

SCHEDULES

SCHEDULE 1

Section 4

ENFORCEMENT POWERS

Power to escort detained persons

- 1 In Schedule 2 to the Immigration Act 1971, in paragraph 18(3) (power to escort detained persons) for the first “or of” substitute “an immigration officer, or”.

Power to search detained persons

- 2 (1) In Schedule 2 to the Immigration Act 1971, after paragraph 18 insert—
- “18A (1) An immigration officer or constable may search a person (“P”) who is detained under paragraph 16 for anything which P might use—
- (a) to cause physical injury to P or others, or
 - (b) to assist P’s escape from legal custody.
- (2) The power to search P—
- (a) unless sub-paragraph (3) applies, does not include power to require P to remove any clothing other than an outer coat, jacket or glove, but
 - (b) includes power to require P to open P’s mouth.
- (3) This sub-paragraph applies if an immigration officer or constable has reasonable grounds to believe that there is concealed on P anything which P might use as mentioned in sub-paragraph (1).
- (4) The power to search P may be exercised only to the extent reasonably required for the purpose of discovering anything which P might use as mentioned in sub-paragraph (1).
- (5) An intimate search (as defined in section 28H(11)) may not be conducted under this paragraph.
- (6) An immigration officer or constable may seize and retain anything found on a search of P if the officer or constable has reasonable grounds to believe P might use it as mentioned in sub-paragraph (1).
- (7) Nothing seized under sub-paragraph (6) may be retained when P is released from detention under paragraph 16.”
- (2) In paragraph 2(4) of Schedule 3 to the Immigration Act 1971 (which applies certain provisions of Schedule 2 to that Act), for “, 18” substitute “to 18A”.
- (3) In section 10(7) of the Immigration and Asylum Act 1999 (which applies certain provisions of Schedule 2 to the Immigration Act 1971), for “18” substitute “18A”.

Status: This is the original version (as it was originally enacted).

- (4) In section 47(3) of the Immigration, Asylum and Nationality Act 2006 (which applies certain provisions of Schedule 2 to the Immigration Act 1971), for “18” substitute “18A”.
- (5) In regulation 22(2) of the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) (which applies certain provisions of Schedule 2 to the Immigration Act 1971), for “18” substitute “18A”.

Entry and search of premises

- 3 (1) Paragraph 25A of Schedule 2 to the Immigration Act 1971 (power to enter premises and search for documents following arrest) is amended as follows.
 - (2) In sub-paragraph (1)(b) for “by a constable (other than under this Schedule)” substitute “other than under this Schedule”.
 - (3) After sub-paragraph (6) insert—
 - “(6A) If, on an application made by an immigration officer, a justice of the peace is satisfied that—
 - (a) there are reasonable grounds for believing that relevant documents may be found on premises not within sub-paragraph (2) which are specified in the application, and
 - (b) any of the conditions in sub-paragraph (6B) is met,
 the justice of the peace may issue a warrant authorising an immigration officer to enter and search the premises.
 - (6B) The conditions are that—
 - (a) it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (b) 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 relevant documents;
 - (c) entry to the premises will not be granted unless a warrant is produced;
 - (d) the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry.
 - (6C) In the application of sub-paragraph (6A) to Scotland, references to a justice of the peace are to be treated as references to the sheriff or a justice of the peace.”
 - (4) In sub-paragraph (7)—
 - (a) for “sub-paragraph (2)” substitute “this paragraph”;
 - (b) in paragraph (a) omit “and retain”;
 - (c) omit paragraph (b) and the “but” before it.
 - (5) After sub-paragraph (8) insert—
 - “(8A) An immigration officer may retain a document seized under sub-paragraph (7) while the officer has reasonable grounds for believing that—

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

4 In sections 28J(11) and 28K(14) of the Immigration Act 1971 (warrants - safeguards and execution) after "paragraph 17(2)" insert "or 25A(6A)".

General power to use reasonable force

5 In section 146(1) of the Immigration and Asylum Act 1999 (power of immigration officer to use reasonable force when exercising powers under certain enactments) for "the 1971 Act or this Act" substitute "the Immigration Acts".