 2(c)(f) and as further amended (11.2.2016) by [S.I. 2016/156](#), arts. 1(2), 6 and (14.3.2019) by [S.I. 2019/562](#), arts. 1, 5, 11)

## **1 General principles.**

- (1) All those who are in this Act expressed to have the right of abode in the United Kingdom shall be free to live in, and to come and go into and from, the United Kingdom without let or hindrance except such as may be required under and in accordance with this Act to enable their right to be established or as may be otherwise lawfully imposed on any person.
- (2) Those not having that right may live, work and settle in the United Kingdom by permission and subject to such regulation and control of their entry into, stay in and departure from the United Kingdom as is imposed by this Act; and indefinite leave to enter or remain in the United Kingdom shall, by virtue of this provision, be treated as having been given under this Act to those in the United Kingdom at its coming into force, if they are then settled there (and not exempt under this Act from the provisions relating to leave to enter or remain).
- (3) Arrival in and departure from the United Kingdom on a local journey from or to any of the Islands (that is to say, the Channel Islands and Isle of Man) or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the United Kingdom on so arriving, except in so far as any of those places is for any purpose excluded from this subsection under the powers conferred by this

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Act; and in this Act the United Kingdom and those places, or such of them as are not so excluded, are collectively referred to as “the common travel area”.

- (4) The rules laid down by the Secretary of State as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the United Kingdom of persons not having the right of abode shall include provision for admitting (in such cases and subject to such restrictions as may be provided by the rules, and subject or not to conditions as to length of stay or otherwise) persons coming for the purpose of taking employment, or for purposes of study, or as visitors, or as dependants of persons lawfully in or entering the United Kingdom.

- (5) ..... <sup>F1</sup>

#### Textual Amendments

- F1** S. 1(5) repealed by [Immigration Act 1988 \(c. 14, SIF 62\)](#), **s. 1**

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

- C2** S. 1 excluded by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4\)](#) (SIF 39:2), s. 20(3)
- C3** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\)](#), arts. 1, 3(1), **Sch. 1 Pt. 1**
- C4** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\)](#), arts. 1, 3(1), **Sch. 1 Pt. 1** (as amended (17.10.2012) by [S.I. 2012/2593](#), arts. 1, **2(2)**; and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981](#), **Sch. Pt. 1 para. 1** (with art. 6))
- C5** S. 1 excluded by [S.I. 1972/1610](#), **art. 3(2)**  
 S. 1 restricted (19.2.2001) by [2000 c. 11](#), **s. 53(3)**; [S.I. 2001/421](#)

#### [<sup>F2</sup> **Statement of right of abode in United Kingdom.**

- (1) A person is under this Act to have the right of abode in the United Kingdom if—
- (a) he is a British citizen; or
  - (b) he is a Commonwealth citizen who—
    - (i) immediately before the commencement of the <sup>M1</sup>British Nationality Act 1981 was a Commonwealth citizen having the right of abode in the United Kingdom by virtue of section 2(1)(d) or section 2(2) of this Act as then in force; and
    - (ii) has not ceased to be a Commonwealth citizen in the meanwhile.
- (2) In relation to Commonwealth citizens who have the right of abode in the United Kingdom by virtue of subsection (1)(b) above, this Act, except this section and [<sup>F3</sup>section 5(2)], shall apply as if they were British citizens; and in this Act (except as aforesaid) “British citizen” shall be construed accordingly.]

#### Textual Amendments

- F2** S. 2 substituted (1.1.1983) by [British Nationality Act 1981 \(c. 61\)](#), **ss. 39(2), 52(7)** (with [Sch. 8 para. 8](#)); [S.I. 1982/933](#), **art. 2** [Editorial note: According to the *Chronological Table of the Statutes (1951-1987)* (HMSO, 1989) there were no amendments made to s. 2 between the date of Royal Assent and its substitution on 1.1.1983 and therefore the text of s. 2(1)(d) and (2) as in force immediately before the commencement of the British Nationality Act 1981 is the same as that of the **Original (As enacted) Version** of this section.]

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**F3** Words substituted by [Immigration Act 1988 \(c. 14, SIF 62\), s. 3\(3\)](#)

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

**C6** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\), arts. 1, 3\(1\), Sch. 1 Pt. 1](#)

**C7** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\), arts. 1, 3\(1\), Sch. 1 Pt. 1](#) (as amended (17.10.2012) by [S.I. 2012/2593, arts. 1, 2\(2\)](#); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981, Sch. Pt. 1 para. 1](#) (with art. 6))

**Marginal Citations**

**M1** [1981 c. 61.](#)

**[<sup>F4</sup>2A Deprivation of right of abode**

- (1) The Secretary of State may by order remove from a specified person a right of abode in the United Kingdom which he has under section 2(1)(b).
- (2) The Secretary of State may make an order under subsection (1) in respect of a person only if the Secretary of State thinks that it would be conducive to the public good for the person to be excluded or removed from the United Kingdom.
- (3) An order under subsection (1) may be revoked by order of the Secretary of State.
- (4) While an order under subsection (1) has effect in relation to a person—
  - (a) section 2(2) shall not apply to him, and
  - (b) any certificate of entitlement granted to him shall have no effect.]

**Textual Amendments**

**F4** S. 2A inserted (16.6.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\), ss. 57\(1\), 62; S.I. 2006/1497, art. 3, Sch.](#)

**3 General provisions for regulation and control.**

- (1) Except as otherwise provided by or under this Act, where a person is not [<sup>F5</sup>a British citizen]—
  - (a) he shall not enter the United Kingdom unless given leave to do so in accordance with [<sup>F6</sup>the provisions of, or made under,] this Act;
  - (b) he may be given leave to enter the United Kingdom (or, when already there, leave to remain in the United Kingdom) either for a limited or for an indefinite period;
  - <sup>F7</sup>[(c) if he is given limited leave to enter or remain in the United Kingdom, it may be given subject to all or any of the following conditions, namely—
    - (i) a condition restricting his [<sup>F8</sup>work ] or occupation in the United Kingdom;  
[ a condition restricting his studies in the United Kingdom;]  
<sup>F9</sup>(ia)
    - (ii) a condition requiring him to maintain and accommodate himself, and any dependants of his, without recourse to public funds; <sup>F10</sup> . . .

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- (iii) a condition requiring him to register with the police.  
 [ a condition requiring him to report to an immigration officer or the  
<sup>F11</sup>(iv) Secretary of State; and  
 (v) a condition about residence.]]
- (2) The Secretary of State shall from time to time (and as soon as may be) lay before Parliament statements of the rules, or of any changes in the rules, laid down by him as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the United Kingdom of persons required by this Act to have leave to enter, including any rules as to the period for which leave is to be given and the conditions to be attached in different circumstances; and section 1(4) above shall not be taken to require uniform provision to be made by the rules as regards admission of persons for a purpose or in a capacity specified in section 1(4) (and in particular, for this as well as other purposes of this Act, account may be taken of citizenship or nationality).
- If a statement laid before either House of Parliament under this subsection is disapproved by a resolution of that House passed within the period of forty days beginning with the date of laying (and exclusive of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days), then the Secretary of State shall as soon as may be make such changes or further changes in the rules as appear to him to be required in the circumstances, so that the statement of those changes be laid before Parliament at latest by the end of the period of forty days beginning with the date of the resolution (but exclusive as aforesaid).
- (3) In the case of a limited leave to enter or remain in the United Kingdom,—
- (a) a person's leave may be varied, whether by restricting, enlarging or removing the limit on its duration, or by adding, varying or revoking conditions, but if the limit on its duration is removed, any conditions attached to the leave shall cease to apply; and
  - (b) the limitation on and any conditions attached to a person's leave [<sup>F12</sup>(whether imposed originally or on a variation) shall], if not superseded, apply also to any subsequent leave he may obtain after an absence from the United Kingdom within the period limited for the duration of the earlier leave.
- (4) A person's leave to enter or remain in the United Kingdom shall lapse on his going to a country or territory outside the common travel area (whether or not he lands there), unless within the period for which he had leave he returns to the United Kingdom in circumstances in which he is not required to obtain leave to enter; but, if he does so return, his previous leave (and any limitation on it or conditions attached to it) shall continue to apply.
- <sup>F13</sup>(5) A person who is not a British citizen is liable to deportation from the United Kingdom if—
- (a) the Secretary of State deems his deportation to be conducive to the public good; or
  - (b) another person to whose family he belongs is or has been ordered to be deported.]
- (6) Without prejudice to the operation of subsection (5) above, a person who is not [<sup>F5</sup>a British citizen] shall also be liable to deportation from the United Kingdom if, after he has attained the age of seventeen, he is convicted of an offence for which he is

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punishable with imprisonment and on his conviction is recommended for deportation by a court empowered by this Act to do so.

- (7) Where it appears to Her Majesty proper so to do by reason of restrictions or conditions imposed on [<sup>F14</sup>British citizens, British Dependent Territories citizens or British Overseas citizens] when leaving or seeking to leave any country or the territory subject to the government of any country, Her Majesty may by Order in Council make provision for prohibiting persons who are nationals or citizens of that country and are not [<sup>F5</sup>British citizens] from embarking in the United Kingdom, or from doing so elsewhere than at a port of exit, or for imposing restrictions or conditions on them when embarking or about to embark in the United Kingdom; and Her Majesty may also make provision by Order in Council to enable those who are not [<sup>F5</sup>British citizens] to be, in such cases as may be prescribed by the Order, prohibited in the interests of safety from so embarking on a ship or aircraft specified or indicated in the prohibition.

Any Order in Council under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (8) When any question arises under this Act whether or not a person is [<sup>F5</sup>a British citizen], or is entitled to any exemption under this Act, it shall lie on the person asserting it to prove that he is.

- [<sup>F15</sup>(9) A person seeking to enter the United Kingdom and claiming to have the right of abode there shall prove it by means of—

- (a) a United Kingdom passport describing him as a British citizen,
- (b) a United Kingdom passport describing him as a British subject with the right of abode in the United Kingdom, [<sup>F16</sup>or ]
- <sup>F17</sup>(c) .....
- <sup>F17</sup>(d) .....
- (e) a certificate of entitlement.]

#### Textual Amendments

- F5** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), **Sch. 4 para. 2** (with [Sch. 8 para. 8](#))
- F6** Words in s. 3(1)(a) inserted (14.2.2000) by [1999 c. 33, s. 169\(1\)](#), [Sch. 14 paras. 43, 44\(1\)](#); [S.I. 2000/168, art. 2, Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252, art. 2, Sch.](#))
- F7** S. 3 (1)(c) substituted (1.11.1996) by [1996 c. 49, s. 12\(1\)](#), **Sch. 2 para. 1(1)**; [S.I. 1996/2127, art. 2, Sch. Pt. IV](#)
- F8** Word in s. 3(1)(c)(i) substituted (12.7.2016) by [Immigration Act 2016 \(c. 19\), ss. 34\(2\), 94\(1\)](#); [S.I. 2016/603, reg. 3\(e\)](#) (with transitional provision in [S.I. 2016/712, art. 2](#))
- F9** S. 3(1)(c)(ia) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\), ss. 50, 58\(3\)](#)
- F10** Word after s. 3(1)(c)(ii) repealed (31.1.2008) by [UK Borders Act 2007 \(c. 30\), ss. 58, 59, Sch.](#); [S.I. 2008/99, art. 2](#)
- F11** S. 3(1)(c)(iv)(v) inserted (31.1.2008) by [UK Borders Act 2007 \(c. 30\), ss. 16, 59](#); [S.I. 2008/99, art. 2](#) (subject to [art. 3](#))
- F12** Words in s. 3(3)(b) substituted (16.5.1991) by [Immigration Act 1988 \(c. 14, SIF 62\), s. 10, Sch. para. 1](#)
- F13** S. 3(5) substituted (2.10.2000) by [1999 c. 33, s. 169\(1\)](#), [Sch. 14 paras. 43, 44\(2\)](#); [S.I. 2000/2444, art. 2, Sch. 1](#) (subject to transitional provisions in [art. 3, Sch. 2 para. 2](#)) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252, art. 2, Sch.](#))
- F14** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), **Sch. 4 para. 4** (with [Sch. 8 para. 8](#))

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- F15** S. 3(9) substituted (16.6.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), [s. 30](#); [S.I. 2006/1497](#), [art. 3](#), [Sch.](#)
- F16** Word in s. 3(9)(b) inserted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), [s. 14\(2\)](#), [Sch. para. 1\(a\)](#)
- F17** S. 3(9)(c)(d) omitted (21.1.2011) by virtue of [Identity Documents Act 2010 \(c. 40\)](#), [s. 14\(2\)](#), [Sch. para. 1\(b\)](#)

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

- C8** S. 3 modified (2.8.1993) by [S.I. 1993/1813](#), [arts. 7\(1\), 1](#), [Sch. 4 para 1\(2\)\(a\)\(b\)](#)  
 Ss. 3-3B extended (14.12.2001) by [2001 c. 24](#), [ss. 22\(2\)\(a\)\(3\)](#), [127\(2\)](#)
- C9** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\)](#), [arts. 1, 3\(1\)](#), [Sch. 1 Pt. 1](#)
- C10** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\)](#), [arts. 1, 3\(1\)](#), [Sch. 1 Pt. 1](#) (as amended (17.10.2012) by [S.I. 2012/2593](#), [arts. 1, 2\(2\)](#)); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981](#), [Sch. Pt. 1 para. 1](#) (with [art. 6](#))
- C11** S. 3(5)(a) modified (2.10.2000) by [S.I. 2000/2326](#), [reg. 26\(3\)](#) (with [regs. 9, 28](#))
- C12** S. 3(5)(a) modified (1.8.2008 for certain purposes and otherwise prosp.) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 32\(4\), 59](#); [S.I. 2008/1818](#), [art. 2\(a\)](#), [Sch.](#) (with [art. 3](#))
- C13** S. 3(6) extended (14.12.2001) by [2001 c. 24](#), [ss. 22\(2\)\(c\)\(3\)](#), [127\(2\)](#)

**[<sup>F18</sup>3A Further provision as to leave to enter.**

- (1) The Secretary of State may by order make further provision with respect to the giving, refusing or varying of leave to enter the United Kingdom.
- (2) An order under subsection (1) may, in particular, provide for—
  - (a) leave to be given or refused before the person concerned arrives in the United Kingdom;
  - (b) the form or manner in which leave may be given, refused or varied;
  - (c) the imposition of conditions;
  - (d) a person's leave to enter not to lapse on his leaving the common travel area.
- (3) The Secretary of State may by order provide that, in such circumstances as may be prescribed—
  - (a) an entry visa, or
  - (b) such other form of entry clearance as may be prescribed,
 is to have effect as leave to enter the United Kingdom.
- (4) An order under subsection (3) may, in particular—
  - (a) provide for a clearance to have effect as leave to enter—
    - (i) on a prescribed number of occasions during the period for which the clearance has effect;
    - (ii) on an unlimited number of occasions during that period;
    - (iii) subject to prescribed conditions; and
  - (b) provide for a clearance which has the effect referred to in paragraph (a)(i) or (ii) to be varied by the Secretary of State or an immigration officer so that it ceases to have that effect.
- (5) Only conditions of a kind that could be imposed on leave to enter given under section 3 may be prescribed.

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- (6) In subsections (3), (4) and (5) “prescribed” means prescribed in an order made under subsection (3).
- (7) The Secretary of State may, in such circumstances as may be prescribed in an order made by him, give or refuse leave to enter the United Kingdom.
- (8) An order under subsection (7) may provide that, in such circumstances as may be prescribed by the order, paragraphs 2, 4, 6, 7, 8, 9 and 21 of Part I of Schedule 2 to this Act are to be read, in relation to the exercise by the Secretary of State of functions which he has as a result of the order, as if references to an immigration officer included references to the Secretary of State.
- (9) Subsection (8) is not to be read as affecting any power conferred by subsection (10).
- (10) An order under this section may—
  - (a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
  - (b) make different provision for different cases.
- (11) This Act and any provision made under it has effect subject to any order made under this section.
- (12) An order under this section must be made by statutory instrument.
- (13) But no such order is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.]

#### Textual Amendments

**F18** S. 3A inserted (14.2.2000) by 1999 c. 33, ss. 1, 169(2), Sch. 15 para. 1(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

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

**C14** Ss. 3-3B extended (14.12.2001) by 2001 c. 24, ss. 22(2)(a)(3), 127(2)

### [<sup>F19</sup>3B Further provision as to leave to remain.

- (1) The Secretary of State may by order make further provision with respect to the giving, refusing or varying of leave to remain in the United Kingdom.
- (2) An order under subsection (1) may, in particular, provide for—
  - (a) the form or manner in which leave may be given, refused or varied;
  - (b) the imposition of conditions;
  - (c) a person’s leave to remain in the United Kingdom not to lapse on his leaving the common travel area.
- (3) An order under this section may—
  - (a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
  - (b) make different provision for different cases.



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- (4) This Act and any provision made under it has effect subject to any order made under this section.
- (5) An order under this section must be made by statutory instrument.
- (6) But no such order is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.]

#### Textual Amendments

**F19** S. 3B inserted (14.2.2000) by 1999 c. 33, ss. 2, 169(2), Sch. 15 para. 1(2); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

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

**C15** Ss. 3-3B extended (14.12.2001) by 2001 c. 24, ss. 22(2)(a)(3), 127(2)

### [<sup>F20</sup>3C Continuation of leave pending variation decision

- (1) This section applies if—
  - (a) a person who has limited leave to enter or remain in the United Kingdom applies to the Secretary of State for variation of the leave,
  - (b) the application for variation is made before the leave expires, and
  - (c) the leave expires without the application for variation having been decided.
- (2) The leave is extended by virtue of this section during any period when—
  - (a) the application for variation is neither decided nor withdrawn,
  - (b) an appeal under section 82(1) of the Nationality, Asylum and Immigration Act 2002 could be brought [<sup>F21</sup>, while the appellant is in the United Kingdom] against the decision on the application for variation (ignoring any possibility of an appeal out of time with permission), <sup>F22</sup>...
  - (c) an appeal under that section against that decision [<sup>F23</sup>, brought while the appellant is in the United Kingdom,] is pending (within the meaning of section 104 of that Act) [<sup>F24</sup>, or
  - (d) an administrative review of the decision on the application for variation—
    - (i) could be sought, or
    - (ii) is pending.]
- (3) Leave extended by virtue of this section shall lapse if the applicant leaves the United Kingdom.

[ Leave extended by virtue of this section may be cancelled if the applicant—

- <sup>F25</sup>(3A)
  - (a) has failed to comply with a condition attached to the leave, or
  - (b) has used or uses deception in seeking leave to remain (whether successfully or not).]
- (4) A person may not make an application for variation of his leave to enter or remain in the United Kingdom while that leave is extended by virtue of this section.
- (5) But subsection (4) does not prevent the variation of the application mentioned in subsection (1)(a).



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- [<sup>F26</sup>(6) The Secretary of State may make regulations determining when an application is decided for the purposes of this section; and the regulations—
- (a) may make provision by reference to receipt of a notice,
  - (b) may provide for a notice to be treated as having been received in specified circumstances,
  - (c) may make different provision for different purposes or circumstances,
  - (d) shall be made by statutory instrument, and
  - (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

- [ In this section—
- <sup>F27</sup>(7) “administrative review” means a review conducted under the immigration rules;
- the question of whether an administrative review is pending is to be determined in accordance with the immigration rules.]]

#### Textual Amendments

- F20** S. 3C inserted (1.4.2003) by 2002 c. 41, s. 118 (with s. 159); S.I. 2003/754, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040 and 2003/1339))
- F21** Words in s. 3C(2)(b) inserted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 11(2); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F22** Word in s. 3C(2)(b) omitted (20.10.2014) by virtue of Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 21(2)(a); 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))
- F23** Words in s. 3C(2)(c) inserted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 11(3); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F24** S. 3C(2)(d) and word inserted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 21(2)(b); 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))
- F25** S. 3C(3A) inserted (1.12.2016) by Immigration Act 2016 (c. 19), ss. 62(1), 94(1); S.I. 2016/1037, reg. 5(g)
- F26** S. 3C(6) substituted (31.8.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), s. 11(4); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F27** S. 3C(7) inserted (20.10.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 21(3); 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))

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

- C16** S. 3C applied (with modifications) (1.4.2003) by 1997 c. 68, s. 2(2)(a) (as substituted by 2002 c. 41, s. 114, Sch. 7 para. 20) (with s. 159); S.I. 2003/754, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040 and 2003/1339)))
- C17** S. 3C extended (14.3.2003) by The Nationality, Immigration and Asylum Act 2002 (Commencement No. 4) Order 2003 (S.I. 2003/754), art. 3, Sch. 2 para. 2(2) (as substituted (8.4.2003) by S.I. 2003/1040, arts. 1, 2)

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<sup>F29</sup> <sup>F28</sup> **3D Continuation of leave following revocation**

.....]

**Textual Amendments**

- F28** S. 3D inserted (31.8.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), s. 11(5); S.I. 2006/2226, art. 3, Sch. 1 (subject to transitional provisions in art. 4)
- F29** S. 3D omitted (1.12.2016) by virtue of [Immigration Act 2016 \(c. 19\)](#), ss. 64(1), 94(1) (with s. 64(5)); S.I. 2016/1037, reg. 5(h)

**4 Administration of control.**

- (1) The power under this Act to give or refuse leave to enter the United Kingdom shall be exercised by immigration officers, and the power to give leave to remain in the United Kingdom, or to vary any leave under section 3(3)(a) (whether as regards duration or conditions) [<sup>F30</sup>or to cancel any leave under section 3C(3A)], shall be exercised by the Secretary of State; and, unless otherwise [<sup>F31</sup>allowed by or under] this Act, those powers shall be exercised by notice in writing given to the person affected, except that the powers under section 3(3)(a) may be exercised generally in respect of any class of persons by order made by statutory instrument.
- (2) The provisions of Schedule 2 to this Act shall have effect with respect to—
- (a) the appointment and powers of immigration officers and medical inspectors for purposes of this Act;
  - (b) the examination of persons arriving in or leaving the United Kingdom by ship or aircraft <sup>F32</sup> . . . , and the special powers exercisable in the case of those who arrive as, or with a view to becoming, members of the crews of ships and aircraft; and
  - (c) the exercise by immigration officers of their powers in relation to entry into the United Kingdom, and the removal from the United Kingdom of persons refused leave to enter or entering or remaining unlawfully; and
  - (d) the detention of persons pending examination or pending removal from the United Kingdom;
- and for other purposes supplementary to the foregoing provisions of this Act.
- (3) The Secretary of State may by regulations made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make provision as to the effect of a condition under this Act requiring a person to register with the police; and the regulations may include provision—
- (a) as to the officers of police by whom registers are to be maintained, and as to the form and content of the registers;
  - (b) as to the place and manner in which anyone is to register and as to the documents and information to be furnished by him, whether on registration or on any change of circumstances;
  - (c) as to the issue of certificates of registration and as to the payment of fees for certificates of registration;

and the regulations may require anyone who is for the time being subject to such a condition to produce a certificate of registration to such persons and in such circumstances as may be prescribed by the regulations.

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- (4) The Secretary of State may by order made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make such provision as appears to him to be expedient in connection with this Act for records to be made and kept of persons staying at hotels and other premises where lodging or sleeping accommodation is provided, and for persons (whether <sup>F33</sup>British citizens] or not) who stay at any such premises to supply the necessary information.

#### Textual Amendments

- F30** Words in s. 4(1) inserted (1.12.2016) by [Immigration Act 2016 \(c. 19\)](#), **ss. 62(2)**, 94(1); S.I. 2016/1037, **reg. 5(g)**
- F31** Words in s. 4(1) substituted (14.2.2000) by [1999 c. 33](#), s. 169(1), [Sch. 14 paras. 43, 45](#); S.I. 2000/168, **art. 2**, [Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2**, [Sch.](#))
- F32** Words in s. 4(2)(b) repealed (2.8.1993) by S.I. 1993/1813, **arts. 9, 1**, [Sch. 6 Pt. I](#)
- F33** Words substituted by [British Nationality Act 1981 \(c. 61\)](#), s. 52(7), **Sch. 4 para. 2** (with [Sch. 8 para. 8](#))

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

- C18** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\)](#), **arts. 1, 3(1)**, [Sch. 1 Pt. 1](#)
- C19** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\)](#), **arts. 1, 3(1)**, [Sch. 1 Pt. 1](#) (as amended (17.10.2012) by S.I. 2012/2593, **arts. 1, 2(2)**; and (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2017/981, [Sch. Pt. 1 para. 1](#) (with [art. 6](#)))
- C20** S. 4(2)(b) modified (2.8.1993) by S.I. 1993/1813, **arts. 7(1), 1**, [Sch. 4 para. 1\(3\)](#)

## 5 Procedure for, and further provisions as to, deportation.

- (1) Where a person is under section 3(5) or (6) above liable to deportation, then subject to the following provisions of this Act the Secretary of State may make a deportation order against him, that is to say an order requiring him to leave and prohibiting him from entering the United Kingdom; and a deportation order against a person shall invalidate any leave to enter or remain in the United Kingdom given him before the order is made or while it is in force.
- (2) A deportation order against a person may at any time be revoked by a further order of the Secretary of State, and shall cease to have effect if he becomes <sup>F34</sup>a British citizen].
- (3) A deportation order shall not be made against a person as belonging to the family of another person if more than eight weeks have elapsed since the other person left the United Kingdom after the making of the deportation order against him; and a deportation order made against a person on that ground shall cease to have effect if he ceases to belong to the family of the other person, or if the deportation order made against the other person ceases to have effect.
- (4) For purposes of deportation the following shall be those who are regarded as belonging to another person's family—
- (a) where that other person is a man, his wife <sup>F35</sup>or civil partner,] and his or her children under the age of eighteen; and
- <sup>F36</sup>[(b) where that other person is a woman, her husband <sup>F37</sup>or civil partner,] and her or his children under the age of eighteen;]

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and for purposes of this subsection an adopted child, whether legally adopted or not, may be treated as the child of the adopter and, if legally adopted, shall be regarded as the child only of the adopter; an illegitimate child (subject to the foregoing rule as to adoptions) shall be regarded as the child of the mother; and “wife” includes each of two or more wives.

- (5) The provisions of Schedule 3 to this Act shall have effect with respect to the removal from the United Kingdom of persons against whom deportation orders are in force and with respect to the detention or control of persons in connection with deportation.
- (6) Where a person is liable to deportation under section [F383(5)] or (6) above but, without a deportation order being made against him, leaves the United Kingdom to live permanently abroad, the Secretary of State may make payments of such amounts as he may determine to meet that person’s expenses in so leaving the United Kingdom, including travelling expenses for members of his family or household.

#### Textual Amendments

- F34** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), **Sch. 4 para. 2** (with [Sch. 8 para. 8](#))
- F35** Words in s. 5(4)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 261\(1\)](#), **Sch. 27 para. 37(a)**; [S.I. 2005/3175, art. 2\(2\)-\(5\)](#)
- F36** S. 5(4)(b) substituted (1.10.1996) by [1996 c. 49, s. 12\(1\)](#), **Sch. 2 para.2**; [S.I. 1996/2053, art. 2](#), **Sch. Pt.III**
- F37** Words in s. 5(4)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 261\(1\)](#), **Sch. 27 para. 37(b)**; [S.I. 2005/3175, art. 2\(2\)-\(5\)](#)
- F38** “3(5)” substituted for “3(5)(c)” by [Immigration Act 1988 \(c. 14, SIF 62\), s. 10](#), **Sch. para. 2**

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

- C21** S. 5 applied (20.7.1994) by [S.I. 1994/1895, art. 20\(2\)](#)  
S. 5 applied (2.10.2000 with application as mentioned in reg. 9) by [S.I. 2000/2326, reg. 26\(3\)](#)  
S. 5 restricted (2.10.2000) by [1999 c. 33, s. 58\(3\)](#), **Sch. 4 Pt. II para. 18**; [S.I. 2000/2444, art. 2](#), **Sch. 1** (subject to transitional provisions in [art. 3, Sch. 2 para. 2](#))  
S. 5 restricted (2.10.2000 with application as mentioned in regs. 9, 28) by [S.I. 2000/2326, reg. 32\(5\)\(7\)](#) (as substituted (1.4.2003) for reg. 34(5)(10) by [S.I. 2003/549, reg. 2\(8\)](#) (with reg. 3))
- C22** S. 5 continued (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4, **Sch. 2 para. 2(3)**
- C23** S. 5 applied (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), regs. 1(2)(b), **32(3)**
- C24** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\)](#), arts. 1, 3(1), **Sch. 1 Pt. 1**
- C25** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\)](#), arts. 1, 3(1), **Sch. 1 Pt. 1** (as amended (17.10.2012) by [S.I. 2012/2593, arts. 1, 2\(2\)](#)); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981, Sch. Pt. 1 para. 1](#) (with art. 6))
- C26** S. 5(1) amended (2.10.2000) by [1999 c. 33, ss. 63, 64](#); [S.I. 2000/2444, art. 2](#), **Sch. 1** (subject to transitional provisions in [art. 3, Sch. 2 para. 2](#))  
S. 5(1) amended (2.10.2000) by [1999 c. 33, ss. 69\(4\), 70\(5\)-\(8\)](#); [S.I. 2000/2444, art. 2](#), **Sch. 1** (subject to transitional provisions in [art. 3, Sch. 2 para. 2](#))  
S. 5(1) amended (22.5.2000 for certain purposes, otherwise 2.10.2000) by [1999 c. 33, s. 74](#); [S.I. 2000/1282, art. 2, Sch.](#); [S.I. 2000/2444, art. 2, Sch. 1](#) (subject to transitional provisions in [art. 3, Sch. 2](#))  
S. 5(1) amended (2.10.2000) by [1999 c. 33, s. 77](#); [S.I. 2000/2444, art. 2, Sch. 1](#) (subject to transitional provisions in [art. 3, Sch. 2](#))

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- S. 5(1) extended (14.12.2001) by 2001 c. 24, ss. 22(2)(d)(e)(3), 127(2)
- C27** S. 5(3) amended (2.10.2000) by 1999 c. 33, s. 58(3), Sch. 4 Pt. II para. 19; S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3, Sch. 2 para. 2)
- C28** S. 5(3) modified (1.8.2008 for certain purposes and otherwise prosp.) by UK Borders Act 2007 (c. 30), ss. 37(1), 59; S.I. 2008/1818, art. 2(a), Sch.

## 6 Recommendations by court for deportation.

- (1) Where under section 3(6) above a person convicted of an offence is liable to deportation on the recommendation of a court, he may be recommended for deportation by any court having power to sentence him for the offence unless the court commits him to be sentenced or further dealt with for that offence by another court:

Provided that in Scotland the power to recommend a person for deportation shall be exercisable only by the sheriff or the High Court of Justiciary, and shall not be exercisable by the latter on an appeal unless the appeal is against a conviction on indictment or against a sentence upon such a conviction.

- (2) A court shall not recommend a person for deportation unless he has been given not less than seven days notice in writing stating that a person is not liable to deportation if he is <sup>F39</sup>a British citizen], describing the persons who are <sup>F39</sup>British citizens] and stating (so far as material) the effect of section 3(8) above and section 7 below; but the powers of adjournment conferred by <sup>F40</sup>section 10(3) of the <sup>M2</sup>Magistrates' Courts Act 1980], <sup>F41</sup>section 179 or 380 of the <sup>M3</sup>Criminal Procedure (Scotland) Act 1975] or any corresponding enactment for the time being in force in Northern Ireland shall include power to adjourn, after convicting an offender, for the purpose of enabling a notice to be given to him under this subsection or, if a notice was so given to him less than seven days previously, for the purpose of enabling the necessary seven days to elapse.
- (3) For purposes of section 3(6) above—
- (a) a person shall be deemed to have attained the age of seventeen at the time of his conviction if, on consideration of any available evidence, he appears to have done so to the court making or considering a recommendation for deportation; and
- (b) the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any enactment restricting the imprisonment of young offenders or <sup>F42</sup>first offenders]<sup>F42</sup>persons who have not previously been sentenced to imprisonment];

and for purposes of deportation a person who on being charged with an offence is found to have committed it shall, notwithstanding any enactment to the contrary and notwithstanding that the court does not proceed to conviction, be regarded as a person convicted of the offence, and references to conviction shall be construed accordingly.

- (4) Notwithstanding any rule of practice restricting the matters which ought to be taken into account in dealing with an offender who is sentenced to imprisonment, a recommendation for deportation may be made in respect of an offender who is sentenced to imprisonment for life.
- (5) Where a court recommends or purports to recommend a person for deportation, the validity of the recommendation shall not be called in question except on an appeal against the recommendation or against the conviction on which it is made; but—

<sup>F43</sup> . . . the recommendation shall be treated as a sentence for the purpose of any enactment providing an appeal against sentence <sup>F43</sup> . . .



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F<sup>44</sup>(b) .....

- (6) A deportation order shall not be made on the recommendation of a court so long as an appeal or further appeal is pending against the recommendation or against the conviction on which it was made; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal or, in Scotland, until the expiration of twenty-eight days from the date of the recommendation.
- (7) For the purpose of giving effect to any of the provisions of this section in its application to Scotland, the High Court of Justiciary shall have power to make rules by act of adjournal.

**Textual Amendments**

- F39** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 4 para. 2](#) (with [Sch. 8 para. 8](#))
- F40** Words substituted by [Magistrates' Courts Act 1980 \(c. 43\), s. 154\(2\), Sch. 7 para. 104](#)
- F41** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), Sch. 9 para. 47](#)
- F42** Words “persons” to “imprisonment” substituted for words “first offenders” (E.W.) by [Criminal Justice Act 1972 \(c. 71\), Sch. 5](#) and (U.K.) by [Criminal Justice Act 1982 \(c. 48\), s. 80\(2\), Sch. 15 para. 15\(a\)](#)
- F43** Words repealed (S.) by [Criminal Justice \(Scotland\) Act 1980 \(c. 62\), Sch. 8](#) and repealed (31.1.1983) by [Criminal Justice Act 1982 \(c. 48\), s. 80\(2\), Sch. 16](#)
- F44** S. 6(5)(b) repealed (S.) by [Criminal Justice \(Scotland\) Act 1980 \(c. 62\), Sch. 8](#) and repealed (31.1.1983) by [Criminal Justice Act 1982 \(c. 48\), s. 80\(2\), Sch. 16](#)

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

- C29** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\), arts. 1, 3\(1\), Sch. 1 Pt. 1](#)
- C30** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\), arts. 1, 3\(1\), Sch. 1 Pt. 1](#) (as amended (17.10.2012) by [S.I. 2012/2593, arts. 1, 2\(2\)](#)); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981, Sch. Pt. 1 para. 1](#) (with art. 6))

**Marginal Citations**

- M2** [1980 c. 43.](#)
- M3** [1975 c. 21.](#)

**7 Exemption from deportation for certain existing residents.**

- (1) Notwithstanding anything in section 3(5) or (6) above but subject to the provisions of this section, a Commonwealth citizen or citizen of the Republic of Ireland who was such a citizen at the coming into force of this Act and was then ordinarily resident in the United Kingdom—
  - (a) <sup>F<sup>45</sup></sup> .....
  - [<sup>F<sup>46</sup></sup>(b) shall not be liable to deportation under section 3(5) if at the time of the Secretary of State’s decision he had for the last five years been ordinarily resident in the United Kingdom and Islands;]
  - (c) shall not on conviction of an offence be recommended for deportation under section 3(6) if at the time of the conviction he had for the last five years been ordinarily resident in the United Kingdom and Islands.

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- (2) A person who has at any time become ordinarily resident in the United Kingdom or in any of the Islands shall not be treated for the purposes of this section as having ceased to be so by reason only of his having remained there in breach of the immigration laws.
- (3) The “last five years” before the material time under subsection (1)(b) or (c) above is to be taken as a period amounting in total to five years exclusive of any time during which the person claiming exemption under this section was undergoing imprisonment or detention by virtue of a sentence passed for an offence on a conviction in the United Kingdom and Islands, and the period for which he was imprisoned or detained by virtue of the sentence amounted to six months or more.
- (4) For purposes of subsection (3) above—
- (a) “sentence” includes any order made on conviction of an offence; and
  - (b) two or more sentences for consecutive (or partly consecutive) terms shall be treated as a single sentence; and
  - (c) a person shall be deemed to be detained by virtue of a sentence—
    - (i) at any time when he is liable to imprisonment or detention by virtue of the sentence, but is unlawfully at large; and
    - (ii) (unless the sentence is passed after the material time) during any period of custody by which under any relevant enactment the term to be served under the sentence is reduced.

In paragraph (c)(ii) above “relevant enactment” means [<sup>F47</sup>section 240 [<sup>F48</sup>, 240ZA or 240A] of the Criminal Justice Act 2003] (or, before that section operated, section 17(2) of the <sup>M4</sup>Criminal Justice Administration Act 1962) and any similar enactment which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands.

- (5) Nothing in this section shall be taken to exclude the operation of section 3(8) above in relation to an exemption under this section.

#### Textual Amendments

- F45** S. 7(1)(a) repealed (10.2.2003) by 2002 c. 41, ss. 75(2), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F46** S. 7(1)(b) substituted (10.2.2003) by 2002 c. 41, s. 75(3) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F47** Words in s. 7(4) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 304, Sch. 32 Pt. 1 para. 16; S.I. 2005/950, art. 2, Sch. 1 (with Sch. 2 (as modified (29.7.2005) by S.I. 2005/2122, art. 2))
- F48** Words in s. 7(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 13 para. 7; S.I. 2012/2906, art. 2(k)

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

- C31** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by The Immigration (Guernsey) Order 1993 (S.I. 1993/1796), arts. 1, 3(1), Sch. 1 Pt. 1
- C32** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by The Immigration (Jersey) Order 1993 (S.I. 1993/1797), arts. 1, 3(1), Sch. 1 Pt. 1 (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, 2(2); and (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2017/981, Sch. Pt. 1 para. 1 (with art. 6))

#### Marginal Citations

- M4** 1962 c. 15.



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## 8 Exceptions for seamen, aircrews and other special cases.

- (1) Where a person arrives at a place in the United Kingdom as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either—
- (a) there is in force a deportation order made against him; or
  - (b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom; or
  - (c) an immigration officer requires him to submit to examination in accordance with Schedule 2 to this Act;

he may without leave enter the United Kingdom at that place and remain until the departure of the ship or aircraft on which he is required by his engagement to leave.

- (2) The Secretary of State may by order exempt any person or class of persons, either unconditionally or subject to such conditions as may be imposed by or under the order, from all or any of the provisions of this Act relating to those who are not [<sup>F49</sup>British citizens].

An order under this subsection, if made with respect to a class of persons, shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) [<sup>F50</sup>Subject to subsection (3A) below,] the provisions of this Act relating to those who are not [<sup>F49</sup>British citizens] shall not apply to any person so long as he is a member of a mission (within the meaning of the <sup>M5</sup>Diplomatic Privileges Act 1964), a person who is a member of the family and forms part of the household of such a member, or a person otherwise entitled to the like immunity from jurisdiction as is conferred by that Act on a diplomatic agent.

- [<sup>F51</sup>(3A) For the purposes of subsection (3), a member of a mission other than a diplomatic agent (as defined by the 1964 Act) is not to count as a member of a mission unless—
- (a) he was resident outside the United Kingdom, and was not in the United Kingdom, when he was offered a post as such a member; and
  - (b) he has not ceased to be such a member after having taken up the post.]

- (4) The provisions of this Act relating to those who are not [<sup>F49</sup>British citizens], other than the provisions relating to deportation, shall also not apply to any person so long as either—
- (a) he is subject, as a member of the home forces, to service law; or
  - (b) being a member of a Commonwealth force or of a force raised under the law of any <sup>F52</sup>. . . colony, protectorate or protected state, is undergoing or about to undergo training in the United Kingdom with any body, contingent or detachment of the home forces; or
  - (c) he is serving or posted for service in the United Kingdom as a member of a visiting force or of any force raised as aforesaid or as a member of an international headquarters or defence organisation designated for the time being by an Order in Council under section 1 of the <sup>M6</sup>International Headquarters and Defence Organisations Act 1964.

- (5) Where a person having a limited leave to enter or remain in the United Kingdom becomes entitled to an exemption under this section, that leave shall continue to apply after he ceases to be entitled to the exemption, unless it has by then expired [<sup>F53</sup>or otherwise ceased to be in force ]; and a person is not to be regarded for purposes of this

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Act as having been <sup>F54</sup>settled in the United Kingdom at any time when he was entitled under the former immigration laws to any exemption corresponding to any of those afforded by subsection (3) or (4)(b) or (c) above or by any order under subsection (2) above.]

<sup>F55</sup>(5A) An order under subsection (2) above may, as regards any person or class of persons to whom it applies, provide for that person or class to be in specified circumstances regarded (notwithstanding the order) as settled in the United Kingdom for the purposes of section 1(1) of the <sup>M7</sup>British Nationality Act 1981.]

- (6) In this section “the home forces” means any of Her Majesty’s forces other than a Commonwealth force or a force raised under the law of any associated state, colony, protectorate or protected state; “Commonwealth force” means a force of any country to which provisions of the <sup>M8</sup>Visiting Forces Act 1952 apply without an Order in Council under section 1 of the Act; and “visiting force” means a body, contingent or detachment of the forces of a country to which any of those provisions apply, being a body, contingent or detachment for the time being present in the United Kingdom on the invitation of Her Majesty’s Government in the United Kingdom.

#### Textual Amendments

- F49** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), **Sch. 4 para. 2** (with [Sch. 8 para. 8](#))
- F50** Words inserted by [Immigration Act 1988 \(c. 14, SIF 62\)](#), **s. 4**
- F51** S. 8(3A) substituted (1.3.2000) by [1999 c. 33, s. 6](#); [S.I. 2000/168, art. 2, Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252, art. 2, Sch.](#))
- F52** Words in s. 8(4)(b) repealed (8.11.1995) by [1995 c. 44, s. 1, Sch. 1 Pt. II](#) Group 1
- F53** Words in s. 8(5) inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\), ss. 76\(1\), 94\(1\)](#); [S.I. 2016/603, reg. 3\(n\)](#)
- F54** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), **Sch. 4 para. 5** (with [Sch. 8 para. 8](#))
- F55** S. 8(5A) inserted by [British Nationality Act 1981 \(c. 61\), ss. 39\(4\), 52\(7\)](#) (with [Sch. 8 para. 8](#))

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

- C33** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\)](#), arts. 1, 3(1), **Sch. 1 Pt. 1**
- C34** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\)](#), arts. 1, 3(1), **Sch. 1 Pt. 1** (as amended (17.10.2012) by [S.I. 2012/2593](#), arts. 1, **2(2)**); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981, Sch. Pt. 1 para. 1](#) (with art. 6))
- C35** S. 8(1) modified (2.8.1993) by [S.I. 1993/1813](#), arts. 7(1), 1, **Sch. 4 para. 1(4)**
- C36** S. 8(3) extended by [State Immunity Act 1978 \(c. 33\)](#), **s. 20(3)**

#### Marginal Citations

- M5** [1964 c. 81](#).
- M6** [1964 c. 5](#).
- M7** [1981 c. 61](#).
- M8** [1952 c. 67](#).

#### <sup>F56</sup>8A Persons ceasing to be exempt.

- (1) A person is exempt for the purposes of this section if he is exempt from provisions of this Act as a result of section 8(2) or (3).
- (2) If a person who is exempt—

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- (a) ceases to be exempt, and
  - (b) requires leave to enter or remain in the United Kingdom as a result,
- he is to be treated as if he had been given leave to remain in the United Kingdom for a period of 90 days beginning on the day on which he ceased to be exempt.
- (3) If—
- (a) a person who is exempt ceases to be exempt, and
  - (b) there is in force in respect of him leave for him to enter or remain in the United Kingdom which expires before the end of the period mentioned in subsection (2),
- his leave is to be treated as expiring at the end of that period.

[ References in this section to a person who ceases to be exempt do not include a person <sup>F57</sup>(4) who ceases to be exempt by virtue of section 8B(3).]

#### Textual Amendments

- F56** S. 8A inserted (1.3.2000) by 1999 c. 33, s. 7; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F57** S. 8A(4) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(2), 94(1); S.I. 2016/603, reg. 3(n)

#### [<sup>F58</sup>8B Persons excluded from the United Kingdom under international obligations.

- (1) An excluded person must be refused—
- (a) leave to enter the United Kingdom;
  - (b) leave to remain in the United Kingdom [<sup>F59</sup>(and any leave given to a person who is an excluded person is invalid)].
- (2) A person's leave to enter or remain in the United Kingdom is cancelled on his becoming an excluded person.
- [<sup>F60</sup>(3) Any exemption of a person from the provisions of this Act under section 8(1), (2) or (3) does not apply while the person is an excluded person.]
- (4) “Excluded person” means a person—
- (a) named by or under, or
  - (b) of a description specified in,
- [<sup>F61</sup>an instrument falling within subsection (5)].
- (5) [<sup>F62</sup>An instrument falls within this subsection] if it is a resolution of the Security Council of the United Nations or an instrument made by the Council of the European Union and it—
- (a) requires that a person is not to be admitted to the United Kingdom (however that requirement is expressed); or
  - (b) recommends that a person should not be admitted to the United Kingdom (however that recommendation is expressed).

[ Subsection (1), (2) or (3) does not apply to a person if—

<sup>F63</sup>(5A) (a) the application of that subsection to that person would be contrary to the United Kingdom's obligations under—

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- (i) the Human Rights Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999), or
  - (ii) the Refugee Convention (within the meaning given by that provision), or
- (b) the person has been exempted from the application of that subsection under a process applying by virtue of the instrument falling within subsection (5).]

F<sup>64</sup>(6) .....

F<sup>64</sup>(7) .....

F<sup>64</sup>(8) .....]

#### Textual Amendments

- F58** S. 8B inserted (1.3.2000) by 1999 c. 33, s. 8; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F59** Words in s. 8B(1)(b) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(4), 94(1); S.I. 2016/603, reg. 3(n)
- F60** S. 8B(3) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(5), 94(1); S.I. 2016/603, reg. 3(n)
- F61** Words in s. 8B(4) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(6), 94(1); S.I. 2016/603, reg. 3(n)
- F62** Words in s. 8B(5) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(7), 94(1); S.I. 2016/603, reg. 3(n)
- F63** S. 8B(5A) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 76(8), 94(1); S.I. 2016/603, reg. 3(n)
- F64** Ss. 8B(6)-(8) omitted (12.7.2016) by virtue of Immigration Act 2016 (c. 19), ss. 76(9), 94(1); S.I. 2016/603, reg. 3(n)

## 9 Further provisions as to common travel area.

- (1) Subject to subsection (5) below, the provisions of Schedule 4 to this Act shall have effect for the purpose of taking account in the United Kingdom of the operation in any of the Islands of the immigration laws there.
- (2) Persons who lawfully enter the United Kingdom on a local journey from a place in the common travel area after having either—
  - (a) entered any of the Islands or the Republic of Ireland on coming from a place outside the common travel area; or
  - (b) left the United Kingdom while having a limited leave to enter or remain which has since expired;if they are not [<sup>F65</sup>British citizens] (and are not to be regarded under Schedule 4 to this Act as having leave to enter the United Kingdom), shall be subject in the United Kingdom to such restrictions on the period for which they may remain, and such conditions restricting their employment or occupation or requiring them to register with the police or both, as may be imposed by an order of the Secretary of State and may be applicable to them.
- (3) Any provision of this Act applying to a limited leave or to conditions attached to a limited leave shall, unless otherwise provided, have effect in relation to a person subject to any restriction or condition by virtue of an order under subsection (2) above

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as if the provisions of the order applicable to him were terms on which he had been given leave under this Act to enter the United Kingdom.

- (4) Section 1(3) above shall not be taken to affect the operation of a deportation order; and, subject to Schedule 4 to this Act, a person who is not [<sup>F65</sup>a British citizen] may not by virtue of section 1(3) enter the United Kingdom without leave on a local journey from a place in the common travel area if either—
- (a) he is on arrival in the United Kingdom given written notice by an immigration officer stating that, the Secretary of State having issued directions for him not to be given entry to the United Kingdom on the ground that his exclusion is conducive to the public good as being in the interests of national security, he is accordingly refused leave to enter the United Kingdom; or
  - (b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom.
- (5) If it appears to the Secretary of State necessary so to do by reason of differences between the immigration laws of the United Kingdom and any of the Islands, he may by order exclude that island from section 1(3) above for such purposes as may be specified in the order, and references in this Act to the Islands . . . <sup>F66</sup> shall apply to an island so excluded so far only as may be provided by order of the Secretary of State.
- (6) The Secretary of State shall also have power by order to exclude the Republic of Ireland from section 1(3) for such purposes as may be specified in the order.
- (7) An order of the Secretary of State under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F65** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), [Sch. 4 para. 2](#) (with [Sch. 8 para. 8](#))

**F66** Words repealed by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), [Sch. 9](#) (with [Sch. 8 para. 8](#))

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

**C37** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by [The Immigration \(Guernsey\) Order 1993 \(S.I. 1993/1796\)](#), arts. 1, 3(1), [Sch. 1 Pt. 1](#)

**C38** Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by [The Immigration \(Jersey\) Order 1993 \(S.I. 1993/1797\)](#), arts. 1, 3(1), [Sch. 1 Pt. 1](#) (as amended (17.10.2012) by [S.I. 2012/2593](#), arts. 1, [2\(2\)](#); and (coming into force in accordance with art. 1 of the amending S.I.) by [S.I. 2017/981](#), [Sch. Pt. 1 para. 1](#) (with [art. 6](#)))

**C39** S. 9(2) amended (28.4.2000) by [S.I. 2000/1161](#), [art. 14](#)

## 10 Entry otherwise than by sea or air.

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act shall have effect in relation to persons entering or seeking to enter the United Kingdom on arrival otherwise than by ship or aircraft <sup>F67</sup>. . . as they have effect in the case of a person arriving by ship or aircraft <sup>F67</sup>. . . ; and any such Order may make such adaptations or modifications of those provisions, and such provisions supplementary thereto, as appear to Her Majesty to be necessary or expedient for the purposes of the Order.

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- (2) The provision made by an Order in Council under this section may include provision for excluding the Republic of Ireland from section 1(3) of this Act either generally or for any specified purposes.
- (3) No recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

#### Textual Amendments

**F67** In s. 10(1), Words "or through the tunnel system" repealed (2.8.1993) by [S.I. 1993/1813](#), arts. 9, 1, [Sch. 6 Pt.I](#)

## 11 Construction of references to entry, and other phrases relating to travel.

- (1) A person arriving in the United Kingdom by ship or aircraft shall for purposes of this Act be deemed not to enter the United Kingdom unless and until he disembarks, and on disembarkation at a port shall further be deemed not to enter the United Kingdom so long as he remains in such area (if any) at the port as may be approved for this purpose by an immigration officer; and a person who has not otherwise entered the United Kingdom shall be deemed not to do so as long as he is detained, or temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act <sup>F68</sup>or section 62 of the Nationality, Immigration and Asylum Act 2002<sup>F69</sup>or by section 68 of the Nationality, Immigration and Asylum Act 2002].

<sup>F70</sup>(1A) . . . . .

- (2) In this Act “disembark” means disembark from a ship or aircraft, and “embark” means embark in a ship or aircraft; and, except in subsection (1) above,—
  - (a) references to disembarking in the United Kingdom do not apply to disembarking after a local journey from a place in the United Kingdom or elsewhere in the common travel area; and
  - (b) references to embarking in the United Kingdom do not apply to embarking for a local journey to a place in the United Kingdom or elsewhere in the common travel area.
- (3) Except in so far as the context otherwise requires, references in this Act to arriving in the United Kingdom by ship shall extend to arrival by any floating structure, and “disembark” shall be construed accordingly; but the provisions of this Act specially relating to members of the crew of a ship shall not by virtue of this provision apply in relation to any floating structure not being a ship.
- (4) For purposes of this Act “common travel area” has the meaning given by section 1(3), and a journey is, in relation to the common travel area, a local journey if but only if it begins and ends in the common travel area and is not made by a ship or aircraft which—
  - (a) in the case of a journey to a place in the United Kingdom, began its voyage from, or has during its voyage called at, a place not in the common travel area; or
  - (b) in the case of a journey from a place in the United Kingdom, is due to end its voyage in, or call in the course of its voyage at, a place not in the common travel area.



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- (5) A person who enters the United Kingdom lawfully by virtue of section 8(1) above, and seeks to remain beyond the time limited by section 8(1), shall be treated for purposes of this Act as seeking to enter the United Kingdom.

#### Textual Amendments

- F68** Words in s. 11(1) inserted (10.2.2003) by 2002 c. 41, s. 62(8) (with s. 159); S.I. 2003/1, **art. 2**, Sch.  
**F69** Words in s. 11(1) inserted (4.4.2003) by The Nationality, Immigration and Asylum Act 2002 (Consequential and Incidental Provisions) Order 2003 (S.I. 2003/1016), arts. 2, 3, **Sch. para. 1**  
**F70** S. 11(1A) repealed (2.8.1993) by S.I. 1993/1813, arts. 9, 1, **Sch. 6 Pt. I**

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

- C40** Ss. 1-9, 11 extended (with modifications) (Guernsey) (1.8.1993) by The Immigration (Guernsey) Order 1993 (S.I. 1993/1796), arts. 1, 3(1), **Sch. 1 Pt. 1**  
 Ss. 1-9, 11 extended (with modifications) (Jersey) (1.8.1993) by The Immigration (Jersey) Order 1993 (S.I. 1993/1797), arts. 1, 3(1), **Sch. 1 Pt. 1** (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, **2(2)**; and (coming into force in accordance with art. 1 of the amending S.I.) by S.I. 2017/981, **Sch. Pt. 1 para. 1** (with art. 6))  
 S. 11 modified (2.8.1993) by S.I. 1993/1813, arts. 1, 7(1), **Sch. 4 para. 1(5)**  
**C41** S. 11 applied (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 2(14)**, 48  
**C42** S. 11 applied by The Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003), reg. 2(3) (as inserted (1.6.2009) by The Immigration (European Economic Area) (Amendment) Regulations 2009 (S.I. 2009/1117), reg. 2, **Sch. 1 para. 1(b)**)  
**C43** S. 11 applied (1.2.2017 for specified purposes) by The Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052), regs. 1(2)(b), **2(2)**  
**C44** S. 11(1) applied (7.11.2002 with effect as noted in s. 11(4) of the amending act) by 2002 c. 41, s. **11(3)** (with s. 159)  
**C45** S. 11(1) applied by British Nationality Act 1981 (c. 61), s. 50A(6) (as inserted (13.1.2010) by Borders, Citizenship and Immigration Act 2009 (c. 11), **ss. 48(1)**, 58(2); S.I. 2009/2731, **art. 4(g)**)

## <sup>F71</sup>PART II

### APPEALS

#### Textual Amendments

- F71** Pt. II (ss. 12-23) repealed (14.2.2000 as regards s. 12 and otherwise 2.10.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 43, 49, Sch. 16 (with saving in Sch. 15 paras. 11, 12); S.I. 2000/168, art. 2, Sch.; S.I. 2000/2444, art. 2, Sch. 1 (subject to transitional provisions in art. 3, Sch. 2 para. 2); however, certain provisions continued for certain purposes (14.3.2003) by S.I. 2003/754, arts. 3, 4, **Sch. 2 para. 2(4)-(9)** and (7.3.2005) by S.I. 2005/565, arts. {1(2)}, 9

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

- C46** Pt. II modified by British Nationality Act 1981 (c. 61), Sch. 8 paras. 6, **8**  
**C47** Pt. II restricted (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 1**; S.I. 1993/1655, **art. 2**  
 Pt. II (ss. 12-23) restricted (1.9.1996) by 1996 c. 49, s. **3(1)(b)(i)**; S.I. 1996/2053, art. 2, **Sch. Pt. II**  
 Pt. II (ss. 12-23) extended (with modifications) (Isle of Man) (1.4.1997) by S.I. 1997/275, art. 2(1), **Sch.**



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*The appellate authorities*

.....  
*Appeals to adjudicator or Tribunal in first instance*

**15 Appeals in respect of deportation orders.**

- (1) Subject to the provisions of this Part of this Act, a person may appeal to an adjudicator against—
  - (a) a decision of the Secretary of State to make a deportation order against him by virtue of section 3(5) above; or
  - (b) a refusal by the Secretary of State to revoke a deportation order made against him.
- (2) A deportation order shall not be made against a person by virtue of section 3(5) above so long as an appeal may be brought against the decision to make it nor, if such an appeal is duly brought, so long as the appeal is pending; but, in calculating the period of eight weeks limited by section 5(3) above for making a deportation order against a person as belonging to the family of another person, there shall be disregarded any period during which there is pending an appeal against the decision to make it.
- (3) A person shall not be entitled to appeal against a decision to make a deportation order against him if the ground of the decision was that his deportation is conducive to the public good as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature.
- (4) A person shall not be entitled to appeal under this section against a refusal to revoke a deportation order, if the Secretary of State certifies that the appellant's exclusion from the United Kingdom is conducive to the public good or if revocation was refused on that ground by the Secretary of State (and not by a person acting under his authority).
- (5) A person shall not be entitled to appeal under this section against a refusal to revoke a deportation order so long as he is in the United Kingdom, whether because he has not complied with the requirement to leave or because he has contravened the prohibition on entering.
- (6) On an appeal against a decision to make a deportation order against a person as belonging to the family of another person, or an appeal against a refusal to revoke a deportation order so made, the appellant shall not be allowed, for the purpose of showing that he does not or did not belong to another person's family, to dispute any statement made with a view to obtaining leave for the appellant to enter or remain in the United Kingdom (including any statement made to obtain an entry clearance) unless the appellant shows that the statement was not so made by him or by any person acting with his authority and that, when he took the benefit of the leave, he did not know any such statement had been made to obtain it or, if he did know, was under the age of eighteen.
- (7) An appeal under this section shall be to the Appeal Tribunal in the first instance, instead of to an adjudicator, if—

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- (a) it is an appeal against a decision to make a deportation order and the ground of the decision was that the deportation of the appellant is conducive to the public good; or
  - (b) it is an appeal against a decision to make a deportation order against a person as belonging to the family of another person, or an appeal against a refusal to revoke a deportation order so made; or
  - (c) there is pending a related appeal to which paragraph (b) above applies.
- (8) Where an appeal to an adjudicator is pending under this section, and before the adjudicator has begun to hear it a related appeal is brought, the appeal to the adjudicator shall be dealt with instead by the Appeal Tribunal and be treated as an appeal duly made to the Tribunal in the first instance.
- (9) In relation to an appeal under this section in respect of a deportation order against any person (whether an appeal against a decision to make or against a refusal to revoke the order), any other appeal under this section is a “related appeal” if it is an appeal in respect of a deportation order against another person as belonging to the family of the first-mentioned person.

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

- C53** S. 15 restricted by [Immigration Act 1988 \(c. 14, SIF 62\), s. 5\(1\)](#)
- C54** S. 15(2) extended (26.7.1993) by [1993 c. 23, s. 8\(6\), Sch. 2 para.8](#); [S.I. 1993/1655, art. 2](#)  
S. 15(2) extended (3.8.1998) by [1997 c. 68, s. 2, Sch. 2 paras.2, 4](#); [S.I. 1998/1892, art. 2](#)
- C55** S. 15(3)(4) applied (with modifications) (26.7.1993) by [1993 c. 23, s. 8\(6\), Sch. 2 para.6](#); [S.I. 1993/1655, art. 2](#)
- C56** S. 15(3) applied (20.7.1994) by [S.I. 1994/1895, art. 20\(2\)](#)

## **16 Appeals against validity of directions for removal.**

- (1) Subject to the provisions of this Part of this Act, where directions are given under this Act for a person’s removal from the United Kingdom either—
- (a) on the ground that he is an illegal entrant or on the ground specifically that he has entered the United Kingdom in breach of a deportation order; or
  - (b) under the special powers conferred by Schedule 2 to this Act in relation to members of the crew of a ship or aircraft or persons coming to the United Kingdom to join a ship or aircraft as a member of the crew;
- then he may appeal to an adjudicator against those directions on the ground that in the facts of his case there was in law no power to give them on the ground on which they were given.
- (2) A person shall not be entitled to appeal under this section so long as he is in the United Kingdom, unless he is appealing against directions given by virtue of a deportation order (whether on the ground specifically that he has returned in breach of that order or on the ground that he is an illegal entrant) and is appealing on the ground that he is not the person named in that order.
- (3) Where a person appeals under this section against directions given by virtue of a deportation order, he shall not be allowed to dispute the original validity of that order.
- (4) An appeal under this section against directions given as mentioned in subsection (1) (b) shall be dismissed by the adjudicator, notwithstanding that the ground of appeal

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may be made out, if he is satisfied that there was power to give the like directions on the ground that the appellant was an illegal entrant.

## **17 Appeals against removal on objection to destination.**

- (1) Subject to the provisions of this Part of this Act, where directions are given under this Act for a person's removal from the United Kingdom either—
  - (a) on his being refused leave to enter; or
  - (b) on a deportation order being made against him; or
  - (c) on his having entered the United Kingdom in breach of a deportation order;he may appeal to an adjudicator against the directions on the ground that he ought to be removed (if at all) to a different country or territory specified by him.
- (2) Where a person appeals under section 13(1) above on being refused leave to enter the United Kingdom, and either—
  - (a) before he does so, directions have been given for his removal from the United Kingdom to any country or territory; or
  - (b) before or after he does so, the Secretary of State or an immigration officer serves on him notice that any directions which may be given for his removal by virtue of the refusal will be for his removal to a country or territory or one of several countries or territories specified in the notice;then he may on that appeal object to the country or territory to which he would be removed in pursuance of the directions, or to that specified in the notice (or to one or more of those specified), and claim that he ought to be removed (if at all) to a different country or territory specified by him.
- (3) Where a person appeals under section 15 above against a decision to make a deportation order against him, and before or after he does so the Secretary of State serves on him notice that any directions which may be given for his removal by virtue of the deportation order will be for his removal to a country or territory or one of several countries or territories specified in the notice, then he may on that appeal object to the country or territory specified in the notice (or to one or more of those specified), and claim that he ought to be removed (if at all) to a different country or territory specified by him.
- (4) Where by virtue of subsection (2) or (3) above a person is able to object to a country or territory on an appeal under section 13(1) or 15, and either he does not object to it on that appeal or his objection to it on that appeal is not sustained, then he shall not be entitled to appeal under this section against any directions subsequently given by virtue of the refusal or order in question, if their effect will be his removal to that country or territory.
- (5) A person shall not be entitled to appeal under this section against any directions given on his being refused leave to enter the United Kingdom, unless either he is also appealing under section 13(1) against the decision that he requires leave to enter or he was refused leave at a port of entry and at a time when he held a current entry clearance or was a person named in a current work permit.

## **18 Notice of matters in respect of which there are rights of appeal.**

- (1) The Secretary of State may by regulations provide—

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- (a) for written notice to be given to a person of any such decision or action taken in respect of him as is appealable under this Part of this Act (whether or not he is in the facts of his case entitled to appeal) or would be so appealable but for the ground on which it is taken;
  - (b) for any such notice to include a statement of the reasons for the decision or action and, where the action is the giving of directions for the removal of any person from the United Kingdom, of the country or territory to which he is to be removed;
  - (c) for any such notice to be accompanied by a statement containing particulars of the rights of appeal available under this Part of this Act and of the procedure by which those rights may be exercised;
  - (d) for the form of any such notice or statement and the way in which a notice is to be or may be given.
- (2) For the purpose of any proceedings under this Part of this Act a statement included in a notice in pursuance of regulations under this section shall be conclusive of the person by whom and of the ground on which any decision or action was taken.
  - (3) The power to make regulations under this section shall be exercisable by statutory instrument, and any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

**C57** Ss. 18-21, 22(1)-(4)(6)(7), 23 and Sch. 5 amended (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 4(2) (a)-(f)**; S.I. 1993/1655, **art. 2**  
S. 18 amended (1.9.1996) by 1996 c. 49, s. 3(4)(a); S.I. 1996/2053, art. 2, **Sch. Pt.II**  
S. 18 amended (3.8.1998) by 1997 c. 68, s. 2, **Sch. 2 para.6**; S.I. 1998/1892, **art. 2**

## **19 Determination of appeals by adjudicators.**

- (1) Subject to sections 13(4) and 16(4) above, and to any restriction on the grounds of appeal, an adjudicator on an appeal to him under this Part of this Act—
  - (a) shall allow the appeal if he considers—
    - (i) that the decision or action against which the appeal is brought was not in accordance with the law or with any immigration rules applicable to the case; or
    - (ii) where the decision or action involved the exercise of a discretion by the Secretary of State or an officer, that the discretion should have been exercised differently; and
  - (b) in any other case, shall dismiss the appeal.
- (2) For the purposes of subsection (1)(a) above the adjudicator may review any determination of a question of fact on which the decision or action was based; and for the purposes of subsection (1)(a)(ii) no decision or action which is in accordance with the immigration rules shall be treated as having involved the exercise of a discretion by the Secretary of State by reason only of the fact that he has been requested by or on behalf of the appellant to depart, or to authorise an officer to depart, from the rules and has refused to do so.
- (3) Where an appeal is allowed, the adjudicator shall give such directions for giving effect to the determination as the adjudicator thinks requisite, and may also make

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recommendations with respect to any other action which the adjudicator considers should be taken in the case under this Act; and, subject to section 20(2) below, it shall be the duty of the Secretary of State and of any officer to whom directions are given under this subsection to comply with them.

- (4) Where in accordance with section 15 above a person appeals to the Appeal Tribunal in the first instance, this section shall apply with the substitution of references to the Tribunal for references to an adjudicator.

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

- C58** Ss. 18-21, 22(1)-(4)(6)(7), 23 and Sch. 5 amended (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 4(2) (a)-(f)**; S.I. 1993/1655, **art. 2**  
S. 19 amended (1.9.1996) by 1996 c. 49, s. 3(4)(b); S.I. 1996/2053, art. 2, **Sch. Pt.II**

*Appeals from adjudicator to Tribunal, and review of decisions*

**20 Appeal to Tribunal from determination of adjudicator.**

- (1) Subject to any requirement of rules of procedure as to leave to appeal, any party to an appeal to an adjudicator may, if dissatisfied with his determination thereon, appeal to the Appeal Tribunal, and the Tribunal may affirm the determination or make any other determination which could have been made by the adjudicator.
- (2) Directions given by an adjudicator under section 19(3) above need not be complied with so long as an appeal can be brought against his determination and, if such an appeal is duly brought, so long as the appeal is pending; and if the Tribunal affirm his determination allowing the appeal, they may alter or add to his directions and recommendations under section 19(3) or replace them with their own directions and recommendations, and the provisions of that subsection shall apply to directions given by them accordingly.
- (3) Where an appeal is dismissed by an adjudicator but allowed by the Tribunal, section 19(3) above shall apply with the substitution of references to the Tribunal for references to the adjudicator.

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

- C59** Ss. 18-21, 22(1)-(4)(6)(7), 23 and Sch. 5 amended (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 4(2) (a)-(f)**; S.I. 1993/1655, **art. 2**  
**C60** S. 20(1) restricted (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 5(5)**; S.I. 1993/1655, **art. 2**  
S. 20(1) excluded (21.10.1996) by 1993 c. 23, **Sch. 2 para. 5** (as substituted (21.10.1996) by 1996 c. 49, s.1; S.I. 1996/2127, art. 2, **Sch. Pt.III**)

**21 Reference of cases for further consideration.**

- (1) Where in any case—
- (a) an adjudicator has dismissed an appeal, and there has been no further appeal to the Appeal Tribunal, or the Tribunal has dismissed an appeal made to them in the first instance by virtue of section 15 above; or

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- (b) the Appeal Tribunal has affirmed the determination of an adjudicator dismissing an appeal, or reversed the determination of an adjudicator allowing an appeal;
- the Secretary of State may at any time refer for consideration under this section any matter relating to the case which was not before the adjudicator or Tribunal.
- (2) Any reference under this section shall be to an adjudicator or to the Appeal Tribunal, and the adjudicator or Tribunal shall consider the matter which is the subject of the reference and report to the Secretary of State the opinion of the adjudicator or Tribunal thereon.

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

**C61** Ss. 18-21, 22(1)-(4)(6)(7), 23 and Sch. 5 amended (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 4(2) (a)-(f)**; S.I. 1993/1655, **art. 2**  
S. 21 amended (1.9.1996) by 1996 c. 49, s. 3(4)(c); S.I. 1996/2053, **art. 2, Sch. Pt.II**

*Supplementary*

**22 Procedure.**

- (1) The [<sup>F82</sup>Lord Chancellor] may make rules (in this Act referred to as “rules of procedure”)—
- (a) for regulating the exercise of the rights of appeal conferred by this Part of this Act;
  - (b) for prescribing the practice and procedure to be followed on or in connection with appeals thereunder, including the mode and burden of proof and admissibility of evidence on such an appeal; and
  - (c) for other matters preliminary or incidental to or arising out of such appeals, including proof of the decisions of adjudicators or the Appeal Tribunal.
- (2) Rules of procedure may include provision—
- (a) enabling the Tribunal, on an appeal from an adjudicator, to remit the appeal to an adjudicator for determination by him in accordance with any directions of the Tribunal, or for further evidence to be obtained with a view to determination by the Tribunal; or
  - (b) enabling any functions of the Tribunal which relate to matters preliminary or incidental to an appeal, or which are conferred by Part II of Schedule 2 to this Act, to be performed by a single member of the Tribunal; or
  - (c) conferring on adjudicators or the Tribunal such ancillary powers as the [<sup>F82</sup>Lord Chancellor] thinks necessary for the purposes of the exercise of their functions.
- (3) The rules of procedure shall provide that any appellant shall have the right to be legally represented.
- (4) Where on an appeal under this Part of this Act it is alleged—
- (a) that a passport or other travel document, [<sup>F83</sup>certificate of entitlement], entry clearance or work permit (or any part thereof or entry therein) on which a party relies is a forgery; and

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- (b) that the disclosure to that party of any matters relating to the method of detection would be contrary to the public interest;
- then (without prejudice to the generality of the power to make rules of procedure) the adjudicator or Tribunal shall arrange for the proceedings to take place in the absence of that party and his representatives while the allegation at (b) above is inquired into by the adjudicator or Tribunal and, if it appears to the adjudicator or Tribunal that the allegation is made out, for such further period as appears necessary in order to ensure that those matters can be presented to the adjudicator or Tribunal without any disclosure being directly or indirectly made contrary to the public interest.
- (5) If under the rules of procedure leave to appeal to the Tribunal is required in cases where an adjudicator dismisses an appeal under section 13 above, then the authority having power to grant leave to appeal shall grant it—
- (a) in any case where the appeal was against a decision that the appellant required leave to enter the United Kingdom, and the authority is satisfied that at the time of the decision he held a [<sup>F83</sup>certificate of entitlement]; and
- (b) in any case where the appeal was against a refusal of leave to enter, and the authority is satisfied that at the time of the refusal the appellant held an entry clearance and that the dismissal of the appeal was not required by section 13(4).
- (6) A person who is required under or in accordance with rules of procedure to attend and give evidence or produce documents before an adjudicator or the Tribunal, and fails without reasonable excuse to comply with the requirement, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F84</sup>level 3 on the standard scale].
- (7) The power to make rules of procedure shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F82** Words substituted by [S.I. 1987/465](#), [arts. 2\(b\)](#), 3(1)(3)
- F83** Words substituted by [British Nationality Act 1981 \(c. 61\)](#), s. 52(7), [Sch. 4 para. 3\(1\)](#) (with [Sch. 8 para. 8](#))
- F84** Words substituted (E.W.) (S.) (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#)), and (N.I.) by virtue of [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)

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

- C62** S. 22: by [S.I. 1987/465](#), [arts. 2\(b\)](#), 3(1)(3) the functions of the Secretary of State under s. 22 are transferred to the Lord Chancellor
- C63** Ss. 18-21, 22(1)-(4)(6)(7), 23 and Sch. 5 amended (26.7.1993) by [1993 c. 23](#), s. 8(6), [Sch. 2 para. 4\(2\) \(a\)-\(f\)](#); [S.I. 1993/1655](#), [art. 2](#)
- S. 22(1)-(4)(6)(7) amended (1.9.1996) by [1996 c. 49](#), s. 3(4)(d); [S.I. 1996/2053](#), art. 2, [Sch. Pt.II](#)
- S. 22 extended (26.7.1993) by [1993 c. 23](#), [ss. 8\(6\), 9\(4\)](#), [Sch. 2 paras. 4\(3\), 5\(4\)](#); [S.I. 1993/1655](#) art. 2
- S. 22 extended (21.10.1996) by [1993 c. 23](#), [Sch. 2 para. 5](#) (as substituted by [1996 c. 49](#), [s.1](#); [S.I. 1996/2127](#), [art. 2](#), [Sch. Pt.III](#))
- S. 22 extended (26.7.1996) by [1996 c. 49](#), s. 3(5); [S.I. 1996/2053](#), art. 2, [Sch. Pt.I](#)



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## 23 Financial support for organisations helping persons with rights of appeal.

The Secretary of State may with the consent of the Treasury make grants to any voluntary organisation which provides advice or assistance for, or other services for the welfare of, persons who have rights of appeal under this Part of this Act.

### Modifications etc. (not altering text)

- C64** Ss. 18-21, 22(1)-(4)(6)(7), 23 and Sch. 5 amended (26.7.1993) by 1993 c. 23, s. 8(6), **Sch. 2 para. 4(2)(a)-(f)**; S.I. 1993/1655, **art. 2**  
S. 23 amended (1.9.1996) by 1996 c. 49, s. 3(4)(e); S.I. 1996/2053, art. 2, **Sch. Pt.II**  
S. 23 amended (3.8.1998) by 1997 c. 68, s. 2, **Sch. 2 para.7**; S.I. 1998/1892, **art. 2**

## PART III

### CRIMINAL PROCEEDINGS

### Modifications etc. (not altering text)

- C65** Pt. III extended (with modifications) (1.8.1993) by S.I. 1993/1796, art. 3(1), Sch. 1 Pt. I (Guernsey), S.I. 1993/1797, art. 3(1), Sch. 1 Pt. I (Jersey) (as amended by S.I. 2003/1252, **art. 3(b)**) and (17.10.2012) by S.I. 2012/2593, **arts. 1, 2(2)**
- C66** Pt. III extended (Isle of Man) (with modifications) (13.3.2008 for certain purposes and 1.5.2008 otherwise) by **The Immigration (Isle of Man) Order 2008 (S.I. 2008/680)**, **arts. 1(2), 5, 6(2)(b), 7, Sch. 3, Sch. 10 Pt. 1** (with **Sch. 2 para. 2**) (as amended (14.3.2019) by S.I. 2019/562, arts. 1, 5, 11)
- C67** Pt. III modified by Immigration Act 2014 (c. 22), s. 33C(6) (as inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by **Immigration Act 2016 (c. 19)**, **ss. 39(2), 94(1)**; S.I. 2016/1037, **regs. 2(a), 5(c)**)

## 24 Illegal entry and similar offences.

- (1) A person who is not [<sup>F85</sup>a British citizen] shall be guilty of an offence punishable on summary conviction with a fine of not more than [<sup>F86</sup>[<sup>F87</sup>level 5] on the standard scale] or with imprisonment for not more than six months, or with both, in any of the following cases:—
- (a) if contrary to this Act he knowingly enters the United Kingdom in breach of a deportation order or without leave;
  - <sup>F88</sup>(aa) . . . . .
  - (b) if, having only a limited leave to enter or remain in the United Kingdom, he knowingly either—
    - (i) remains beyond the time limited by the leave; or
    - (ii) fails to observe a condition of the leave;
  - (c) if, having lawfully entered the United Kingdom without leave by virtue of section 8(1) above, he remains without leave beyond the time allowed by section 8(1);
  - (d) if, without reasonable excuse, he fails to comply with any requirement imposed on him under Schedule 2 to this Act to report to [<sup>F89</sup>a medical officer of health][<sup>F89</sup>the chief administrative medical officer of a Health Board][<sup>F90</sup>or the chief administrative medical officer of a Health and Social Services

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Board], or to attend, or submit to a test or examination, as required by such an officer;

- (e) if, without reasonable excuse, he fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence [<sup>F91</sup>as to his employment or occupation] or as to reporting to the police [<sup>F92</sup>, to an immigration officer or to the Secretary of State];
- (f) if he disembarks in the United Kingdom from a ship or aircraft after being placed on board under Schedule 2 or 3 to this Act with a view to his removal from the United Kingdom;
- (g) if he embarks in contravention of a restriction imposed by or under an Order in Council under section 3(7) of this Act.

[<sup>F93</sup>(1A) A person commits an offence under subsection (1)(b)(i) above on the day when he first knows that the time limited by his leave has expired and continues to commit it throughout any period during which he is in the United Kingdom thereafter; but a person shall not be prosecuted under that provision more than once in respect of the same limited leave.]

<sup>F94</sup>(2) . . . . .

(3) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under [<sup>F95</sup>subsection (1)(a) and (c)] above.

(4) In proceedings for an offence against subsection (1)(a) above of entering the United Kingdom without leave,—

- (a) any stamp purporting to have been imprinted on a passport or other travel document by an immigration officer on a particular date for the purpose of giving leave shall be presumed to have been duly so imprinted, unless the contrary is proved;
- (b) proof that a person had leave to enter the United Kingdom shall lie on the defence if, but only if, he is shown to have entered within six months before the date when the proceedings were commenced.

#### Textual Amendments

- F85** Words substituted by [British Nationality Act 1981 \(c. 61\), s. 52\(7\)](#), [Sch. 4 para. 2](#) (with [Sch. 8 para. 8](#))
- F86** Words substituted (E.W.) (S.) (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#)), and (N.I.) by virtue of S.I. 1984/703 (N.I. 3), [arts. 5, 6](#)
- F87** Words in s. 24(1) substituted (1.10.1996) by [1996 c. 49, s. 6](#); S.I. 1996/2053, [art. 2](#), [Sch. Pt. III](#)
- F88** S. 24(1)(aa) repealed (14.2.2000) by [1999 c. 33, s. 169\(1\)\(3\)](#), [Sch. 14 para. 50](#), [Sch. 16](#); S.I. 2000/168, [art. 2](#), [Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, [art. 2](#), [Sch.](#))
- F89** Words “the chief” to “Health Board” substituted for words “a medical officer of health” (S.) by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 155](#); continued by [National Health Service \(Scotland\) Act 1978 \(c. 29\)](#), [Sch. 15 para. 10](#)
- F90** Words inserted (N.I.) by S.R. & O. (N.I.) 1973/256, [Sch. 2](#)
- F91** Words inserted by [Immigration Act 1988 \(c. 14, SIF 62\)](#), [s. 10](#), [Sch. para. 10\(3\)\(4\)](#)
- F92** Words in s. 24(1)(e) substituted (10.2.2003) by [2002 c. 41, s. 62\(9\)](#) (with [s. 159](#)); S.I. 2003/1, [art. 2](#), [Sch.](#)
- F93** S. 24(1A) inserted by [Immigration Act 1988 \(c. 14, SIF 62\)](#), [s. 6\(1\)\(3\)](#)

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- F94** S. 24(2) repealed (14.2.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 para. 50, Sch. 16; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F95** Words “subsection (1)(a) and (c)” substituted for “subsection (1)(a), (b)(i) and (c)” by Immigration Act 1988 (c. 14, SIF 62), s. 6(2)(3)

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

- C68** S. 24 modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, Sch. 4 para 1(7)
- C69** S. 24(1)(a)(b) amended (S.) by Criminal Justice (Scotland) Act 1980 (c. 62), s. 26, Sch. 1

[<sup>F96</sup> **24A Deception.**

- (1) A person who is not a British citizen is guilty of an offence if, by means which include deception by him—
- (a) he obtains or seeks to obtain leave to enter or remain in the United Kingdom; or
  - (b) he secures or seeks to secure the avoidance, postponement or revocation of enforcement action against him.
- (2) “Enforcement action”, in relation to a person, means—
- (a) the giving of directions for his removal from the United Kingdom (“directions”) under Schedule 2 to this Act or section 10 of the Immigration and Asylum Act 1999;
  - (b) the making of a deportation order against him under section 5 of this Act; or
  - (c) his removal from the United Kingdom in consequence of directions or a deportation order.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) <sup>F97</sup> .....

**Textual Amendments**

- F96** S. 24A inserted (14.2.2000) by 1999 c. 33, s. 28; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F97** S. 24A(4) repealed (10.2.2003) by 2002 c. 41, ss. 156(2), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.

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

- C70** S. 24A modified (11.11.1999) by 1999 c. 33, ss. 31(1)(2)(3)(b)(4)(c), 170(3) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

[<sup>F98</sup> **24B Illegal working**

- (1) A person (“P”) who is subject to immigration control commits an offence if—
- (a) P works at a time when P is disqualified from working by reason of P's immigration status, and

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- (b) at that time P knows or has reasonable cause to believe that P is disqualified from working by reason of P's immigration status.
- (2) For the purposes of subsection (1) a person is disqualified from working by reason of the person's immigration status if—
- (a) the person has not been granted leave to enter or remain in the United Kingdom, or
  - (b) the person's leave to enter or remain in the United Kingdom—
    - (i) is invalid,
    - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
    - (iii) is subject to a condition preventing the person from doing work of that kind.
- (3) A person who is guilty of an offence under subsection (1) is liable on summary conviction—
- (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine, or both,
  - (b) in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.
- (4) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(a) to 51 weeks is to be read as a reference to 6 months.
- (5) If a person is convicted of an offence under subsection (1) in England and Wales, the prosecutor must consider whether to ask the court to commit the person to the Crown Court under section 70 of the Proceeds of Crime Act 2002 (committal with view to confiscation order being considered).
- (6) If a person is convicted of an offence under subsection (1) in Scotland, the prosecutor must consider whether to ask the court to act under section 92 of the Proceeds of Crime Act 2002 (making of confiscation order).
- (7) If a person is convicted of an offence under subsection (1) in Northern Ireland, the prosecutor must consider whether to ask the court to commit the person to the Crown Court under section 218 of the Proceeds of Crime Act 2002 (committal with view to confiscation order being considered).
- (8) The reference in subsection (1) to a person who is subject to immigration control is to a person who under this Act requires leave to enter or remain in the United Kingdom.
- (9) Where a person is on immigration bail within the meaning of Part 1 of Schedule 10 to the Immigration Act 2016—
- (a) the person is to be treated for the purposes of subsection (2) as if the person had been granted leave to enter the United Kingdom, but
  - (b) any condition as to the person's work in the United Kingdom to which the person's immigration bail is subject is to be treated for those purposes as a condition of leave.
- (10) The reference in subsection (1) to a person working is to that person working—
- (a) under a contract of employment,
  - (b) under a contract of apprenticeship,
  - (c) under a contract personally to do work,

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- (d) under or for the purposes of a contract for services,
- (e) for a purpose related to a contract to sell goods,
- (f) as a constable,
- (g) in the course of Crown employment,
- (h) as a relevant member of the House of Commons staff, or
- (i) as a relevant member of the House of Lords staff.

(11) In subsection (10)—

“contract to sell goods” means a contract by which a person acting in the course of a trade, business, craft or profession transfers or agrees to transfer the property in goods to another person (and for this purpose “goods” means any tangible moveable items);

“Crown employment”—

- (a) in relation to England and Wales and Scotland, has the meaning given by section 191(3) of the Employment Rights Act 1996;
- (b) in relation to Northern Ireland, has the meaning given by Article 236(3) of the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16));

“relevant member of the House of Commons staff” has the meaning given by section 195(5) of the Employment Rights Act 1996;

“relevant member of the House of Lords staff” has the meaning given by section 194(6) of the Employment Rights Act 1996.

(12) Subsection (1) does not apply to—

- (a) service as a member of the naval, military or air forces of the Crown, or
- (b) employment by an association established for the purposes of Part 11 of the Reserve Forces Act 1996.

(13) In this section “contract” means a contract whether express or implied and, if express, whether oral or in writing.]

#### **Textual Amendments**

**F98** S. 24B inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), ss. **34(3)**, 94(1); S.I. 2016/603, reg. 3(e) (with transitional provision in [S.I. 2016/712](#), art. 2)

#### **[<sup>F99</sup>25 Assisting unlawful immigration to member State**

(1) A person commits an offence if he—

- (a) does an act which facilitates the commission of a breach [<sup>F100</sup>or attempted breach] of immigration law by an individual who is not a citizen of the European Union,
- (b) knows or has reasonable cause for believing that the act facilitates the commission of a breach [<sup>F100</sup>or attempted breach] of immigration law by the individual, and
- (c) knows or has reasonable cause for believing that the individual is not a citizen of the European Union.

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- (2) In subsection (1) “immigration law” means a law which has effect in a member State and which controls, in respect of some or all persons who are not nationals of the State, entitlement to—
- (a) enter the State,
  - (b) transit across the State, or
  - (c) be in the State.
- (3) A document issued by the government of a member State certifying a matter of law in that State—
- (a) shall be admissible in proceedings for an offence under this section, and
  - (b) shall be conclusive as to the matter certified.
- [<sup>F101</sup>(4) Subsection (1) applies to things done whether inside or outside the United Kingdom.]
- (6) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.]
- [<sup>F102</sup>(7) In this section—
- (a) a reference to a member State includes a reference to a State on a list prescribed for the purposes of this section by order of the Secretary of State (to be known as the “Section 25 List of Schengen Acquis States”), and
  - (b) a reference to a citizen of the European Union includes a reference to a person who is a national of a State on that list.
- (8) An order under subsection (7)(a)—
- (a) may be made only if the Secretary of State thinks it necessary for the purpose of complying with the United Kingdom’s obligations under the [<sup>F103</sup>EU] Treaties,
  - (b) may include transitional, consequential or incidental provision,
  - (c) shall be made by statutory instrument, and
  - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F99** Ss. 25-25C substituted (10.2.2003) for s. 25 by 2002 c. 41, s. 143 (with s. 159); S.I. 2003/1, **art. 2**, Sch.
- F100** Words in s. 25(1)(a)(b) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 2**; S.I. 2016/603, reg. 2(d)
- F101** S. 25(4) substituted for s. 25(4)(5) (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 30(1)**, 59; S.I. 2008/99, art. 2(l)
- F102** S. 25(7)(8) added (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **s. 1(1)**; S.I. 2004/2523, **art. 2**, Sch.
- F103** Word in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), **arts. 2, 3, 6** (with arts. 3(2)(3), 4(2), 6(4)(5))

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## **[<sup>F104</sup>25A Helping asylum-seeker to enter United Kingdom**

- (1) A person commits an offence if—
  - (a) he knowingly and for gain facilitates the arrival [<sup>F105</sup>or attempted arrival ] in [<sup>F106</sup>, or the entry [<sup>F107</sup>or attempted entry] into,] the United Kingdom of an individual, and
  - (b) he knows or has reasonable cause to believe that the individual is an asylum-seeker.
- (2) In this section “asylum-seeker” means a person who intends to claim that to remove him from or require him to leave the United Kingdom would be contrary to the United Kingdom’s obligations under—
  - (a) the Refugee Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999 (c. 33) (interpretation)), or
  - (b) the Human Rights Convention (within the meaning given by that section).
- (3) Subsection (1) does not apply to anything done by a person acting on behalf of an organisation which—
  - (a) aims to assist asylum-seekers, and
  - (b) does not charge for its services.
- (4) [<sup>F108</sup>Subsections (4) and (6)] of section 25 apply for the purpose of the offence in subsection (1) of this section as they apply for the purpose of the offence in subsection (1) of that section.]

### **Textual Amendments**

- F104** Ss. 25-25C substituted (10.2.2003) for s. 25 by 2002 c. 41, s. 143 (with s. 159); S.I. 2003/1, **art. 2**, Sch.
- F105** Words in s. 25A(1)(a) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 3(a)**; S.I. 2016/603, reg. 2(d)
- F106** Words in s. 25A(1)(a) inserted (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 29**, 59; S.I. 2008/99, **art. 2**
- F107** Words in s. 25A(1)(a) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 3(b)**; S.I. 2016/603, reg. 2(d)
- F108** Words in s. 25A(4) substituted (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 30(2)**, 59; S.I. 2008/99, **art. 2**

## **[<sup>F109</sup>25B Assisting entry to United Kingdom in breach of deportation or exclusion order**

- (1) A person commits an offence if he—
  - (a) does an act which facilitates a breach [<sup>F110</sup>or attempted breach ] of a deportation order in force against an individual who is a citizen of the European Union, and
  - (b) knows or has reasonable cause for believing that the act facilitates a breach [<sup>F110</sup>or attempted breach] of the deportation order.
- [<sup>F111</sup>(2) Subsection (3) applies where the Secretary of State has made an order excluding an individual from the United Kingdom on the grounds of public policy, public security or public health, other than a temporary exclusion order.]
- (3) A person commits an offence if he—



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- (a) does an act which assists the individual to arrive in, enter or remain [<sup>F112</sup>, or attempt to arrive in, enter or remain, ] in the United Kingdom,
  - (b) knows or has reasonable cause for believing that the act assists the individual to arrive in, enter or remain [<sup>F112</sup>, or attempt to arrive in, enter or remain, ] in the United Kingdom, and
  - (c) knows or has reasonable cause for believing that the Secretary of State has [<sup>F113</sup>made an order excluding the individual from the United Kingdom on the grounds of public policy, public security or public health] .
- (4) [<sup>F114</sup>Subsections (4) and (6)] of section 25 apply for the purpose of an offence under this section as they apply for the purpose of an offence under that section.]
- [<sup>F115</sup>(5) In this section a “temporary exclusion order” means an order under section 2 of the Counter-Terrorism and Security Act 2015.]

#### Textual Amendments

- F109** Ss. 25-25C substituted (10.2.2003) for s. 25 by 2002 c. 41, s. 143 (with s. 159); S.I. 2003/1, **art. 2**, Sch.
- F110** Words in s. 25B(1)(a)(b) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 4(a)**; S.I. 2016/603, reg. 2(d)
- F111** S. 25B(2) substituted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 4(b)**; S.I. 2016/603, reg. 2(d)
- F112** Words in s. 25B(3)(a)(b) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 4(c)(i)**; S.I. 2016/603, reg. 2(d)
- F113** Words in s. 25B(3)(c) substituted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 4(c)(ii)**; S.I. 2016/603, reg. 2(d)
- F114** Words in s. 25B(4) substituted (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 30(2)**, 59; S.I. 2008/99, **art. 2**
- F115** S. 25B(5) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 14 para. 4(d)**; S.I. 2016/603, reg. 2(d)

#### [<sup>F116</sup>25C Forfeiture of vehicle, ship or aircraft

- (1) This section applies where a person is convicted on indictment of an offence under section 25, 25A or 25B.
- (2) The court may order the forfeiture of a vehicle used or intended to be used in connection with the offence if the convicted person—
- (a) owned the vehicle at the time the offence was committed,
  - (b) was at that time a director, secretary or manager of a company which owned the vehicle,
  - (c) was at that time in possession of the vehicle under a hire-purchase agreement,
  - (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement, or
  - (e) was driving the vehicle in the course of the commission of the offence.
- (3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—
- (a) owned the ship or aircraft at the time the offence was committed,

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- (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft,
  - (c) was at that time in possession of the ship or aircraft under a hire-purchase agreement,
  - (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement,
  - (e) was at that time a charterer of the ship or aircraft, or
  - (f) committed the offence while acting as captain of the ship or aircraft.
- (4) But in a case to which subsection (3)(a) or (b) does not apply, forfeiture may be ordered only—
- (a) in the case of a ship, if subsection (5) or (6) applies;
  - (b) in the case of an aircraft, if subsection (5) or (7) applies.
- (5) This subsection applies where—
- (a) in the course of the commission of the offence, the ship or aircraft carried more than 20 illegal entrants, and
  - (b) a person who, at the time the offence was committed, owned the ship or aircraft or was a director, secretary or manager of a company which owned it, knew or ought to have known of the intention to use it in the course of the commission of an offence under section 25, 25A or 25B.
- (6) This subsection applies where a ship’s gross tonnage is less than 500 tons.
- (7) This subsection applies where the maximum weight at which an aircraft (which is not a hovercraft) may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.
- (8) Where a person who claims to have an interest in a vehicle, ship or aircraft applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the ship, aircraft or vehicle unless the person has been given an opportunity to make representations.
- (9) In the case of an offence under section 25, the reference in subsection (5)(a) to an illegal entrant shall be taken to include a reference to—
- (a) an individual who seeks to enter a member State in breach of immigration law <sup>F117</sup>(for which purpose “member State” and “immigration law” have the meanings given by section 25(2) and (7)), and
  - (b) an individual who is <sup>F118</sup>the victim of conduct which constitutes an offence under section 2 of the Modern Slavery Act 2015 (human trafficking).] <sup>F119</sup>the victim of conduct which constitutes an offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland 2015)] <sup>F120</sup>the victim of conduct which constitutes an offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015).]
- (10) In the case of an offence under section 25A, the reference in subsection (5)(a) to an illegal entrant shall be taken to include a reference to—
- (a) an asylum-seeker (within the meaning of that section), and
  - (b) an individual who is <sup>F121</sup>the victim of conduct which constitutes an offence under section 2 of the Modern Slavery Act 2015 (human trafficking).] <sup>F122</sup>the victim of conduct which constitutes an offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act

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(Northern Ireland 2015)]<sup>F123</sup>the victim of conduct which constitutes an offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015).]

- (11) In the case of an offence under section 25B, the reference in subsection (5)(a) to an illegal entrant shall be taken to include a reference to an individual who is [<sup>F124</sup>the victim of conduct which constitutes an offence under section 2 of the Modern Slavery Act 2015 (human trafficking).]<sup>F125</sup>the victim of conduct which constitutes an offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland 2015)]<sup>F126</sup>the victim of conduct which constitutes an offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015).]]

#### Textual Amendments

- F116** Ss. 25-25C substituted (10.2.2003) for s. 25 by 2002 c. 41, s. 143 (with s. 159); S.I. 2003/1, **art. 2**, **Sch.**
- F117** Words in s. 25C(9)(a) substituted (1.10.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **s. 1(2)**; S.I. 2004/2523, **art. 2**, **Sch.**
- F118** Words in s. 25C(9)(b) substituted (E.W.) (31.7.2015) by Modern Slavery Act 2015 (c. 30), s. 61(3), **Sch. 5 para. 2**; S.I. 2015/1476, **reg. 2(j)** (with **regs. 48**)
- F119** Words in s. 25C(9)(b) substituted (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. 2**
- F120** Words in s. 25C(9)(b) substituted (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. 1** (with **art. 4(1)**)
- F121** Words in s. 25C(10)(b) substituted (E.W.) (31.7.2015) by Modern Slavery Act 2015 (c. 30), s. 61(3), **Sch. 5 para. 2**; S.I. 2015/1476, **reg. 2(j)** (with **regs. 48**)
- F122** Words in s. 25C(10)(b) substituted (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. 2**
- F123** Words in s. 25C(10)(b) substituted (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. 1** (with **art. 4(1)**)
- F124** Words in s. 25C(11) substituted (E.W.) (31.7.2015) by Modern Slavery Act 2015 (c. 30), s. 61(3), **Sch. 5 para. 2**; S.I. 2015/1476, **reg. 2(j)** (with **regs. 48**)
- F125** Words in s. 25C(11) substituted (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. 2**
- F126** Words in s. 25C(11) substituted (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. 1** (with **art. 4(1)**)

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

- C71** Ss. 25C, 25D applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **s. 5(4)**; S.I. 2004/2999, **art. 2**, **Sch.**; S.S.I. 2004/494, **art. 2**
- C72** S. 25C applied (10.2.2003) by 2002 c. 41, s. 146(3) (with s. 159); S.I. 2003/1, **art. 2**, **Sch.**

<sup>F128</sup>[<sup>F127</sup> **Detention of ship, aircraft or vehicle**  
<sup>F127</sup>25D]

- (1) If a person has been arrested for an offence under [<sup>F129</sup>section 25, 25A or 25B], a senior officer or a constable may detain a relevant ship, aircraft or vehicle—
- (a) until a decision is taken as to whether or not to charge the arrested person with that offence; or

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- (b) if the arrested person has been charged—
- (i) until he is acquitted, the charge against him is dismissed or the proceedings are discontinued; or
  - (ii) if he has been convicted, until the court decides whether or not to order forfeiture of the ship, aircraft or vehicle.
- (2) A ship, aircraft or vehicle is a relevant ship, aircraft or vehicle, in relation to an arrested person, if it is one which the officer or constable concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under [F130 section 25C].
- [ A person (other than the arrested person) may apply to the court for the release of a
- <sup>F131</sup>(3) ship, aircraft or vehicle on the grounds that—
- (a) he owns the ship, aircraft or vehicle,
  - (b) he was, immediately before the detention of the ship, aircraft or vehicle, in possession of it under a hire-purchase agreement, or
  - (c) he is a charterer of the ship or aircraft.]
- (4) The court to which an application is made under subsection (3) may, on such security or surety being tendered as it considers satisfactory, release the ship, aircraft or vehicle on condition that it is made available to the court if—
- (a) the arrested person is convicted; and
  - (b) an order for its forfeiture is made under [F130 section 25C].
- (5) In the application to Scotland of subsection (1), for paragraphs (a) and (b) substitute—
- “(a) until a decision is taken as to whether or not to institute criminal proceedings against the arrested person for that offence; or
- (b) if criminal proceedings have been instituted against the arrested person—
- (i) until he is acquitted or, under section 65 or 147 of the <sup>M9</sup>Criminal Procedure (Scotland) Act 1995, discharged or liberated or the trial diet is deserted *simpliciter*;
  - (ii) if he has been convicted, until the court decides whether or not to order forfeiture of the ship, aircraft or vehicle,
- and for the purposes of this subsection, criminal proceedings are instituted against a person at whichever is the earliest of his first appearance before the sheriff on petition, or the service on him of an indictment or complaint.”
- (6) “Court” means—
- (a) in England and Wales—
    - [F132(i) if the arrested person has not been charged, or he has been charged but proceedings for the offence have not begun to be heard, a magistrates' court;]
    - (iii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings;
  - (b) in Scotland, the sheriff; and
  - (c) in Northern Ireland—
    - [ if the arrested person has not been charged, or he has been charged but
    - <sup>F133</sup>(i) proceedings for the offence have not begun to be heard, a magistrates' court;]

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(iii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings.

(7) <sup>F134</sup> .....

(8) “Senior officer” means an immigration officer not below the rank of chief immigration officer.]

#### Textual Amendments

**F127** S. 25A renumbered as s. 25D and title substituted (10.2.2003) by 2002 c. 41, s. 144 (with s. 159); S.I. 2003/1, **art. 2, Sch.**

**F128** S. 25A (since renumbered as s. 25D) inserted (3.4.2000) by 1999 c. 33, s. 38(2)(4); S.I. 2000/464, **art. 2, Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)

**F129** Words in s. 25D(1) substituted (10.2.2003) by 2002 c. 41, s. 144(2)(a) (with s. 159); S.I. 2003/1, **art. 2, Sch.**

**F130** Words in s. 25D(2)(4) substituted (10.2.2003) by 2002 c. 41, s. 144(2)(b) (with s. 159); S.I. 2003/1, **art. 2, Sch.**

**F131** S. 25D(3) substituted (10.2.2003) by 2002 c. 41, s. 144(2)(c) (with s. 159); S.I. 2003/1, **art. 2, Sch.**

**F132** S. 25D(6)(a)(ia) substituted (1.4.2005) for s. 25D(6)(a)(i)(ii) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 147**; S.I. 2005/910, **art. 3(y)(bb)**

**F133** S. 25D(6)(c)(i) substituted for s. 25D(6)(c)(i)(ii) (N.I.) (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 64(1)** (with Sch. 8 para. 1); S.R. 2016/387, **art. 2(k)** (with art. 3)

**F134** S. 25D(7) repealed (10.2.2003) by virtue of 2002 c. 41, ss. 144(2)(d), 161, **Sch. 9** (with s. 159); S.I. 2003/1, **art. 2, Sch.**

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

**C73** S. 25D applied (10.2.2003) by 2002 c. 41, s. 146(3) (with s. 159); S.I. 2003/1, **art. 2, Sch.**

**C74** Ss. 25C, 25D applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **s. 5(4)**; S.I. 2004/2999, **art. 2, Sch.**; S.S.I. 2004/494, **art. 2**

#### Marginal Citations

**M9** 1995 c. 46.

## 26 General offences in connection with administration of Act.

(1) A person shall be guilty of an offence punishable on summary conviction with a fine of not more than [<sup>F135</sup>[<sup>F136</sup>level 5] on the standard scale] or with imprisonment for not more than six months, or with both, in any of the following cases—

- (a) if, without reasonable excuse, he refuses or fails to submit to examination under Schedule 2 to this Act;
- (b) if, without reasonable excuse, he refuses or fails to furnish or produce any information in his possession, or any documents in his possession or control, which he is on an examination under that Schedule required to furnish or produce;
- (c) if on any such examination or otherwise he makes or causes to be made to an immigration officer or other person lawfully acting in the execution of [<sup>F137</sup>a relevant enactment] a return, statement or representation which he knows to be false or does not believe to be true;
- (d) if, without lawful authority, he alters any [<sup>F138</sup>certificate of entitlement], entry clearance, work permit or other document issued or made under or for the

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purposes of this Act, or uses for the purposes of this Act, or has in his possession for such use, any passport, [<sup>F138</sup>certificate of entitlement], entry clearance, work permit or other document which he knows or has reasonable cause to believe to be false;

- (e) if, without reasonable excuse, he fails to complete and produce a landing or embarkation card in accordance with any order under Schedule 2 to this Act;
- (f) if, without reasonable excuse, he fails to comply with any requirement of regulations under section 4(3) or of an order under section 4(4) above;
- (g) if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this Act.

(2) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(c) and (d) above.

[<sup>F139</sup>(3) “Relevant enactment” means—

- (a) this Act;
- (b) the <sup>M10</sup>Immigration Act 1988;
- (c) the <sup>M11</sup>Asylum and Immigration Appeals Act 1993 (apart from section 4 or 5);<sup>F140</sup> . . .
- (d) the Immigration and Asylum Act 1999 (apart from Part VI) [<sup>F141</sup> ; or
- (e) the Nationality, Immigration and Asylum Act 2002 (apart from Part 5).]

#### Textual Amendments

**F135** Words substituted (E.W.) (S.) (11.4.1983) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**), and (N.I) by virtue of [S.I. 1984/703 \(N.I. 3\)](#), **arts. 5, 6**

**F136** Words in s. 26(1) substituted (1.10.1996) by [1996 c. 49, s. 6](#); [S.I. 1996/2053, art. 2, Sch. Pt. III](#)

**F137** Words in s. 26(1)(c) substituted (14.2.2000) by [1999 c. 33, s. 30\(1\)\(2\)](#); [S.I. 2000/168, art. 2, Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252, art. 2, Sch.](#))

**F138** Words substituted by [British Nationality Act 1981 \(c. 61\)](#), s. 52(7), **Sch. 4 para. 3(1)** (with [Sch. 8 para. 8](#))

**F139** S. 26(3) inserted (14.2.2000) by [1999 c. 33, s. 30\(1\)\(3\)](#); [S.I. 2000/168, art. 2, Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252, art. 2, Sch.](#))

**F140** Word after s. 26(3)(c) repealed (10.2.2003) by [2002 c. 41, ss. 151\(a\), 161, Sch. 9](#) (with s. 159); [S.I. 2003/1, art. 2, Sch.](#)

**F141** S. 26(3)(e) and preceding word inserted (10.2.2003) by [2002 c. 41, s. 151\(b\)](#) (with s. 159); [S.I. 2003/1, art. 2, Sch.](#)

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

**C75** S. 26(1)(d) modified (11.11.2000) by [1999 c. 33, ss. 31\(1\)\(2\)\(3\)\(c\)\(4\)\(d\), 170\(3\)](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252, art. 2, Sch.](#))

**C76** S. 26(1)(f) amended (S.) by [Criminal Justice \(Scotland\) Act 1980 \(c. 62\)](#), s. 26, **Sch. 1**

#### Marginal Citations

**M10** 1988 c. 14.

**M11** 1993 c. 23.

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## [<sup>F142</sup>26A Registration card

- (1) In this section “registration card” means a document which—
  - (a) carries information about a person (whether or not wholly or partly electronically), and
  - [<sup>F143</sup>(b) is issued by the Secretary of State to the person wholly or partly in connection with—
    - (i) a claim for asylum (whether or not made by that person), or
    - (ii) a claim for support under section 4 of the Immigration and Asylum Act 1999 (whether or not made by that person).]
- (2) In subsection (1) “claim for asylum” has the meaning given by section 18 of the Nationality, Immigration and Asylum Act 2002.
- (3) A person commits an offence if he—
  - (a) makes a false registration card,
  - (b) alters a registration card with intent to deceive or to enable another to deceive,
  - (c) has a false or altered registration card in his possession without reasonable excuse,
  - (d) uses or attempts to use a false registration card for a purpose for which a registration card is issued,
  - (e) uses or attempts to use an altered registration card with intent to deceive,
  - (f) makes an article designed to be used in making a false registration card,
  - (g) makes an article designed to be used in altering a registration card with intent to deceive or to enable another to deceive, or
  - (h) has an article within paragraph (f) or (g) in his possession without reasonable excuse.
- (4) In subsection (3) “false registration card” means a document which is designed to appear to be a registration card.
- (5) A person who is guilty of an offence under subsection (3)(a), (b), (d), (e), (f) or (g) shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding ten years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (6) A person who is guilty of an offence under subsection (3)(c) or (h) shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (7) The Secretary of State may by order—
  - (a) amend the definition of “registration card” in subsection (1);
  - (b) make consequential amendment of this section.
- (8) An order under subsection (7)—
  - (a) must be made by statutory instrument, and
  - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.]



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#### Textual Amendments

**F142** S. 26A inserted (10.2.2003) by 2002 c. 41, s. 148 (with s. 159); S.I. 2003/1, art. 2, Sch.

**F143** S. 26A(1)(b) substituted (27.6.2008) by The Immigration (Registration Card) Order 2008 (S.I. 2008/1693), art. 2

### [<sup>F144</sup>26B Possession of immigration stamp

- (1) A person commits an offence if he has an immigration stamp in his possession without reasonable excuse.
- (2) A person commits an offence if he has a replica immigration stamp in his possession without reasonable excuse.
- (3) In this section—
  - (a) “immigration stamp” means a device which is designed for the purpose of stamping documents in the exercise of an immigration function,
  - (b) “replica immigration stamp” means a device which is designed for the purpose of stamping a document so that it appears to have been stamped in the exercise of an immigration function, and
  - (c) “immigration function” means a function of an immigration officer or the Secretary of State under the Immigration Acts.
- (4) A person who is guilty of an offence under this section shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.]

#### Textual Amendments

**F144** S. 26B inserted (10.2.2003) by 2002 c. 41, s. 149 (with s. 159); S.I. 2003/1, art. 2, Sch.

### 27 Offences by persons connected with ships or aircraft or with ports.

- [<sup>F145</sup>(1)] A person shall be guilty of an offence punishable on summary conviction with a fine of not more than [<sup>F146</sup>[<sup>F147</sup>level 5] on the standard scale] or with imprisonment for not more than six months, or with both, in any of the following cases—
- (a) if, being the captain of a ship or aircraft,—
    - (i) he knowingly permits a person to disembark in the United Kingdom when required under Schedule 2 or 3 to this Act to prevent it, or fails without reasonable excuse to take any steps he is required by or under Schedule 2 to take in connection with the disembarkation or examination of passengers or for furnishing a passenger list or particulars of members of the crew; or
    - (ii) he fails, without reasonable excuse, to comply with any directions given him under Schedule 2 or 3 [<sup>F148</sup>or under the Immigration and Asylum Act 1999] with respect to the removal of a person from the United Kingdom;
  - (b) if, as owner or agent of a ship or aircraft,—

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- (i) he arranges, or is knowingly concerned in any arrangements, for the ship or aircraft to call at a port other than a port of entry contrary to any provision of Schedule 2 to this Act; or
- (ii) he fails, without reasonable excuse, to take any steps required by an order under Schedule 2 for the supply to passengers of landing or embarkation cards; or
- (iii) he fails, without reasonable excuse, to make arrangements for <sup>F149</sup>or in connection with] the removal of a person from the United Kingdom when required to do so by directions given under Schedule 2 or 3 to this Act; <sup>F150</sup>or under the Immigration and Asylum Act 1999; or
- <sup>F151</sup>(iiiia) [ he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2; or]
- (iv) he fails, without reasonable excuse, to comply with <sup>F152</sup>[<sup>F153</sup>any other requirement] imposed by or under Schedule 2] ;]
- (c) if, <sup>F154</sup>. . . as a person concerned in the management of a port, he fails, without reasonable excuse, to take any steps required by Schedule 2 in relation to the embarkation or disembarkation of passengers where a control area is designated.
- <sup>F155</sup>(ca) if as a person concerned in the management of a port he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2.]
- <sup>F156</sup>(d) . . . . .]
- <sup>F157</sup>(2) Proceedings may not be instituted against a person under subsection (1)(a)(i) or (1)(b)(iv) for a failure to provide information or otherwise to comply with a requirement imposed under paragraph 27, 27B or 27BA of Schedule 2 where—
  - (a) the person has paid a penalty in respect of the same failure, or a failure to provide the same information, by virtue of regulations made under—
    - (i) paragraph 27BB of Schedule 2,
    - (ii) section 32B of the Immigration, Asylum and Nationality Act 2006, or
    - (iii) section 24 of the Counter-Terrorism and Security Act 2015 (penalty for breach of authority-to-carry scheme); or
  - (b) proceedings have been instituted against the person under section 34 of the Immigration, Asylum and Nationality Act 2006 in respect of a failure to provide the same information.]

#### Textual Amendments

- F145** S. 27(1): s. 27 renumbered as s. 27(1) (12.2.2015) by Counter-Terrorism and Security Act 2015 (c. 6), s. 52(5), **Sch. 5 para. 2(a)**
- F146** Words substituted: (E.W.) (11.4.1983) by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48), ss. 38, 46**; (S.) (11.4.1983) by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G** (as inserted by **Criminal Justice Act 1982 (c. 48), s. 54**); (N.I.) (19.7.1984) by virtue of S.I. 1984/703 (N.I. 3), **arts. 5, 6**
- F147** Words in s. 27 substituted (1.10.1996) by 1996 c. 49, s. 6; S.I. 1996/2053, art. 2, **Sch. Pt. III**
- F148** Words in s. 27(a)(ii) inserted (2.10.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 52(1)(2); S.I. 2000/2444, art. 2, **Sch. 1** (subject to transitional provisions in art. 3, Sch. 2 para. 2) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)
- F149** Words in s. 27(b)(iii) inserted (1.3.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 52(1)(3)(a); S.I. 2000/464, art. 2, **Sch.** (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2, Sch.**)

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- F150** S. 27(b)(iv) and preceding words inserted (3.4.2000) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 52(1)(3)(b); S.I. 2000/464, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F151** S. 27(b)(iiia) inserted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 8 para. 7(2)(a)**; S.I. 2014/1820, art. 3(bb)
- F152** Words in s. 27(b)(iv) substituted (1.3.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), **ss. 31(4)(a), 62**; S.I. 2007/3138, **art. 3(b)** (as amended by S.I. 2007/3580, **art. 2**)
- F153** Words in s. 27(b)(iv) substituted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 8 para. 7(2)(b)**; S.I. 2014/1820, art. 3(bb)
- F154** Words in s. 27(c) repealed (1.3.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), **ss. 31(4)(b), 61, 62, Sch. 3**; S.I. 2007/3138, **art. 3(b)(c)** (as amended by S.I. 2007/3580, **art. 2**)
- F155** S. 27(ca) inserted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), **Sch. 8 para. 7(3)**; S.I. 2014/1820, art. 3(bb)
- F156** S. 27(d) repealed (2.8.1993) by S.I. 1993/1813, arts. 9, 1, **Sch. 6 Pt. I**
- F157** S. 27(2) inserted (12.2.2015) by Counter-Terrorism and Security Act 2015 (c. 6), s. 52(5), **Sch. 5 para. 2(b)**

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

- C77** S. 27 modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, **Sch. 4 para 1(9)**(as amended (1.12.1997) by S.I. 1994/1405, art. 8, **Sch. 4 para. 11** Table; and as further amended (5.8.2014) by S.I. 2014/1814, arts. 1, **2(2)**)
- C78** S. 27: amendment to earlier affecting provision S.I. 1993/1813, Sch. 4 para. 1(9) (5.8.2014) by The Channel Tunnel (International Arrangements) (Amendment) Order 2014 (S.I. 2014/1814), arts. 1, **2(2)**

## 28 Proceedings.

- (1) Where the offence is one to which, under section 24<sup>F158</sup> . . . or 26 above, an extended time limit for prosecutions is to apply, then—
- (a) an information relating to the offence may in England and Wales be tried by a magistrates' court if it is laid within six months after the commission of the offence, or if it is laid within three years after the commission of the offence and not more than two months after the date certified by [<sup>F159</sup>an officer of police above the rank of chief superintendent] to be the date on which evidence sufficient to justify proceedings came to the notice of an officer of [<sup>F159</sup>the police force to which he belongs]; and
  - (b) summary proceedings for the offence may in Scotland be commenced within six months after the commission of the offence, or within three years after the commission of the offence and not more than two months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings came to his knowledge; and
  - (c) a complaint charging the commission of the offence may in Northern Ireland be heard and determined by a magistrates' court if it is made within six months after the commission of the offence, or if it is made within three years after the commission of the offence and not more than two months after the date certified by an officer of police not below the rank of assistant chief constable to be the date on which evidence sufficient to justify the proceedings came to the notice of the police in Northern Ireland.
- (2) For purposes of subsection (1)(b) above proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay; and a certificate of the Lord

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Advocate as to the date on which such evidence as is mentioned in subsection (1)(b) came to his knowledge shall be conclusive evidence.

[<sup>F160</sup>(2A) Section 3 of the Territorial Waters Jurisdiction Act 1878 (consent of Secretary of State for certain prosecutions) does not apply to proceedings for an offence under section 25, 25A or 25B.]

- (3) For the purposes of the trial of a person for an offence under this Part of this Act, the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which he may be.
- (4) Any powers exercisable under this Act in the case of any person may be exercised notwithstanding that proceedings for an offence under this Part of this Act have been taken against him.

#### Textual Amendments

- F158** Words in s. 28(1) repealed (10.2.2003) by 2002 c. 41, s. 156(1), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch
- F159** Words substituted by Immigration Act 1988 (c. 14, SIF 62), s. 10, Sch. para. 4
- F160** S. 28(2A) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 14 para. 5; S.I. 2016/603, reg. 2(d)

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

- C79** S. 28(1) applied (1.4.2003) by 1996 c. 49, s. 8(9) (as added by 2002 c. 41, s. 147(4) (with s. 159)); S.I. 2003/754, art. 2, Sch. 1 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040 and 2003/1339))
- S. 28(1) applied (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(10)
- C80** S. 28(4) modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(b), 48(1)
- C81** S. 28(4) modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)
- S. 28(4) modified (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(b), 59; S.I. 2008/99, art. 2

#### [<sup>F161</sup>28A Arrest without warrant. **E+W**

- (1) [<sup>F162</sup>An] immigration officer may arrest without warrant a person—
  - (a) who has committed or attempted to commit an offence under section 24 or 24A; or
  - (b) whom he has reasonable grounds for suspecting has committed or attempted to commit such an offence.
- (2) But subsection (1) does not apply in relation to an offence under section 24(1)(d).
- (3) An immigration officer may arrest without warrant a person—
  - (a) who has committed [<sup>F163</sup>or attempted to commit] an offence under [<sup>F164</sup>section [<sup>F165</sup>24B,] 25, 25A or 25B]; or
  - (b) whom he has reasonable grounds for suspecting has committed [<sup>F163</sup>or attempted to commit ] that offence.
- (4) <sup>F166</sup> .....

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- (5) An immigration officer may arrest without warrant a person (“the suspect”) who, or whom he has reasonable grounds for suspecting—
- (a) has committed or attempted to commit an offence under section 26(1)(g); or
  - (b) is committing or attempting to commit that offence.
- (6) The power conferred by subsection (5) is exercisable only if either the first or the second condition is satisfied.
- (7) The first condition is that it appears to the officer that service of a summons (or, in Scotland, a copy complaint) is impracticable or inappropriate because—
- (a) he does not know, and cannot readily discover, the suspect’s name;
  - (b) he has reasonable grounds for doubting whether a name given by the suspect as his name is his real name;
  - (c) the suspect has failed to give him a satisfactory address for service; or
  - (d) he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service.
- (8) The second condition is that the officer has reasonable grounds for believing that arrest is necessary to prevent the suspect—
- (a) causing physical injury to himself or another person;
  - (b) suffering physical injury; or
  - (c) causing loss of or damage to property.
- (9) For the purposes of subsection (7), an address is a satisfactory address for service if it appears to the officer—
- (a) that the suspect will be at that address for a sufficiently long period for it to be possible to serve him with a summons (or copy complaint); or
  - (b) that some other person specified by the suspect will accept service of a summons (or copy complaint) for the suspect at that address.
- <sup>F167</sup> [ <sup>F162</sup>An] immigration officer may arrest without warrant a person—
- (9A) <sup>F167</sup> (a) who has committed an offence under section 26A or 26B; or
- (b) whom he has reasonable grounds for suspecting has committed an offence under section 26A or 26B.]
- [ An immigration officer may arrest without warrant a person who, or whom the
- <sup>F168</sup>(9B) immigration officer has reasonable grounds for suspecting—
- (a) has committed or attempted to commit an offence under section 21(1) or (1A) of the Immigration, Asylum and Nationality Act 2006 (employment of illegal worker etc), or
  - (b) is committing or attempting to commit that offence.]
- [ An immigration officer may arrest without warrant a person who, or whom the
- <sup>F169</sup>(9C) immigration officer has reasonable grounds for suspecting—
- (a) has committed or attempted to commit an offence under section 33A or 33B of the Immigration Act 2014 (offences relating to residential tenancies), or
  - (b) is committing or attempting to commit that offence.]
- (10) In relation to the exercise of the powers conferred by subsections (3)(b)<sup>F170</sup> . . . [ <sup>F171</sup>, (5) [ <sup>F172</sup>, (9B) and (9C)]], it is immaterial that no offence has been committed.

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(11) In Scotland the powers conferred by subsections (3)<sup>F173</sup> . . . [<sup>F174</sup>, (5) [<sup>F175</sup>, (9B) and (9C)]] may also be exercised by a constable.]

#### Extent Information

**E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only

#### Textual Amendments

- F161** S. 28A inserted (14.2.2000) by 1999 c. 33, s. 128; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F162** Words in s. 28A(1)(9A) substituted (E.W.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 111, Sch. 7 para. 53; S.I. 2005/3495, art. 2(1)(m) (subject to art. 2(2))
- F163** Words in s. 28A(3)(a)(b) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 14 para. 6; S.I. 2016/603, reg. 2(d)
- F164** Words in s. 28A(3)(a) substituted (10.2.2003) by 2002 c. 41, s. 144(3)(a) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F165** Word in s. 28A(3)(a) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 34(4), 94(1); S.I. 2016/603, reg. 3(e) (with transitional provision in S.I. 2016/712, art. 2)
- F166** S. 28A(4) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(b), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F167** S. 28A(9A) inserted (10.2.2003) by 2002 c. 41, s. 150(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F168** S. 28A(9B) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(9)(a), 94(1); S.I. 2016/603, reg. 3(f)
- F169** S. 28A(9C) inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(6)(a), 94(1); S.I. 2016/1037, reg. 2(a), 5(c)
- F170** Words in s. 28A(10) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(c), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F171** Words in s. 28A(10) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(9)(b), 94(1); S.I. 2016/603, reg. 3(f)
- F172** Words in s. 28A(10) substituted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(6)(b), 94(1); S.I. 2016/1037, regs. 2(a), 5(c)
- F173** Words in s. 28A(11) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(d), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F174** Words in s. 28A(11) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(9)(c), 94(1); S.I. 2016/603, reg. 3(f)
- F175** Words in s. 28A(11) substituted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(6)(c), 94(1); S.I. 2016/1037, regs. 2(a), 5(c)

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

- C82** Ss. 28A, 28CA, 28FA modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(c)
- C83** S. 28A(1)(3) amended (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 1993/1813, art. 6, Sch. 3 Pt. I para. 2(1)(a)(2)(a) (as substituted (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 2001/1544, art. 4(2))
- C84** S. 28A(1) modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), regs. 1(1), 18(c) (with reg. 11(8))
- C85** S. 28A(3) modified (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 1993/1813, art. 7(1), Sch. 4 para. 1(9A) (as inserted (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 2001/1544, art. 6(2))



*Status: Point in time view as at 01/02/2017.*

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**[<sup>F161</sup>28A Arrest without warrant. S**

- (1) A constable or immigration officer may arrest without warrant a person—
  - (a) who has committed or attempted to commit an offence under section 24 or 24A; or
  - (b) whom he has reasonable grounds for suspecting has committed or attempted to commit such an offence.
- (2) But subsection (1) does not apply in relation to an offence under section 24(1)(d).
- (3) An immigration officer may arrest without warrant a person—
  - (a) who has committed [<sup>F163</sup>or attempted to commit] an offence under [<sup>F164</sup>section [<sup>F165</sup>24B,] 25, 25A or 25B]; or
  - (b) whom he has reasonable grounds for suspecting has committed [<sup>F163</sup>or attempted to commit] that offence.
- (4) <sup>F166</sup> .....
- (5) An immigration officer may arrest without warrant a person (“the suspect”) who, or whom he has reasonable grounds for suspecting—
  - (a) has committed or attempted to commit an offence under section 26(1)(g); or
  - (b) is committing or attempting to commit that offence.
- (6) The power conferred by subsection (5) is exercisable only if either the first or the second condition is satisfied.
- (7) The first condition is that it appears to the officer that service of a summons (or, in Scotland, a copy complaint) is impracticable or inappropriate because—
  - (a) he does not know, and cannot readily discover, the suspect’s name;
  - (b) he has reasonable grounds for doubting whether a name given by the suspect as his name is his real name;
  - (c) the suspect has failed to give him a satisfactory address for service; or
  - (d) he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service.
- (8) The second condition is that the officer has reasonable grounds for believing that arrest is necessary to prevent the suspect—
  - (a) causing physical injury to himself or another person;
  - (b) suffering physical injury; or
  - (c) causing loss of or damage to property.
- (9) For the purposes of subsection (7), an address is a satisfactory address for service if it appears to the officer—
  - (a) that the suspect will be at that address for a sufficiently long period for it to be possible to serve him with a summons (or copy complaint); or
  - (b) that some other person specified by the suspect will accept service of a summons (or copy complaint) for the suspect at that address.

- [ A constable or immigration officer may arrest without warrant a person—
- <sup>F167</sup>(9A)
  - (a) who has committed an offence under section 26A or 26B; or
  - (b) whom he has reasonable grounds for suspecting has committed an offence under section 26A or 26B.]



*Status: Point in time view as at 01/02/2017.*

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[ An immigration officer may arrest without warrant a person who, or whom the <sup>F168</sup>(9B) immigration officer has reasonable grounds for suspecting—

- (a) has committed or attempted to commit an offence under section 21(1) or (1A) of the Immigration, Asylum and Nationality Act 2006 (employment of illegal worker etc), or
- (b) is committing or attempting to commit that offence.]

[ An immigration officer may arrest without warrant a person who, or whom the <sup>F169</sup>(9C) immigration officer has reasonable grounds for suspecting—

- (a) has committed or attempted to commit an offence under section 33A or 33B of the Immigration Act 2014 (offences relating to residential tenancies), or
- (b) is committing or attempting to commit that offence.]

(10) In relation to the exercise of the powers conferred by subsections (3)(b) <sup>F170</sup> . . . [<sup>F171</sup>, (5) [<sup>F172</sup>, (9B) and (9C)]] , it is immaterial that no offence has been committed.

(11) In Scotland the powers conferred by subsections (3) <sup>F173</sup> . . . [<sup>F174</sup>, (5) [<sup>F175</sup>, (9B) and (9C)]] may also be exercised by a constable.]

#### Extent Information

- E2** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F161** S. 28A inserted (14.2.2000) by 1999 c. 33, s. 128; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F163** Words in s. 28A(3)(a)(b) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 14 para. 6; S.I. 2016/603, reg. 2(d)
- F164** Words in s. 28A(3)(a) substituted (10.2.2003) by 2002 c. 41, s. 144(3)(a) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F165** Word in s. 28A(3)(a) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 34(4), 94(1); S.I. 2016/603, reg. 3(e) (with transitional provision in S.I. 2016/712, art. 2)
- F166** S. 28A(4) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(b), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F167** S. 28A(9A) inserted (10.2.2003) by 2002 c. 41, s. 150(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F168** S. 28A(9B) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(9)(a), 94(1); S.I. 2016/603, reg. 3(f)
- F169** S. 28A(9C) inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(6)(a), 94(1); S.I. 2016/1037, reg. 2(a), 5(c)
- F170** Words in s. 28A(10) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(c), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F171** Words in s. 28A(10) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(9)(b), 94(1); S.I. 2016/603, reg. 3(f)
- F172** Words in s. 28A(10) substituted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(6)(b), 94(1); S.I. 2016/1037, regs. 2(a), 5(c)
- F173** Words in s. 28A(11) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(d), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F174** Words in s. 28A(11) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(9)(c), 94(1); S.I. 2016/603, reg. 3(f)
- F175** Words in s. 28A(11) substituted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(6)(c), 94(1); S.I. 2016/1037, regs. 2(a), 5(c)

*Status: Point in time view as at 01/02/2017.*

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

- C82** Ss. 28A, 28CA, 28FA modified (1.1.2007) by [The Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), [reg. 15\(c\)](#)
- C83** S. 28A(1)(3) amended (coming into force in accordance with art. 1(2) of the substituting S.I.) by [S.I. 1993/1813](#), [art. 6](#), [Sch. 3 Pt. 1 para. 2\(1\)\(a\)\(2\)\(a\)](#) (as substituted (coming into force in accordance with art. 1(2) of the substituting S.I.) by [S.I. 2001/1544](#), [art. 4\(2\)](#))
- C84** S. 28A(1) modified (1.7.2013) by [The Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013 \(S.I. 2013/1460\)](#), [regs. 1\(1\), 18\(c\)](#) (with [reg. 11\(8\)](#))
- C85** S. 28A(3) modified (coming into force in accordance with art. 1(2) of the inserting S.I.) by [S.I. 1993/1813](#), [art. 7\(1\)](#), [Sch. 4 para. 1\(9A\)](#) (as inserted (coming into force in accordance with art. 1(2) of the inserting S.I.) by [S.I. 2001/1544](#), [art. 6\(2\)](#))

#### **[<sup>F161</sup>28A Arrest without warrant. N.I.**

- (1) [<sup>F277</sup>An] immigration officer may arrest without warrant a person—
  - (a) who has committed or attempted to commit an offence under section 24 or 24A; or
  - (b) whom he has reasonable grounds for suspecting has committed or attempted to commit such an offence.
- (2) But subsection (1) does not apply in relation to an offence under section 24(1)(d).
- (3) An immigration officer may arrest without warrant a person—
  - (a) who has committed [<sup>F163</sup>or attempted to commit] an offence under [<sup>F164</sup>section [<sup>F165</sup>24B,] 25, 25A or 25B]; or
  - (b) whom he has reasonable grounds for suspecting has committed [<sup>F163</sup>or attempted to commit] that offence.
- (4) <sup>F166</sup> .....
- (5) An immigration officer may arrest without warrant a person (“the suspect”) who, or whom he has reasonable grounds for suspecting—
  - (a) has committed or attempted to commit an offence under section 26(1)(g); or
  - (b) is committing or attempting to commit that offence.
- (6) The power conferred by subsection (5) is exercisable only if either the first or the second condition is satisfied.
- (7) The first condition is that it appears to the officer that service of a summons (or, in Scotland, a copy complaint) is impracticable or inappropriate because—
  - (a) he does not know, and cannot readily discover, the suspect’s name;
  - (b) he has reasonable grounds for doubting whether a name given by the suspect as his name is his real name;
  - (c) the suspect has failed to give him a satisfactory address for service; or
  - (d) he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service.
- (8) The second condition is that the officer has reasonable grounds for believing that arrest is necessary to prevent the suspect—
  - (a) causing physical injury to himself or another person;
  - (b) suffering physical injury; or
  - (c) causing loss of or damage to property.

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- (9) For the purposes of subsection (7), an address is a satisfactory address for service if it appears to the officer—
- (a) that the suspect will be at that address for a sufficiently long period for it to be possible to serve him with a summons (or copy complaint); or
  - (b) that some other person specified by the suspect will accept service of a summons (or copy complaint) for the suspect at that address.
- [<sup>F278</sup>An] immigration officer may arrest without warrant a person—
- <sup>F167</sup>(9A) (a) who has committed an offence under section 26A or 26B; or
- (b) whom he has reasonable grounds for suspecting has committed an offence under section 26A or 26B.]
- [ An immigration officer may arrest without warrant a person who, or whom the
- <sup>F168</sup>(9B) immigration officer has reasonable grounds for suspecting—
- (a) has committed or attempted to commit an offence under section 21(1) or (1A) of the Immigration, Asylum and Nationality Act 2006 (employment of illegal worker etc), or
  - (b) is committing or attempting to commit that offence.]
- [ An immigration officer may arrest without warrant a person who, or whom the
- <sup>F169</sup>(9C) immigration officer has reasonable grounds for suspecting—
- (a) has committed or attempted to commit an offence under section 33A or 33B of the Immigration Act 2014 (offences relating to residential tenancies), or
  - (b) is committing or attempting to commit that offence.]
- (10) In relation to the exercise of the powers conferred by subsections (3)(b) <sup>F170</sup> . . . [<sup>F171</sup>, (5) [<sup>F172</sup>, (9B) and (9C)]] , it is immaterial that no offence has been committed.
- (11) In Scotland the powers conferred by subsections (3) <sup>F173</sup> . . . [<sup>F174</sup>, (5) [<sup>F175</sup>, (9B) and (9C)]] may also be exercised by a constable.]

#### Extent Information

- E3** This version of this provision extends to Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

- F161** S. 28A inserted (14.2.2000) by 1999 c. 33, s. 128; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F163** Words in s. 28A(3)(a)(b) inserted (31.5.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 14 para. 6; S.I. 2016/603, reg. 2(d)
- F164** Words in s. 28A(3)(a) substituted (10.2.2003) by 2002 c. 41, s. 144(3)(a) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F165** Word in s. 28A(3)(a) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 34(4), 94(1); S.I. 2016/603, reg. 3(e) (with transitional provision in S.I. 2016/712, art. 2)
- F166** S. 28A(4) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(b), 161, Sch. 9 (with s. 159); S.I. 2003/1, art. 2, Sch.
- F167** S. 28A(9A) inserted (10.2.2003) by 2002 c. 41, s. 150(1) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F168** S. 28A(9B) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(9)(a), 94(1); S.I. 2016/603, reg. 3(f)
- F169** S. 28A(9C) inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(6)(a), 94(1); S.I. 2016/1037, reg. 2(a), 5(c)

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- F170** Words in s. 28A(10) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(c), 161, Sch. 9 (with s. 159); S.I. 2003/1, **art. 2**, Sch.
- F171** Words in s. 28A(10) substituted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 35(9)(b)**, 94(1); S.I. 2016/603, reg. 3(f)
- F172** Words in s. 28A(10) substituted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), **ss. 39(6)(b)**, 94(1); S.I. 2016/1037, regs. 2(a), 5(c)
- F173** Words in s. 28A(11) repealed (10.2.2003) by 2002 c. 41, ss. 144(3)(d), 161, Sch. 9 (with s. 159); S.I. 2003/1, **art. 2**, Sch.
- F174** Words in s. 28A(11) substituted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 35(9)(c)**, 94(1); S.I. 2016/603, reg. 3(f)
- F175** Words in s. 28A(11) substituted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), **ss. 39(6)(c)**, 94(1); S.I. 2016/1037, regs. 2(a), 5(c)
- F277** Word in s. 28A(1) substituted (N.I.) (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), art. 15, **Sch. 1 para. 16**
- F278** Word in s. 28A(9A) substituted (N.I.) (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), art. 15, **Sch. 1 para. 16**

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

- C82** Ss. 28A, 28CA, 28FA modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), **reg. 15(c)**
- C83** S. 28A(1)(3) amended (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 1993/1813, art. 6, **Sch. 3 Pt. 1 para. 2(1)(a)(2)(a)** (as substituted (coming into force in accordance with art. 1(2) of the substituting S.I.) by S.I. 2001/1544, **art. 4(2)**)
- C84** S. 28A(1) modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), regs. 1(1), **18(c)** (with reg. 11(8))
- C85** S. 28A(3) modified (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 1993/1813, art. 7(1), **Sch. 4 para. 1(9A)** (as inserted (coming into force in accordance with art. 1(2) of the inserting S.I.) by S.I. 2001/1544, **art. 6(2)**)

#### [<sup>F176</sup>28AA Arrest with warrant

- (1) This section applies if on an application by an immigration officer a justice of the peace is satisfied that there are reasonable grounds for suspecting that a person has committed an offence under [<sup>F177</sup>section 24(1)(d)].
- (2) The justice of the peace may grant a warrant authorising any immigration officer to arrest the person.
- (3) In the application of this section to Scotland a reference to a justice of the peace shall be treated as a reference to the sheriff or a justice of the peace.]

#### Textual Amendments

- F176** S. 28AA inserted (8.1.2003) by 2002 c. 41, s. 152, (with s. 159), S.I. 2002/2811, art. 2, **Sch.**
- F177** Words in s. 28AA(1) substituted (12.7.2016) by Immigration Act 2016 (c. 19), **ss. 35(10)**, 94(1); S.I. 2016/603, reg. 3(f)

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

- C86** Ss. 24-29 amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by The Immigration and Asylum (Jersey) Order 2012 (S.I. 2012/2593), arts. 1, 2(2)

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## [<sup>F178</sup> 28B Search and arrest by warrant.

- (1) Subsection (2) applies if a justice of the peace is, by written information on oath, satisfied that there are reasonable grounds for suspecting that a person (“the suspect”) who is liable to be arrested for a relevant offence is to be found on any premises.
- (2) The justice may grant a warrant authorising any immigration officer or constable to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting the suspect.
- (3) Subsection (4) applies if in Scotland the sheriff or a justice of the peace is by evidence on oath satisfied as mentioned in subsection (1).
- (4) The sheriff or justice may grant a warrant authorising any immigration officer or constable to enter, if need be by force, the premises named in the warrant for the purpose of searching for and arresting the suspect.
- (5) “Relevant offence” means an offence under section 24(1)(a), (b), (c), (d), (e) or (f) [<sup>F179</sup>, 24A][<sup>F180</sup>24B, ][<sup>F181</sup>, 26A or 26B.].]

### Textual Amendments

- F178** S. 28B inserted (14.2.2000) by 1999 c. 33, s. 129; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F179** Words in s. 28B(5) substituted (10.2.2003) by 2002 c. 41, s. 144(4) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F180** Word in s. 28B(5) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 34(5), 94(1); S.I. 2016/603, reg. 3(e) (with transitional provision in S.I. 2016/712, art. 2)
- F181** Words in s. 28B(5) inserted (10.2.2003) by 2002 c. 41, s. 150(2) (with s. 159); S.I. 2003/1, art. 2, Sch.

### Modifications etc. (not altering text)

- C87** S. 28B modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(11)(a)
- C88** S. 28B modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(a), 48(1)
- C89** S. 28B modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(a)
- C90** S. 28B modified (29.2.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 21(3)(a), 62; S.I. 2008/310, art. 2(1) (subject to art. 5)
- C91** S. 28B modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(a) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)  
S. 28B modified (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(a), 59; S.I. 2008/99, art. 2
- C92** S. 28B modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), regs. 1(1), 15(3)(a), 18(a) (with reg. 11(8))
- C93** S. 28B modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), regs. 1(1), 18(a) (with reg. 11(8))
- C94** S. 28B modified by Immigration Act 2014 (c. 22), s. 33C(6) (as inserted (1.11.2016 for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(2), 94(1); S.I. 2016/1037, regs. 2(a), 5(c))

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**[<sup>F182</sup>28C Search and arrest without warrant.**

- (1) An immigration officer may enter and search any premises for the purpose of arresting a person for an offence under [<sup>F183</sup>section 25, 25A or 25B].
- (2) The power may be exercised—
  - (a) only to the extent that it is reasonably required for that purpose; and
  - (b) only if the officer has reasonable grounds for believing that the person whom he is seeking is on the premises.
- (3) In relation to premises consisting of two or more separate dwellings, the power is limited to entering and searching—
  - (a) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any such other dwelling; and
  - (b) any such dwelling in which the officer has reasonable grounds for believing that the person whom he is seeking may be.
- (4) The power may be exercised only if the officer produces identification showing that he is an immigration officer (whether or not he is asked to do so).]

**Textual Amendments**

**F182** S. 28C inserted (14.2.2000) by 1999 c. 33, s. 130; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

**F183** Words in s. 28C(1) substituted (10.2.2003) by 2002 c. 41, s. 144(5) (with s. 159); S.I. 2003/1, art. 2, Sch.

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

**C95** S. 28C applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(a); S.I. 2004/2999, art. 2, Sch.

**<sup>F184</sup>[28C Business premises: entry to arrest**

- (1) A constable or immigration officer may enter and search any business premises for the purpose of arresting a person—
  - (a) for an offence under section 24,
  - (b) for an offence under section 24A, or
  - [ for an offence under section 24B,]
  - <sup>F185</sup>(ba)
  - (c) under paragraph 17 of Schedule 2.
- (2) The power under subsection (1) may be exercised only—
  - (a) to the extent that it is reasonably required for a purpose specified in subsection (1),
  - (b) if the constable or immigration officer has reasonable grounds for believing that the person whom he is seeking is on the premises,
  - (c) with the authority of the Secretary of State (in the case of an immigration officer) or a Chief Superintendent (in the case of a constable), and
  - (d) if the constable or immigration officer produces identification showing his status.
- (3) Authority for the purposes of subsection (2)(c)—



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- (a) may be given on behalf of the Secretary of State only by a civil servant of the rank of at least Assistant Director, and
  - (b) shall expire at the end of the period of seven days beginning with the day on which it is given.
- (4) Subsection (2)(d) applies—
- (a) whether or not a constable or immigration officer is asked to produce identification, but
  - (b) only where premises are occupied.
- (5) Subsection (6) applies where a constable or immigration officer—
- (a) enters premises in reliance on this section, and
  - (b) detains a person on the premises.
- (6) A detainee custody officer may enter the premises for the purpose of carrying out a search.
- (7) In subsection (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 (c. 33) (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).]

#### Textual Amendments

**F184** S. 28CA inserted (8.1.2003) by 2002 c. 41, s. 153(1) (with s. 159); S.I. 2002/2811, art. 2, Sch.

**F185** S. 28CA(1)(ba) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 34(6), 94(1); S.I. 2016/603, reg. 3(e) (with transitional provision in S.I. 2016/712, art. 2)

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

**C96** S. 28CA modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), regs. 1(1), 18(e) (with reg. 11(8))

**C97** Ss. 28A, 28CA, 28FA modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(c)

### [<sup>F186</sup>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 [<sup>F187</sup>mentioned in subsection (1A) ] 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, [<sup>F188</sup>in relation to each set of premises specified in the application,]

he may issue a warrant authorising an immigration officer to enter and search the premises.



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- [ The premises referred to in subsection (1)(b) above are—
- <sup>F189</sup>(1A) (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.
- (1D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.]
- (2) The conditions [<sup>F190</sup>referred to in subsection (1)(e)] 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;
- (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.
- [ A justice of the peace in Scotland may not issue—
- <sup>F191</sup>(2A) (a) an all premises warrant under this section, or
- (b) a warrant under this section authorising multiple entries.]
- (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), [<sup>F192</sup>24A, [<sup>F193</sup>24B, ] 25, 25A, 25B][<sup>F194</sup>, 26A or 26B].
- (5) In relation to England and Wales, expressions which are given a meaning by the <sup>M12</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>M13</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 have the same meaning when used in this section.

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- (7) In the application of [<sup>F195</sup>this section] to Scotland—
- (a) read [<sup>F196</sup>references ] to a justice of the peace as [<sup>F196</sup>references ] to the sheriff or a justice of the peace; and
  - (b) in [<sup>F197</sup>subsection (1)(d) ] , omit the reference to excluded material and special procedure material.]

#### Textual Amendments

- F186** S. 28D inserted (14.2.2000) by 1999 c. 33, s. 131; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F187** Words in s. 28D(1)(b) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 2(2)(a); S.I. 2016/1037, reg. 5(k)
- F188** Words in s. 28D(1)(e) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 2(2)(b); S.I. 2016/1037, reg. 5(k)
- F189** Ss. 28D(1A)-(1D) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 2(3); S.I. 2016/1037, reg. 5(k)
- F190** Words in s. 28D(2) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 2(4); S.I. 2016/1037, reg. 5(k)
- F191** S. 28D(2A) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 2(5); S.I. 2016/1037, reg. 5(k)
- F192** Words in s. 28D(4) substituted (10.2.2003) by 2002 c. 41, s. 144(6) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F193** Word in s. 28D(4) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 34(7), 94(1); S.I. 2016/603, reg. 3(e) (with transitional provision in S.I. 2016/712, art. 2)
- F194** Words in s. 28D(4) inserted (10.2.2003) by 2002 c. 41, s. 150(3) (with s. 159); S.I. 2003/1, art. 2, Sch.
- F195** Words in s. 28D(7) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 2(6)(a); S.I. 2016/1037, reg. 5(k)
- F196** Words in s. 28D(7)(a) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 2(6)(b); S.I. 2016/1037, reg. 5(k)
- F197** Words in s. 28D(7)(b) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 2(6)(c); S.I. 2016/1037, reg. 5(k)

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

- C98** S. 28D modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(11)(a)
- C99** S. 28D modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(a), 48(1)
- C100** S. 28D modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(a)
- C101** S. 28D modified (29.2.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 21(3)(a), 62; S.I. 2008/310, art. 2(1) (subject to art. 5)
- C102** S. 28D modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(a) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)
- S. 28D modified (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(a), 59; S.I. 2008/99, art. 2
- C103** S. 28D modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), regs. 1(1), 15(3)(a), 18(a) (with reg. 11(8))
- C104** S. 28D modified by Immigration Act 2014 (c. 22), s. 33C(6) (as inserted (1.11.2016) for specified purposes, 1.12.2016 in so far as not already in force) by Immigration Act 2016 (c. 19), ss. 39(2), 94(1); S.I. 2016/1037, regs. 2(a), 5(c)
- C105** S. 28D(3): powers of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-55, 68, Sch. 1 Pt. 1 para. 15; S.I. 2003/708, art. 2

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S. 28D(3) modified (1.4.2003) by 2001 c. 16, ss. 55, 68, Sch. 1 Pt. 3 para. 95 (with s. 57(3)); S.I. 2003/708, art. 2

#### Marginal Citations

**M12** 1984 c. 60.

**M13** S.I. 1989/1341 (N.I. 12).

### [<sup>F198</sup>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—
  - (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.]

#### Textual Amendments

**F198** S. 28E inserted (14.2.2000) by 1999 c. 33, s. 132(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

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

**C106** S. 28E modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(11)(b)

**C107** S. 28E modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(b), 48(1)

**C108** S. 28E applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(b); S.I. 2004/2999, art. 2, Sch.

**C109** S. 28E modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(b)

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- C110** S. 28E modified (29.2.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), **ss. 21(3)(b)**, 62; S.I. 2008/310, **art. 2(1)** (subject to art. 5)
- C111** S. 28E modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 18**, 59; S.I. 2008/99, **art. 2**)  
S. 28E modified (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 23(2)(b)**, 59; S.I. 2008/99, **art. 2**
- C112** S. 28E modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), **regs. 1(1)**, **15(3)(b)**, 18(b) (with reg. 11(8))
- C113** S. 28E(5): powers of seizure extended (1.4.2003) by 2001 c. 16, **ss. 50**, 52-55, 68, Sch. 1 Pt. 1 para. 15; S.I. 2003/708, **art. 2**

[<sup>F200</sup>**28F** [<sup>F199</sup>**Entry and search of premises following arrest under section 25, 25A, or 25B**].

- (1) An immigration officer may enter and search any premises occupied or controlled by a person arrested for an offence under [<sup>F201</sup>section 25, 25A, 25B].
- (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.
- (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.]

**Textual Amendments**

- F199** S. 28F: title substituted (10.2.2003) by virtue of 2002 c. 41, s. 144(7) (with s. 159); S.I. 2003/1, **art. 2**, Sch.
- F200** S. 28F inserted (14.2.2000) by 1999 c. 33, s. 133; S.I. 2000/168, **art. 2**, Sch. (which amending provision is extended to Jersey (5.6.2003) by S.I. 2003/1252, **art. 2**, Sch.)
- F201** Words in s. 28F(1) substituted (10.2.2003) by 2002 c. 41, s. 144(7) (with s. 159); S.I. 2003/1, **art. 2**, Sch.

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

**C114** S. 28F applied (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\), s. 14\(3\)\(b\)](#); S.I. 2004/2999, [art. 2, Sch.](#)

**C115** S. 28F(6): powers of seizure extended (1.4.2003) by [2001 c. 16, ss. 50, 52-55, 68, Sch. 1 Pt. 1 para. 15](#); S.I. 2003/708, [art. 2](#)

<sup>F202</sup>**[28FA] Search for personnel records: warrant unnecessary**

- (1) This section applies where—
  - (a) a person has been arrested for an offence under section 24(1) [<sup>F203</sup>, 24A(1) or 24B(1)] ,
  - (b) a person has been arrested under paragraph 17 of Schedule 2,
  - (c) a constable or immigration officer reasonably believes that a person is liable to arrest for an offence under section 24(1) or 24A(1), or
  - (d) a constable or immigration officer reasonably believes that a person is liable to arrest under paragraph 17 of Schedule 2.
- (2) A constable or immigration officer may search business premises where the arrest was made or where the person liable to arrest is if the constable or immigration officer reasonably believes—
  - (a) that a person has committed an immigration employment offence in relation to the person arrested or liable to arrest, and
  - (b) that employee records, other than items subject to legal privilege, will be found on the premises and will be of substantial value (whether on their own or together with other material) in the investigation of the immigration employment offence.
- (3) A constable or officer searching premises under subsection (2) may seize and retain employee records, other than items subject to legal privilege, which he reasonably suspects will be of substantial value (whether on their own or together with other material) in the investigation of—
  - (a) an immigration employment offence, or
  - (b) an offence under section 105 or 106 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seeker: fraud).
- (4) The power under subsection (2) may be exercised only—
  - (a) to the extent that it is reasonably required for the purpose of discovering employee records other than items subject to legal privilege,
  - (b) if the constable or immigration officer produces identification showing his status, and
  - (c) if the constable or immigration officer reasonably believes that at least one of the conditions in subsection (5) applies.
- (5) Those conditions are—
  - (a) that it is not practicable to communicate with a person entitled to grant access to the records,
  - (b) that permission to search has been refused,
  - (c) that permission to search would be refused if requested, and
  - (d) that the purpose of a search may be frustrated or seriously prejudiced if it is not carried out in reliance on subsection (2).

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- (6) Subsection (4)(b) applies—
- (a) whether or not a constable or immigration officer is asked to produce identification, but
  - (b) only where premises are occupied.
- (7) In this section “immigration employment offence” means [<sup>F204</sup>an offence under section 21 of the Immigration, Asylum and Nationality Act 2006](employment).]

#### Textual Amendments

- F202** S. 28FA inserted (8.1.2003) by 2002 c. 41, s. 154 (with s. 159); S.I. 2002/2811, art. 2, Sch.
- F203** Words in s. 28FA(1)(a) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 34(8), 94(1); S.I. 2016/603, reg. 3(e) (with transitional provision in S.I. 2016/712, art. 2)
- F204** Words in s. 28FA(7) substituted (29.2.2008) by UK Borders Act 2007 (c. 30), ss. 28, 59; S.I. 2008/309, art. 2 (subject to art. 5)

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

- C116** S. 28FA modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), regs. 1(1), 18(e) (with reg. 11(8))
- C117** Ss. 28A, 28CA, 28FA modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(c)

#### [<sup>F205</sup>28FB Search for personnel records: with warrant

- (1) This section applies where on an application made by an immigration officer in respect of business premises [<sup>F206</sup>mentioned in subsection (1A)] a justice of the peace is satisfied that there are reasonable grounds for believing—
- (a) that an employer has provided inaccurate or incomplete information under section 134 of the Nationality, Immigration and Asylum Act 2002 (compulsory disclosure by employer),
  - (b) that employee records, other than items subject to legal privilege, will be found on the premises and will enable deduction of some or all of the information which the employer was required to provide, and
  - (c) that at least one of the conditions in subsection (2) is satisfied [<sup>F207</sup>in relation to each set of premises specified in the application.]

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

- <sup>F208</sup>(1A) (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.]



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- (2) [<sup>F209</sup>The conditions referred to in subsection (1)(c) are]—
- (a) that it is not practicable to communicate with a person entitled to grant access to the premises,
  - (b) that it is not practicable to communicate with a person entitled to grant access to the records,
  - (c) that entry to the premises or access to the records will not be granted unless a warrant is produced, and
  - (d) that the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry.
- (3) The justice of the peace may issue a warrant authorising an immigration officer to enter and search the premises.
- [ Subject to subsection (3C), the warrant may authorise entry to and search of premises
- <sup>F210</sup>(3A) 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.
- (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.]
- (4) Subsection (7)(a) of section 28D shall have effect for the purposes of this section as it has effect for the purposes of that section.
- (5) An immigration officer searching premises under a warrant issued under this section may seize and retain employee records, other than items subject to legal privilege, which he reasonably suspects will be of substantial value (whether on their own or together with other material) in the investigation of—
- (a) an offence under section 137 of the Nationality, Immigration and Asylum Act 2002 (disclosure of information: offences) in respect of a requirement under section 134 of that Act, or
  - (b) an offence under section 105 or 106 of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seeker: fraud).]

#### Textual Amendments

- F205** S. 28FB inserted (8.1.2003) by 2002 c. 41, s. 154 (with s. 159); S.I. 2002/2811, art. 2, Sch. (subject to transitional provision in art. 6 of the said S.I. 2002/2811)
- F206** Words in s. 28FB(1) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 3(2) (a); S.I. 2016/1037, reg. 5(k)
- F207** Words in s. 28FB(1)(c) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 3(2)(b); S.I. 2016/1037, reg. 5(k)
- F208** S. 28FB(1A)(1B) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 3(3); S.I. 2016/1037, reg. 5(k)
- F209** Words in s. 28FB(2) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 3(4); S.I. 2016/1037, reg. 5(k)
- F210** S. 28FB(3A)-(3C) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 3(5); S.I. 2016/1037, reg. 5(k)



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## [<sup>F211</sup>28G Searching arrested persons.

- (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 search the arrested person if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (3) The officer may search the arrested person for—
  - (a) anything which he might use to assist his escape from lawful custody; or
  - (b) anything which might be evidence relating to the offence for which he has been arrested.
- (4) The power conferred by subsection (3) may be exercised—
  - (a) only if the officer has reasonable grounds for believing that the arrested person may have concealed on him anything of a kind mentioned in that subsection; and
  - (b) only to the extent that it is reasonably required for the purpose of discovering any such thing.
- (5) A power conferred by this section to search a person is not to be read as authorising an officer to require a person to remove any of his clothing in public other than an outer coat, jacket or glove; but it does authorise the search of a person's mouth.
- (6) An officer searching a person under subsection (2) may seize and retain anything he finds, if he has reasonable grounds for believing that that person might use it to cause physical injury to himself or to another person.
- (7) An officer searching a person under subsection (3) may seize and retain anything he finds, if he has reasonable grounds for believing—
  - (a) that that person might use it to assist his escape from lawful custody; or
  - (b) that it is evidence which relates to the offence in question.
- (8) Subsection (7)(b) does not apply to an item subject to legal privilege.]

### Textual Amendments

**F211** S. 28G inserted (14.2.2000) by 1999 c. 33, s. 134(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

### Modifications etc. (not altering text)

**C118** S. 28G modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(11)(b)

**C119** S. 28G modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(b), 48(1)

**C120** S. 28G applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(c); S.I. 2004/2999, art. 2, Sch.

**C121** S. 28G modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(b)

**C122** S. 28G modified (29.2.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 21(3)(b), 62; S.I. 2008/310, art. 2(1) (subject to art. 5)

**C123** S. 28G modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)

S. 28G modified (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(b), 59; S.I. 2008/99, art. 2

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- C124** S. 28G modified (1.7.2013) by [The Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013 \(S.I. 2013/1460\)](#), regs. 1(1), **15(3)(b)**, 18(b) (with reg. 11(8))
- C125** S. 28G(7): powers of seizure extended (1.4.2003) by [2001 c. 16, ss. 51-54, 68, Sch. 1 Pt. 2 para. 78; S.I. 2003/708, art. 2](#)

**[<sup>F212</sup>28H Searching persons in police custody.**

- (1) This section applies if a person—
  - (a) has been arrested for an offence under this Part; and
  - (b) is in custody at a police station or in police detention at a place other than a police station.
- (2) An immigration officer may, at any time, search the arrested person in order to see whether he has with him anything—
  - (a) which he might use to—
    - (i) cause physical injury to himself or others;
    - (ii) damage property;
    - (iii) interfere with evidence; or
    - (iv) assist his escape; or
  - (b) which the officer has reasonable grounds for believing is evidence relating to the offence in question.
- (3) The power may be exercised only to the extent that the custody officer concerned considers it to be necessary for the purpose of discovering anything of a kind mentioned in subsection (2).
- (4) An officer searching a person under this section may seize anything he finds, if he has reasonable grounds for believing that—
  - (a) that person might use it for one or more of the purposes mentioned in subsection (2)(a); or
  - (b) it is evidence relating to the offence in question.
- (5) Anything seized under subsection (4)(a) may be retained by the police.
- (6) Anything seized under subsection (4)(b) may be retained by an immigration officer.
- (7) The person from whom something is seized must be told the reason for the seizure unless he is—
  - (a) violent or appears likely to become violent; or
  - (b) incapable of understanding what is said to him.
- (8) An intimate search may not be conducted under this section.
- (9) The person carrying out a search under this section must be of the same sex as the person searched.
- (10) “Custody officer”—
  - (a) in relation to England and Wales, has the same meaning as in the <sup>M14</sup>Police and Criminal Evidence Act 1984;
  - (b) in relation to Scotland, means the officer in charge of a police station; and
  - (c) in relation to Northern Ireland, has the same meaning as in the <sup>M15</sup>Police and Criminal Evidence (Northern Ireland) Order 1989.

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- (11) “Intimate search”—
- (a) in relation to England and Wales, has the meaning given by section 65 of the Act of 1984;
  - (b) in relation to Scotland, means a search which consists of the physical examination of a person’s body orifices other than the mouth; and
  - (c) in relation to Northern Ireland, has the same meaning as in the 1989 Order.
- (12) “Police detention”—
- (a) in relation to England and Wales, has the meaning given by section 118(2) of the 1984 Act; and
  - (b) in relation to Northern Ireland, has the meaning given by Article 2 of the 1989 Order.
- (13) In relation to Scotland, a person is in police detention if—
- (a) he has been taken to a police station after being arrested for an offence; or
  - (b) he is arrested at a police station after attending voluntarily at the station, accompanying a constable to it or being detained under section 14 of the <sup>M16</sup>Criminal Procedure (Scotland) Act 1995,
- and is detained there or is detained elsewhere in the charge of a constable, but is not in police detention if he is in court after being charged.]

#### Textual Amendments

**F212** S. 28H inserted (14.2.2000) by 1999 c. 33, s. 135(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

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

**C126** S. 28H modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), reg. 9(11)(b)

**C127** S. 28H modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 2(11)(b), 48(1)

**C128** S. 28H applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(c); S.I. 2004/2999, art. 2, Sch.

**C129** S. 28H modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), reg. 15(b)

**C130** S. 28H modified (29.2.2008) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 21(3)(b), 62; S.I. 2008/310, art. 2(1) (subject to art. 5)

**C131** S. 28H modified by Immigration and Asylum Act 1999 (c. 33), s. 109B(1)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)

S. 28H modified (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(2)(b), 59; S.I. 2008/99, art. 2

**C132** S. 28H modified (1.7.2013) by The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (S.I. 2013/1460), regs. 1(1), 15(3)(b), 18(b) (with reg. 11(8))

#### Marginal Citations

**M14** 1984 c. 60.

**M15** S.I. 1989/1341 (N.I. 12).

**M16** 1995 c. 43.

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## [<sup>F213</sup>28ZI Retention of seized material

- (1) This section applies to anything seized by an immigration officer under this Part for the purposes of the investigation of an offence or on the basis that it may be evidence relating to an offence.
- (2) Anything seized as mentioned in subsection (1) may be retained so long as is necessary in all the circumstances and in particular—
  - (a) may be retained, except as provided for by subsection (3)—
    - (i) for use as evidence at a trial for an offence, or
    - (ii) for forensic examination or for investigation in connection with an offence, and
  - (b) may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.
- (3) Nothing may be retained for a purpose mentioned in subsection (2)(a) if a photograph or copy would be sufficient for that purpose.]

### Textual Amendments

**F213** S. 28ZI inserted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), ss. 50, 94(1); S.I. 2016/603, reg. 3(g)

## [<sup>F214</sup>28I Seized material: access and copying.

- (1) If a person showing himself—
  - (a) to be the occupier of the premises on which seized material was seized, or
  - (b) to have had custody or control of the material immediately before it was seized,
 asks the immigration officer who seized the material for a record of what he seized, the officer must provide the record to that person within a reasonable time.
- (2) If a relevant person asks an immigration officer for permission to be granted access to seized material, the officer must arrange for him to have access to the material under the supervision—
  - (a) in the case of seized material within subsection (8)(a), of an immigration officer;
  - (b) in the case of seized material within subsection (8)(b), of a constable.
- (3) An immigration officer may photograph or copy, or have photographed or copied, seized material.
- (4) If a relevant person asks an immigration officer for a photograph or copy of seized material, the officer must arrange for—
  - (a) that person to have access to the material for the purpose of photographing or copying it under the supervision—
    - (i) in the case of seized material within subsection (8)(a), of an immigration officer;
    - (ii) in the case of seized material within subsection (8)(b), of a constable;
 or
  - (b) the material to be photographed or copied.

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- (5) A photograph or copy made under subsection (4)(b) must be supplied within a reasonable time.
- (6) There is no duty under this section to arrange for access to, or the supply of a photograph or copy of, any material if there are reasonable grounds for believing that to do so would prejudice—
- (a) the exercise of any functions in connection with which the material was seized; or
  - (b) an investigation which is being conducted under this Act, or any criminal proceedings which may be brought as a result.
- (7) “Relevant person” means—
- (a) a person who had custody or control of seized material immediately before it was seized, or
  - (b) someone acting on behalf of such a person.
- (8) “Seized material” means anything—
- (a) seized and retained by an immigration officer, or
  - (b) seized by an immigration officer and retained by the police,  
under this Part.]

#### Textual Amendments

**F214** S. 28I inserted (14.2.2000) by 1999 c. 33, s. 136(1); S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)

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

**C133** S. 28I applied (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), s. 14(3)(d); S.I. 2004/2999, art. 2, Sch.

**C134** S. 28I applied by Immigration and Asylum Act 1999 (c. 33), s. 109B(2)(a) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)

S. 28I applied (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(3)(a), 59; S.I. 2008/99, art. 2

S. 28I applied (31.3.2008) by UK Borders Act 2007 (c. 30), ss. 46(4), 59; S.I. 2008/309, art. 3

**C135** S. 28I applied by UK Borders Act 2007 (c. 30), s. 46B(2) (as inserted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), ss. 160, 183(1)(5)(e))

**C136** S. 28I applied (12.7.2016) by Immigration Act 2016 (c. 19), ss. 48(9), 94(1) (with s. 48(10)); S.I. 2016/603, reg. 3(g)

**C137** S. 28I applied (12.7.2016) by Immigration Act 2016 (c. 19), ss. 47(11), 94(1); S.I. 2016/603, reg. 3(g)

#### [<sup>F215</sup>28J Search warrants: safeguards.

- (1) The entry or search of premises under a warrant is unlawful unless it complies with this section and section 28K.
- (2) If an immigration officer applies for a warrant, he must—
- (a) state the ground on which he makes the application and the provision of this Act under which the warrant would be issued;
- [<sup>F216</sup>(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;]

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- [<sup>F217</sup>(b) specify the matters set out in subsection (2A) below; and]
- (c) identify, so far as is practicable, the persons or articles to be sought.
- [ The matters which must be specified pursuant to subsection (2)(b) above are—
- <sup>F218</sup>(2A) (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.]
- (3) In Northern Ireland, an application for a warrant is to be supported by a complaint in writing and substantiated on oath.
- (4) Otherwise, an application for a warrant is to be made ex parte and supported by an information in writing or, in Scotland, evidence on oath.
- (5) The officer must answer on oath any question that the justice of the peace or sheriff hearing the application asks him.
- (6) A warrant shall authorise an entry on one occasion only [<sup>F219</sup>unless it specifies that it authorises multiple entries] .
- [ If it specifies that it authorises multiple entries, it must also specify whether the number
- <sup>F220</sup>(6A) of entries authorised is unlimited, or limited to a specified maximum.]
- (7) A warrant must specify—
- (a) the name of the person applying for it;
- (b) the date on which it is issued;
- [<sup>F221</sup>(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]
- (d) the provision of this Act under which it is issued.
- (8) A warrant must identify, so far as is practicable, the persons or articles to be sought.
- [<sup>F222</sup>(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.]
- (10) The copies must be clearly certified as copies.
- [ All premises warrant” means a warrant issued in response to an application of the kind
- <sup>F223</sup>(10A) mentioned in section 24E(6)(b), 28D(1A)(b) or 28FB(1A)(b) or paragraph 25A(6AA) (b) of Schedule 2.

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(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.]

(11) “Warrant” means a warrant to enter and search premises issued to an immigration officer under this Part or under paragraph 17(2) [<sup>F224</sup>or 25A(6A)] of Schedule 2.]

#### Textual Amendments

- F215** S. 28J inserted (14.2.2000) by 1999 c. 33, s. 137; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F216** S. 28J(2)(aa) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 4(2)(a); S.I. 2016/1037, reg. 5(k)
- F217** S. 28J(2)(b) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 4(2)(b); S.I. 2016/1037, reg. 5(k)
- F218** S. 28J(2A) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 4(3); S.I. 2016/1037, reg. 5(k)
- F219** Words in s. 28J(6) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 4(4); S.I. 2016/1037, reg. 5(k)
- F220** S. 28J(6A) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 4(5); S.I. 2016/1037, reg. 5(k)
- F221** S. 28J(7)(c) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 4(6); S.I. 2016/1037, reg. 5(k)
- F222** S. 28J(9) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 4(7); S.I. 2016/1037, reg. 5(k)
- F223** S. 28J(10A)(10B) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 4(8); S.I. 2016/1037, reg. 5(k)
- F224** Words in s. 28J(11) inserted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 1 para. 4; S.I. 2014/1820, art. 3(y)

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

- C138** S. 28J applied by 1999 c. 33, s. 109B(2)(b) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 18, 59; S.I. 2008/99, art. 2)
- S. 28J applied (31.1.2008) by UK Borders Act 2007 (c. 30), ss. 23(3)(b), 59; S.I. 2008/99, art. 2
- S. 28J applied (with modifications) (31.3.2008) by UK Borders Act 2007 (c. 30), ss. 45(4), 59; S.I. 2008/309, art. 3

#### [<sup>F225</sup>28K Execution of warrants.

- (1) A warrant may be executed by any immigration officer.
- (2) A warrant may authorise persons to accompany the officer executing it.

[ A person so authorised has the same powers as the officer whom the person

<sup>F226</sup>(2A) 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) Entry and search under a warrant must be—



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- (a) within [<sup>F227</sup>three months ] from the date of its issue; and
- (b) at a reasonable hour, unless it appears to the officer executing it that the purpose of a search might be frustrated.

<sup>F228</sup>(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.]

(4) If the occupier of premises which are to be entered and searched is present at the time when an immigration officer seeks to execute a warrant, the officer must—

- (a) identify himself to the occupier and [<sup>F229</sup>, if not in uniform, ] produce identification showing that he is an immigration officer;
- (b) show the occupier the warrant; and
- (c) supply him with a copy of it.

(5) If—

- (a) the occupier is not present, but
- (b) some other person who appears to the officer to be in charge of the premises is present,

subsection (4) has effect as if each reference to the occupier were a reference to that other person.

(6) If there is no person present who appears to the officer to be in charge of the premises, the officer must leave a copy of the warrant in a prominent place on the premises.

(7) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(8) An officer executing a warrant must make an endorsement on it stating—

- (a) whether the persons or articles sought were found; and
- (b) whether any articles, other than articles which were sought, were seized.

<sup>F230</sup>(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.]

(9) [<sup>F231</sup>The warrant] must be returned—

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- [<sup>F232</sup>(a) if issued by a justice of the peace in England and Wales, to the designated officer for the local justice area in which the justice was acting when he issued the warrant;]
- (b) if issued by a justice of the peace in Northern Ireland, to the clerk of petty sessions <sup>F233</sup> ...;
- (c) if issued by a justice of the peace in Scotland, to the clerk of the district court for the commission area for which the justice of the peace was appointed;
- (d) if issued by the sheriff, to the sheriff clerk.
- (10) A warrant returned under subsection (9)(a) must be retained for 12 months by the [<sup>F234</sup>designated officer] .
- (11) A warrant issued under subsection (9)(b) or (c) must be retained for 12 months by the clerk.
- (12) A warrant returned under subsection (9)(d) must be retained for 12 months by the sheriff clerk.
- (13) If during that 12 month period the occupier of the premises to which it relates asks to inspect it, he must be allowed to do so.
- [ In subsection (8B)—
- <sup>F235</sup>(13A) “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.]
- (14) “Warrant” means a warrant to enter and search premises issued to an immigration officer under this Part or under paragraph 17(2) [<sup>F236</sup>or 25A(6A)] of Schedule 2.]

#### Textual Amendments

- F225** S. 28K inserted (14.2.2000) by 1999 c. 33, s. 138; S.I. 2000/168, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F226** S. 28K(2A)(2B) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 5(2); S.I. 2016/1037, reg. 5(k)
- F227** Words in s. 28K(3) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 5(3); S.I. 2016/1037, reg. 5(k)
- F228** S. 28K(3A)(3B) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 5(4); S.I. 2016/1037, reg. 5(k)
- F229** Words in s. 28K(4)(a) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 5(5); S.I. 2016/1037, reg. 5(k)
- F230** S. 28K(8A)-(8C) inserted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 5(6); S.I. 2016/1037, reg. 5(k)
- F231** Words in s. 28K(9) substituted (1.12.2016) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 8 para. 5(7); S.I. 2016/1037, reg. 5(k)
- F232** S. 28K(9)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), Sch. 8 para. 148(2); S.I. 2005/910, art. 3(y)(bb)

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- F233** Words in s. 28K(9)(b) repealed (N.I.) (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 64\(2\), Sch. 9 Pt. 1](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387, art. 2\(k\)\(l\)](#) (with [art. 3](#))
- F234** Words in s. 28K(10) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 109\(1\), Sch. 8 para. 148\(3\); S.I. 2005/910, art. 3\(y\)\(bb\)](#)
- F235** S. 28K(13A)(13B) inserted (1.12.2016) by [Immigration Act 2016 \(c. 19\), s. 94\(1\), Sch. 8 para. 5\(8\); S.I. 2016/1037, reg. 5\(k\)](#)
- F236** Words in s. 28K(14) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\), s. 75\(3\), Sch. 1 para. 4; S.I. 2014/1820, art. 3\(y\)](#)

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

- C139** S. 28K applied by [Immigration and Asylum Act 1999 \(c. 33\), s. 109B\(2\)\(c\)](#) (as inserted (31.1.2008) by [UK Borders Act 2007 \(c. 30\), ss. 18, 59; S.I. 2008/99, art. 2](#))
- S. 28K applied (31.1.2008) by [UK Borders Act 2007 \(c. 30\), ss. 23\(2\)\(c\), 59; S.I. 2008/99, {act. 2}](#)
- S. 28K applied (with modifications) (31.3.2008) by [UK Borders Act 2007 \(c. 30\), ss. 45\(4\), 59; S.I. 2008/309, art. 3](#)
- C140** S. 28K(9)(a)(10) amended (*temp.* until 1.4.2001) by [1999 c. 33, s. 169\(2\), Sch. 15 para. 4\(b\); S.I. 2000/168, art. 2, Sch; S.I. 2001/916, art. 2\(a\)\(ii\)](#) (with [Sch. 2 para. 2](#))

### [<sup>F237</sup>28L Interpretation of Part III.

- [ In this Part, “premises” and “items subject to legal privilege” have the same meaning—
- <sup>F238</sup>(1) (a) in relation to England and Wales, as in the <sup>M17</sup>Police and Criminal Evidence Act 1984;
- (b) in relation to Northern Ireland, as in the <sup>M18</sup>Police and Criminal Evidence (Northern Ireland) Order 1989; and
- (c) in relation to Scotland, as in section [<sup>F239</sup>412 of the Proceeds of Crime Act 2002].]

[<sup>F240</sup>(2) In this Part “business premises” means premises (or any part of premises) not used as a dwelling.

(3) In this Part “employee records” means records which show an employee’s—

- (a) name,
- (b) date of birth,
- (c) address,
- (d) length of service,
- (e) rate of pay, or
- (f) nationality or citizenship.

(4) The Secretary of State may by order amend section 28CA(3)(a) to reflect a change in nomenclature.

(5) An order under subsection (4)—

- (a) must be made by statutory instrument, and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F237** S. 28L inserted (14.2.2000) by [1999 c. 33, s. 139\(1\); S.I. 2000/168, art. 2, Sch.](#) (which amending provision is extended (with modifications) to Jersey (5.6.2003) by [S.I. 2003/1252, art. 2, Sch.](#))

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- F238** S. 28L renumbered (8.1.2003) as s. 28L(1) by virtue of 2002 c. 41, **s. 155(1)** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**
- F239** Words in s. 28L(1)(c) substituted (24.2.2003) by 2002 c. 29, s. 456, Sch. 11 para. 6; S.I. 2003/120, **art. 2**, **Sch.** (subject to transitional provisions and savings in arts. 3-6 (as amended by S.I. 2003/333, art. 14))
- F240** S. 28L(2)-(5) inserted (8.1.2003) by 2002 c. 41, **s. 155(2)** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**

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

- C141** S. 28L(1) applied by Immigration and Asylum Act 1999 (c. 33), s. 109B(2)(d) (as inserted (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 18, 59**; S.I. 2008/99, **art. 2**)
- S. 28L(1) applied (31.1.2008) by UK Borders Act 2007 (c. 30), **ss. 23(3)(d), 59**; S.I. 2008/99, **art. 2**

#### Marginal Citations

- M17** 1984 c. 60.
- M18** S.I. 1989/1341 (N.I. 12).

## <sup>F241</sup>PART 3A

### MARITIME ENFORCEMENT

#### Textual Amendments

- F241** 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)

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

- (1) An immigration officer, an English and Welsh constable or an enforcement officer 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 United Kingdom ship;
  - a ship without nationality;
  - a foreign ship;
  - a ship registered under the law of a relevant territory.
- (2) But Part 1 powers may be exercised only—
- for the purpose of preventing, detecting, investigating or prosecuting an offence under section 25, 25A or 25B, and
  - in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before an immigration officer, an English and Welsh constable or an enforcement officer 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.

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

- (1) An immigration officer, a Scottish constable or an enforcement officer 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;
  - (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, 25A or 25B, and
  - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before an immigration officer, a Scottish constable or an enforcement officer 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.

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

- (1) An immigration officer, a Northern Ireland constable or an enforcement officer 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, 25A or 25B, and
  - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before an immigration officer, a Northern Ireland constable or an enforcement officer 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.
- (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.

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

- (1) An immigration officer, an English and Welsh constable or an enforcement officer 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,

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- (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) An immigration officer, a Scottish constable or an enforcement officer 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) An immigration officer, a Northern Ireland constable or an enforcement officer 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.
- (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 or an enforcement officer may have.

## **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;

“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;

“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;

“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;

“ship” includes every description of vessel (including a hovercraft) used in navigation;

“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;

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“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.

(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.]

## PART IV

### SUPPLEMENTARY

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

**C142** Pt. 4 extended in part (Isle of Man) (with modifications) (13.3.2008 for certain purposes and 1.5.2008 otherwise) by [The Immigration \(Isle of Man\) Order 2008 \(S.I. 2008/680\)](#), arts. 1(2), **5**, **6(2)(c)**, 7, [Sch. 3](#), [Sch. 10 Pt. 1](#) (with [Sch. 2 para. 2](#)) (as amended (29.6.2011) by [S.I. 2011/1408](#), art. 1, [Sch. paras. 1](#), **2(b)**); (14.3.2019) by [S.I. 2019/562](#), arts. 1, 5, 11; and (11.11.2021) by [S.I. 2021/1277](#), arts. 1(2), 8)

**C143** Pt. IV amendment to earlier affecting provision [S.I. 2008/680 art. 6\(2\)\(c\)](#) (29.6.2011) by [Immigration \(Isle of Man\) \(Amendment\) Order 2011 \(S.I. 2011/1408\)](#), art. 1, [Sch. paras. 1](#), **2(b)**

## 29 Contributions for expenses of persons returning abroad.

F242 .....

#### Textual Amendments

**F242** S. 29 repealed (1.4.2003) by [2002 c. 41, ss. 58\(5\)\(a\), 161, Sch. 9](#) (with s. 159); [S.I. 2003/754](#), [art. 2](#), [Sch. 1](#) (with transitional provisions in arts. 3, 4, [Sch. 2](#) (as amended by [S.I. 2003/1040](#) and [2003/1339](#)))

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

**C86** Ss. 24-29 amendment to earlier affecting [S.I. 1993/1797, Sch. 1 Pt. 1](#) (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, 2(2)

## 30 Return of mental patients.

(1) ..... F243

(2) ..... F244

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**Textual Amendments**

**F243** S. 30(1) repealed (1.1.1983) by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 9](#) (with [Sch. 8 para. 8](#)); [S.I. 1982/933, art. 2](#) [Editorial note: According to the *Chronological Table of the Statutes (1951-1987)* (HMSO, 1989) there were no amendments made to s. 30 between the date of Royal Assent and the repeal of s. 30(1) on 1.1.1983 and therefore the text of s. 30 as in force immediately before the commencement of the British Nationality Act 1981 is the same as that of the **Original (As enacted) Version** of this section.]

**F244** S. 30 repealed by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\), s. 127\(2\), Sch. 5](#)

**31 Expenses.**

There shall be defrayed out of moneys provided by Parliament any expenses incurred [<sup>F245</sup>by the Lord Chancellor under Schedule 5 to this Act or] by a Secretary of State under or by virtue of this Act—

- (a) by way of administrative expenses <sup>F246</sup> . . . ; or
- (b) in connection with the removal of any person from the United Kingdom under Schedule 2 or 3 to this Act or the departure with him of his dependants, or his or their maintenance pending departure; or
- <sup>F247</sup>(c) .....
- (d) <sup>F248</sup> .....

**Textual Amendments**

**F245** Words inserted by [S.I. 1987/465, art. 3\(1\)\(4\)](#)

**F246** Words repealed by [British Nationality Act 1981 \(c. 61\), s. 52\(7\), Sch. 9](#) (with [Sch. 8 para. 8](#))

**F247** S. 31(c) repealed by [S.I. 1987/465, art. 3\(1\)\(4\)](#)

**F248** S. 31(d) repealed (1.4.2003) by [2002 c. 41, ss. 58\(5\)\(b\), 161, Sch. 9](#) (with [s. 159](#)); [S.I. 2003/754, art. 2, Sch. 1](#) (with transitional provisions in [arts. 3, 4, Sch. 2](#) (as amended by [S.I. 2003/1040](#) and [S.I. 2003/1339](#)))

<sup>F249</sup>**31A Procedural requirements as to applications.**

<sup>F250</sup> .....

**Textual Amendments**

**F249** S. 31A inserted (22.5.2000 for certain purposes and otherwise 1.8.2003) by [1999 c. 33, ss. 165, 170\(4\); S.I. 2000/1282, art. 2, Sch.; S.I. 2003/1862, art. 2](#)

**F250** S. 31A repealed (29.2.2008) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\), ss. 50\(3\)\(a\), 61, 62, Sch. 3; S.I. 2008/310, art. 2\(2\)](#)

**32 General provisions as to Orders in Council, etc.**

- (1) Any power conferred by Part I of this Act to make an Order in Council or order (other than a deportation order) or to give any directions includes power to revoke or vary the Order in Council, order or directions.

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- (2) Any document purporting to be an order, notice or direction made or given by the Secretary of State for the purposes of [<sup>F251</sup>the Immigration Acts] and to be signed by him or on his behalf, and any document purporting to be a certificate of the Secretary of State so given and to be signed by him [<sup>F252</sup>or on his behalf], shall be received in evidence, and shall, until the contrary is proved, be deemed to be made or issued by him.
- (3) Prima facie evidence of any such order, notice, direction or certificate as aforesaid may, in any legal proceedings or [<sup>F253</sup>other proceedings under the Immigration Acts], be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the order, notice, direction or certificate.
- (4) Where an order under section 8(2) above applies to persons specified in a schedule to the order, or any directions of the Secretary of State given for the purposes of [<sup>F254</sup>the Immigration Acts] apply to persons specified in a schedule to the directions, prima facie evidence of the provisions of the order or directions other than the schedule and of any entry contained in the schedule may, in any legal proceedings or [<sup>F255</sup>other proceedings under the Immigration Acts], be given by the production of a document purporting to be signed by or on behalf of the Secretary of State and stating that the document is a true copy of the said provisions and of the relevant entry.
- (5) <sup>F256</sup> .....

#### Textual Amendments

- F251** Words in s. 32(2) substituted (6.12.1999) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 45(2)(a)(6); S.I. 1999/3190, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F252** Words in s. 32(2) inserted (6.12.1999) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 45(2)(b); S.I. 1999/3190, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F253** Words in s. 32(3) substituted (6.12.1999) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 45(3); S.I. 1999/3190, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F254** Words in s. 32(4) substituted (6.12.1999) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 45(4)(a); S.I. 1999/3190, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F255** Words in s. 32(4) substituted (6.12.1999) by 1999 c. 33, s. 169(1), Sch. 14 paras. 43, 45(4)(b); S.I. 1999/3190, art. 2, Sch. (which amending provision is extended (with modifications) to Jersey (5.6.2003) by S.I. 2003/1252, art. 2, Sch.)
- F256** S. 32(5) repealed (30.3.2006) by Immigration, Asylum and Nationality Act 2006 (c. 13), ss. 61, 62, 64(3)(a), Sch. 3

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

- C144** S. 32 extended (with modifications) to Guernsey (1.8.1993) by S.I. 1993/1796 art. 3(1), Sch. 1 Pt. I  
S. 32 extended (with modifications) to Jersey (1.8.1993) by S.I. 1993/1797 art. 3(1), Sch. 1 Pt. I (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, 2(2))
- C145** S. 32: amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by The Immigration and Asylum (Jersey) Order 2012 (S.I. 2012/2593), arts. 1, 2(2)

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### 33 Interpretation.

(1) For purposes of this Act, except in so far as the context otherwise requires—

“aircraft” includes hovercraft, “airport” includes hoverport and “port” includes airport;

“captain” means master (of a ship) or commander (of an aircraft);

[<sup>F257</sup>“certificate of entitlement” means a certificate under section 10 of the Nationality, Immigration and Asylum Act 2002 that a person has the right of abode in the United Kingdom;]

<sup>F258</sup>

[<sup>F259</sup>“Convention adoption” has the same meaning as in the <sup>M19</sup>Adoption Act 1976 and [<sup>F260</sup>the Adoption and Children (Scotland) Act 2007][<sup>F261</sup>or in the Adoption and Children Act 2002];]

“crew”, in relation to a ship or aircraft, means all persons actually employed in the working or service of the ship or aircraft, including the captain, and “member of the crew” shall be construed accordingly;

[<sup>F262</sup>“entrant” means a person entering or seeking to enter the United Kingdom and “illegal entrant” means a person—

- (a) unlawfully entering or seeking to enter in breach of a deportation order or of the immigration laws, or
- (b) entering or seeking to enter by means which include deception by another person,

and includes also a person who has entered as mentioned in paragraph (a) or (b) above;]

“entry clearance” means a visa, entry certificate or other document which, in accordance with the immigration rules, is to be taken as evidence [<sup>F263</sup>or the requisite evidence] of a person’s eligibility, though not [<sup>F264</sup>a British citizen], for entry into the United Kingdom (but does not include a work permit);

“immigration laws” means this Act and any law for purposes similar to this Act which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom and Islands;

“immigration rules” means the rules for the time being laid down as mentioned in section 3(2) above;

“the Islands” means the Channel Islands and the Isle of Man, and “the United Kingdom and Islands” means the United Kingdom and the Islands taken together;

“legally adopted” means adopted in pursuance of an order made by any court in the United Kingdom and Islands [<sup>F265</sup>, under a Convention adoption] or by any adoption specified as an overseas adoption by order of the Secretary of State under [<sup>F266</sup>section 4 of the <sup>M20</sup>Adoption Act 1968][<sup>F267</sup>section 87 of the Adoption and Children Act 2002]; [<sup>F268</sup>or by regulations made by the Scottish Ministers under section 67(1) of the Adoption and Children (Scotland) Act 2007]

“limited leave” and “indefinite leave” mean respectively leave under this Act to enter or remain in the United Kingdom which is, and one which is not, limited as to duration;

“settled” shall be construed in accordance [<sup>F269</sup>with subsection (2A) below;]

“ship” includes every description of vessel used in navigation;

<sup>F258</sup>

...

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[<sup>F270</sup>“United Kingdom passport” means a current passport issued by the Government of the United Kingdom, or by the Lieutenant-Governor of any of the Islands, or by the Government of any territory which is for the time being a dependent territory within the meaning of the <sup>M21</sup>British Nationality Act 1981;]

“work permit” means a permit indicating, in accordance with the immigration rules, that a person named in it is eligible, though not [<sup>F264</sup>a British citizen], for entry into the United Kingdom for the purpose of taking employment.

[<sup>F271</sup>(1A) A reference to being an owner of a vehicle, ship or aircraft includes a reference to being any of a number of persons who jointly own it.]

(2) It is hereby declared that, except as otherwise provided in this Act, a person is not to be treated for the purposes of any provision of this Act as ordinarily resident in the United Kingdom or in any of the Islands at a time when he is there in breach of the immigration laws.

[<sup>F272</sup>(2A) Subject to section 8(5) above, references to a person being settled in the United Kingdom are references to his being ordinarily resident there without being subject under the immigration laws to any restriction on the period for which he may remain.]

(3) The ports of entry for purposes of this Act, and the ports of exit for purposes of any Order in Council under section 3(7) above, shall be such ports as may from time to time be designated for the purpose by order of the Secretary of State made by statutory instrument.

[<sup>F273</sup>(4) For the purposes of this Act, the question of whether an appeal is pending shall be determined [<sup>F274</sup>in accordance with section 104 of the Nationality, Immigration and Asylum Act 2002 (pending appeals)]]

(5) This Act shall not be taken to supersede or impair any power exercisable by Her Majesty in relation to aliens by virtue of Her prerogative.

#### Textual Amendments

- F257** S. 33(1): definition of "certificate of entitlement" substituted (21.12.2006) by 2002 c. 41, s. 10(5)(b) (with s. 159); S.I. 2006/3144, **art. 2**
- F258** Definitions of "Concessionaires" and "tunnel system" repealed (2.8.1993) by S.I. 1993/1813, arts. 9, 1, **Sch. 6 Pt. I**
- F259** Definition of "Convention adoption" inserted (1.6.2003) by 1999 c. 18, s. 15(1), Sch. 2 para. 2(a) (with s. 17(1)); S.I. 2003/362, **art. 2**
- F260** Words in definition of "Convention adoption" in s. 33(1) substituted (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 para. 1(a)**
- F261** Words in definition of "Convention adoption" in s. 33(1) inserted (30.12.2005) by 2002 c. 38, s. 139, Sch. 3 para. 15(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F262** S. 33: Definitions of "entrant" and "illegal entrant" substituted (1.10.1996) by 1996 c. 49, s. 12(1), **Sch. 2 para. 4(1)**; S.I. 1996/2053, art. 2, **Sch. Pt. III**
- F263** Words inserted by Immigration Act 1988 (c. 14, SIF 62), s. 10, **Sch. para. 5**
- F264** Words substituted by British Nationality Act 1981 (c. 61), s. 52(7), **Sch. 4 para. 2** (with Sch. 8 para. 8)
- F265** Words in definition of "legally adopted" inserted (1.6.2003) by 1999 c. 18, s. 15(1), Sch. 2 para. 2(b) (with s. 17(1)); S.I. 2003/362, **art. 2**



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- F266** In s. 33(1) in the definition of "legally adopted" the words "section 72(2) of the Adoption Act 1976" substituted (E.W.) for the words "section 4 of the Adoption Act 1968" by [Adoption Act 1976 \(c. 36\)](#), s. 73(2), [Sch. 3 Pt. 1 para. 17](#)
- F267** In s. 33(1) in the definition of "legally adopted" the words "section 87 of the Adoption and Children Act 2002" substituted (30.12.2005) for the words "section 72(2) of the Adoption Act 1976" by [2002 c. 38](#), s. 139, [Sch. 3 para. 15\(b\)](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, [art. 2\(o\)](#)
- F268** Words in definition of "legally adopted" in s. 33(1) inserted (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), art. 1(2), [Sch. 1 para. 1\(b\)](#)
- F269** Words substituted by [British Nationality Act 1981 \(c. 61\)](#), s. 52(7), [Sch. 4 para. 7\(a\)\(i\)](#) (with [Sch. 8 para. 8](#))
- F270** Definition inserted by [British Nationality Act 1981 \(c. 61\)](#), s. 52(7), [Sch. 4 para. 7\(a\)\(ii\)](#) (with [Sch. 8 para. 8](#))
- F271** S. 33(1A) inserted (10.2.2003) by [2002 c. 41](#), s. 144(8) (with s. 159); S.I. 2003/1, [art. 2](#), [Sch.](#)
- F272** S. 33(2A) inserted by [British Nationality Act 1981 \(c. 61\)](#), s. 52(7), [Sch. 4 para. 7\(b\)](#) (with [Sch. 8 para. 8](#))
- F273** S. 33(4) substituted (2.10.2000) by [1999 c. 33](#), s. 169(1), [Sch. 14 paras. 43, 55](#); S.I. 2000/2444, art. 2, [Sch. 1](#) (subject to transitional provisions in [art. 3](#), [Sch. 2 para. 2](#))
- F274** Words in s. 33(4) substituted (1.4.2003) by [2002 c. 41](#), s. 114, [Sch. 7 para. 1](#) (with s. 159); S.I. 2003/754, [art. 2](#), [Sch. 1](#) (with transitional provisions in arts. 3, 4, [Sch. 2](#) (as amended by S.I. 2003/1040 and 2003/1339))

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

- C146** S. 33 modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, [Sch. 4 para. 1\(10\)](#) (as amended (1.12.1997) by S.I. 1994/1405, art. 8, [Sch. 4 para. 11](#) Table)  
S. 33 extended (with modifications) to Guernsey (1.8.1993) by S.I. 1993/1796, art. 3(1), [Sch. 1 Pt. I](#)  
S. 33 extended (with modifications) to Jersey (1.8.1993) by S.I. 1993/1797, art. 3(1), [Sch. 1 Pt. I](#) (as amended (5.6.2003) by S.I. 2003/1252, [art. 3](#)) (as amended (17.10.2012) by S.I. 2012/2593, arts. 1, [2\(2\)](#))
- C147** S. 33: amendment to earlier affecting S.I. 1993/1797, [Sch. 1 Pt. 1](#) (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, [2\(2\)](#)

#### Marginal Citations

- M19** 1976 c. 36.  
**M20** 1968 c. 53.  
**M21** 1981 c. 61.

## 34 Repeal, transitional and temporary.

- (1) Subject to the following provisions of this section, the enactments mentioned in Schedule 6 to this Act are hereby repealed, as from the coming into force of this Act, to the extent mentioned in column 3 of the Schedule; and—
- (a) this Act, as from its coming into force, shall apply in relation to entrants or others arriving in the United Kingdom at whatever date before or after it comes into force; and
  - (b) after this Act comes into force anything done under or for the purposes of the former immigration laws shall have effect, in so far as any corresponding action could be taken under or for the purposes of this Act, as if done by way of action so taken, and in relation to anything so done this Act shall apply accordingly.

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(2) Without prejudice to the generality of subsection (1)(a) and (b) above, a person refused leave to land by virtue of the <sup>M22</sup>Aliens Restriction Act 1914 shall be treated as having been refused leave to enter under this Act, and a person given leave to land by virtue of that Act shall be treated as having been given leave to enter under this Act; and similarly with the <sup>M23</sup>Commonwealth Immigrants Acts 1962 and 1968.

(3) A person treated in accordance with subsection (2) above as having leave to enter the United Kingdom—

- (a) shall be treated as having an indefinite leave, if he is not at the coming into force of this Act subject to a condition limiting his stay in the United Kingdom; and
- (b) shall be treated, if he is then subject to such a condition, as having a limited leave of such duration, and subject to such conditions (capable of being attached to leave under this Act), as correspond to the conditions to which he is then subject, but not to conditions not capable of being so attached.

This subsection shall have effect in relation to any restriction or requirement imposed by Order in Council under the <sup>M24</sup>Aliens Restriction Act 1914 as if it had been imposed by way of a landing condition.

(4) Notwithstanding anything in the foregoing provisions of this Act, the former immigration laws shall continue to apply, and this Act shall not apply,—

- (a) in relation to the making of deportation orders and matters connected therewith in any case where a decision to make the order has been notified to the person concerned before the coming into force of this Act;
- (b) in relation to removal from the United Kingdom and matters connected therewith (including detention pending removal or pending the giving of directions for removal) in any case where a person is to be removed in pursuance of a decision taken before the coming into force of this Act or in pursuance of a deportation order to the making of which paragraph (a) above applies;
- (c) in relation to appeals against any decision taken or other thing done under the former immigration laws, whether taken or done before the coming into force of this Act or by virtue of this subsection.

(5) Subsection (1) above shall not be taken as empowering a court on appeal to recommend for deportation a person whom the court below could not recommend for deportation, or as affecting any right of appeal in respect of a recommendation for deportation made before this Act comes into force, or as enabling a notice given before this Act comes into force and not complying with section 6(2) to take the place of the notice required by section 6(2) to be given before a person is recommended for deportation.

<sup>F275</sup>(6) .....

**Textual Amendments**

**F275** S. 34(6) repealed (5.11.1993) by 1993 c. 50 s. 1(1), Sch. 1 Pt. XVI Group.1

**Marginal Citations**

**M22** 1914 c. 12.

**M23** 1962 c. 21.

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**M24** 1914 c. 12.

**35 Commencement, and interim provisions.**

- (1) Except as otherwise provided by this Act, Parts I to III of this Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and references to the coming into force of this Act shall be construed as references to the beginning of the day so appointed.
- (2) Section 25 above, except section 25(2), and section 28 in its application to offences under section 25(1) shall come into force at the end of one month beginning with the date this Act is passed.
- (3) ..... **F276**

**Subordinate Legislation Made**  
**P1** 1.1.1973 appointed under s. 35(1) by [S.I. 1972/1514](#)

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**Textual Amendments**  
**F276** S. 35(3)–(5) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), **Sch. 1 Pt. XIII**

**36 Power to extend to Islands.**

Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the Islands; and any Order in Council under this subsection may be varied or revoked by a further Order in Council.

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

**C148** S. 36 applied by [Immigration \(Carriers' Liability\) Act 1987 \(c. 24, SIF 62\)](#), s. 2(3) and by [Immigration Act 1988 \(c.14, SIF 62\)](#), s. 12(5)

**C149** S. 36 extended by [British Nationality Act 1981 \(c. 61\)](#), s. 53(5)(7)

**C150** S. 36 power to extend (with modifications) (Channel Islands or Isle of Man) any amendments or repeals made to this Act by 2016 c. 19, to which this section relates (12.5.2016) by [Immigration Act 2016 \(c. 19\)](#), ss.94(5), 95(6)(7)(a)

**37 Short title and extent.**

- (1) This Act may be cited as the Immigration Act 1971.
- (2) It is hereby declared that this Act extends to Northern Ireland, and (without prejudice to any provision of Schedule 1 to this Act as to the extent of that Schedule) where an enactment repealed by this Act extends outside the United Kingdom, the repeal shall be of like extent.

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

- C151** S. 37 extended (with modifications) (1.8.1993) by [S.I. 1993/1796](#), art. 3(1), Sch. 1 Pt. I (Guernsey), [S.I. 1993/1797](#), art. 3(1), Sch. 1 Pt. I (Jersey) (as amended (17.10.2012) by [S.I. 2012/2593](#), arts. 1, [2\(2\)](#))
- C152** S. 37: amendment to earlier affecting [S.I. 1993/1797](#), Sch. 1 Pt. 1 (17.10.2012 coming into force in accordance with art. 1) by [The Immigration and Asylum \(Jersey\) Order 2012 \(S.I. 2012/2593\)](#), arts. 1, [2\(2\)](#)

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