

SCHEDULES

SCHEDULE 5

Section 24

POWERS OF ENTRY, SEARCH, SEIZURE AND RETENTION

Introductory

- 1 This Schedule confers powers of entry, search, seizure and retention on constables in connection with the imposition of measures on individuals.
- 2 A power conferred on a constable by virtue of this Schedule—
 - (a) is additional to powers which the constable has at common law or by virtue of any other enactment, and
 - (b) is not to be taken as affecting those powers.
- 3 A constable may detain an individual for the purpose of carrying out a search of that individual under a power conferred by virtue of this Schedule.
- 4 A constable may use reasonable force, if necessary, for the purpose of exercising a power conferred on the constable by virtue of this Schedule.

Entry and search for purposes of serving TPIM notice

- 5 (1) For the purpose of serving a relevant notice on an individual, a constable may—
 - (a) enter any premises where the constable has reasonable grounds for believing the individual to be, and
 - (b) search those premises for that individual.
- (2) A “relevant notice” means—
 - (a) a TPIM notice;
 - (b) a notice under section 5(2) extending a TPIM notice;
 - (c) a notice under section 12(1) varying a TPIM notice as mentioned in paragraph (c) of that subsection; or
 - (d) a notice under section 13(1) reviving a TPIM notice.

Search of individual or premises at time of serving TPIM notice

- 6 (1) This paragraph applies if a TPIM notice is being, or has just been, served on an individual.
- (2) A constable may (without a warrant)—
 - (a) search the individual for the purpose mentioned in sub-paragraph (3);
 - (b) enter and search, for that purpose, any premises mentioned in sub-paragraph (4).
- (3) The purpose is that of ascertaining whether there is anything on the individual, or (as the case may be) in the premises, that contravenes measures specified in the TPIM notice.

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- (4) The premises referred to in sub-paragraph (2)(b) are—
 - (a) the individual's place of residence;
 - (b) other premises to which the individual has power to grant access.
- (5) A constable may seize anything that the constable finds in the course of a search carried out under a power conferred by this paragraph—
 - (a) for the purpose of ascertaining whether measures specified in the TPIM notice are being or are about to be contravened by the individual;
 - (b) for the purpose of securing compliance by the individual with measures specified in the TPIM notice;
 - (c) if the constable has reasonable grounds for suspecting that—
 - (i) the thing is or contains evidence in relation to an offence, and
 - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

Search of premises on suspicion of absconding

- 7 (1) This paragraph applies if a constable reasonably suspects that an individual in respect of whom a TPIM notice is in force has absconded.
- (2) The constable may (without a warrant) enter and search any premises mentioned in sub-paragraph (3)—
 - (a) for the purposes of determining whether the individual has absconded;
 - (b) if it appears that the individual has absconded, for anything that may assist in the pursuit and arrest of the individual.
- (3) The premises referred to in sub-paragraph (2) are—
 - (a) the individual's place of residence;
 - (b) other premises to which the individual has power to grant access;
 - (c) any premises to which the individual had power to grant access and with which there is reason to believe that the individual is or was recently connected.
- (4) A constable may seize anything that the constable finds in the course of a search carried out under a power conferred by this paragraph—
 - (a) if the constable reasonably believes that the thing will assist in the pursuit or arrest of the individual;
 - (b) if the constable has reasonable grounds for suspecting that—
 - (i) the thing is or contains evidence in relation to an offence, and
 - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

Search for compliance purposes

- 8 (1) A constable may apply for the issue of a warrant under this paragraph for the purpose of determining whether an individual in respect of whom a TPIM notice is in force is complying with measures specified in the notice.
- (2) A warrant under this paragraph may authorise a constable to do either or both of the following—
 - (a) to search the individual;

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- (b) to enter and search the individual’s place of residence or any other premises that are specified in the warrant.
- (3) An application for a warrant under this paragraph must be made to the appropriate judicial authority.
- (4) The appropriate judicial authority may, on such an application, grant the warrant only if satisfied that the warrant is necessary for the purpose mentioned in sub-paragraph (1).
- (5) A constable may seize anything that the constable finds in the course of a search carried out under a power conferred by a warrant issued under this paragraph—
 - (a) for the purpose of ascertaining whether any measure specified in the TPIM notice has been, is being, or is about to be, contravened by the individual;
 - (b) for the purpose of securing compliance by the individual with measures specified in the TPIM notice;
 - (c) if the constable has reasonable grounds for suspecting that—
 - (i) the thing is or contains evidence in relation to an offence, and
 - (ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (6) In this paragraph “appropriate judicial authority”, in relation to a warrant, means—
 - (a) a justice of the peace, if the application for the warrant is made in England or Wales;
 - (b) the sheriff, if the application is made in Scotland;
 - (c) a lay magistrate, if the application is made in Northern Ireland.
- 9 (1) This paragraph applies in relation to a warrant issued in England, Wales or Northern Ireland under paragraph 8 so far as it authorises a constable to search an individual.
- (2) In relation to warrants issued under that paragraph so far as authorising the entry and search of premises, see—
 - (a) sections 15 and 16 of the Police and Criminal Evidence Act 1984, in relation to warrants issued in England and Wales;
 - (b) Articles 17 and 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)), in relation to warrants issued in Northern Ireland.
- (3) The constable applying for the warrant must—
 - (a) state the ground on which the application is made, and
 - (b) identify, so far as practicable, the articles to be sought.
- (4) The application for the warrant is to be made without notice and—
 - (a) if made in England or Wales, supported by an information in writing;
 - (b) if made in Northern Ireland, supported by a complaint in writing and substantiated on oath.
- (5) The constable must answer on oath any questions that the appropriate judicial authority (within the meaning of paragraph 8) hearing the application may ask of the constable.
- (6) If the warrant is issued it authorises a search of the individual on one occasion only.
- (7) The warrant must—

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- (a) specify the name of the constable applying for it, the date on which it is issued and the fact that it is issued under paragraph 8, and
 - (b) identify, so far as practicable, the articles to be sought.
- (8) Two copies must be made of the warrant and clearly certified as copies.
- (9) The warrant may be executed by any constable.
- (10) The search under the warrant must be carried out within 28 days of its issue.
- (11) The search must be carried out at a reasonable hour unless it appears to the constable executing the warrant that the purposes of the search may be frustrated if carried out then.
- (12) The constable seeking to execute the warrant must, before carrying out the search—
- (a) identify himself or herself to the individual,
 - (b) if not in uniform, produce documentary evidence that he or she is a constable to the individual,
 - (c) produce the warrant to the individual, and
 - (d) supply the individual with a copy of the warrant (which, in Northern Ireland, must be a certified copy).
- (13) The constable executing the warrant must make an endorsement on it stating—
- (a) whether anything sought was found in the course of the search, and
 - (b) whether anything was seized.
- (14) When the warrant has been executed it must be returned to the designated officer.
- (15) The designated officer must retain a warrant returned under sub-paragraph (14) for a period of 12 months from the time of its return and, if requested during that period, allow the individual to inspect it.
- (16) The “designated officer” is—
- (a) in relation to a warrant issued in England and Wales, the designated officer for the local justice area in which the justice of the peace who issued the warrant was acting when it was issued;
 - (b) in relation to a warrant issued in Northern Ireland, the clerk for the petty sessions district in which the lay magistrate who issued the warrant was acting when it was issued.

Search of individual for public safety purposes

- 10 (1) A constable may (without a warrant) search an individual in respect of whom a TPIM notice is in force for the purpose of ascertaining whether the individual is in possession of anything that could be used to threaten or harm any person.
- (2) The power of a constable to search the individual under this paragraph may be exercised—
- (a) following entry onto premises by virtue of this Act, or
 - (b) at any other time when the constable is in the presence of the individual.
- (3) A constable may seize anything that the constable finds in the course of a search carried out under a power conferred by this paragraph—

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- (a) if the constable has reasonable grounds for suspecting that the thing may be used to threaten or harm any person;
- (b) if the constable has reasonable grounds for suspecting that—
 - (i) the thing is or contains evidence in relation to an offence, and
 - (ii) it is necessary to seize it to prevent it being concealed, lost, damaged, altered or destroyed.

Power to retain items

- 11 (1) Anything that is seized under a power conferred by virtue of this Schedule may be—
- (a) subjected to tests;
 - (b) retained for as long as is necessary in all the circumstances.
- (2) In particular (and regardless of the ground on which the thing was seized)—
- (a) if a constable has reasonable grounds for believing that the thing is or contains evidence in relation to an offence, it may be retained—
 - (i) for use as evidence at a trial for an offence, or
 - (ii) for forensic examination or for investigation in connection with an offence; and
 - (b) if a constable has reasonable grounds for believing that the thing has been obtained in consequence of the commission of an offence, it may be retained in order to establish its lawful owner.
- (3) Nothing may be retained for either of the purposes mentioned in sub-paragraph (2)
- (a) if a photograph or copy would be sufficient for that purpose.
- (4) Nothing in this paragraph or in paragraph 12 affects any power of a court to make an order under section 1 of the Police (Property) Act 1897.
- 12 (1) This paragraph applies if—
- (a) a device is surrendered by virtue of a condition of the kind mentioned in paragraph 7(4)(e) of Schedule 1 (surrendering of electronic communication devices for inspection or modification purposes), and
 - (b) a constable has reasonable grounds for believing that the device is or contains evidence in relation to an offence.
- (2) The device may be seized and retained for as long as is necessary in all the circumstances.
- (3) In particular—
- (a) the thing may be retained—
 - (i) for use as evidence at a trial for an offence, or
 - (ii) for forensic examination or for investigation in connection with an offence; and
 - (b) if a constable has reasonable grounds for believing that the device has been obtained in consequence of the commission of an offence, it may be retained in order to establish its lawful owner.
- (4) Nothing may be retained for either of the purposes mentioned in sub-paragraph (3)
- (a) if a photograph or copy would be sufficient for that purpose.