



Immigration Act 1971

1971 CHAPTER 77

PART III

CRIMINAL PROCEEDINGS

[^{F1}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 [^{F2}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 [^{F3}in relation to each set of premises specified in the application.]

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

- ^{F4}(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.]

Status: Point in time view as at 11/10/2017.

Changes to legislation: Immigration Act 1971, Section 28FB is up to date with all changes known to be in force on or before 29 July 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. (See end of Document for details)

- (2) [^{F5}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
- ^{F6}(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

- F1** 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)
- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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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Modifications etc. (not altering text)

- C1** 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)**)
- C2** 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)

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