

SCHEDULE 3

Exercise of functions by officials other than police constables

PART 4

Application of 2016 Act to officers of Revenue and Customs

Introductory

Application of 2016 Act in relation to officers of Revenue and Customs

15.—(1) Chapters 1 to 6 of Part 1 of the 2016 Act and sections 63, 65, 66 and 68 (power to arrest without warrant, other provisions about arrest and custody by police, and police searches) apply in relation to arrest and custody by officers of Revenue and Customs and searches by them, subject to the adaptations in this Part.

(2) Sections 31 to 33 of the 2016 Act (rights of suspects at interview) apply, subject to those adaptations, in relation to a person who attends voluntarily for the purpose of being interviewed by an officer of Revenue and Customs.

General adaptations

General adaptations

16. In the provisions of the 2016 Act mentioned in paragraph 16, references in column 1 of the table are, subject to the specific adaptations in this Part, to be read in accordance with column 2—

| <i>1. Reference in 2016 Act</i> | <i>2. How reference is to be read</i> |
|---------------------------------|--|
| a constable | an officer of Revenue and Customs |
| the rank of sergeant | the grade of officer |
| the rank of inspector | the grade of higher officer |
| police custody | Revenue and Customs custody as defined by paragraph 21 |
| a police station | a police station, office of Revenue and Customs or Home Office custody suite |

Specific adaptations

Section 1 (power of an officer of Revenue and Customs)

17.—(1) Section 1 applies only in relation to a Revenue and Customs offence.

(2) In sub-paragraph (1) “Revenue and Customs offence” has the meaning given by subsection (2) of section 23A of the Criminal Law (Consolidation) (Scotland) Act 1995⁽¹⁾.

(1) 1995 c.39. Section 23A was inserted by the Finance Act 2007 (c.11); subsection (2) was amended by the Employment Act 2008 (c.24), section 12(2) and the Criminal Finances Act 2017 (c.22), section 18(2).

Section 11 (authorisation for keeping in custody beyond 12 hour limit)

18. In section 11(2), for paragraph (a) read—

“(a) is of or above the grade of higher officer, and”.

Section 65 (limitation on what enables search of person not in custody)

19.—(1) Section 65 does not limit any power of an officer of Revenue and Customs to carry out a protective search—

- (a) of a person whom the officer finds in or on premises entered by the officer under the authority of a warrant under section 23E of the Criminal Law (Consolidation) (Scotland) Act 1995(2); or
- (b) of a person in relation to whom the officer is exercising any power under section 23M of that Act.

(2) In this paragraph “protective search” means a search in the circumstances described in section 66(1)(b) of the 2016 Act for the purpose described in section 66(2).

Section 66 (cases involving removal of person)

20. In section 66, for subsection (3) read—

“(3) Anything seized by an officer of Revenue and Customs in the course of a search carried out under this section may be retained by the officer or by a constable.”.

Supplementary

Revenue and Customs custody

21.—(1) For the purposes of provisions of the 2016 Act as applied by this Part of this Schedule, a person is in Revenue and Customs custody from the time the person is arrested by an officer of Revenue and Customs, or is transferred into the custody of an officer of Revenue and Customs, until any one of the events mentioned in sub-paragraph (2) occurs.

(2) The events are—

- (a) the person is released from custody;
- (b) the person is brought before a court in accordance with section 21(2) of the 2016 Act;
- (c) the person is brought before a court under section 28(2) or (3) of the Criminal Procedure (Scotland) Act 1995(3);
- (d) the person is brought before a court in accordance with—
 - (i) any other enactment or rule of law which requires that a person in custody be brought before a court; or
 - (ii) a term of the warrant under which the person was arrested;
- (e) the person is transferred in accordance with the law into the custody of a person who is not an officer of Revenue and Customs;
- (f) the Principal Reporter directs under section 65(2)(b) of the Children’s Hearings (Scotland) Act 2011 that the person continue to be kept in a place of safety.

(2) Section 23E was inserted by the Finance Act 2007 (c.11).

(3) 1995 c.46.

Powers of search etc. under other enactments

22. Where a person is arrested by an officer of Revenue and Customs under section 1 of the 2016 Act, an officer of Revenue and Customs may exercise any power that would be exercisable by such an officer if the person had been arrested under another enactment that confers power on an officer of Revenue and Customs to arrest in relation to the same offence.