



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART XI

MISCELLANEOUS AND SUPPLEMENTARY

113 Application of Act to Armed Forces

- (1) The Secretary of State may by order direct that any provision of this Act which relates to investigations of offences conducted by police officers or to persons detained by the police shall apply, subject to such modifications as he may specify, to investigations of offences conducted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 or to persons under arrest under any of those Acts.
- (2) Section 67(9) above shall not have effect in relation to investigations of offences conducted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.
- (3) The Secretary of State shall issue a code of practice, or a number of such codes, for persons other than police officers who are concerned with enquiries into offences under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.
- (4) Without prejudice to the generality of subsection (3) above, a code issued under that subsection may contain provisions, in connection with enquiries into such offences, as to the following matters—
 - (a) the tape-recording of interviews ;
 - (b) searches of persons and premises ; and
 - (c) the seizure of things found on searches.
- (5) If the Secretary of State lays before both Houses of Parliament a draft of a code of practice under this section, he may by order bring the code into operation.
- (6) An order bringing a code of practice into operation may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice thereby brought into operation.

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- (7) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section and issue that revised code, and the foregoing provisions of this section shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.
- (8) A failure on the part of any person to comply with any provision of a code of practice issued under this section shall not of itself render him liable to any criminal or civil proceedings except those to which this subsection applies.
- (9) Subsection (8) above applies—
- (a) to proceedings under any provision of the Army Act 1955 or the Air Force Act 1955 other than section 70; and
 - (b) to proceedings under any provision of the Naval Discipline Act 1957 other than section 42.
- (10) In all criminal and civil proceedings any such code shall be admissible in evidence and if any provision of such a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.
- (11) In subsection (10) above " criminal proceedings" includes—
- (a) proceedings in the United Kingdom or elsewhere before a court-martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 or a disciplinary court constituted under section 50 of the said Act of 1957;
 - (b) proceedings before the Courts-Martial Appeal Court; and
 - (c) proceedings before a Standing Civilian Court.
- (12) Parts VII and VIII of this Act have effect for the purposes of proceedings—
- (a) before a court-martial constituted under the Army Act 1955 or the Air Force Act 1955 ;
 - (b) before the Courts-Martial Appeal Court; and
 - (c) before a Standing Civilian Court,
- subject to any modifications which the Secretary of State may by order specify.
- (13) An order under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

114 Application of Act to Customs and Excise

- (1) " Arrested ", " arresting ", " arrest " and " to arrest " shall respectively be substituted for " detained " , " detaining " , " detention " and " to detain " wherever in the customs and excise Acts, as defined in section 1(1) of the Customs and Excise Management Act 1979, those words are used in relation to persons.
- (2) The Treasury may by order direct—
- (a) that any provision of this Act which relates to investigations of offences conducted by police officers or to persons detained by the police shall apply, subject to such modifications as the order may specify, to investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, as defined in section 1 of the Customs and Excise Management Act 1979, or to persons detained by officers of Customs and Excise ; and

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- (b) that, in relation to investigations of offences conducted by officers of Customs and Excise—
 - (i) this Act shall have effect as if the following section were inserted after section 14—

“14A Exception for Customs and Excise.

Material in the possession of a person who acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office and which relates to an assigned matter, as defined in section 1 of the Customs and Excise Management Act 1979, is neither excluded material nor special procedure material for the purposes of any enactment such as is mentioned in section 9(2) above.”; and

- (ii) section 55 above shall have effect as if it related only to things such as are mentioned in subsection (1)(a) of that section.
- (3) Nothing in any order under subsection (2) above shall be taken to limit any powers exercisable under section 164 of the Customs and Excise Management Act 1979.
- (4) In this section " officers of Customs and Excise " means officers commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979.
- (5) An order under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

115 Expenses

Any expenses of a Minister of the Crown incurred in consequence of the provisions of this Act, including any increase attributable to those provisions in sums payable under any other Act, shall be defrayed out of money provided by Parliament.

116 Meaning of " serious arrestable offence "

- (1) This section has effect for determining whether an offence is a serious arrestable offence for the purposes of this Act.
- (2) The following arrestable offences are always serious—
 - (a) an offence (whether at common law or under any enactment) specified in Part I of Schedule 5 to this Act; and
 - (b) an offence under an enactment specified in Part II of that Schedule.
- (3) Subject to subsections (4) and (5) below, any other arrestable offence is serious only if its commission—
 - (a) has led to any of the consequences specified in subsection (6) below; or
 - (b) is intended or is likely to lead to any of those consequences.
- (4) An arrestable offence which consists of making a threat is serious if carrying out the threat would be likely to lead to any of the consequences specified in subsection (6) below.

- (5) An offence under section 1, 9 or 10 of the Prevention of Terrorism (Temporary Provisions) Act 1984 is always a serious arrestable offence for the purposes of section 56 or 58 above, and an attempt or conspiracy to commit any such offence is also always a serious arrestable offence for those purposes.
- (6) The consequences mentioned in subsections (3) and (4) above are
- (a) serious harm to the security of the State or to public order;
 - (b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;
 - (c) the death of any person ;
 - (d) serious injury to any person;
 - (e) substantial financial gain to any person ; and
 - (f) serious financial loss to any person.
- (7) Loss is serious for the purposes of this section if, having regard to all the circumstances, it is serious for the person who suffers it.
- (8) In this section " injury " includes any disease and any impairment of a person's physical or mental condition.

117 Power of constable to use reasonable force

Where any provision of this Act—

- (a) confers a power on a constable; and
- (b) does not provide that the power may only be exercised with the consent of some person, other than a police officer,

the officer may use reasonable force, if necessary, in the exercise of the power.

118 General interpretation

(1) In this Act—

- " arrestable offence " has the meaning assigned to it by section 24 above;
- " designated police station " has the meaning assigned to it by section 35 above;
- " document " has the same meaning as in Part I of the Civil Evidence Act 1968 ;
- " intimate search " means a search which consists of the physical examination of a person's body orifices ;
- " item subject to legal privilege " has the meaning assigned to it by section 10 above ;
- " parent or guardian " means—
 - (a) in the case of a child or young person in the care of a local authority, that authority; and
 - (b) in the case of a child or young person in the care of a voluntary organisation in which parental rights and duties with respect to him are vested by virtue of a resolution under section 64(1) of the Child Care Act 1980, that organisation ;
- " premises " has the meaning assigned to it by section 23 above;
- " recordable offence " means any offence to which regulations under section 27 above apply ;

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" vessel" includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

- (2) A person is in police detention for the purposes of this Act if—
- (a) he has been taken to a police station after being arrested for an offence ; or
 - (b) he is arrested at a police station after attending voluntarily at the station or accompanying a constable to it,
- and is detained there or is detained elsewhere in the charge of a constable, except that a person who is at a court after being charged is not in police detention for those purposes.

119 Amendments and repeals

- (1) The enactments mentioned in Schedule 6 to this Act shall have effect with the amendments there specified.
- (2) The enactments mentioned in Schedule 7 to this Act (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.
- (3) The repeals in Parts II and IV of Schedule 7 to this Act have effect only in relation to criminal proceedings.

120 Extent

- (1) Subject to the following provisions of this section, this Act extends to England and Wales only.
- (2) The following extend to Scotland only—
section 108(4) and (5);
section 110;
section 111;
section 112(1); and
section 119(2), so far as it relates to the provisions of the Pedlars Act 1871 repealed by Part VI of Schedule 7.
- (3) The following extend to Northern Ireland only—
section 6(4); and
section 112(2).
- (4) The following extend to England and Wales and Scotland—
section 6(1) and (2);
section 7;
section 83(2), so far as it relates to paragraph 8 of Schedule 4;
section 108(1) and (6);
section 109; and
section 119(2), so far as it relates to section 19 of the Pedlars Act 1871.
- (5) The following extend to England and Wales, Scotland and Northern Ireland—
section 6(3);
section 83(2), so far as it relates to paragraph 7(1) of Schedule 4;

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and section 114(1).

- (6) So far as they relate to proceedings before courts-martial and Standing Civilian Courts, the relevant provisions extend to any place at which such proceedings may be held.
- (7) So far as they relate to proceedings before the Courts-Martial Appeal Court, the relevant provisions extend to any place at which such proceedings may be held.
- (8) In this section " the relevant provisions " means—
 - (a) subsection (11) of section 67 above ;
 - (b) subsection (12) of that section so far as it relates to subsection (11);
 - (c) Parts VII and VIII of this Act, except paragraph 10 of Schedule 3 ;
 - (d) subsections (2) and (8) to (12) of section 113 above; and
 - (e) subsection (13) of that section, so far as it relates to an order under subsection (12).
- (9) Except as provided by the foregoing provisions of this section, section 113 above extends to any place to which the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 extends.
- (9) Section 119(1), so far as it relates to any provision amended by Part II of Schedule 6, extends to any place to which that provision extends.
- (10) Section 119(2), so far as it relates—
 - (a) to any provision contained in—
 - the Army Act 1955 ;
 - the Air Force Act 1955 ;
 - the Armed Forces Act 1981; or
 - the Value Added Tax Act 1983 ;
 - (b) to any provision mentioned in Part VI of Schedule 7, other than section 18 of the Pedlars Act 1871,
 extends to any place to which that provision extends.
- (11) So far as any of the following—
 - section 115 ;
 - in section 118, the definition of " document";
 - this section;
 - section 121; and
 - section 122,
 has effect in relation to any other provision of this Act, it extends to any place to which that provision extends.

121 Commencement

- (1) This Act, except section 120 above, this section and section 122 below, shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.
- (2) Different days may be appointed under this section for the coming into force of section 60 above in different areas.

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- (3) When an order under this section provides by virtue of subsection (2) above that section 60 above shall come into force in an area specified in the order, the duty imposed on the Secretary of State by that section shall be construed as a duty to make an order under it in relation to interviews in that area.
- (4) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation.

122 Short title

This Act may be cited as the Police and Criminal Evidence Act 1984.