



# Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

## 2004 CHAPTER 19

### *Enforcement powers*

#### **14 Immigration officer: power of arrest**

- (1) Where an immigration officer in the course of exercising a function under the Immigration Acts forms a reasonable suspicion that a person has committed or attempted to commit an offence listed in subsection (2), he may arrest the person without warrant.
- (2) Those offences are—
  - (a) the offence of conspiracy at common law (in relation to conspiracy to defraud),
  - (b) at common law in Scotland, any of the following offences—
    - (i) fraud,
    - (ii) conspiracy to defraud,
    - (iii) uttering and fraud,
    - (iv) bigamy,
    - (v) theft, and
    - (vi) reset,
  - (c) an offence under section 57 of the Offences against the Person Act 1861 (c. 100) (bigamy),
  - (d) an offence under section 3 or 4 of the Perjury Act 1911 (c. 6) (false statements),
  - (e) an offence under section 7 of that Act (aiding, abetting &c.) if it relates to an offence under section 3 or 4 of that Act,
  - (f) an offence under section 53 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49) (knowingly giving false information to district registrar, &c.),
  - (g) an offence under any of the following provisions of the Theft Act 1968 (c. 60)

**Status:** Point in time view as at 01/12/2004. This version of this cross heading contains provisions that are prospective.

**Changes to legislation:** Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Cross Heading: Enforcement powers is up to date with all changes known to be in force on or before 26 May 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)

- (i) section 1 (theft),
  - (ii) section 15 (obtaining property by deception),
  - (iii) section 16 (obtaining pecuniary advantage by deception),
  - (iv) section 17 (false accounting), and
  - (v) section 22 (handling stolen goods),
  - (h) an offence under section 1, 15, 16, 17 or 21 of the Theft Act (Northern Ireland) 1969 (c. 16) (N.I.),
  - (i) an offence under section 1 or 2 of the Theft Act 1978 (c. 31) (obtaining services, or evading liability, by deception),
  - (j) an offence under Article 3 or 4 of the Theft (Northern Ireland) Order 1978 (S.I. 1978/1407 (N.I. 23)),
  - (k) an offence under Article 8 or 9 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)),
  - (l) an offence under Article 12 of that Order if it relates to an offence under Article 8 or 9 of that Order,
  - (m) an offence under any of the following provisions of the Forgery and Counterfeiting Act 1981 (c. 45)—
    - (i) section 1 (forgery),
    - (ii) section 2 (copying false instrument),
    - (iii) section 3 (using false instrument),
    - (iv) section 4 (using copy of false instrument), and
    - (v) section 5(1) and (3) (false documents),
  - (n) an offence under any of sections 57 to 59 of the Sexual Offences Act 2003 (c. 42) (trafficking for sexual exploitation),
  - (o) an offence under section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (trafficking in prostitution), and
  - (p) an offence under section 4 of this Act.
- (3) The following provisions of the Immigration Act 1971 (c. 77) shall have effect for the purpose of making, or in connection with, an arrest under this section as they have effect for the purpose of making, or in connection with, arrests for offences under that Act—
- (a) section 28C (entry and search before arrest),
  - (b) sections 28E and 28F (entry and search after arrest),
  - (c) sections 28G and 28H (search of arrested person), and
  - (d) section 28I (seized material).
- (4) In section 19D(5)(a) of the Race Relations Act 1976 (c. 74) (permitted discrimination) —
- (a) for “(within the meaning of section 158 of the Nationality, Immigration and Asylum Act 2002)” substitute “ (within the meaning of section 44 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004) ”, and
  - (b) at the end add “and excluding section 14 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004”.

#### Commencement Information

II S. 14 in force at 1.12.2004 by S.I. 2004/2999 , art. 2 , Sch.

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## 15 Fingerprinting

- (1) Section 141 of the Immigration and Asylum Act 1999 (c. 33) (fingerprinting) shall be amended as follows.
- (2) In subsection (7) for paragraph (c) substitute—
  - “(c) any person (“C”) in respect of whom a relevant immigration decision has been made;”.
- (3) In subsection (8) for paragraph (c) substitute—
  - “(c) for C, on the service on him of notice of the relevant immigration decision by virtue of section 105 of the Nationality, Immigration and Asylum Act 2002 (c. 41);”.
- (4) In subsection (9) for paragraph (c) substitute—
  - “(c) for C—
    - (i) the time when the relevant immigration decision ceases to have effect, whether as a result of an appeal or otherwise, or
    - (ii) if a deportation order has been made against him, its revocation or its otherwise ceasing to have effect;”.
- (5) After subsection (15) add—
  - “(16) “Relevant immigration decision” means a decision of the kind mentioned in section 82(2)(g), (h), (i), (j) or (k) of the Nationality, Immigration and Asylum Act 2002 (c. 41).”

### Commencement Information

**I2** S. 15 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

PROSPECTIVE

## 16 Information about passengers

In paragraph 27B of Schedule 2 to the Immigration Act 1971 (c. 77) (control on entry: provision of information about passengers) after sub-paragraph (4) insert—

“(4A) The officer may ask the carrier to provide a copy of all or part of a document that relates to a passenger and contains passenger information.”

## 17 Retention of documents

Where a document comes into the possession of the Secretary of State or an immigration officer in the course of the exercise of an immigration function, the Secretary of State or an immigration officer may retain the document while he suspects that—

- (a) a person to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and
- (b) retention of the document may facilitate the removal.

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**Commencement Information**

**I3** S. 17 in force at 1.12.2004 by S.I. 2004/2999, art. 2, Sch.

**18 Control of entry**

After paragraph 2A(2) of Schedule 2 to the Immigration Act 1971 (control of entry: persons arriving with leave to enter) insert—

“(2A) Where the person’s leave to enter derives, by virtue of section 3A(3), from an entry clearance, he may also be examined by an immigration officer for the purpose of establishing whether the leave should be cancelled on the grounds that the person’s purpose in arriving in the United Kingdom is different from the purpose specified in the entry clearance.”

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**Commencement Information**

**I4** S. 18 in force at 1.10.2004 by S.I. 2004/2523, art. 2, Sch.

**Status:**

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**Changes to legislation:**

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