



Immigration Act 1971

1971 CHAPTER 77

PART III

CRIMINAL PROCEEDINGS

[^{F1}28A Arrest without warrant. E+W

- (1) [^{F2}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 [^{F3}or attempted to commit] an offence under [^{F4}section [^{F5}24B,] 25, 25A or 25B]; or
 - (b) whom he has reasonable grounds for suspecting has committed [^{F3}or attempted to commit] that offence.
- (4) ^{F6}.....
- (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.
- [^{F2}An] immigration officer may arrest without warrant a person—
- ^{F7}(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
- ^{F8}(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
- ^{F9}(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)^{F10} . . . [^{F11}, (5) [^{F12}, (9B) and (9C)]] , it is immaterial that no offence has been committed.
- (11) In Scotland the powers conferred by subsections (3)^{F13} . . . [^{F14}, (5) [^{F15}, (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

- 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.)

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- 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.](#)
- 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** 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\(c\)](#)
- F10** 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.](#)
- F11** 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\(f\)](#)
- F12** 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\(c\)](#)
- F13** 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.](#)
- F14** 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\(f\)](#)
- F15** 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)

- C3** 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\(c\)](#))
- C4** Ss. 28A, 28CA, 28FA modified (1.1.2007) by [The Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\), reg. 15\(c\)](#)
- C5** 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)
- C6** 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\(2\)](#))
- C7** 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))
- C8** 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\(2\)](#))
- C9** S. 28A(6)-(9)(10)(11) applied (with modifications) by [Proceeds of Crime Act 2002 \(c. 29\), s. 453C\(4\)](#) (as inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\), ss. 25, 58\(1\), \(6\)](#))

[^{F1}28A Arrest without warrant. **S**

(1) A constable or immigration officer may arrest without warrant a person—

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- (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 [^{F3}or attempted to commit] an offence under [^{F4}section [^{F5}24B,] 25, 25A or 25B]; or
- (b) whom he has reasonable grounds for suspecting has committed [^{F3}or attempted to commit] that offence.
- (4) ^{F6}.....
- (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—
- ^{F7}(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
- ^{F8}(9B) immigration officer has reasonable grounds for suspecting—

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- (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 ^{F9}(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) ^{F10} . . . [^{F11}, (5) [^{F12}, (9B) and (9C)]], it is immaterial that no offence has been committed.

(11) In Scotland the powers conferred by subsections (3) ^{F13} . . . [^{F14}, (5) [^{F15}, (9B) and (9C)]] may also be exercised by a constable.]

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- F10** 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.
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[^{F1}28A Arrest without warrant. N.I.

- (1) [^{F16}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 [^{F3}or attempted to commit] an offence under [^{F4}section [^{F5}24B,] 25, 25A or 25B]; or
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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—
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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—
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- [^{F17}An] immigration officer may arrest without warrant a person—
- ^{F7}(9A) (a) who has committed an offence under section 26A or 26B; or
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- (10) In relation to the exercise of the powers conferred by subsections (3)(b) ^{F10} . . . [^{F11}, (5) ^{F12}, (9B) and (9C)]], it is immaterial that no offence has been committed.
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- 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.
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- F15** 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)
- F16** 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**
- F17** 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)

- C4** Ss. 28A, 28CA, 28FA modified (1.1.2007) by The Accession (Immigration and Worker Authorisation) Regulations 2006 (S.I. 2006/3317), **reg. 15(c)**
- C5** 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)
- C6** 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)**)
- C7** 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))
- C8** 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)**)
- C9** S. 28A(6)-(9)(10)(11) applied (with modifications) by Proceeds of Crime Act 2002 (c. 29), s. 453C(4) (as inserted (27.4.2017 for specified purposes) by Criminal Finances Act 2017 (c. 22), **ss. 25**, 58(1), (6))

Status:

Point in time view as at 11/10/2017. There are multiple versions of this provision on screen. These apply to different geographical extents. This version of this provision has been superseded.

Changes to legislation:

Immigration Act 1971, Section 28A is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.