



Home Office

Coercive powers: overview

Version 1.0

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About this guidance

This guidance gives Immigration Enforcement immigration officers (IOs) an overview of the coercive powers available to them and explains the intended use of each of the powers.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email Enforcement Operational Policy.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Clearance

Below is information on when this version of the guidance was cleared:

- version 1.0
- published for Home Office staff on **17 March 2016**
-

Official – sensitive: start of section

The information in this page has been removed as it is restricted for internal Home Office use only

Official – sensitive: end of section

Changes from last version of this guidance

New draft

Related content

Asylum, immigration and nationality

[Contents](#)

Definitions of terms used

This page gives Immigration Enforcement immigration officers (IOs) the definitions of terms used when describing the type and use of powers available to them.

Powers: administrative and criminal

The powers described are divided between:

- [administrative powers](#) - that enable you to arrest and detain suspected immigration offenders for the purpose of removing them from the UK
- [criminal powers](#) - that you normally use where it is intended to investigate a person for one of the criminal offences described within immigration legislation and you must only use it when there is an intention to prosecute an individual

When investigating illegal entry and general breaches of immigration conditions of stay you will use administrative powers of detention, arrest and search except where otherwise described.

Powers: common expressions

The following explain some expressions commonly referred to in enforcement guidance.

Reasonable

Many of the powers described in this section use the term 'reasonable', as in reasonable suspicion or reasonable belief.

Reasonable in law means fair, proper or moderate having regard for the circumstances, in this case including your knowledge and training as an IO. It applies an objective test when used with 'suspicion' or 'belief' so that decisions must be based on facts that other people (such as a court of law or your supervisors) could evaluate, for example:

- what another person has done or failed to do
- documentary evidence
- information from witnesses

Reasonable grounds can only be provided by a general assessment of the known facts, the situation, as it is known at the time and a reasonable conclusion drawn from the many possible circumstances that exist. Guesses, hunches and gut feelings are not considered to be reasonable. The reasonable grounds that form the basis of the action must be recorded in the arrest notes. Record keeping during visits tells you how to make the record. There is more information on when you might use this in Arrest and restraint.

Belief and suspicion

You must give the terms 'belief' and 'suspicion' their ordinary meaning, the starting point, therefore, being the dictionary definitions.

Suspicion

A common direction given to criminal juries on what the term ‘suspicion’ means is that there must be **a possibility** that a person liable to arrest is on the premises **that is more than fanciful**.

Moreover, although a vague feeling of unease is not sufficient and there must be a reasonable basis for the possibility, it need not be ‘clear’ or ‘firmly grounded and targeted on specific facts’.

Belief

This is generally regarded as a higher threshold than suspicion. However, the difference between ‘belief’ and ‘suspicion’ is very slight – both may be satisfied at a low threshold. Belief is, for instance, more equivalent to **“knowing that a person may”** be on the premises in question. Belief should therefore be **clear and founded on specific intelligence**.

Premises

A premises is defined as any property or building, whether residential or business, which an IO seeks to enter or search under the immigration acts.

In England and Wales, [section 23 of Police and Criminal Evidence Act 1984 \(PACE\)](#) defines premises as any place and, in particular, includes any:

- vehicle, vessel, aircraft or hovercraft
- offshore installation
- renewable energy installation
- tent or movable structure

When, where and how you are allowed to carry out a search of premises depends on:

- whether you have made an arrest
- where you made the arrest
- your powers to enter and search premises under the various acts

In Scotland and Northern Ireland, the definition of what constitutes premises is derived from [section 412 of the Proceeds of Crime Act 2002](#) and [article 25 Police and Criminal Evidence \(Northern Ireland\) Order 1989](#) respectively, but also includes the categories described above (with the exception of renewable energy installations). There is more information on what may constitute premises in Search and seizure.

Legal privilege

Items subject to ‘legal privilege’ means:

- communications between a professional legal adviser and their client or any person representing their client made in connection with the giving of legal advice to the client

- communications between a professional legal adviser and their client or any person representing their client or between such an adviser or their client or any such representative and any other person made in connection with or in contemplation of legal proceedings
- items, when in the possession of a person entitled to them, that are enclosed with or referred to in such communications and made in connection with:
 - giving legal advice
 - contemplation of legal proceedings and for the purpose of such proceedings

Relevant documents

Relevant documents are those that might establish the arrested person's identity, nationality, or citizenship, or that might indicate which country they have travelled from, or to which country they are proposing to go. Relevant documents may include passports tickets and identity cards, but not items subject to legal privilege.

Responsibilities under section 55: safeguarding and promoting the welfare of children

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) requires the Secretary of State to make arrangements for ensuring that immigration, asylum or nationality functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK.

Anyone exercising immigration, asylum or nationality functions is also required to have regard to the [Every child matters: statutory guidance](#) issued under section 55.

All guidance within general instructions for enforcement staff takes into account the section 55 need to safeguard and promote the welfare of children.

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Immigration officers' powers

This page tells Immigration Enforcement immigration officers (IOs) the controls and sources of the powers available to them.

Powers: constraints

The power of IOs to carry out arrests or to exercise any other power is strictly controlled. No IO appointed by the Secretary State under [schedule 2 part 1\(1\) of the Immigration Act 1971](#) may exercise their powers unless they have been trained and accredited to do so.

As an IO you may only execute your powers in accordance with instructions and with the proper authority described in the instructions. See the guidance on health and competence certification, as well as certification of arrest trained or method of entry (MoE) officers.

If you are a non-designated IO, you must not:

- carry out arrests
- execute warrants
- conduct searches of people or property unless by consent
- carry or use restraints
- transport offenders in official vehicles:
 - if you are a non-arrest trained IO you may drive official vehicles (but not escort detained persons) when a designated IO is present and holds the appropriate vehicle insurance

The police may expect all IOs to use their powers of arrest, entry, search and seizure when on joint operational visits. In such circumstances, you must explain that these powers are only available to a limited number of officers, (those who are authorised and have undertaken the necessary training). For further information on multi-agency visits, see Partnership working.

You are given these powers so you can act on information leading to the arrest or detention of immigration offenders. Ministers have stated publicly that the Home Office will act only where there is sound evidence to suggest that the appropriate evidence may lead to the apprehension of an immigration offender.

Powers: legislative sources

Your power of detention and arrest come mostly from the Immigration Act 1971 (the 1971 act), although some appear in later immigration acts:

- [schedule 2 to the 1971 act](#) contains the [administrative powers](#) of arrest, entry, search and seizure where a person is liable to detention under [paragraph 16](#) of that schedule
- most of the [criminal powers](#) can be found in [part 3 of the 1971 act](#), which provides you with the powers to:
 - arrest
 - enter [premises](#) to search for persons or evidence

- search persons
- seize evidence

where the person is reasonably suspected of having committed, or having attempted to commit, an immigration offence

Related content

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Assistant immigration officers' powers and constraints

This page tells Immigration Enforcement assistant immigration officers (AIOs) the powers and constraints relating to them.

Assistant immigration officers (AIOs) may conduct interviews subject to the following constraints but may not make decisions as to what action, if any, to take as a result of the interview.

AIOs on Pathway mentoring with a view to becoming substantive immigration officers are permitted to conduct Police and Criminal Evidence Act 1984 (PACE) interviews. AIOs may apply to a court for a warrant to enter and search premises but may not execute the warrant.

Related content

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Sources for administrative and criminal powers

This page tells Immigration Enforcement immigration officers (IOs) the sources of the powers available to them when they are exercising administrative or criminal powers.

Powers of entry: options

There are 4 powers of entry options:

- [entry to search and arrest with warrant](#)
- [without warrant](#) (see Entry and search of premises following arrest) (for example under paragraph 17(2) and 25A of schedule 2 to the Immigration Act 1971 (the 1971 act), (see [Tables of offences and associated powers](#))
- by informed consent
- by [assistant director \(AD\) letter](#) (see Search of a business premises without warrant on the authority of an assistant director) (section 28CA of the 1971 act), see also Illegal working operations

Power to use reasonable force

[Section 146\(1\) of the Immigration and Asylum Act 1999 \(the 1999 act\)](#) provides the power for an IO to use reasonable force in the exercise of any power conferred by the immigration acts. For the use of force to be lawful it must be:

- proportionate
- reasonable
- necessary

Any use of force must also be fully recorded and auditable.

Power to retain relevant documents

Where a document comes into the possession of the Secretary of State or an IO in the course of exercising an immigration function, there is a power under [section 17 of the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) to retain [relevant documents](#) where you suspect an individual may be liable to removal, and the documents 'may facilitate removal'. For more information, see Retention of valuable documents.

Related content

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Administrative powers

This page tells Immigration Enforcement immigration officers (IOs) the controls and sources of the administrative powers available to them.

Purpose of administrative powers

Use administrative powers when your intention is to pursue removal from the UK rather than investigate a criminal offence with a view to prosecution.

Where you suspect that a criminal offence has been committed and that prosecution might be followed, but a Criminal and Financial Investigation (CFI) trained IO is not present on the visit, seek advice from the local crime team or their Priority and Volume Criminal Investigator. For more information, see [Criminal powers](#).

Powers are provided under [schedule 2 to the Immigration Act 1971](#) (the 1971 act) to allow you to locate, arrest and detain for removal those in respect of whom there are reasonable grounds for suspecting that removal directions may be given, pending a decision whether to give directions. There is more information on the conduct of arrests.

When to use administrative powers following a criminal arrest

Where you have investigated a criminal offence and the Crown Prosecution Service (CPS) subsequently make a decision that it is not in the public interest to proceed with charging the individual (such as where it is a less serious immigration offence), then you must consider whether the person may be liable to removal from the UK using the relevant administrative powers to achieve this end.

Administrative powers: source and type

Contents:

[Power of examination: paragraph 2 schedule 2](#)

[Power to detain: paragraph 16\(2\) schedule 2](#)

[Fingerprinting powers](#)

[Arrest for failure to comply with fingerprinting](#)

[Arrest without warrant: paragraph 17\(1\) schedule 2](#)

[Entry to search and arrest with warrant: paragraph 17\(2\) schedule 2](#)

[People granted bail: arrest without warrant: paragraph 24\(1\) schedule 2](#)

[People subject to restrictions imposed by a court pending deportation: arrest without warrant: paragraph 7\(1\) schedule 3](#)

[Entry and search of premises following arrest: paragraph 25A schedule 2](#)

[Entry and search of premises with warrant following arrest: paragraph 25A\(6A\) schedule 2](#)

[Searching arrested people: paragraph 25B schedule 2](#)

[Searching people in police custody: paragraph 25C schedule 2](#)

[Entry and search for evidence of nationality or identity without warrant: section 44 to 46 of 2007 Act](#)

[Entry and search for evidence of nationality or identity with warrant: section 45 of 2007 Act](#)

[Search of a business premises without warrant on the authority of an assistant director: section 28CA](#)

Power of examination: paragraph 2 schedule 2

[Paragraph 2 of schedule 2 to the 1971 act](#) provides a power of examination in order to determine a person's immigration status. The long-standing judgment of 'Singh v Hammond' provides the legal basis for the exercise of the power of examination away from the place of entry subject to certain conditions being met. There is more information in the Enforcement visits by type guidance and the Enforcement interviews guidance.

Power to detain: paragraph 16(2) schedule 2

The power to detain an overstayer, a person breaching conditions of leave, or people who are seeking or have obtained leave by deception (or someone suspected to be such a person) is in [paragraph 16\(2\) of schedule 2 to the 1971 act](#). Paragraph 16(2) states:

If there are [reasonable grounds](#) for suspecting that a person is someone in respect of whom directions may be given under any of paragraphs 8 to 10A or 12 to 14, that person may be detained under the authority of an IO pending:

- a) a decision whether or not to give such directions
- b) his removal in pursuance of such directions

The power to detain a person who is subject to deportation action is set out in of [paragraph 2 of schedule 3 to the 1971 act](#), and [section 36 of the UK Borders Act 2007 \(the 2007 act\)](#) (automatic deportation). This includes those:

- whose deportation has been recommended by a court pending the making of a deportation order
- who have been served with a notice of intention to deport pending the making of a deportation order
- who are being considered for automatic deportation or pending the making of a deportation order as required by the automatic deportation provisions
- who are the subject of a deportation order pending removal

For further information, see the Detention management guidance.

Fingerprinting powers

[Paragraph 18\(2\) of schedule 2 to the 1971 act](#) allows for the Secretary of State or an IO to take all reasonable steps necessary for photographing, measuring or otherwise identifying (including the power to take biometric information) a person who is detained or liable to be detained under paragraph 16.

[Section 141 of the Immigration and Asylum Act 1999 \(the 1999 act\)](#) provides the power to take fingerprints in immigration cases from any person who:

- fails to produce a valid passport with photograph or some other document, satisfactorily establishing their identity and nationality and citizenship, when required to do so by an IO, on their arrival in the UK
- has been refused leave to enter the UK but granted temporary admission under [paragraph 21 of schedule 2 to the 1971 act](#), if an IO reasonably suspects they might break any condition imposed on them relating to residence as to reporting to the police or an IO
- requires leave to enter or remain but does not have it

In addition, an individual may be fingerprinted who has been arrested under [paragraph 17 of schedule 2 to the 1971 act](#) including an individual who:

- has made a claim for asylum
- is the dependant of someone who falls into one of the above categories

Arrest for failure to comply with fingerprinting

Under [section 142\(3\) of the 1999 act](#), an IO or police constable may arrest without warrant a person who has failed to comply with a requirement imposed on them to comply with fingerprinting requirements under section 141 of the 1999 act.

Arrest without warrant: paragraph 17(1) schedule 2

Under [paragraph 17\(1\) of schedule 2 to the 1971 act](#), IOs and police constables have the power to arrest people who are liable to be detained under [paragraph 16 of schedule 2](#) without a warrant.

Entry to search and arrest with warrant: paragraph 17(2) schedule 2

[Paragraph 17\(2\) of schedule 2 to the 1971 act](#) allows a Justice of the Peace (JP) or sheriff to issue a warrant authorising any IO (or police constable) to enter a named address to search for and arrest a person. However, they must be satisfied that there are [reasonable grounds](#) for suspecting that a person is liable to be arrested under paragraph 17(1) and is to be found on the premises named in the warrant.

Under [paragraph 2 of schedule 3 to the 1971 act](#) (detention or control pending deportation), you can apply your existing powers under schedule 2 to people liable to be detained under paragraphs 2(2) and 2(3) of schedule 3. This relates to those who are subject of a notice of intention to deport or a deportation order. In Scotland, the JP or sheriff may only issue a warrant if the premises are in a place within their jurisdiction. [Section 53 of the Immigration, Asylum and Nationality Act 2006 \(the 2006 act\)](#) refers to this.

People granted bail: arrest without warrant: paragraph 24(1) schedule 2

[Paragraph 24\(1\)\(a\) of schedule 2 to the 1971 act](#) allows an IO (or police constable) to arrest without warrant a person bailed under [paragraph 22 of schedule 2](#), if they have reasonable grounds to believe that the person is:

- likely to break the condition of their bail, that they will appear at the time and place required, or to break any other condition of it
- breaking or has broken any such other condition

Under [paragraph 24\(1\)\(b\) of schedule 2 to the 1971 act](#), an IO (or police constable) may also arrest a person bailed under [paragraph 22 of schedule 2](#) if they are notified in writing by any surety (the person taking responsibility for the bailed person) of their:

- belief that the person is likely to break the condition that they will appear at the time and place required
- wish, for that reason, to be relieved of their obligations as a surety

[Paragraph 33\(1\) of schedule 2 to the 1971 act](#) contains identical provision in relation to persons released on bail pending appeal under [paragraph 29 of schedule 2](#).

People subject to restrictions imposed by a court pending deportation: arrest without warrant: paragraph 7(1) schedule 3
[Paragraph 7\(1\) of schedule 3 to the 1971 act](#) allows for the arrest, without warrant, of a person subject to restrictions imposed by a court under that schedule (pending deportation), if there are [reasonable grounds](#) for [believing](#) the restrictions have been, are being, or are likely to be contravened.

Any people arrested under this paragraph must be brought before a JP.

England and Wales

The person must be brought before a magistrate as soon as practicable and in any event within 24 hours of their arrest, see [paragraph 8\(1\) of schedule 3 to the 1971 act](#).

Northern Ireland and Scotland

The person should be brought before a Justice of the Peace (Scotland) or a Justice of the Peace for the petty sessions district in which they were arrested (Northern Ireland) during the course of the first day after their arrest. Flexibility may apply when this is a non-working day, see [paragraph 9 of schedule 3 to the 1971 act](#).

For further information on court recommended deportation.

Entry and search of premises following arrest: paragraph 25A schedule 2

If an IO or police constable arrests a person:

- under [schedule 2 to the 1971 act](#)
- using another power (such as a criminal arrest power) and subsequently detained by an IO under schedule 2

[paragraph 25A of schedule 2 to the 1971 act](#), as amended, allows an IO to search without warrant, and seize [relevant documents](#) such as passports tickets and identity cards, but not items subject to [legal privilege](#), at:

- the [premises](#) where the:
 - person was arrested
 - arrested person was immediately before arrest
- any premises the arrested person:
 - occupies
 - controls

If you are going to conduct a search after the arrested person has been taken to a place of detention, a chief immigration officer (CIO) or above must give written authority for the search in advance.

You may conduct the search before taking the arrested person to a place of detention if the person's presence is necessary to conduct an effective search. In this case you do not require authority to conduct the search, though you must inform a CIO or above about the search as soon as it is practical.

In both cases the CIO or above must make a written record of the grounds of the search and the nature of the documents that were sought.

Entry and search of premises with warrant following arrest: [paragraph 25A\(6A\) schedule 2](#)

Under paragraph 25A(6A) of [schedule 2 to the 1971 act](#) (as inserted by [Immigration Act 2014](#)), a JP or sheriff may issue a warrant to an IO to enter and search specified third party premises for relevant documents, if there are [reasonable grounds](#) for believing that such documents may be found there and the conditions in paragraph 25A(6B) are met.

When using paragraph 25A of schedule 2 powers, with or without warrant, you may retain a document seized during the search, while you have reasonable grounds for believing that:

- the arrested person may be liable to removal from the UK
- retention of the document may facilitate the person's removal

Searching arrested people: [paragraph 25B schedule 2](#)

[Paragraph 25B of schedule 2 to the 1971 act](#) allows an IO to search a person who has been arrested under [schedule 2 to the 1971 act](#) but is not in custody at a police station. The search may be for the purposes of seizing [relevant documents](#) and items, which may cause harm or be used to assist escape.

You cannot retain anything seized under this paragraph relating to harm or escape for longer than the offender is in custody or until they are granted bail.

Searching people in police custody: paragraph 25C schedule 2

[Paragraph 25C of schedule 2 to the 1971 act](#) allows an IO to search a person who has been arrested under [schedule 2 to the 1971 act](#) and is in custody at a police station. It also provides for the seizure of [relevant documents](#) and items that may cause harm or be used to assist escape.

You cannot retain anything seized under this paragraph relating to harm or escape for longer than the offender is in custody or until they are granted bail.

If you are searching under this provision you must be the same sex as the person search.

Entry and search for evidence of nationality or identity without warrant: section 44 to 46 of 2007 Act

[Section 44 to 46 of the 2007 act](#) enables IOs or police constables to search for [relevant documents](#) without warrant following arrest for any **criminal** offence.

It applies to premises:

- occupied or controlled by the individual
- where the individual was arrested
- where the individual was immediately before their arrest

The power applies to people arrested on suspicion of involvement in the commission of an offence and where there are reasonable grounds to suspect that:

- the individual is not a British citizen
- nationality documents may be found on the premises

You may not exercise the power once the suspect has been released without charge for the criminal offence. However if the individual has been identified as an immigration offender, any relevant documents which have been seized under [section 46 of the 2007 act](#) may be passed to, or retained by, the Home Office to facilitate the person's removal from the UK.

Searches under this power will only be necessary where:

- an individual fails to co-operate in establishing their identity
- you have reasonable grounds to believe that they are being deceptive over their identity, and you must record this

You must get separate written authorisation from senior officers (CIO or inspector respectively) to use the section 44 power, depending on whether IOs or police constables conduct the search.

Entry and search for evidence of nationality or identity with warrant: section 45 of 2007 Act

[Section 45 of the 2007 act](#) provides for entry and search, in the same circumstances as section 44 above, but in relation to premises not controlled by the individual and/or were not the premises at which they were arrested.

A JP or sheriff may issue a warrant on application where an IO or police constable presents grounds to show that there are reasonable grounds for believing that nationality documents may be located on the premises, the suspect is not a British citizen and certain conditions are met, including:

- it is not practical to communicate with a person who could allow entry to the premises
- the purpose of the search would be frustrated or seriously prejudiced if you could not gain immediate entry

If a warrant is to be obtained by, or executed by, a police constable in England and Wales the safeguards in [sections 15 and 16 of the Police and Criminal Evidence Act 1984 \(PACE\)](#) will also apply.

Search of a business premises without warrant on the authority of an assistant director: section 28CA

[Section 28CA of the 1971 act](#) provides the power to enter and search a business premises without warrant on the authority of an assistant director (AD). This is normally provided by use of an AD's letter.

An AD's letter can only be issued where the constable or IO has reasonable grounds for believing that the person whom they are seeking is on the premises and entry is reasonably required in order to:

- criminally arrest a person for the offence of:
 - illegal entry (section 24 of the 1971 act)
 - deception (section 24A of the 1971 act)
- to administratively arrest a person on the basis that there are reasonable grounds to suspect that they are someone in respect of whom removal directions might be given (paragraph 17 of schedule 2 to the 1971 act)

Related content

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Criminal powers

This page tells Immigration Enforcement immigration officers (IO) the controls and sources of the criminal powers available to them.

Purpose of criminal powers

You must only use criminal powers when there is a genuine intention to prosecute an individual for immigration related criminal offences. These powers directly relate to the investigation of a suspected immigration offence. They are not about establishing immigration status and are distinct and separate from the administrative powers. It is expected that Immigration Compliance and Enforcement (ICE) team officers would rarely use these powers.

Part 3 of the [Immigration Act 1971](#) (the 1971 act), section 109A of the [Immigration and Asylum Act 1999](#) (the 1999 act), sections 2(10), 14 and 35(5) of the [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) (the 2004 act) and section 23 (relating to offence of assaulting an IO) of the [UK Borders Act 2007](#) (the 2007 act) provide powers to IOs, allowing you, in certain circumstances, to:

- search persons and [premises](#)
- enter premises for the purposes of searching for and arresting persons
- seize and retain relevant material in relation to criminal offences

The provision of these powers is necessary to allow the Home Office to make use of existing powers of arrest and to operate, in appropriate circumstances, without accompanying police support when conducting operational visits.

Investigation of an offence involves the process of examining whether the offence has been committed and by whom. The usual purpose of investigation in the criminal context is prosecution.

Using criminal powers to obtain information for the purpose of administrative removal action (such as by searching for evidence of identity in order to document the offender to effect removal), could be using the powers for an improper purpose. Searching on behalf of other agencies is, similarly, likely to be using powers for an improper purpose.

Criminal and financial investigation (CFI) teams in Immigration Enforcement have relevant powers and expertise in the specialist area of investigating immigration related offences. Where a criminal offence is suspected, you **must** refer the case to the local CFI team immediately.

Police and Criminal Evidence Act 1984 (PACE)

[The Police and Criminal Evidence Act 1984 \(PACE\)](#) applies in England and Wales only. [The Police and Criminal Evidence \(Northern Ireland\) Order 1989](#) applies in Northern Ireland. References to PACE in this manual cover both the 1984 act and the 1989 order, except where stated otherwise.

The [PACE codes of practice](#) apply to the police:

- exercising statutory powers to search people and vehicles
- detaining, treating, questioning and identifying people
- searching premises, and the seizure of property they find on people or premises

[Section 67\(9\) of PACE](#) makes provision for people other than police officers who are charged with the duty of investigating offences or charging offenders in England and Wales to have regard to any relevant parts of the codes.

You must have regard to any relevant provision of the PACE codes of practice when investigating a criminal offence in England and Wales. In addition, [section 145 of the 1999 act](#) permits the Secretary of State to issue a direction specifying which provisions of the PACE codes of practice IOs must have regard to when exercising certain specified powers.

The specified powers and provisions are laid out in directions, when exercising the specified powers in England and Wales you must adhere to the Immigration (PACE Codes of Practice) Direction 2013. This covers all relevant powers available to an IO.

Criminal procedures: Scotland and Northern Ireland

PACE does not apply in Scotland, where the [Criminal Procedure \(Scotland\) Act 1995](#) is the relevant legislation.

When exercising the specified powers in Northern Ireland you must adhere to the Immigration (PACE Codes of Practice) Direction 2000 and the Immigration (PACE Codes of Practice No 2 and amendment) Direction 2000.

The directions contain, in their schedules, specified modifications to the [PACE codes of practice](#), which make them applicable to IOs.

Criminal powers: source and type

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[Entry and search of premises for evidence: section 28D](#)

[Entry and search without warrant for evidence following arrest under part 3 of the 1971 Act: section 28E](#)

[Entry and search of premises following arrest under section 25, 25A, or 25B: section 28F](#)

[Search for personnel records: section 28FA](#)

[Search of people arrested who are not in a police station: section 28G](#)

[Searching people in police custody: section 28H](#)

[Obstruction or assault: section 23 of 2007 Act](#)

[Power to seize cash: POCA](#)

Arrest without warrant section 28A

[Section 28A of the 1971 act](#) gives a power of arrest without warrant where you have reasonable grounds for suspecting that a person has committed an offence under section 24 (other than section 24(1)(d)) or has committed or attempted to commit an offence under section 24A.

Special note for Scottish IOs

In Scotland, police constables **may still exercise** arrest powers under section 28A(3) and (5). See [section 28A](#) of the Immigration Act 1971 for further details of extent of these powers within England and Wales, Scotland and Northern Ireland.

Arrest with warrant: section 28AA

[Section 28AA of the 1971 act](#) provides a power of arrest with a warrant for an offence under [section 24\(1\) \(d\) of the 1971 act](#) or [section 21\(1\) of the Immigration, Asylum and Nationality Act 2006 \(the 2006 act\)](#).

Entry with warrant to search and arrest: section 28B

[Section 28B of the 1971 act](#) allows a Justice of the Peace (JP) or sheriff, to issue a warrant authorising a police constable or an IO to enter specified premises, by force if necessary, to search for and arrest a person. However, they must be satisfied that there are [reasonable grounds](#) for suspecting that the person, who is liable to be arrested for a 'relevant offence', is to be found on the premises. Most of the relevant offences for the purposes of section 28B are covered in section 28B(5), but note that section 28B also applies to some offences in later immigration acts.

Entry without warrant to search and arrest: section 28C

[Section 28C of the 1971 act](#) empowers an IO to enter and search any premises to arrest a person for the offences of facilitation under [section 25, 25A and 25B of the 1971 act](#). This section is based on [section 17 of PACE](#) and applies only to the facilitation offences.

Section 28C can also be used for the offences listed in [section 14\(2\) of the 2004 act](#).

Entry and search of premises for evidence: section 28D

Under [section 28D of the 1971 act](#) a JP or sheriff may issue a warrant authorising an IO to enter and search premises. The section is based on [section 8 of PACE](#) and contains similar safeguards.

Before issuing a warrant under section 28D of the 1971 act, a JP or sheriff has to be satisfied that there are [reasonable grounds](#) for believing that:

- a relevant offence has been committed as defined in section 28D(4)
- there is material on the premises to be searched which is likely to be of substantial value (either by itself or together with other material) to the investigation of the offence
- the material sought 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 (definitions of these terms can be found in [section 10](#), [section 11](#) and [section 14](#) of PACE)

Entry and search without warrant for evidence following arrest under part 3 of the 1971 Act: section 28E

Where a person is arrested for an offence under [part 3 of the 1971 act](#), [section 28E](#) allows an IO to enter and search any premises in which the person:

- was when arrested
- were in immediately before they were arrested, for evidence relating to the offence for which the arrest was made

You may only rely upon the power where you have [reasonable grounds](#) for believing that there is relevant evidence on the premises, and you may only search as far as it is reasonably required to discover that evidence.

Section 28E also allows you to seize and retain relevant evidence found during any search, although you may not seize material, which you have reasonable grounds to believe to be subject to [legal privilege](#).

Entry and search of premises following arrest under section 25, 25A, or 25B: section 28F

Where you arrest a person for a suspected criminal offence under [section 28F of the 1971 act](#), you may use the power to search for relevant evidence in connection with the offence to support a possible prosecution for facilitation. In these circumstances, you must get advice from CFI.

Search for personnel records: section 28FA

In cases in which you are lawfully on the premises and you have reasonable grounds to believe that an immigration employment offence under [section 21 of the 2006 act](#) has been committed, you have the power to search for employee records under [section 28FA of the 1971 act](#) without a warrant. The following restrictions apply in terms of the basis for exercising this power:

- you must have made an arrest under [section 24\(1\)](#), [section 24A\(1\)](#) or [paragraph 17 of schedule 2](#), or you or the police constable must reasonably believe a person is liable to arrest under those provisions
- you or the police constable must reasonably believe that a person has committed an immigration employment offence in relation to the person arrested or liable to arrest
- you or the police constable must reasonably believe that employee records, other than items subject to [legal privilege](#), will be found on the premises and will be of substantial value in the investigation of the immigration employment offence

There is also guidance on Illegal working operations.

Entry and search of business premises with warrant: section 28FB

[Section 134 of the Nationality, Immigration and Asylum Act 2002](#) (the 2002 act) allows the Home Office to require an employer to supply information about an employee in order to establish both:

- where the employee is
- the employee's earnings and employment history

If there are reasonable grounds for believing that the employer has provided inaccurate or incomplete information, you can consider applying for a warrant under [section 28FB of 1971 act](#).

Under section 28FB of the 1971 act a JP or sheriff may issue a warrant authorising an IO to enter and search business premises for personnel records. The warrant will only be issued provided that there are [reasonable grounds](#) for believing:

- an employer has provided inaccurate or incomplete information under section 134 of the 2002 act
- 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
- one of the conditions in section 28FB(2) are met

You must read section 28FB before applying for the warrant to ensure the limitations and/or conditions are met.

Search of people arrested who are not in a police station: section 28G

[Section 28G of the 1971 act](#) applies where a person has been arrested for an offence under [part 3 of the 1971 act](#) at a place other than a police station. Under subsection (2), an IO may search the arrested person if they have reasonable grounds for believing that the arrested person may present a danger to themselves or others. Under subsection (3), an IO may search the arrested person for anything which:

- they might use to assist their escape
- might be evidence relating to the offence for which they have been arrested

Searching people in police custody: section 28H

[Section 28H of the 1971 act](#) applies where a person has been arrested for an offence under [part 3 of the 1971 act](#) and is in police custody. The police custody officer will determine if a search is required.

The police may retain seized items which might be used to cause harm or to assist escape.

If you are an IO you may retain seized items which are evidence relating to the offence.

Make sure when you search a person you are of the same sex as the person you are searching. You may not conduct an intimate search (defined in section 28H(11)).

Obstruction or assault: section 23 of 2007 Act

Under [section 26\(1\)\(g\) of the 1971 act](#) a person is guilty of an offence if, without reasonable excuse, they obstruct an IO or other person lawfully acting in the execution of the 1971 act.

Assaulting an IO is an offence under [section 22 of the 2007 act](#). A person assaulting an IO may be arrested without warrant in accordance with section 23.

For more information, see Enforcement visits by type.

Power to seize cash: POCA

Although all IOs have the same powers under the Proceeds of Crime Act 2002 (POCA) to seize cash, the power to seize cash under POCA is generally restricted by Home Office policy to IOs who are criminal or financial investigators.

Immigration Enforcement arrest team officers who have completed a National Police Improvement Agency (NPIA) one day cash seizure course may seize cash where:

- they are lawfully on the premises
- the cash is in excess of the minimum amount (£1,000)
- authorisation to seize the cash has been given by a criminal or financial investigator

For further information, see who can legally seize cash.

Related content

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Tables of offences and associated powers

This page summarises the administrative powers of an Immigration Enforcement immigration officer (IO) and the maximum penalty that may be applied to a person for an offence under the various immigration acts.

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Administrative powers of an Enforcement IO

The following 4 tables summarise the administrative powers of an Immigration Enforcement immigration officer (IO) under the various immigration acts.

Immigration Act 1971

Paragraph	Description	Comments
Schedule 2 paragraph 2	Examination of passengers arriving with leave	A power of examination in order to determine a person's immigration status. The long-standing judgment of 'Singh v Hammond' provides the legal basis for the exercise of the power of examination away from the place of entry, subject to certain conditions being met.
Schedule 2 paragraphs 9 to 10A	Set removal directions	Powers are for removal of people without leave at carriers' expense, public expense, and removal of family members.
Schedule 2, paragraph 11	Authority to place person being removed on board a ship or aircraft	IO authorises owner or agent to place person onboard.
Schedule 2, paragraphs 12 to 14	Removal directions: Seamen and aircrews	IO gives directions to captain, owner or agent to remove person.
Schedule 2, paragraph 16(2)	Detention	Where there are reasonable grounds to suspect directions may be given under paragraphs 8 to 10A or 12 to 14, pending a decision on whether or not to give such directions, and pending removal in pursuance of such directions.
Schedule 2, paragraph 17(1)	Arrest of person liable to be detained under paragraph 16	Power also conferred on police constables.

Paragraph	Description	Comments
Schedule 2, paragraph 17(2)	Entry warrant to arrest under paragraph 17(1)	The Justice of the Peace or sheriff may grant a warrant if they are satisfied by written information on oath that there is reasonable ground for suspecting that such a person is to be found on the premises in question.
Schedule 2, paragraph 18(2)	Power to photograph, measure or otherwise identify detained person or person liable to detention	Also conferred on police constables, prison officers and other persons authorised by the Secretary of State. Includes the power to take biometric information.
Schedule 2, paragraph 18(3)	Authority to transport a detained person	Person may also be taken into the custody of a police constable for such purposes.
Schedule 2, paragraph 21	Temporary admission and reporting conditions	Granting of temporary admission does not prejudice a later exercise of the power to detain. Restrictions may be as to residence, employment, occupation or reporting to the police or an IO. Power must be exercised in writing.
Schedule 2, paragraph 22(1A)	Temporary release (Bail)	Chief Immigration Officer (CIO) power. Power to include in the conditions of the recognizance (or bail bond) such conditions as appear to the IO to be likely to result in the appearance of the person bailed at the required time and place. Power to determine whether the recognizance should be with or without sureties.
Schedule 2, paragraph 24	Power to arrest (without warrant) a person released under paragraph 22	Applies if the officer has reasonable grounds for believing the person is likely to break, is breaking or has broken a condition of the recognizance (or bail bond). Also applies, in a case where sureties have been taken, where the surety gives written notification of their belief that the person will not appear at the stated place and time and wishes to be released as surety for that reason. Power of arrest also conferred on police constables. Paragraph 17(2) applies for the arrest of a person under the paragraph as it applies for the arrest of a person under paragraph 17.

Paragraph	Description	Comments
Schedule 2, paragraph 25A(2)	Entry and search of premises linked to person arrested without warrant for documents	<p>Power to enter and search premises:</p> <ul style="list-style-type: none"> • occupied or controlled by a person arrested under the schedule • in which that person was when or immediately before they were arrested <p>before the person is taken to detention, for relevant documents. You do not need CIO authority, but inform the CIO as soon as practical.</p> <p>Also applies in respect of a person arrested other than under the schedule and then detained by an immigration officer under the schedule. Authorised at CIO level.</p>
Schedule 2, paragraph 25A(6A)	Entry and search of premises with warrant for documents	Power to enter and search any premises for nationality documents in accordance with the warrant.
Schedule 2, paragraph 25A(7)	Power to seize and retain documents found.	You can only seize documents you have reasonable grounds for believing are relevant documents. You may not seize legally privileged documents.
Schedule 2, paragraph 25B	<p>Search of arrested person (not in police custody)</p> <p>Power to seize and retain items found</p>	<p>Powers to search a person for items, which may cause harm, and items which may assist escape or relevant documents.</p> <p>Power does not authorise you to require a person to remove their clothing in public (other than a jacket, coat or glove). Power does authorise you to search a person's mouth.</p>
Schedule 2, paragraph 25C	Search of arrested person in police custody	<p>Powers to search a person for items, which may cause harm, and items, which may assist escape or relevant documents.</p> <p>You must be same sex as the person you are searching. You may not conduct an intimate search under the paragraph.</p>
Schedule 2, paragraph 25C(4)	Power to seize and retain items found on a search	Seized items may only be retained while person is in custody.
Schedule 2, paragraph 25D(3)	Copying seized material	Power to photograph and copy, or have photographed or copied, material seized and retained under the schedule.

Paragraph	Description	Comments
Schedule 2, paragraph 29(2)	Bail pending appeal	Power reserved to CIOs and police inspectors or above. A person may not be released under the paragraph without the consent of the Secretary of State if removal directions are in force and require the person to be removed within 14 days.
Schedule 2, paragraph 33(1)	Power to arrest (without warrant) a person released under paragraph 29	Must be brought before JP or sheriff within 24 hours.

Immigration and Asylum Act 1999

Section	Description	Comments
Section 36	Detention of vehicles etc. in connection with civil penalties for carrying clandestine entrants	Power reserved to CIOs or above. Under section 35, the Secretary of State must issue a notice if they decide a person is liable to a penalty under section 32 (penalty for carrying clandestine entrants).
Section 141	Fingerprinting	Power also conferred on police constables, prison officers, authorised officers of the Secretary of State and people employed by a contractor under a removal centre contract. Power only applies during 'the relevant period'.
Section 142(3)	Attendance for fingerprinting	Power to arrest (without warrant) a person who fails to comply with a requirement imposed under the section to attend a specified place for fingerprinting.
Section 146	Reasonable force	Power to use reasonable force, if necessary, in exercising any power conferred on IOs under the immigration acts.

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

Section	Description	Comments
Section 17(1)	Retention of documents	Power applies while officer or the Secretary of State suspects that a person to whom the document in their possession relates may be liable to removal and that retention of the document may facilitate removal.

UK Borders Act 2007

Section	Description	Section
Section 44	Entry and search for identity or nationality documents without warrant	Applies to IOs on written authorisation of at least a CIO. Applies to constables on written authorisation of at least an Inspector. Power applies to a person arrested for any criminal offence.
Section 45	Entry and search for identity or nationality documents with warrant	Power applies to a person arrested for any criminal offence.
Section 46	Seizure of nationality documents	Power to seize identity or nationality document found under a section 44 or 45 search and to retain while person may be liable to removal.

Offences and maximum penalties

The following 5 tables summarise the maximum penalty that may be applied to a person for an offence under the various immigration acts.

Note: The maximum fine that can be given for summary offences in Scotland is £10,000 and in Northern Ireland is £5,000.

Immigration Act 1971

Paragraph	Offence	Maximum penalty
24(1)(a)	Illegal entry, knowingly entering without leave or in breach of a deportation order	6 months imprisonment, unlimited fine or both
24(1)(b)(i)	Knowingly overstaying	As above
24(1)(b)(ii)	Knowingly failing to observe a condition of leave	As above
24(1)(c)	Crew: failure to depart on designated ship or aircraft	As above
24(1)(d)	Failure to report to a medical officer or to attend or submit to an examination or test as required by such an officer, without reasonable excuse	As above
24(1)(e)	Failure to comply with temporary admission or release restrictions without reasonable excuse	As above
24(1)(f)	Disembarking prior to removal	As above
24(1)(g)	Embarking contrary to an Order in Council (Where Order in Council has been made and is in force)	As above
24A	Obtaining or seeking to obtain leave to enter or remain by deception, or securing or seeking to secure the avoidance, postponement or revocation of enforcement action, by means which include deception	2 years imprisonment, unlimited fine or both

Paragraph	Offence	Maximum penalty
25	Assisting unlawful immigration to a member state	14 years imprisonment, unlimited fine or both
25A	Knowingly and for gain, facilitating the arrival in, or entry into, the UK of an asylum seeker	As above
25B	Assisting entry to the UK of an EU national in breach of a deportation order or exclusion order	As above
26(1)(a)	Refusing or failing to submit to an examination under schedule 2 without reasonable excuse	6 months imprisonment, unlimited fine or both
26(1)(b)	Refusing or failing to furnish or produce information or documents in their control or possession required on examination under schedule 2 without reasonable excuse	As above
26(1)(c)	Knowingly making a false statement on examination	As above
26(1)(d)	Altering, without lawful authority, any documents issued or used for the purposes of this act, or having possession of such documents which are known to be false	As above
26(1)(e)	Failing to complete and produce a landing or embarkation card without reasonable excuse	As above
26(1)(f)	Failing to comply with requirements to register with the police, or requirements to make and keep hotel records	As above
26(1)(g)	Obstructing an immigration officer without reasonable excuse	As above
26A(3)(a), (b), (d), (e), (f) or (g)	Making, altering, or using a false registration card or making an article designed to make one	10 years imprisonment, unlimited fine or both
26A(3)(c) or (h)	Having a false registration card without reasonable excuse or possessing an article designed to be used in making one	2 years imprisonment, unlimited fine or both
26B	Possessing an immigration officer's stamp or replica of such a stamp	As above

Immigration and Asylum Act 1999

Section	Offence	Maximum penalty
91	Providing immigration advice or services when not a qualified person or in contravention of a restraining order	2 years imprisonment, unlimited fine or both
105	False representations to obtain asylum support	6 months imprisonment, unlimited fine or both

Section	Offence	Maximum penalty
106	Dishonest representations to obtain asylum benefits or payments	7 years imprisonment, unlimited fine or both

Nationality, Immigration and Asylum Act 2002

Section	Offence	Maximum penalty
137	Failure, without reasonable excuse, to disclose specified information (employer or financial institution)	6 months imprisonment, unlimited fine or both

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

Section	Offence	Maximum penalty
2(1) and (2)	Entering the UK without a passport, without reasonable excuse	2 years imprisonment, unlimited fine or both
4	Trafficking people for exploitation (Remains in force in Northern Ireland and Scotland – replaced in England and Wales by section 2 of the Modern Slavery Act 2015)	14 years imprisonment, unlimited fine or both
35	Failing, without reasonable excuse, to comply with specified action to enable a travel document to be obtained	2 years imprisonment, unlimited fine or both

Immigration, Asylum and Nationality Act 2006

Section	Offence	Maximum penalty
21	Knowingly employing an adult without leave to be in the UK or whose conditions of leave prohibit employment	2 years imprisonment, unlimited fine or both

UK Borders Act 2007

Section	Offence	Maximum penalty
22	Assaulting an immigration officer	6 months imprisonment, unlimited fine or both

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