

# KNOW YOUR RIGHTS

## When Police Search Your Home or Business

**CRITICAL: Only official police or immigration officers can search your home. Community members, vigilante groups, and private individuals have NO legal authority to search you or your premises.**

### 1. WHAT IS A LEGAL SEARCH?

Police or immigration officers may ONLY search your home or business if one of these applies:

- They have a valid search warrant issued by a court based on prior reasonable grounds
- You voluntarily give written consent (your permission in writing)
- There is an immediate emergency (life in danger, crime happening now)

**NO FISHING EXPEDITIONS: Police cannot search your premises just to see if undocumented immigrants are present. They must have specific, reasonable grounds BEFORE obtaining a warrant. A search motivated solely by checking for undocumented people is unlawful.**

### 2. WHAT THE OFFICERS MUST SHOW YOU

If police or immigration officers arrive at your home or business:

- They must show you a valid search warrant (an official court document)
- The warrant must state the specific address, the reason for the search, and be dated and signed by a magistrate
- They must identify themselves clearly
- They must tell you the reason for the search in a language you understand

### 3. WHAT IS 'REASONABLE GROUNDS' (REASONABLE CAUSE)?

**This is the key legal requirement. Before obtaining a search warrant, police or immigration officers must have SPECIFIC, FACTUAL REASONS to believe a crime has been or is being committed. You cannot be searched just to check whether undocumented immigrants are present.**

Reasonable grounds are specific, factual reasons, not just suspicion or personal dislike. For example:

- An eyewitness report that a specific crime was committed at your address
- Physical evidence linking your premises to an investigation
- A previous pattern of proven criminal activity at your address
- Information from a reliable source that a crime is happening now

**Reasonable grounds do NOT include:**

- Suspicion that undocumented immigrants may be present
- Rumours or hearsay from neighbours
- Prejudice against foreigners or your nationality

- Neighbourhood complaints without evidence
- An officer's hunch or dislike

**If police claim reasonable grounds, you can demand they explain exactly what those grounds are. If they cannot give specific reasons for the search warrant, it is unlawful.**

## 4. YOUR RIGHTS DURING A SEARCH

- You have the right to see and inspect the warrant before they search
- You can refuse to answer questions (remain silent)
- You can request to have a witness present (a trusted person, family member, or legal representative)
- The search must only look in places where the listed items could reasonably be found
- You must receive a receipt listing everything taken from your home or business

## 5. WHAT YOU MUST NOT DO

- Do not physically resist or obstruct the officers (even if you believe the search is unlawful)
- Do not sign anything without reading it carefully first
- Do not agree to a search unless officers have a valid warrant or you truly wish to give consent
- Do not destroy or hide documents (this is a serious crime)

## 6. SEARCHES OF BUSINESS PREMISES

Business premises (shops, offices, warehouses, factories, taverns) receive the same legal protection as homes, but with some important differences:

### During Business Hours

- Police and immigration officers may conduct searches during normal business hours
- The manager or owner must be allowed to inspect the warrant
- Officers may speak to staff, but staff have the same rights and can refuse to answer questions

### What Officers Can Inspect

- Workplace areas accessible to the public or employees
- Employment records and identity documents
- Areas specified on the warrant
- They CANNOT search private offices or files without specific warrant authority

### Your Rights as a Business Owner or Manager

- Demand to see the warrant before allowing any search
- Request the reason for the search in writing
- Be present during the search if possible
- Request a detailed inventory of all items seized
- Request contact information for all officers involved
- Keep a copy of the warrant for your records

## 7. IMMIGRATION SEARCHES AT BUSINESSES

Immigration officers conducting workplace searches have specific authority under the Immigration Act, but it is limited:

- They may enter premises to investigate, but ONLY WITH A WARRANT based on reasonable grounds
- They may request identity documents from employees
- They must have specific, reasonable grounds to believe undocumented workers are employed at the premises
- Employers have a legal duty to make good-faith efforts to verify employee documentation
- However, the search itself must still comply with the Constitution. No unlawful or racially targeted fishing expedition searches are permitted.

**IMPORTANT: Immigration officers cannot simply search a business to check for undocumented workers. They must have PRIOR reasonable grounds before a warrant is even granted. If they claim to be searching based solely on suspicion that undocumented people may be present, that search is unlawful.**

## 8. COMMUNITY MEMBERS, VIGILANTES & PRIVATE SEARCHES

**Private citizens, community policing forums, vigilante groups, or any non-official persons have ABSOLUTELY NO LEGAL AUTHORITY to search your home, business, or belongings for any reason, including looking for undocumented people. Such searches are illegal and violate your constitutional right to privacy.**

This includes:

- Operation Dudula or similar vigilante organisations
- Community members acting on their own
- Building landlords or managers acting without court authority
- Neighbours, even if they claim concern
- Anyone without official police or immigration credentials

**If private people try to enter your home or business to conduct a search, you may refuse entry and call the police.**

**This is lawful self-defence of your constitutional rights.**

## 9. IF YOU ARE UNDOCUMENTED

Your immigration status does NOT remove your constitutional rights:

- You still have the right to privacy and protection from unlawful search
- Police must still have a valid warrant based on prior reasonable grounds
- Only official immigration officers or SAPS can lawfully investigate your status
- You may consult a lawyer immediately, even at a police station

## 10. IF AN UNLAWFUL SEARCH OCCURS

- Write down names, badge numbers, vehicle registration of all officers or individuals involved
- Record dates, times, and exactly what was taken or damaged
- Get the names and contact details of any witnesses
- Contact a lawyer or legal aid organisation immediately
- You may lodge a complaint with the Independent Police Investigative Directorate (IPIID)

## 11. WHERE TO GET HELP

### Legal assistance (free or low cost):

- Legal Aid South Africa: 080 034 2342 (toll-free) or [www.legal-aid.org.za](http://www.legal-aid.org.za)
- Lawyers for Human Rights: 011 336 4701
- Scalabrini Centre of Cape Town: 021 465 6007 (immigration-focused)
- Community Law Centre: 021 959 7611

### Complaint to authorities:

- Independent Police Investigative Directorate (IPID): 0800 007 400
- South African Human Rights Commission (SAHRC): 011 877 3600

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This pamphlet is provided for educational purposes. It is not legal advice.

**Your rights are protected by the South African Constitution. Know them. Exercise them.  
Defend them.**