



Home Office

Section 179 of the Licensing Act 2003: right of entry to premises being used for a licensable activity

Version 1.0

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About this guidance

This guidance tells Immigration Enforcement staff about the circumstances in which they have a right of entry to premises being used for a licensable activity.

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 the Right to Rent and Right to Work policy team.

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 Review, Atlas and Forms team.

Publication

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

- version **1.0**
- published for Home Office staff on **24 February 2025**

Changes from last version of this guidance

Updates contained in this iteration of the guidance relate to:

- the removal of this section from within the Partnership working guidance V5, and replacing with Section 179 right of entry to investigate licensable activities
- improving clarification throughout
- an updated scenario for where entry via section 179 is permitted
- clarification of the factors that will be taken into account when determining whether a warning letter or request for a review of a licence will be issued

Information added to the standard guidance template.

Related content

[Contents](#)

Relevant legislation

The [Licensing Act 2003](#) sets out the licensing regime in England and Wales for the sale of alcohol by retail, the provision of entertainment and the provision of late night refreshment. Late night refreshment is defined in the 2003 Act as the provision of hot food or hot drink to members of the public, whether for consumption on or off the premises, at any time between 11pm and 5am.

Local authority licensing officers are authorised under the 2003 Act to carry out inspection and enforcement roles in respect of premises carrying out a licensable activity. The act also includes some other office holders as 'authorised persons', notably fire inspectors and inspectors responsible for health and safety at work and environmental health.

Premises licensed for the sale of alcohol (section 1(1)(a)) the provision of late night refreshment (section 1(1)(d)) are licensable activities identified to be at high risk of illegal working. These include pubs, off licences, restaurants and takeaways. The [Immigration Act 2016](#) introduced immigration safeguards into the licensing regime affecting these 2 licensable activities. This includes inserting a subsection 1A into [section 179 of the Licensing Act 2003](#) (section 179) which provides a right of entry to immigration officers in respect of Immigration Act offences.

Where an Immigration Officer (IO) has reason to believe that any premises are being used for a licensable activity within section 1(1)(a) or (d) only of the Licensing Act 2003, they may enter the premises with a view to seeing whether an immigration offence is being committed in connection with the carrying out of the licensable activity. A warrant is not required.

Purpose of having the power

Aligning IO powers with those of the local authority licensing officials and the police under the 2003 Act is intended to facilitate joint enforcement operations with licensing enforcement officers and other bodies that inspect workplaces for compliance. This was the intended purpose for these powers stated during the passage of the act through Parliament. Accordingly, prior to using the power of entry under section 179, it is best practice for Home Office (Immigration Enforcement) teams to contact either the local licensing authority, or relevant responsible authority, and invite them to take part in a joint enforcement operation. Where necessary, a note of the request must be recorded on the PRONTO visit record.

However, the power of entry enables IOs to visit such premises without another responsible authority, if required. The IO may use the power when they either have intelligence of illegal working or of other immigration-related offences (for example, modern slavery and labour exploitation, or the use of false documents), as set out in any of the Immigration Acts, taking place in connection with the licensable activity. These powers are applicable irrespective of whether Home Office (Immigration Enforcement) is undertaking a solo or joint visit.

Threshold for belief

IOs need to have 'reason to believe' that the premises are being used for a licensable activity in order to exercise the power of entry. The threshold for belief is explained in the "Definition of terms used" section of the Immigration enforcement powers guidance. It should be noted that this power of entry is not limited to licensed premises but includes unlicensed premises where there is a reason to believe that licensable activities are taking place.

Where IOs are accompanying another agency with a power of entry under section 179, they can consider that agency's information or developed intelligence in order to see if it fulfils the 'reason to believe' threshold. However, the officer must not simply rely on that agency's intentions in respect of the premises and must form their own 'reason to believe' that a licensable activity is taking place at the premises.

In forming the reason to believe, the IO should consider:

- the licensing hours (if licensed premises) applied for and granted
- any web page published by the business which indicates when the premises will be open for service
- any other web page which promotes the business and indicates when it will be open for service
- external signage at the premises including on any menu or communications material
- any other appropriate intelligence

In cases of premises providing late night refreshment, this does not mean that the power may only be exercised between 11pm and 5am. However, it is necessary that there is intelligence that illegal working or another immigration-related offence is taking place **in connection with** the licensable activity, which is the provision of late night refreshment between these hours. It must be considered that there will be sufficient evidence available of this connection at the premises outside of the hours of 11pm to 5am in order to demonstrate a lawful and proportionate use of the right of entry outside these hours, unless officers have a reasonable belief that the sale of alcohol is also taking place.

The IO should have a clear rationale and justification as to why entry outside these hours is appropriate in order to fulfil the statutory purpose of section 179. An example may be where there is a reason to believe suspected illegal workers are involved in the preparation of food at the premises in the hours preceding 11pm, for service or delivery afterwards.

Intention of visit: examples

The intention of the visit is to establish whether an offence under any of the immigration acts is being committed in connection with the carrying out of the licensable activity. If the intelligence is that immigration offences are being committed separately to the licensable activity, entry must not be gained using section 179.

Section 179 can only be used where both of the following apply:

- an immigration officer has reason to believe that any premises are being used for a licensable activity within section 1(1)(a) or (d)
- the purpose of the visit is with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the carrying on of the licensable activity

Section 179:

- only allows entry to premises believed to be used for a licensable activity
- must not be used to gain entry if the sole intention of the enforcement visit is to arrest and detain a named person liable for removal and the intelligence received indicates a warrant is appropriate - this includes using section 179 as an option to avoid the associated charges attached to an application for a warrant, or to alleviate pressure on Home Office Immigration Enforcement and court resources more generally
- must not be used to gain entry if the sole intention of the enforcement visit is to arrest a person in respect of a criminal investigation in connection with an offence under any of the Immigration Acts
- must not be used to gain entry solely for the purpose of checking employer compliance with right to work checks in the absence of intelligence to suggest migrants are working illegally in relation to licensable activity there
- is not to be used as an alternative option where Grade 7 authorisation under section 28CA of the Immigration Act 1971 (AD Letter) cannot be obtained, for example, because the duty Grade 7 has not undertaken the relevant training
- must not be used to access a flat or other residential accommodation associated with the licensed premises unless there is a separate reason to believe that a licensable activity is also taking place in the flat or other residential accommodation

Scenarios

Scenario 1

If intelligence is received that a suspected overstayer is working at a 24-hour takeaway which holds a late night refreshment licence, but that person only works the daytime shift and their duties do not involve the service or provision of late night refreshment, then the immigration offence is not being committed in connection with the carrying out of a licensable activity and section 179 must not be used. However, if the intelligence does not state the hours worked and there is reason to believe that the suspected overstayer is involved in the provision of late night refreshment at the premises, then entry via section 179 is permitted.

Scenario 2

Intelligence is received that a named, high-harm individual is working illegally as a dishwasher at a café that has a licence to sell alcohol and may be residing in a flat

above the premises. There is no intelligence to suggest that any immigration offences are being committed at the premises in connection with the carrying out of the licensable activity and there is no intelligence regarding other workers. Officers intend to detain the individual to enforce deportation from the UK, therefore, entry via section 179 is not permitted and an alternative power of entry should be used. This may include entry by a warrant (to include the flat above the premises) or by fully informed consent.

Scenario 3

A restaurant / takeaway has 'compliance with right to work checks' as a condition of their premises licence, for example, imposed following a licence review after a previous incidence of illegal working. If the intention of the visit is to inspect for compliance, rather than enforcement, then an alternative power of entry to section 179 should be used. This may include entry by fully informed consent or if the business is subject to an Illegal Working Compliance Order, this may provide a right of entry. In this scenario, if entry by consent is refused then the owner, manager or other responsible individual of the premises should be advised that right to work checks are a condition of their premises licence and a referral for a review of the licence should be made to the licensing authority.

Tasking

Entry by IOs under section 179 must be either:

- discussed and agreed at the local ICE Tasking and Coordination Group (TCG) in advance and authorised by the chair of that meeting who is an officer of the rank of at least Her Majesty's Inspector (HMI)
- in hot tasking cases, agreed and authorised by an officer of the rank of at least HMI outside of a TCG meeting

Thereafter, the authority must be recorded as stated in Enforcement planning assessments.

Chairs of tasking meetings and HMIs authorising hot tasking must be confident that the premises are being used for a licensable activity. The 'reason to believe' threshold will be based on information received and intelligence, including that obtained by contact with the local authority. As noted above, entry under this power when an IO does not have reason to believe that the premises are being used for a licensable activity is **not** permitted. To do so otherwise will place all arrests, civil penalty referral notices (CPRNs), cash seizures and criminal investigations in jeopardy and leave officers open to legal challenge.

The IO must be able to justify why entry using section 179 is appropriate compared with using other powers of entry (criminal or administrative warrants, S28 CA (AD Letter) or entry by informed consent).

Actions on entry

A search of the premises under section 179 permits entry to the premises as a whole. However, officers should only access and search premises to the extent that is necessary, reasonable, and proportionate with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the carrying out of a licensable activity specified in section 179. Entry for these purposes should align to the licensing plan for the business and should not include those parts of the premises where the licensable activity is not believed to be taking place. Therefore, separate parts of the building, such as a flat above a catering premises or residential accommodation, should not be entered under these grounds. The legal risk of entering parts of the premises that are not areas where the licensable activity takes place will depend on the strength of justification for doing so. For example, there may be areas of the premises which are necessary to enter in order to meet the statutory purpose for the visit, such as potentially concealed areas or to effect a safe entry and ensure the health and safety of all persons present.

The power may be exercised in parts of the premises where the IO has a reason to believe that:

- hot food and drink may be served and/or eaten between 11pm and 5am, or where alcohol is available to be sold or consumed
- hot food and drink may be prepared and/or cooked, including the kitchen
- any storage facility for the food, drink or alcohol which falls within the premises
- the parts of the premises that facilitates the provision of late night refreshment or the sale of alcohol
- the parts of the premises made available for members of the public or staff as a licensing condition or a requirement of law, for example any toilet facilities
- any accessway which is reasonably necessary to enter such licensable premises

Once entry has been gained, the owner, manager or other responsible individual of the premises must be provided with the Notice to Occupier (NTO). If such an individual cannot be identified, the NTO must be left in a prominent position in the premises and this duly recorded.

Under subsection (2) of section 179, as amended, an officer exercising this power of entry must produce evidence of their authority to do so if requested, that is to show their warrant card. It is Home Office policy that officers visiting in plain clothes, or officers who do not have their warrant number clearly on display on their shoulder epaulettes, show their warrant cards on entry as a matter of course to identify themselves.

If entry is denied to IOs under this power, entry by reasonable force is permitted under subsection (3) of section 179. If this is necessary, you must follow the guidance on forced entry in arrest and restraint.

The role of IOs is limited to the immigration aspects of the licence, particularly the inspection of the right to work documents checked by the employer. The detection of immigration offenders, the service of a CPRN, cash seizure and the

associated criminal offences are all permitted after lawful entry to licensed premises under this power. Further information is contained in the guidance on undertaking illegal working operations.

If immigration offenders are located in a licensed premises, or a CPRN is served on the owner of a licensed premises, Immigration Enforcement Licensing and Compliance Team will consider if sanctions are appropriate. Visit information will be extracted from PRONTO by the team, who will assess the information against the following criteria to issue a warning letter or initiate a review of the licence by the licencing authority, if appropriate.

In instances where 1-2 illegal workers are encountered, and it is the licence holder's first identified instance of non-compliance with the licensing objectives, a warning letter will normally be issued. However, other forms of non-compliance will also be considered when determining whether to issue a warning letter or request a review of a licence. Factors that will be taken into account include:

- a previous requirement to pay a penalty, in particular:
 - a penalty under section 15 of the 2006 Act during the last 3 years ending on the date that illegal working is identified
 - a penalty at any time which they have failed to pay
- repeat instances of non-compliance with the relevant licensing objectives or the prevention of illegal working in the last 3 years (whether or not a previous warning has been issued to the licence holder)
- where 3 or more illegal workers are identified during an enforcement visit

There may be cases where the severity or scale of non-compliance (including issues other than illegal working) will result in the stepped approach not being applied even where the number of illegal workers encountered are between one and two (1–2) individuals and where a review of a licence would be more appropriate.

Further information is contained in the guidance on preventing illegal working in licensed premises and the Home Office role as a Responsible Authority in England and Wales ([Powers and operational procedure: caseworker guidance - GOV.UK](#)).

Recording of visits

Officers entering under this power need to record their grounds for forming the reason to believe and service of the NTO in their digital pocket notebook and provide copies of entries, if required, by the licensing authority as part of any licence review process. PRONTO must be updated with the outcome of the visit.

Scotland and Northern Ireland

The Licensing Act 2003, and therefore this power of entry, does not apply in Scotland or Northern Ireland. The Immigration Act 2016 makes provision for similar arrangements to be introduced via regulations in Scotland and Northern Ireland. These provisions are not yet in force.

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