



# Immigration Act 1971

## 1971 CHAPTER 77

### PART III

#### CRIMINAL PROCEEDINGS

#### **[<sup>F1</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 relevant offence has been committed,
  - there is material on premises [<sup>F2</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,
  - the material is likely to be relevant evidence,
  - the material does not consist of or include items subject to legal privilege, excluded material or special procedure material, and
  - any of the conditions specified in subsection (2) applies, [<sup>F3</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.

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

- <sup>F4</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—

- 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

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- 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>F5</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>F6</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), [<sup>F7</sup>(f) or (h)], [<sup>F8</sup>24A, [<sup>F9</sup>24B, ] 25, 25A <sup>F10</sup>...][<sup>F11</sup>, 26A or 26B].
- (5) In relation to England and Wales, expressions which are given a meaning by the <sup>M1</sup>Police and Criminal Evidence Act 1984 have the same meaning when used in this section.
- (6) In relation to Northern Ireland, expressions which are given a meaning by the <sup>M2</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 have the same meaning when used in this section.
- (7) In the application of [<sup>F12</sup>this section] to Scotland—
- (a) read [<sup>F13</sup>references ] to a justice of the peace as [<sup>F13</sup>references ] to the sheriff or a justice of the peace; and
  - (b) in [<sup>F14</sup>subsection (1)(d) ], omit the reference to excluded material and special procedure material.]

#### Textual Amendments

- F1** 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.)

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- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** Words in s. 28D(4) substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 19**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F8** 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.**
- F9** 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)
- F10** Word in s. 28D(4) omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), reg. 1(2), **Sch. 1 para. 1(1)(c)** (with Sch. 1 para. 1(5))
- F11** 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.**
- F12** 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)
- F13** 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)
- F14** 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)**

- C1** Pt. 3 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))
- C2** S. 28D modified (1.5.2004) by The Accession (Immigration and Worker Registration) Regulations 2004 (S.I. 2004/1219), **reg. 9(11)(a)**
- C3** S. 28D modified (22.9.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 2(11)(a)**, 48(1)
- C4** S. 28D modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), **reg. 15(a)**
- C5** 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)
- C6** 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**
- C7** 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))
- C8** 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))
- C9** Ss. 24-29: amendment to earlier affecting S.I. 1993/1797, Sch. 1 Pt. 1 (11.10.2017 coming into force in accordance with art. 1) by The Immigration (Jersey) (Amendment) Order 2017 (S.I. 2017/981), **Sch. Pt. 1 para. 1** (with art. 6)
- C10** 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**

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**Marginal Citations**

**M1** 1984 c. 60.

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

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