



Home Office

Criminal investigation guidance to the PACE (1984) Order 2013

Version 9.0

This guidance is based on the Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013.

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About this guidance

This guidance tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office in England and Wales about the Police and Criminal Evidence (PACE) Order 2013.

It is written as a guide to the order. For more detail on any of the functions described in this guidance you must refer to the specific guidance in the Criminal and Financial Investigations section.

You must only use this guidance, and the powers given by the PACE Order 2013, if you are an immigration officer working in England or Wales and:

- conduct criminal investigations which relate to immigration and nationality
- are trained and accredited as a criminal investigator
- are authorised to use these powers

This guidance tells you:

- what the order is and what it means
- the extent of the powers and obligations
- how to apply the PACE order in England and Wales

The Home Office has a duty to safeguard vulnerable people and promote the welfare of children for more information see: Vulnerable adults and children.

Criminal Investigators in Immigration Enforcement must be aware of their obligations under the General Data Protection Regulation (GDPR) and the complementary Law Enforcement Directive (LED) domestic legislation via the Data Protection Act 2018 see: Data Protection.

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 CFI Operational Capability and Compliance Enquiries.

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.

Publication

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

- version **9.0**
- published for Home Office staff on **14 December 2021**

Changes from last version of this guidance

- updated links
- updated Section 18 guidance on page 14

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What is the PACE order 2013?

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about what the Police and Criminal Evidence Act, 1984 (PACE) Order 2013 is and what it applies to.

The PACE order 2013 is secondary legislation (known as a statutory instrument) made by the Secretary of State in line with section 23 of the [Borders, Citizenship and Immigration Act 2009](#). It is officially cited (referred to) as the Police and Criminal Evidence Act 1984 (application to immigration officers and designated customs officials in England and Wales) Order 2013.

The order, which applies only to England and Wales, was agreed by both Houses of Parliament and came into force on 25 June 2013.

What the order applies to

The order applies to immigration officers who work on relevant immigration criminal investigations (and to customs officials). A relevant immigration investigation is a criminal investigation which relates to an immigration or nationality matter.

It gives some of the powers and obligations available to police officers under the [Police and Criminal Evidence Act 1984](#). These powers and obligations for immigration investigations relate mainly to:

- arresting people
- searching and entering premises
- seizing evidence

When PACE powers should be used

All immigration criminal investigators must use PACE powers when they conduct a relevant immigration criminal investigation and should not rely on powers provided under any other legislation, (such as [Part III](#) of the [Immigration Act 1971](#)), unless it is necessary.

This is because there is no PACE equivalent available to immigration officers. For example, using [S28H](#) to search a person at a police station custody suite.

S28H is the immigration officer's power to search an arrested person at a police station custody suite. For more information on this power see [Searching persons in police custody](#).

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Relevant immigration investigations and applying PACE

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the provisions of the Police and Criminal Evidence Act (PACE) 1984 Order 2013 that apply to relevant immigration investigations.

A relevant immigration investigation is a criminal investigation which relates to an immigration or nationality matter.

Applying the Police and Criminal Evidence Act 1984 (article 3)

Under [article 3](#) of the PACE order 2013, certain provisions of the Police and Criminal Evidence Act 1984 are applied to immigration officers in England and Wales working in relevant immigration criminal investigations. Those provisions are set out in part 1 of schedule 1.

For more information on these provisions, see: [Explaining the provisions - Part 1 of the 2013 order](#).

There are some amendments to the way immigration officers must read these provisions of PACE. These are set out in part 2 of schedule 1, for example 'immigration officer' is used instead of 'constable'.

All other amendments are contained within articles 3 to 11. For more information, see: [The equivalent terms and titles used in the PACE order 2013](#).

The PACE order 2013 also specifies if a:

- constable takes any action; an immigration officer of an equivalent grade can take the same action:
 - for more information on the equivalent grades, see: [The equivalent terms and titles used in the PACE order 2013](#)
- person is detained by the police under part 4 of the act, in connection with a relevant immigration investigation conducted by an immigration officer, only references in section 39(2) and (3) to:
 - 'police officer'
 - 'an officer'
 - 'the officer', and in sections 41 (2)c, 43(1), 44(1) and 118(2)1 to a 'constable' shall be taken to include a reference to an immigration officer

In practice this means for those areas covered by the PACE order you can also read any reference to 'police officer' or 'constable' in the PACE Act 1984 as immigration officer and it gives them the same powers and obligations.

For more information see:

- [Powers applied in the PACE order 2013](#)
- [Authorisation and using reasonable force](#)
- [Arrests and searches](#)
- [The provisions applied to the 2013 order and the terms used](#)

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Powers applied in the PACE order 2013

This page explains to criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office that the Police and Criminal Evidence Act (PACE) Order 2013 does not give all the powers and obligations to immigration officers.

The PACE order does not give all the powers and obligations in PACE to immigration officers, as many of its provisions, such as those covering stop and search, are not immediately relevant to immigration and nationality work. It is also specified in [article 4](#) of the order that immigration officers do not have any power to:

- charge a person with an offence or release a person on bail (any reference in PACE to people being charged or released on bail refer to it being done by a constable only)
- detain a person after they have been charged with an offence

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Authorisation and using reasonable force

This page explains to criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about who is authorised to use the powers under the Police and Criminal Evidence Act (PACE) Order 2013.

Authorisation (article 5)

The powers and functions in the PACE order must only be used by immigration officers who are:

- authorised to do so by the Secretary of State
- working in a criminal or financial investigation team
- undertaking a relevant immigration investigation

Accredited Financial Investigators (AFI's) working in Financial Investigation teams will be able to use PACE powers if they:

- have or are working towards professionalising investigations programme (PIP) 1 accreditation
- received PACE training
- a fully accredited financial investigator

For more information on PIP accreditation, email: CFI Immigration L&D

Using reasonable force (article 6)

You may use reasonable force if it is necessary in the exercise of a power you have been authorised to use under the PACE Order 2013 ([article 6](#)).

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Arrests and searches

This page explains to criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office how the powers of the Police and Criminal Evidence Act (PACE) Order 2013 are used for arrests, searches and the seizure of material.

Arrest without warrant (article 7)

[Section 24 \(2\)](#) of the PACE act (arrest without warrant), (as applied by the PACE order) does not prevent you from using any other current legislation which gives you a power to arrest and detain a person.

Search of people found on the premises (article 8)

When you search a premises under a warrant issued under either [section 8](#) or paragraph 12 [schedule 1](#) of PACE, you may search any person found on the premises who you have reason to believe possesses material likely to be of value (either by itself or together with other material) to the investigation of the offence for which the warrant was issued.

You must make sure the person is always searched by a person of the same sex and you must not remove any articles of clothing except for an outer coat, jacket or gloves.

Seizing and keeping things found upon search (article 9)

If you conduct a lawful search of a person or premises because of a relevant immigration investigation you have the same power as a constable, under [section 19](#) of PACE, to seize anything that appears to be evidence in connection with an offence even if what you find is not evidence of an offence which relates to immigration or nationality.

Applying provisions of the PACE act under the PACE order does not prevent you from accepting and keeping anything you lawfully seize under any other enactment and [section 21](#) of the PACE act (access and copying), does not apply to anything you seize or keep under the immigration acts.

In practice this means when you seize anything from a person under the immigration acts you must:

- abide by the rules and or terms set out in the [PACE Codes of Practice \(Code B\)](#) about the search and seizure of property
- keep a search record of seized material

Modification of section 22 of the act (retention) (article 11)

[Section 22](#) of PACE has been modified by the PACE order 2013. This means nothing in this section affects any court's power to make an order for the disposal of property under [section 26](#) of the [UK Borders Act 2007](#). This means under [section 22](#) of PACE, you can keep seized property for certain purposes, for example, for use in:

- criminal proceedings
- forensic examination
- the investigation of an offence

If you have retained property under [section 22](#) of PACE you, or a claimant of the property, can still apply to the magistrates' court to make an order for the property to be returned to the claimant or disposed of.

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The provisions applied to the 2013 order and terms used

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about schedule I of the PACE order 2013 and explains the 3 parts:

- part 1 – tells you which provisions of PACE are applied to relevant immigration investigations by the PACE Order 2013
- part 2 – tells you about words and phrases substituted, by the PACE Order 2013
- part 3 – tells you the equivalent grades of immigration officers to the corresponding rank of constable as described in the PACE Order 2013

For more information see:

- [Explaining the provisions - Part 1 of the 2013 order](#)
- [The equivalent terms and titles used in the PACE order 2013](#)

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Explaining the provisions – Part 1 of the 2013 order

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the provisions of the Police and Criminal Evidence Act 1984 (PACE) that apply to relevant criminal investigations conducted by designated immigration officers.

Provision	What it means
PACE –Section 8 (1) to (6) (power of justice of the peace to authorise entry and search of premises) (subject to the modification in article 8)	<p>You can apply at a magistrate’s court for a section 8 warrant to enter and search premises for evidence likely to be of substantial value to an investigation of an indictable immigration offence.</p> <p>An indictable offence is of a more serious nature that either can or must be tried at a Crown court.</p>
PACE –Section 9 (1) (special provisions as to access) and Schedule 1 (special procedure) (subject to the modification in article 9)	<p>You may apply to a judge to order access to excluded or special procedure material under schedule 1 of PACE if you satisfy one or more of the sets of access conditions.</p> <p>For more information on these conditions see: PACE 1984-Schedule 1</p>
PACE – Section 15 (search warrants-safeguards)	<p>This describes the information:</p> <ul style="list-style-type: none"> • you must give when you make an application for a warrant under section 8 • that must be contained on that warrant
PACE - Section 16 (execution of warrants)	<p>If authorised you can use a section 8 search warrant to enter the specified premises.</p> <p>If authorised by the warrant, people can accompany you and they will have the same powers of search and seizure under the terms of the warrant as you do. This is as long as those powers are exercised under the supervision, and in the company of, an authorised immigration officer.</p>

Provision	What it means
<p>PACE - Section 17 (1)(a)(i), (1)(b), (1)(cb)(i), (1)(d), (2) and (4) (entry for purpose of arrest and so on)</p>	<p>This describes the circumstances when you may enter and search a premises to:</p> <ul style="list-style-type: none"> • execute a criminal arrest warrant • arrest a person for an indictable immigration offence • recapture any person who is, or considered to be, unlawfully at large while liable to be detained in a: <ul style="list-style-type: none"> ○ prison ○ remand centre ○ young offender institution ○ secure training centre • recapture a person you are pursuing who is unlawfully at large <p>You can only use the power of entry and search if you have reasonable grounds to believe the person you are seeking is on the premises.</p>
<p>PACE - Section 18 (entry and search after arrest) (subject to the modification in article 10)</p>	<p>This gives you the power to enter and search any premises occupied or controlled by a person who has been arrested for an indictable offence if:</p> <ul style="list-style-type: none"> • there are reasonable grounds to suspect there is evidence relating to the offence or another similar offence • the material is not subject to legal privilege <p>You can use this power if a chief immigration officer (CIO) or someone of equivalent grade or above, has authorised it in writing. The authorising CIO (or above) must record the grounds for the search and what evidence was sought.</p> <p>Under section18(5)(b), an officer may conduct a search before the person is taken to the police station without first obtaining CIO (or above) authorisation if the condition in section18(5A) is satisfied, in that the person needs to be present for the effective investigation of the offence. The searching officer must inform a CIO or above that he has made the search as soon as practicable after he has made it. The CIO (or above) informed in those circumstances must record the grounds for the search and what evidence was sought.</p> <p>If the person who was in occupation or control of the premises at the time of the search is in police detention at the time the record is made, the CIO (or above) shall ensure that the record is included as part of the person's custody record. (see Article 10 PACE Order 2013)</p>

Provision	What it means
<p>PACE - Section 19 (general power of seizure)</p>	<p>If you are lawfully on any premises you can seize anything on those premises if:</p> <ul style="list-style-type: none"> • you have reasonable grounds to believe it was gained from carrying out an offence • it is evidence in relation any offence • seizing it is necessary to prevent it being: <ul style="list-style-type: none"> ○ concealed ○ lost ○ damaged ○ altered ○ destroyed
<p>PACE – Section 20 (extension of powers of seizure to computerised information)</p>	<p>If you are lawfully on the premises and using the powers of seizure under section 8 or section 18 of PACE you can ask the person to produce any information stored in an electronic format that is accessible from those premises in a removable format.</p>
<p>PACE – Section 21 (access and copying) (subject to the modification in article 9)</p>	<p>This describes the circumstances you are required to:</p> <ul style="list-style-type: none"> • provide a record of • grant access to • provide copies of seized material <p>to people who can show they were the occupiers of the premises from where:</p> <ul style="list-style-type: none"> • you seized the material • they had custody and control of the material immediately before it was seized <p>It does not apply to material seized or kept under the immigration acts.</p>
<p>PACE – Section 22 (1) to (4) and (7) (retention) (subject to the modification in article 11)</p>	<p>This describes the circumstances in which you or any other authorised persons are entitled to retain seized material.</p>
<p>PACE – Section 24 (1) to (5)(c)(iii) and (5)(d) to (5)(f) (arrest without warrant: constables) (subject to the modification in article 7)</p>	<p>This tells you who you can arrest without a warrant. You can arrest anyone:</p> <ul style="list-style-type: none"> • who is: <ul style="list-style-type: none"> ○ guilty of ○ about to commit ○ in the process of committing an offence • you have reasonable grounds to suspect is: <ul style="list-style-type: none"> ○ guilty of ○ about to commit

Provision	What it means
	<ul style="list-style-type: none"> ○ in the process of committing an offence <p>Under this provision immigration officers must only arrest for offences related to relevant immigration investigations.</p> <p>For more information on relevant immigration investigations, see: Relevant immigration investigations and applying PACE.</p> <p>For more information on offences, see:</p> <ul style="list-style-type: none"> • Relevant Offence - S28D(4) Immigration Act 1971 • Relevant Offences – Part 3 - Immigration Act 1971 • Asylum & Immigration (Treatment of Claimants) Act 2004 • Crime and Courts Act 2013 <p>When you can use this power</p> <p>You can only use this power of arrest if you have reasonable grounds to believe the arrest is necessary to:</p> <ul style="list-style-type: none"> • find out the person’s name and address • prevent the person: <ul style="list-style-type: none"> ○ causing physical injury to themselves or another ○ suffering physical injury ○ causing loss of, or damage to, property • protect a child or other vulnerable person from the individual • allow the prompt and effective investigation of the: <ul style="list-style-type: none"> ○ offence ○ person’s conduct • prevent any prosecution for the offence being delayed by the person disappearing <p>This does not prevent you from using any other legislation in force that gives you a power to arrest and detain a person.</p> <p>When you arrest a person, you must use the power of arrest provided for under PACE.</p>
<p>PACE – Section 28 (information to be given on arrest)</p>	<p>An arrest is not lawful:</p> <ul style="list-style-type: none"> • if the person you arrest is not told: <ul style="list-style-type: none"> ○ they are under arrest as soon as reasonably practical after the arrest ○ of the grounds for the arrest at the time of or as soon as is practical after the arrest

Provision	What it means
	<ul style="list-style-type: none"> • unless it was not reasonably practical for you to inform them because they have escaped from arrest before you could give them the information
<p>PACE – Section 29 (voluntary attendance at police station and so on)</p>	<p>If a person voluntarily attends or accompanies you to a police station, or any other place where an immigration officer is present, to assist in an investigation without having been arrested, the person is:</p> <ul style="list-style-type: none"> • entitled to leave at will unless they are placed under arrest • to be immediately informed they are under arrest if you decide to prevent them from leaving at will
<p>PACE – Section 30 (1) to (4)(a) and (5) to (13) (arrest elsewhere than at police station)</p>	<p>If you arrest a person for an offence, you must take the person to a police station as soon as it is practical after arrest.</p> <p>You can delay taking a person to a police station immediately where the presence of the arrested person at a place other than a police station is necessary to carry out the investigation.</p> <p>The person must be immediately released (whether or not they have arrived at a police station) if you are satisfied there are no longer grounds to keep that person under arrest.</p>
<p>PACE – Section 31 (arrest for further offence)</p>	<p>You must arrest a person for an offence if they are at a police station because:</p> <ul style="list-style-type: none"> • they have been arrested for an offence • you feel if they were released from arrest, they would be liable to arrest for another offence related to a relevant immigration investigation
<p>PACE – Section 32 (1) to (9) (search upon arrest) (subject to the modification in article 9)</p>	<p>You may search any person of the same sex when the person was arrested at a place other than a police station, if you have reasonable grounds to believe they:</p> <ul style="list-style-type: none"> • may pose a danger to themselves or others • have anything that might be used to assist in escaping from lawful custody • have anything that may be evidence relating to an offence <p>You may also enter and search any premises where a person was present upon arrest, or immediately before arrest, for evidence relating to the offence, provided the offence for which the person is arrested is indictable.</p>
<p>PACE – Section 46A (1) and (1A) to (3)</p>	<p>You may arrest a person without a warrant if they were released on bail under PACE following their arrest for an</p>

Provision	What it means
(power of arrest for failure to answer to police bail)	offence related to a relevant immigration investigation and must attend at a police station but do not attend at that police station at the time they are supposed to.
PACE – Section 51 (b) (savings)	You may arrest a person without a warrant under the powers given by section 41 of, or Schedule 7 to, the Terrorism Act 2000 (powers of arrest and detention) if you have a reasonable suspicion they are a terrorist.
PACE – Section 107 (2) (police officers performing duties of higher rank)	If you can only use a power under a provision of PACE, or any other act, with the authority of at least the rank of a chief immigration officer (CIO), then an immigration officer is treated as a CIO if authorised to use that power by a Her Majesty's inspector (HMI) or above.

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The equivalent terms and titles used in the PACE order 2013

This page tells criminal investigators in Immigration Enforcement Criminal (IE) and suitably trained and accredited criminal investigators within the Home Office about replacing equivalent words, phrases and grades in the Police and Criminal Evidence Act 2004, as described by the PACE order 2013.

The equivalent terms set out in PACE part 2

The equivalent terms for the Home office are:

Police	Home Office
Constable	Immigration officer
Officer Police officer Officer of a force maintained by a local policing body	Immigration officer (except in section 16(10A) to 16(11), section 18(8), paragraphs 9 to 10 of Schedule 1 and all references to custody officer or officer of Her Majesty's Revenue & Customs)
Rank	Grade
The police	The Secretary of State or immigration officers

The equivalent titles set out in PACE part 3

The equivalent titles of immigration officers are:

Police	Grade of immigration officer
Sergeant	Immigration officer
Inspector	Chief immigration officer
Chief inspector	Chief immigration officer
Superintendent	Immigration inspector

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