



Home Office

# Warrants: procurement and use

Version 1.0

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# About this guidance

This guidance tells Immigration Enforcement officers how to apply for, execute, endorse and dispose of a warrant.

## 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 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 and publication

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

- version **1.0**
- published for Home Office staff on **1 December 2016**

## Changes from last version of this guidance

New guidance

### Related content

[Contents](#)

### Related external links

# Applying for a warrant

This page gives Immigration Enforcement officers an overview of warrants and how to apply for one.

## Warrants (purpose, application, execution)

A warrant is a document issued by a justice of the peace (JP), or sheriff in Scotland, authorising officers to:

- arrest a specified person
- enter specified premises for the purpose of arresting a specified person
- enter specified premises for the purpose of searching for evidence
- enter specified premises for the purpose of searching for relevant documents

It is important to ensure that the correct type of warrant is obtained for the purpose intended. For example, a warrant obtained to enter premises to search for evidence of a suspected offence (under section 28D of the Immigration Act 1971 (the 1971 act)) cannot be used to obtain relevant documents for a removal under schedule 2 to the 1971 act.

Under schedule 8 of the Immigration Act 2016 (the 2016 act), **all** immigration warrants are valid for **3 months** from the date of issue. Applications for warrants to search for evidence or relevant documents include provisions for all properties and entries on multiple occasions, except in Scotland (that is, warrants under sections 28D and 28FB or paragraph 25A(6A) of schedule 2 to the 1971 act, and section 45 of the UK Borders Act 2007). Applications for warrants to search for and arrest a person do not include provisions for all premises or entries on multiple occasions. The officer applying for the warrant must answer on oath any question that the justice of the peace, judge, or in Scotland a sheriff hearing the application, asks of them.

A warrant can be applied for under the following provisions of the immigration acts:

- paragraph 17(2) of schedule 2 to the 1971 act
- paragraph 25A(6A) of schedule 2 to the 1971 act
- section 45 UK Borders Act 2007
- section 28AA of the 1971 act
- section 28B of the 1971 act
- section 28D of the 1971 act
- section 28FB of the 1971 act

## Paragraph 17(2) of schedule 2 (administrative power)

[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 Immigration Officer (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.

### **Paragraph 25A(6A) of schedule 2 (administrative power)**

Under paragraph 25A(6A) of schedule 2 to the 1971 act, as amended by [Immigration Act 2016](#), a JP or sheriff may issue a warrant authorising an IO to enter and search one or more sets of premises other than either:

- a premises occupied or controlled by an arrested person
- in which the person was when arrested, or immediately before being arrested

for relevant documents, which paragraph 25A(9) defines as documents which might establish a person's identity, nationality or citizenship, or a travel ticket.

Before issuing a warrant under paragraph 25A(6A), a JP or sheriff must be satisfied that there are reasonable grounds for believing that relevant documents may be found at the specified premises and that either:

- it is not practicable to communicate with any person entitled to grant entry to the premises
- it is practicable to communicate with a person entitled to grant access, but it is not practicable to communicate with any person entitled to grant access to the relevant documents
- entry to the premises will not be granted unless a warrant is produced
- the search may be frustrated or seriously prejudiced unless an IO can secure immediate entry to the premises on arrival

Under paragraph 25A(6AA), as amended in the Immigration Act 2016, the application can be for one or more sets of premises specified in the application, or for any premises occupied or controlled by the person named in the application, in which case the application is for an all premises warrant.

In the case of an all premises warrant, the JP will need to be satisfied 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 and that it is not reasonably practicable to specify all the premises which the person occupies or controls that might need to be searched.

Under paragraph 25A(6AC), if the JP is satisfied that it is necessary to authorise multiple entries in order to meet the purpose of the warrant, they may specify that the warrant is for an unlimited number of entries, or limited to a maximum number of entries.

Note that applications for all premises and multiple entry search warrants under this section are not applicable in Scotland.

An IO may retain a document seized during this search while they have reasonable grounds for believing that the arrested person may be liable to removal and that retention of the document may facilitate the person's removal. This does not apply to documents which they have reasonable grounds for believing are subject to legal privilege (see Documents subject to legal privilege).

### **Section 45 UK Borders Act 2007 (administrative power)**

Under [section 45 of the 2007 act](#), a JP or sheriff may issue a warrant to enter and search premises for relevant documents, following arrest of a person on suspicion of having committed an offence and where the person has not been released without being charged with an offence.

On application from an IO or police constable, the JP or sheriff will need to be satisfied that there are reasonable grounds for believing that:

- the individual is not a British citizen
- nationality documents relating to the individual may be found on premises specified in the warrant application
- the documents would not be exempt from seizure under section 46(2) of the UK Borders Act 2007
- any of the following conditions apply:
  - that it is not practicable to communicate with any person entitled to grant entry to the premises
  - that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the nationality documents
  - entry to the premises will not be granted unless a warrant is produced
  - the purpose of a search may be frustrated or seriously prejudiced unless an IO or constable arriving at the premises can secure immediate entry

Under section 45(2A), as amended by the Immigration Act 2016, the application can be for one or more sets of premises specified in the application, or for any premises occupied or controlled by the person named in the application, in which case the application is for an all premises warrant.

In the case of an all premises warrant, the JP will need to be satisfied 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 and that it is not reasonably practicable to specify all the premises which the person occupies or controls that might need to be searched.

Under section 45(2C), if the JP is satisfied that it is necessary to authorise multiple entries in order to meet the purpose of the warrant, they may specify that the warrant is for an unlimited number of entries, or limited to a maximum number of entries.

Note that applications for all premises and multiple entry search warrants under this section are not applicable in Scotland.

Sections 28J and 28K of the 1971 act (warrants: application and execution) apply, with any necessary modifications, to warrants under this section. 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.

### **Section 28AA (criminal power)**

[Section 28AA of the 1971 act](#) allows a JP or sheriff to issue a warrant to arrest a person for an offence under section 24(1)(d) of the 1971 act.

### **Section 28B (criminal power)**

[Section 28B of the 1971 act](#) allows a 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.

### **Section 28D (criminal power)**

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 must 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)
- one of the conditions specified in section 28D(2) applies, that:
  - it is not practicable to communicate with any person entitled to grant entry to the premises
  - it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence
  - entry to the premises will not be granted unless a warrant is produced
  - the purpose of the search may be frustrated or seriously prejudiced unless an IO arriving at the premises can secure immediate entry to them

Under section 28D(1A), as amended by the Immigration Act 2016, the warrant application can be for one or more sets of premises, as long as the additional premises are listed within the information and search warrant application and there is evidence that gives the applying IO reasonable grounds to believe that material may



be present at either or all addresses. If a complete list of premises controlled by the person named in the warrant is not available at the time of the application and it is necessary to search all such premises, an all premises warrant, under section 28D(1A)(b), can be applied for. This must be fully explained and justified in the warrant information. The JP will need to be satisfied that there are reasonable grounds for believing that it is necessary to search premises which are not mentioned in the application and that it is not reasonably practicable to specify all the premises that might need to be searched.

Under section 28D(1C), if the JP is satisfied that it is necessary to authorise multiple entries in order to meet the needs of the investigation, they may specify that the warrant is for an unlimited number of entries, or limited to a maximum number of entries.

In terms of all premises and multiple entries, all of the conditions in bullet points, above, must be met in respect of each set of premises.

Note that applications for all premises and multiple entry search warrants under this section are not applicable in Scotland.

### **Section 28FB (criminal power)**

[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 the 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, that:
  - it is not practicable to communicate with a person entitled to grant access to the premises
  - it is not practicable to communicate with a person entitled to grant access to the records
  - entry to the premises or access to the records will not be granted unless a warrant is produced
  - the purpose of a search may be frustrated or seriously prejudiced unless an IO arriving at the premises can secure immediate entry to them

Under section 28FB(1A), as amended by the Immigration Act 2016, the application can be for one or more sets of premises specified in the application, or for any premises occupied or controlled by the person named in the application, in which case the application is for an all premises warrant.

In the case of an all premises warrant, the JP will need to be satisfied 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 and that it is not reasonably practicable to specify all the premises which the person occupies or controls that might need to be searched.

Under section 28FB(3A), if the JP is satisfied that it is necessary to authorise multiple entries in order to meet the purpose of the warrant, they may specify that the warrant is for an unlimited number of entries, or limited to a maximum number of entries.

Note that applications for all premises and multiple entry search warrants under this section are not applicable in Scotland.

See also: Coercive powers: overview.

## Authority and constraints

The entry and search of premises under a warrant must comply with [section 28J](#) and [section 28K](#) of the 1971 act. The Police and Criminal Evidence Act 1984 (PACE) [code of practice B](#), with some exceptions, also applies to warrants obtained by IOs in England and Wales. Criminal and Financial Investigation (CFI) officers applying for warrants under the 2013 PACE Order must comply with [section 15](#) and [section 16](#) of PACE. Note that PACE does not apply in Scotland.

All applications for search warrants must be authorised in writing by a Chief Immigration Officer. Warrants may be obtained by Assistant Immigration Officers (who are warranted officers) and/or non-arrest trained IOs but may only be executed by warranted, arrest trained IOs.

If there is reason to believe that a search might have an adverse effect on community relations between the police and the community, the officer in charge must consult the police before any visit takes place. In urgent cases the police must be informed as soon as practicable after the search. Any community tensions should be highlighted by the police on the operational notification form (ONF) so that further consultation can take place between the police and Home Office Immigration Enforcement (HOIE) before a visit takes place. In the Metropolitan Police Service (MPS) area an ONF is not normally submitted but checks are carried out by both HOIE and MPS intelligence units before the visit is authorised and any tensions would be highlighted.

When applying for a warrant, you must fully consider [section 55 of the Borders, Citizenship and Immigration Act 2009 \(Duty regarding the welfare of children\)](#), which requires all HOIE operational staff to have regard to the need to safeguard and promote the welfare of children in the UK. Enforcement teams must conduct all

searches with sensitivity and be vigilant for any indicators which might give rise to safeguarding concerns. All IOs are required to attend 'Keeping children safe training (Tier 2)'.

The court will ask you to justify your application so your information must be correct to the best of your knowledge. If the application is refused, no further application can be made to search the premises unless additional grounds come to light with which you can satisfy the magistrate or judge. Similarly if you wish to make any further searches of the same premises, a fresh application will be required and you need good grounds to do this.

If there is more than one named suspect relevant to the premises, all names must be listed on the one warrant. Do not get separate warrants for suspects at the same address.

### **Houses of multiple occupancy (HMO)**

A multiple occupancy premises is one which is separated into individually controlled rooms. This is not defined by numbers on the individual rooms, but rather by the manner of the control of the room, usually with a lock or key code that can only be opened by the occupier or controller of the room.

If you know beforehand that the property is an HMO and you are applying for a warrant for a specific room or flat within it, then that is the address which needs to be shown on the warrant (for example Flat 4, 12 Green Street ...). Whilst it is implied that you would have a right of entry into any communal areas necessary to reach the room or flat specified, you must include on the warrant that entry is also required to all communal areas, in order to put this issue beyond doubt. You must also specify which door you require access through, then into the specific room or flat and any communal areas.

A magistrate would be unlikely to issue a warrant for '12 Green Street' if you knew it was multiple occupancy but could not pinpoint which room the target of the warrant occupied, as such a warrant would entitle you to force entry on each occupied room inside, which would be unreasonable.

If you have obtained a warrant for '12 Green Street' and did not know at that time that the property was multiple occupancy and find individually controlled rooms when you enter the premises, you must consider whether it would be proportionate to force entry to any individually controlled room. If there is something in the property that tells you which room the person named on the warrant occupies, such as a name on the door or if another occupant confirms it, you can use the warrant to enter that room. Where it is not clear which individually controlled room is that controlled by the target, you must not rely on the warrant to enter every room in the property and must consider whether to obtain a further warrant. Obtaining a further warrant may not be necessary where the possibility of the premises being an HMO was drawn to the attention of the court when the application for the warrant was made.

### **Related content**

[Contents](#)

# Before an application for a warrant is made

This page tells Immigration Enforcement officers what to do before applying for a warrant.

## Information: checks

Where information is received which appears to justify an application, you must take reasonable steps to check that the information is accurate, recent (not more than 3 months old in normal circumstances) and has not been provided maliciously or irresponsibly. An application may not be made on the basis of information from an anonymous source where corroboration has not been sought.

You must ascertain as specifically as is possible in the circumstances the nature of the articles or persons concerned and their location. You must also make reasonable enquiries to establish what, if anything, is known about the likely occupier of the premises and the nature of the premises themselves. You must also make reasonable efforts to establish whether the premises have been previously searched and if so how recently, and to obtain any other information relevant to the application, for example concerning the local community.

These checks ensure you obtain all the available information on the person or premises you are interested in. Failure to provide all the information necessary for the court to make an informed decision on your application is likely to result in it being refused. This information could also be important for your safety and your colleagues, for instance, information relating to weapons or dangerous dogs.

## Duty to disclose

The courts must be informed if any warrants have been applied for and granted, and/or if searches have been conducted, at an address. You must disclose as much relevant information as possible to the court, you have a legal duty of disclosure when making an application to the court.

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**Related content**

[Contents](#)

# Making the application to the court

This page tells Immigration Enforcement officers how to make a warrant application to a court.

## Information to court

It is suggested that, where practicable, warrant application days be agreed with the head clerks at local magistrates' courts in advance and officers attend on the same days each week.

Warrant information form 'Application for search warrant under ss.15 & 16 Police and Criminal Evidence Act 1984, CrimPR 47.34' is available from the [Ministry of Justice: Forms](#) webpage. This applies in England and Wales. The procedure is different in Scotland and Northern Ireland. See [Applying for search warrants in Scotland](#), and [Applying for search warrants in Northern Ireland](#).

Do not use any previous warrant information forms, as the forms change regularly and warrants could be refused due to out-of-date forms being used.

Under [section 28J of the Immigration Act 1971](#), the warrant must contain the following information:

- **the name of the person applying for the warrant (this must be set out as rank (Immigration Officer), surname (in capital letters) and warrant number)**
- the date and time of issue
- the act and section or paragraph under which it was issued
- the premises to be searched
- as far as is possible, identify the persons or items that are sought

Without this information the warrant is unlawful (for example, if it only contains the warrant number but not the name of the person applying for it) as are any actions which then flow from officers being unlawfully on the premises.

## Excluded information

Where applications are made to a justice of the peace, the application must specify that there are no reasonable grounds for believing that the material sought consists of or includes excluded material, special procedure material or items subject to legal privilege. Similarly, where applications are made to a circuit judge, the application must specify that there are no reasonable grounds for believing that the material sought consists of or includes items subject to legal privilege.

[Section 11](#) and [section 14](#) respectively of the Police and Criminal Evidence Act 1984 (PACE) define excluded and special procedure material. Excluded material includes the following categories of material **where the material is held in confidence**:

- personal medical and counselling records
- human tissue or tissue fluid
- journalistic material

Special procedure material includes journalistic material which is **not** held in confidence and material created by an employee or employer which **is** held in confidence (and is not excluded material).

Sections 12 to 16 inclusive of the [PACE \(Northern Ireland\) Order 1989](#) define the categories of legal privilege, excluded, journalistic, personal and special procedure material under that Order.

As PACE is not relevant in Scotland, reference to excluded and special procedure material do not apply in Scotland. See [Applying for search warrants in Scotland](#).

Most warrant applications are 'ex parte', that is where the application is made in the absence of the suspect, their legal representative, or members of the public. You will usually have information that you do not want anyone else to hear (such as the address where you wish to search).

## **Making the application to court**

Make sure that you have the correct details on your application. You should show your paperwork to the Clerk of the Court first so that it can be checked before being sworn in front of the magistrate or judge.

When applying for a warrant you must:

- state the grounds on which you are making the application and under which act and provision the warrant would be issued
- specify the premises to be entered and searched
- identify, as far as is practicable, the persons or articles to be sought
- be prepared to be tested by the court on the details of the case, the legal basis for obtaining a warrant and how the evidence sought relates to the case
- if required take a copy of the act with the particular sections easily accessible
- ensure that the information provided is clear, accurate, up to date and check with the appropriate enforcement office that the need for a warrant is still sound
- if applicable, specify who will accompany the Immigration Officer (IO) executing the warrant by stating 'any Immigration Officer or police officer required for the effective conduct of the visit'
- anyone who is not an IO or police officer, who accompanies an arrest trained IO or an IO operating in all other circumstances, must be named separately on the warrant or by their company name (for example. an observer from the Home Office, a Higher Executive Officer (HEO) family engagement manager, a medic from Tascor), their reasons for accompanying the visit must be provided to the court
- check that the warrant can be executed within 3 months of its issue
- as the officer applying for the warrant, you must check that you have included your rank (Immigration Officer), your surname (in capital letters) and warrant number, on the application

The Home Office Immigration Enforcement (HOIE) requires all grades of officers when representing the HOIE at court when applying for a warrant to wear full HOIE

issued uniform. While in uniform and in the public eye, you are representing the HOIE and the highest levels of standards of professional behaviour are expected of you.

## Section 28J and 28K safeguards

In addition to satisfying the particular conditions attached to the warrant in question, as described in [warrants \(purpose, application, execution\)](#). If you are applying for a search warrant that permits entry to all premises or multiple entries, you will need to state in your application and in court why each component of the application is necessary. If the person named has multiple premises that they occupy or control and you wish to search them all without a full list being available at the time of the application, you will need to specify that you are applying for an 'all premises' warrant and explain and fully justify this in the application. Chief Immigration Officers (CIOs) endorsing the search warrant application will need to be confident that additional premises are linked to the person, evidence or relevant documents sought and that all relevant information is presented to the court.

Multiple entries need to be described in the warrant information and the IO swearing the warrant in court will need to be prepared to answer questions from the court on the need for this additional level of intrusion to meet the investigation, and the amount of entries required must be stated on the search warrant and information. Written authorisation from a CIO will be required each time you wish to enter unspecified premises under an all premises warrant or, where permitted by the warrant, to search a premises on a second or subsequent occasion to ensure that the intrusion is proportionate and is still required as part of the operation. This authorisation must be recorded in your pocket notebook (PNB).

The application may also request authorisation for a person or persons to accompany the officer who executes the warrant. These accompanying persons need to be listed on the search warrant application and you will need to explain in the information what the purpose is of those additional persons being listed. Under section 28K(2A) of the Immigration Act 1971, as inserted by the [Immigration Act 2016](#), persons who have been authorised to accompany the officer executing the warrant have the same powers in the execution of the search and the ability to seize or detain evidence if they are in the company or under the supervision of an immigration officer. However, if they wish to search for their own purposes, they must not be included on the immigration warrant, but must apply for their own warrant or enter under their own powers. Such accompanying persons may include police officers, members of other agencies such as HMRC, DWP and so on. Others who may be listed as accompanying in order to assist IOs to deal with occupants may include interpreters and paramedics. See [PACE Code B](#) paragraph 3.6(f) and notes for guidance 3C.

## Applying for a warrant: electronic submission

The Criminal Procedures Rules allows electronic submission to the magistrates' court in order to apply for a search warrant. The form can be found on the [Ministry of Justice: Forms](#) webpage. Use the 'Application for search warrant under ss.15 and 16 Police and Criminal Evidence Act 1984, CrimPR 47.34' under 'Part 47 Investigation orders and warrants'. Criminal and Financial Investigations officers will normally use



'Application for search warrant under s.8 Police and Criminal Evidence Act 1984, CrimPR 47.28', available on the same webpage.

These forms are not applicable in Scotland or Northern Ireland. See [Applying for search warrants in Scotland](#) and [Applying for search warrants in Northern Ireland](#).

Send the completed application by secure email to the court. Immigration Compliance and Enforcement (ICE) team leads will need to contact their local magistrates' court to obtain the correct email address for submission and ensure that staff are available to attend the court once a hearing date is advised.

The main points to note when completing the electronic template are:

- you must clearly state in section 1 of the form that an application is being sought under the relevant immigration act power and that the safeguards of [section 28J](#) and [section 28K](#) of the Immigration Act 1971 apply and differ from [section 15](#) and [section 16](#) of PACE (which would apply to a Criminal and Financial Investigation (CFI) warrant under PACE)
- if you are applying for an all premises warrant, tick the box in section 4 and complete the table at the end of the form:
  - make sure that you include all information in the table that links each address to the person, evidence or relevant documents sought
  - include all relevant information and explain how the circumstances satisfy conditions prescribed by the search power in question
- if you wish to search premises that cannot be specified, complete section 5:
  - note all information, including your 'belief', relevant to the search power, and why it is not reasonably practicable to specify all the premises you may want to search
- if your search power permits multiple entry, you must specify on section 6 of the form how many times you want to be able to search the premises, stating the maximum number of times or 'unlimited':
  - you must justify your request in the application
- section 10 is the authorisation to make the application and is completed by the CIO:
  - the CIO will need to check the information and, where applications for multiple premises and entries are being applied for, be confident that all parts are linked to the person or evidence sought and all relevant information has been included
  - as the form is sent electronically, instead of a signature, it may be authenticated electronically (that is, by sending it from an email address recognisable to the recipient), this replaces the written authority to make application for a search warrant template

You must also read note 9 of the guidance notes and include information that might undermine the grounds for the application to allow the magistrate to make an objective decision on the application.

The remaining sections of the form are self-explanatory and there is a useful 'notes for guidance' at the end of the form which expands on detail to include in your application.

When the magistrate is satisfied the application is justified, a warrant will be issued.

The warrant is in triplicate:

- a top copy (the original) which will eventually be returned to the court
- a second copy for the occupier
- a third copy for Immigration Officers

Each copy of the warrant is to be signed, and endorsed by the magistrate or judge to be a true copy.

## Warrant applications: record keeping

### Storage of applications

The completed warrant application must be saved in a shared drive folder for the ICE team. This ensures that the information can be viewed and produced if the preparation officer is unavailable. The below naming convention showing date, 'TS reference', warrant followed by section or paragraph number, address and post code is recommended as it makes searching through the applications easier:

20151106-TS11AVD1001-Warrant17(2)-300\_Anywhere\_Road\_E359XX

## Warrant applications: updating national operations database (NOD)

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## **Applying for search warrants in Scotland**

IOs working in Scotland use the UK immigration acts to undertake their roles. The powers under the immigration acts are the main powers you use to get a warrant.

Applications in Scotland are made orally by evidence on oath direct to a sheriff in the Sheriff's Chambers. An electronic or written application is not made. You are not obliged to provide information in advance but it is good practice to do so in order to facilitate the process.

Arrangements to see sheriffs vary from sheriffdom to sheriffdom but usually involve contacting the Sheriff Clerk's office to arrange a timeslot. In busy courts such as Edinburgh Sheriff Court, officers arrive without appointment before 2pm in order to apply for a warrant if a sheriff is available.

## **Applying for search warrants in Northern Ireland**

Applications for warrants in Northern Ireland are made by complaint by an IO attending the home of a lay magistrate. There is no electronic submission in Northern Ireland and all applications are made in person. The warrant application forms used in Northern Ireland are not held centrally by the Northern Ireland Department of Justice. As in the case for the Police Service of Northern Ireland (PSNI), who designed their own warrant forms, the local ICE team have their own forms, based on the PSNI templates, which are held locally.

### **Related content**

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# Executing warrants

This page tells Immigration Enforcement officers how to execute a warrant.

Whilst a non-arrest trained officer can apply for a warrant, a warrant can only be executed by an arrest-trained Immigration Officer (IO) or a constable, except for a section 28D warrant, which can only be executed by an IO.

When a warrant is being executed, occupants should not be permitted to move about freely within the premises while a search is going on. Safe areas of the premises can be used to lawfully contain their movement and officers can ask occupiers to move to the safe areas identified. If occupiers refuse to do so, officers can seek by no more force than is necessary to restrict the movement of those occupants whose movements they consider may impact on the safety of the visit. Should a person cause an obstruction then consideration must be given to using powers granted under [section 26\(1\)\(g\) Immigration Act 1971](#) with arrest powers under [section 28A\(5\) Immigration Act 1971](#).

See also: Arrest and restraint

## Executing warrants: constraints and safeguards

[Section 28K of the Immigration Act 1971](#) (the 1971 act) lays down the procedures for the execution and subsequent disposal of warrants issued under part III of the 1971 act and under schedule 2 to that act. It provides for warrants to be executed by any IO and the attendant provisions are based on [section 16 of Police and Criminal Evidence Act 1984](#) (PACE). It also allows for a warrant to authorise persons to accompany the officer executing it.

Section 28K sets out that entry and search under a warrant must be:

- within 3 months from the date of its issue
- at a reasonable hour, unless it appears to the officer executing it that the purpose of the search might be frustrated, if the search is to be conducted either early or late in the day, be prepared to justify the unsociable hour

If action is not taken within 3 calendar months, or the warrant is no longer required, return it to the court. If you do not have a multiple entry warrant and another visit is planned, a new warrant must be obtained.

Before executing a warrant, take reasonable steps to ensure the premises are occupied by the targets, for example that the person has not recently moved address. On arrival at the address, where there is no initial indication that anyone is present, assess whether it is likely that persons are seeking to conceal their presence. You must not attempt to execute an arrest warrant when the occupants are out. However, premises do not need to be occupied for you to execute a warrant to search for evidence.

## Warrants: presentation on entry

When an officer conducts a search of premises under a warrant, they must, if practicable before the search begins, show the occupier the warrant and the Notice to Occupier (NTO) and give them copies of the warrant and notice, unless the officer in charge (OIC) reasonably believes this would frustrate the object of the search or endanger officers or other people.

Under section 28K(4), as amended, before the search begins, the officer must also identify themselves, and state the purpose of, and grounds, for the search.

As amended by the Immigration Act 2016, you are not required to show your warrant card to identify yourself when executing a warrant as long as you are in full Immigration Enforcement uniform. Your warrant number must be clearly visible. But if your Assistant Director (AD) has authorised you to execute the warrant out of uniform in plain clothes, you are still required to show your warrant card.

Under [code B of the PACE codes of practice](#) the officer must also, before the search begins, identify and introduce any persons accompanying them on the search and briefly describe their roles in the process.

**There may be implications for the validity of the entry and search if the officer does not show and serve the warrant.**

See Search and seizure (Carrying out a premises search: conducting the search) for further details on how to acquire packs of the NTO and how to fill out the NTO before arrival at the address.

As it will not be possible to enter the start and finish time of the search, this can be added to the occupier's copy of the NTO once those details are known, though failure to do so does not affect the legality of the search.

If the occupier is not present but some other person is, who appears to be in charge of the premises, the officer may treat that person as if they were the occupier.

The officer must record in their Home Office issued pocket notebook (PNB) the time when a copy of the warrant and the NTO were given to the occupier (or other person appearing to be in charge of the premises) before the search began. The minimum information required about the execution of the warrant is:

- date and time of execution of warrant
- address of execution of warrant
- the person on whom the warrant was served
- the language that the warrant was explained in and that the recipient understood what was said

## Reasonable grounds for not serving the warrant on entry

If the occupier, or another person in charge of the premises is not present on arrival at the premises, or the OIC has reasonable grounds to believe that alerting the occupier or other person controlling the property prior to entry would either:

- frustrate the object of the search
- endanger officers or other people

it is reasonable to serve the warrant **after** entry. In such circumstances you must record your reasonable grounds in your PNB.

Where reference is made to 'impracticable' or 'if practicable' with regard to service of forms, this relates to the objective situation the officers face or the reaction of occupants (for example, they refuse to accept them or are violent) and not the officer's own subjective preferences. You must record the situation and any justification in your PNB.

### Premises are unoccupied

Where it is clear that the premises are unoccupied, or that the subject of the warrant is not present, the warrant must not be executed unless the warrant is to search for evidence or relevant documents (under, for example paragraph 25A(6A) of schedule 2, section 28D or section 28FB of the 1971 act, or section 45 of the UK Borders Act 2007) and not a person.

### Executing warrants across UK borders

Under [section 136 of the Criminal Justice and Public Order Act 1994](#) you:

- can use a warrant of arrest in:
  - Scotland: when it was issued in England, Wales or Northern Ireland
  - England or Wales: when it was issued in Scotland or Northern Ireland
  - Northern Ireland: when it was issued in England, Wales or Scotland
- must, as soon as it is reasonably practical, take a person arrested by the execution (using) of a warrant, to any place that person is committed to or may be conveyed to, by the warrant
- can, if you are using a warrant issued in England, Wales or Northern Ireland, use reasonable force, and exercise powers of search given by [section 139 of the Criminal Justice and Public Order Act 1994](#)
- can, if you are using a warrant issued in Scotland, have the same powers and duties, and the person arrested the same rights, as if the warrant had been used in Scotland by a constable of a police force in Scotland

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# Warrants: endorsement, handling and disposal

This page tells Immigration Enforcement officers how to endorse and dispose of warrants.

## When a warrant has been executed

If a warrant is executed but no one is found at the address, it is your responsibility to secure the premises and leave a copy of the warrant in a prominent place on the premises, in addition to a copy of the Notice to Occupier (NTO).

If you have an all premises or multiple entry warrant, a copy of the search warrant for each premises must be left at each premises and on each occasion entry is made.

In addition to these procedures, when a warrant has been executed:

- check that along with a copy of the warrant, suitably endorsed (see below), a contact number for the Immigration Officer (IO) concerned is left with the occupier or the person who appears to be in charge of the premises
- take full notes including the names of all those involved and details of any incidents
- return the warrant to the court
- minute the visit folder and update national operations database (NOD) to show the outcome of the visit

Immigration Enforcement officers must have due regard to [Code B of the Police and Criminal Evidence Act 1984 \(PACE\) codes of practice](#) when endorsing warrants.

## Endorsement of warrants

On each occasion when premises are searched under warrant, the warrant authorising the search on that occasion must be endorsed by the officer executing the warrant to show:

- if any of the articles specified in the warrant were found
- if any other articles were seized
- the date and time the warrant was executed and if present, the name of the occupier or, if the occupier is not present, the name of the person in charge of the premises when the warrant was executed
- the names of the officers who executed it and any authorised persons who accompanied them
- that a copy, together with a copy of the NTO, was:
  - handed to the occupier
  - endorsed as required, left on the premises and where it was left

Where a copy of the warrant is handed to the occupier, there is no need to endorse this copy. When a copy of a warrant is left at a premises, it must be endorsed with the:

- name of the officer in charge (OIC)
- date and time of the search

Where an officer has reasonable grounds to believe that recording or disclosing their name may put them in danger, they may use their warrant number and Immigration Compliance and Enforcement (ICE) team name when endorsing the warrant or completing the notice. The officer must record the grounds for believing that it is not in the interests of their personal safety to give more than their warrant number, office, office address and telephone number in the notes of their pocket notebook (PNB).

## Disposal of warrants

A warrant is valid for 3 calendar months from the date of issue so if it was issued on the 2 March it would be valid until 11:59pm on 1 June, and is not renewable. It can be returned to the court personally or by post but the responsibility for doing so rests with the officer in charge of the case.

A warrant which has been executed, or which has not been exercised within the time authorised for its execution, must be returned:

- if issued by a justice of the peace (JP) in England and Wales: to the designated officer for the local justice area in which the justice was acting when he issued the warrant
- if issued by a justice of the peace in Northern Ireland: to the clerk of petty sessions for the petty sessions district in which the premises are situated

A warrant so returned must be retained for 12 months by the court. During this time the occupier of the premises to which it relates may ask to see it, and if they do ask to see it they must be allowed to do so.

As amended by the [Immigration Act 2016](#), under section 28K(8C) of the Immigration Act 1971, warrants that have been executed in Scotland are not returned to the sheriff courts. However, warrants that have **not** been executed must be returned to the sheriff court.

Under section 28K(10), the warrant returned to a JP in England and Wales must be retained for 12 months by the designated officer. Irrespective of regional requirements for the return of warrants, copies of executed warrants must be filed and stored locally by all ICE teams so there is a record of premises visited for future reference.

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# Entry to business premises using Assistant Director letter

This page tells Immigration Enforcement officers about the Assistant Director (AD) letter.

See also:

- 'Entry to premises by informed consent' of Operational enforcement visits
- Illegal working operations

## AD letters: relevant legislation

[Section 153 of the Nationality, Immigration and Asylum Act 2002](#) inserted [section 28CA](#) into the Immigration Act 1971 (the 1971 act), providing the power to enter and search a business premises without warrant on the authority of at least an Assistant Director (AD), for the purpose of arresting an immigration offender where there are reasonable grounds to believe they are on the premises.

## Purpose of an AD letter

An AD letter can only be authorised where entry is reasonably required in order to arrest a person for offences of:

- illegal entry under section 24 of the 1971 act
- deception under section 24A of the 1971 act
- illegal working under section 24B of the 1971 act

or 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 under paragraph 17 of schedule 2 to the 1971 act.

When you can meet the criteria for applying for a warrant and do not think that you will be admitted by informed consent, you **must** do so. Where you do not seek to obtain a warrant because - despite thinking consent might be refused or withdrawn - you did not reach the required threshold, or because you did not want to pay for one, or because you did not plan the time to obtain one, you **cannot** apply for an AD letter instead.

This includes seeking verbal authority when you have subsequently observed an adverse reaction when attempting to obtain fully informed consent at a premises for which you could have applied for a warrant. The purpose of authorised entry under section 28CA is where entry by informed consent is expected to succeed but is then unexpectedly refused or is unexpectedly withdrawn and where the authorising officer has reasonable grounds to believe that relevant persons are on the premises, and where it is not reasonable to obtain a warrant without the relevant persons leaving in the meantime.

An AD letter:

- must not be used to gain entry solely in order to serve a referral notice (RN) or to arrest for other reasons, for example, facilitation:
  - there will be cases where service of a RN on the employer under section 15 of the Immigration, Asylum and Nationality Act 2006 will follow from entry to business premises by an AD letter served under section 28CA, and the arrest of those working without permission, but this is not the main purpose of the AD letter provision and cannot form the sole basis for entry to the premises under this power
- only authorises entry to a business premises, this does not include any linked residential accommodation
- is not an alternative where a warrant has been **refused**:
  - if an application for an immigration search warrant is made, but subsequently refused by the court on the basis of insufficient intelligence, based on the same information that was presented to the court, the section 28CA power must not be exercised as an alternative means of entering and searching the property in order to arrest
- is not to be used as an option to avoid the associated charges which might be attached to an application for a warrant or to alleviate pressure on Home Office Immigration Enforcement and court resources more generally, rather than due to the urgency of the situation

As noted above, an AD letter is not an alternative where a warrant has been refused and there is no new intelligence on which to base your visit between the refusal of the warrant and applying for an AD letter. However, if new information becomes available, and time permits, you must seek to obtain a warrant again before the date of the scheduled visit. But if the urgency of the situation means there is no time to seek a warrant, as the visit is pending within a short timescale which would not allow you to book an appointment and attend the court, you may seek AD verbal authority instead. See also [Verbal authority for an AD letter](#).

It is important to note that the focus of this power is the detection of immigration offenders rather than any prosecution action against the employer. This power must only be exercised where there is little to suggest that the employer is knowingly involved in employing illegal workers and is therefore unlikely to be prosecuted. Where there is reason to believe that a prosecution under [section 21 of the Immigration, Asylum and Nationality Act 2006](#) is likely, a warrant must be obtained.

See also: Searches of premises using administrative powers.

## Threshold for belief

The terms 'belief' and 'suspicion' are to be given their ordinary meaning. The starting point, therefore, is the dictionary definitions:

- **suspicion** means, there must be a possibility that a person liable to arrest is on the premises, which is more than fanciful:
  - although a vague feeling of unease is not sufficient and there must be a reasonable basis for the possibility, it needn't be clear or firmly grounded and targeted on specific facts

- **belief**: 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:
  - to demonstrate reasonable belief for **powers of entry**, clear and specific intelligence is likely to be needed

For more information of the definitions of suspicion and belief in this context, see Definition of terms used.

Before a member of an Immigration Compliance and Enforcement (ICE) team can apply for authorisation to enter business premises under section 28CA, they must have reasonable grounds for **believing** that someone is on the premises who is liable to administrative arrest on the basis that there are reasonable grounds to suspect that they are someone in respect of whom removal directions might be given under paragraph 17 of schedule 2 of the Immigration Act 1971.

It is normally the case that arrests will be made under schedule 2 powers, see: arrest and restraint. Arrests may in some circumstances be made where someone is on the premises who is liable to criminal arrest for offences under section 24, section 24A or section 24B, and there is an intention to seek to prosecute.

## Applying for an AD letter

To apply for an AD letter, except in urgent requests made in the field by telephone, an AD letter application template must be completed and submitted to the on-call AD. You must provide as much information as possible, stating the details of immigration offenders that you have reasonable grounds to believe will be on the premises. If you do not have a name then a description if possible, or believed nationality, and:

- date of intelligence
- specific checks conducted and results
- the particulars of any previous visits to address, and the details of any intelligence analysis that has been undertaken
- the particulars of any previous visits at other addresses linked to the same employer
- an explanation of why a warrant is not appropriate

Once the AD is content that all considerations and criteria have been fulfilled, they will authorise and sign the application and return it to the officer in charge (OIC). The AD must retain a copy of the application, a copy of the completed AD letter, and a copy of their decision log that records the justification for authorising entry by AD letter. The AD letter must not be issued more than 7 calendar days in advance of planned entry.

## Authorisation of an AD letter

AD letters are only valid if they have been issued directly by an AD, or above, who has received designated training from the Immigration Enforcement Training and Skills unit.

Her Majesty's Inspectors (HMIs) and Senior Executive Officers (SEOs) that act up to the AD role can only authorise letters under section 28CA when they are conducting the role for 3 months or more, are in receipt of temporary cover allowance (TCA) and have received designated training.

HMIs and SEOs acting up to the role on higher responsibility allowance (HRA) to cover short periods of annual leave or sickness are not permitted to sign the letters and alternative arrangements with a substantive AD must be put in place.

In order to authorise entry without warrant in these circumstances, the AD must be satisfied that:

- the intention of the Immigration Officer (IO) requesting the authorisation is to exercise the power only to the extent reasonably required to arrest for an offence under section 24, section 24A, section 24B, or paragraph 17 of schedule 2 and the IO requesting the authorisation has reasonable grounds for **believing** that the person whom they are seeking is on the premises
- consideration has been given to obtaining a search warrant from a court, that the threshold to obtain an AD letter under section 28CA has been met and that there is an urgent need to gain entry to a premises before an application to a court for a search warrant can be made:
  - if there is no urgent need to gain entry, an AD letter must not be applied for, but a relevant warrant applied for instead
- the AD letter only covers entry to the business premises, if there are separate residential areas these are not covered by the letter
- where police officers are expected to attend the same visit a separate letter signed by a Chief Superintendent has been signed to authorise entry under this power for the police

**The AD must complete 'ADs letter: decision log' in person, detailing all intelligence and research available, and why this leads them to believe that there is an immigration offender on the premises.**

The consideration and justification for issuing or refusing an AD letter must be recorded and must specify why an application for search warrants under section 28B or paragraph 17(2) of schedule 2 to the Immigration Act 1971 are not appropriate.

Records must also be kept of what the time constraints were that led to an AD letter being required, the intelligence demonstrating the reasonable grounds for believing including background checks and previous associated visits.

The national operations database (NOD) '**TS reference**' must be clearly visible on the letter for future reference and audit purposes.

The authorising AD must retain on file a copy of the AD letter, AD letter application form, and record of full justification.

Unused AD letters must be returned to the authorising AD within 8 calendar days of issue.

## Verbal authority for an AD letter

Whilst the grounds for believing that a person is on the premises are usually based on previous intelligence, there are circumstances in which you are justified in applying for an AD letter over the telephone, for example whilst attempting to enter a business premises by fully informed consent, you observe an adverse reaction to your presence (such as staff removing uniforms and attempting to leave the premises).

In these circumstances where you have sufficient reason to believe that immigration offenders may be on the premises at that moment, and you do not have time to apply for a warrant, you may apply for verbal authority over the telephone to enter the premises under section 28CA.

Note that it is not appropriate to apply for an AD letter simply because you have been unable to obtain entry by fully informed consent or have been refused consent.

If AD authority is granted by telephone, the reasons for the AD's decision must be recorded contemporaneously by both the AD and the officer making the referral (in the officer's pocket notebook (PNB)), and notes of these conversations must be stored locally in the visit pack. It is important that these procedures are followed to assist all staff in accounting for their actions under this power.

In cases where verbal agreement is given by the AD over the telephone, the AD letter must be sent by recorded post or delivered by hand to the manager or owner of the business to arrive at the address within 2 working days of the visit taking place. Recorded post must be signed for and a note made on file that it has been received.

## Assurance scrutiny

If a decision is taken by an Assistant Director to authorise a grant of entry under section 28CA by AD letter prior to the visit, or verbally during a visit, then the basis for the authorisation, the circumstances in which the authorisation was given, the evidence in support of the grant of authorisation and the time at which the authorisation was granted could all be open to scrutiny for business assurance purposes. The AD may be requested to justify their decision and actions. It is important that the application procedure, using the AD letter application template and ADs letter: decision log, are adhered to for audit purposes when applying for an AD letter.

## Procedure on entry under section 28CA

When entering premises with an AD letter, the officer executing that authority must:

- show their warrant card to identify themselves, as specified in section 28CA(2)(d)
- give the AD letter to the manager or controller of the premises
- give a copy of the Notice to Occupier ('the Notice'), available on Adelphi, to the manager or controller
- introduce other persons who are accompanying
- briefly describe their part in the process

Note that there are circumstances in which it may be impractical to serve the AD letter and Notice immediately on entry, as described in Search and seizure- Carrying out a premises search: conducting the search.

## Evidence found under section 28CA

In cases where an AD letter has been authorised to gain entry to a business premises and, during the visit, evidence comes to light that an immigration employment offence under [section 21 of the Immigration, Asylum and Nationality Act 2006](#) has been committed, an IO has the power to search for employee records under section 28FA without a warrant. The following **restrictions** apply in terms of the basis for the exercise of this power:

- either an arrest must have been made under section 24(1), section 24A(1), section 24B, or paragraph 17 of schedule 2, or the constable or IO must reasonably believe a person is liable to arrest under that paragraph
- the constable or IO must reasonably believe that a person has committed an immigration employment offence in relation to the person arrested or liable to arrest
- the constable or IO 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

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