



# Aviation and Maritime Security Act 1990

## 1990 CHAPTER 31

### PART III

#### PROTECTION OF SHIPS AND HARBOUR AREAS AGAINST ACTS OF VIOLENCE

##### *Powers of Secretary of State*

#### **22 Power to require harbour authorities to promote searches in harbour areas.**

(1) For purposes to which this Part of this Act applies, the Secretary of State may give a direction in writing [<sup>F1</sup>to—

- (a) a harbour authority, or
- (b) a harbour operator,

requiring that person to use his best endeavours] to secure that such searches to which this section applies as are specified in the direction are carried out by constables or by other persons of a description specified in the direction.

(2) The searches to which this section applies, in relation to a harbour area, are searches—

- (a) of the harbour area or any part of it,
- (b) of any ship which at the time when the direction is given or at any subsequent time is in the harbour area, and
- (c) of persons and property (other than ships) which may at any time be in the harbour area.

[<sup>F2</sup>(2A) The searches to which this section applies, in relation to an operating area, are searches—

- (a) of the operating area or any part of it,
- (b) of any ship which at the time when the direction is given or at any subsequent time is in the operating area, and
- (c) of persons and property (other than ships) which may at any time be in the operating area.]

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(3) Where a direction under this section to a harbour authority is for the time being in force, then, subject to subsections (4) and (5) below, if a constable or any other person specified in the direction in accordance with this section has reasonable cause to suspect that an article to which this subsection applies is in, or may be brought into, any part of the harbour area, he may, by virtue of this subsection and without a warrant, search any part of the harbour area or any ship, vehicle, goods or other moveable property of any description which, or any person who, is for the time being in any part of the harbour area, and for that purpose—

- (a) may enter any building or works in the harbour area, or enter upon any land in the harbour area, if need be by force,
- (b) may go on board any such ship and inspect the ship,
- (c) may stop any such ship and, for so long as may be necessary for that purpose, prevent it from being moved, and
- (d) may stop any such vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.

[<sup>F3</sup>(3A) Subsection (3) above applies in relation to a direction under this section to a harbour operator as it applies in relation to a direction to a harbour authority, but as if the references to the harbour area (or to any part of the harbour area) were references to the operating area (or any part of the operating area).]

(4) In the case of premises used only as a private dwelling any power to search or enter conferred by subsection (3) above may not be exercised except—

- (a) under the authority of a warrant issued by a justice of the peace; and
- (b) <sup>F4</sup>by a constable . . . —
  - (i) [<sup>F5</sup>who is a member of a body of constables maintained][<sup>F6</sup>in England or Wales by a local policing body, in Scotland by a police authority, or in England, Wales or Scotland by] or an authority which has entered into an agreement with the [<sup>F7</sup>[<sup>F8</sup>Director General of the Independent Office for Police Conduct] under section 26 of the Police Reform Act 2002 (c. 30); or]
  - [<sup>F9</sup>(ii) in Northern Ireland, by the Northern Ireland Policing Board or an authority which has entered into an agreement with the Police Ombudsman for Northern Ireland under section 60 of the Police (Northern Ireland) Act 1998;][<sup>F10</sup>, <sup>F11</sup> ...
  - (iii) <sup>F11</sup> . . . . . ]

(5) If, on an application made by a constable, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an article to which subsection (3) above applies is in any premises used only as a private dwelling, he may issue a warrant authorising a constable to enter and search the premises.

(6) Subsection (3) above applies to the following articles—

- (a) any firearm, or any article having the appearance of being a firearm, whether capable of being discharged or not,
- (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive, and

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- (c) any article (not falling within either of the preceding paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.
- (7) Any person who—
- (a) without reasonable excuse, fails to comply with a direction given to him under this section, or
  - (b) intentionally obstructs a person acting in the exercise of a power conferred on him by subsection (3) above,
- commits an offence.
- (8) A person guilty of an offence under subsection (7) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (9) Where a person is convicted of an offence under subsection (7)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding [<sup>F12</sup>one-tenth of the greater of £5,000 or level 4 on the standard scale] for each day on which the failure continues.
- (10) Subsection (3) above has effect without prejudice to the operation, in relation to any offence under this Act—
- (a) in England and Wales, of sections 17, 24 and [<sup>F13</sup>24A] of the <sup>M1</sup>Police and Criminal Evidence Act 1984 (which confer power to arrest without warrant and to enter premises for the purpose of making an arrest) or of section 3 of the <sup>M2</sup>Criminal Law Act 1967 (use of force in making arrest etc.), or
  - (b) in Scotland, of any rule of law relating to the power to arrest without warrant, or
  - (c) in Northern Ireland, of Articles 19, 26 and [<sup>F14</sup>26A] of the <sup>M3</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 or of section 3 of the <sup>M4</sup>Criminal Law Act (Northern Ireland) 1967.

#### Textual Amendments

- F1** Words in s. 22(1) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 4(2)**; 1997/1539, art. 2, Sch.
- F2** S. 22(2A) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 4(3)**; S.I. 1997/1539, art. 2, **Sch.**
- F3** S. 22(3A) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 4(4)**; S.I. 1997/1539, art. 2, **Sch.**
- F4** Words in s. 22(4)(b) repealed (1.4.1998) by 1997 c. 50, s. 134(1)(2), Sch. 9 para. 64(a), **Sch. 10**; S.I. 1998/354, **art. 2(ay)**
- F5** Words in s. 22(4)(b)(i)(ii) inserted (1.4.1998) by 1997 c. 50, s. 134(1), **Sch. 9 para. 64(b)**; S.I. 1998/354, **art. 2(ay)**
- F6** Words in s. 22(4)(b)(i) substituted (16.1.2012) by **Police Reform and Social Responsibility Act 2011** (c. 13), s. 157(1), **Sch. 16 para. 207**; S.I. 2011/3019, art. 3, Sch. 1
- F7** Words in s. 22(4)(b)(i) substituted (1.4.2004) by **Police Reform Act 2002** (c. 30), s. 108(2), **Sch. 7 para. 13**; S.I. 2004/913, **art. 2(e)**
- F8** Words in s. 22(4)(b)(i) substituted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by **Policing and Crime Act 2017** (c. 3), s. 183(1)(5)(e), **Sch. 9 para. 64**; S.I. 2017/1249, **reg. 2** (with **reg. 3**)

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- F9** S. 22(4)(b)(ii) substituted (N.I.) (4.11.2001) by 2000 c. 32, s. 74, **Sch. 6 para. 11**; S.R. 2001/396, art. 2, **Sch.**
- F10** S. 22(4)(b)(iii) and word inserted (1.4.1998) by 1997 c. 50, s. 134(1), **Sch. 9 para. 64(c)**; S.I. 1998/354, **art. 2(ay)**
- F11** S. 22(4)(b)(iii) and word repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8)(8), **Sch. 4 para. 59, Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), **Sch. paras. 10, 13(u)**
- F12** Words in s. 22(9) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 5(3)** (with reg. 5(1))
- F13** Word in s. 22(10)(a) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 7 para. 60**; S.I. 2005/3495, art. 2(1)(m)
- F14** Word in s. 22(10)(c) substituted (N.I.) (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288), art. 1(2), **Sch. 1 para. 27**

#### **Modifications etc. (not altering text)**

- C1** S. 22 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, **Sch. Pts. I, II**
- C2** Ss. 9-43 extended (Jersey) (with modifications) (coming into force in accordance with art. 1(1) of the extending S.I.) by The Maritime Security (Jersey) Order 2014 (S.I. 2014/265), art. 2, **Sch.**

#### **Marginal Citations**

- M1** 1984 c. 60.
- M2** 1967 c. 58.
- M3** S.I. 1989/1341 (N.I. 12).
- M4** 1967 c. 18 (N.I.).

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