



# Immigration Act 1971

## 1971 CHAPTER 77

### PART III

#### CRIMINAL PROCEEDINGS

#### **[<sup>F1</sup>28A Arrest without warrant. E+W**

- (1) [<sup>F2</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>F3</sup>or attempted to commit] an offence under [<sup>F4</sup>section [<sup>F5</sup>24B,] 25, 25A or 25B]; or
  - (b) whom he has reasonable grounds for suspecting has committed [<sup>F3</sup>or attempted to commit ] that offence.
- (4) <sup>F6</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;

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- (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>F2</sup>An] immigration officer may arrest without warrant a person—
- <sup>F7</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>F8</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.]
- (10) In relation to the exercise of the powers conferred by subsections (3)(b) <sup>F9</sup> . . . [<sup>F10</sup>, (5) and (9B)], it is immaterial that no offence has been committed.
- (11) In Scotland the powers conferred by subsections (3) <sup>F11</sup> . . . [<sup>F12</sup>, (5) and (9B)] 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

- F1** 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.)
- F2** 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))
- F3** 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)
- F4** 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.

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- F5** 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)
- F6** 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.
- F7** S. 28A(9A) inserted (10.2.2003) by [2002 c. 41](#), s. 150(1) (with s. 159); S.I. 2003/1, **art. 2**, Sch.
- F8** 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\(f\)](#)
- F9** 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.
- F10** 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\(f\)](#)
- F11** 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.
- F12** 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\(f\)](#)

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

- C3** Ss. 28A, 28CA, 28FA modified (1.1.2007) by [The Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), **reg. 15(c)**
- C4** 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)
- C5** 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)**)
- C6** 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\(8\)](#))
- C7** 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>F1</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>F3</sup>or attempted to commit] an offence under [<sup>F4</sup>section [<sup>F5</sup>24B,] 25, 25A or 25B]; or
  - (b) whom he has reasonable grounds for suspecting has committed [<sup>F3</sup>or attempted to commit] that offence.
- (4) <sup>F6</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

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- (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;
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  - (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
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- [ A constable or immigration officer may arrest without warrant a person—
- <sup>F7</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>F8</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.]

(10) In relation to the exercise of the powers conferred by subsections (3)(b) <sup>F9</sup> . . . [<sup>F10</sup>, (5) and (9B)], it is immaterial that no offence has been committed.

(11) In Scotland the powers conferred by subsections (3) <sup>F11</sup> . . . [<sup>F12</sup>, (5) and (9B)] may also be exercised by a constable.]

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**[<sup>F1</sup>28A Arrest without warrant. N.I.]**

- (1) [<sup>F13</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—
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  - (b) whom he has reasonable grounds for suspecting has committed [<sup>F3</sup>or attempted to commit] that offence.
- (4) <sup>F6</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

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- [<sup>F14</sup>An] immigration officer may arrest without warrant a person—
- <sup>F7</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
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- F13** 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**
- F14** 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**

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