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**Changes to legislation:** There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 3. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 3

Section 24

#### MUNITIONS AND TRANSMITTERS: SEARCH AND SEIZURE

##### *Interpretation*

- 1 (1) In this Schedule “officer” means—
- (a) a member of Her Majesty's forces on duty, and
  - (b) a constable.
- (2) In this Schedule “authorised officer” means—
- (a) a member of Her Majesty's forces who is on duty and is authorised by a commissioned officer of those forces, and
  - (b) a constable who is authorised by an officer of the Police Service of Northern Ireland of at least the rank of inspector.
- (3) In this Schedule—
- (a) “munitions” means—
    - (i) explosives, firearms and ammunition, and
    - (ii) anything used or capable of being used in the manufacture of an explosive, a firearm or ammunition,
  - (b) “explosive” means—
    - (i) an article or substance manufactured for the purpose of producing a practical effect by explosion,
    - (ii) materials for making an article or substance within sub-paragraph (i),
    - (iii) anything used or intended to be used for causing or assisting in causing an explosion, and
    - (iv) a part of anything within sub-paragraph (i) or (ii),
  - (c) “firearm” includes an air gun or air pistol,
  - (d) “scanning receiver” means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for the purpose of automatically monitoring selected frequencies, or automatically scanning a selected range of frequencies, so as to enable transmissions on any of those frequencies to be detected or intercepted,
  - (e) “transmitter” means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for emission, as opposed to reception,
  - (f) “wireless apparatus” means a scanning receiver or a transmitter, and
  - (g) “wireless telegraphy” has the same meaning as in section 116 of the Wireless Telegraphy Act 2006 (c. 36).

##### *Entering premises*

- 2 (1) An officer may enter and search any premises for the purpose of ascertaining—

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- (a) whether there are any munitions unlawfully on the premises, or
    - (b) whether there is any wireless apparatus on the premises.
  - (2) An officer may not enter a dwelling under this paragraph unless he is an authorised officer and he reasonably suspects that the dwelling—
    - (a) unlawfully contains munitions, or
    - (b) contains wireless apparatus.
  - (3) A constable exercising the power under sub-paragraph (1) may, if necessary, be accompanied by other persons.
- 3 (1) If the officer carrying out a search of premises under paragraph 2 reasonably believes that it is necessary in order to carry out the search or to prevent it from being frustrated, he may—
- (a) require a person who is on the premises when the search begins, or who enters during the search, to remain on the premises;
  - (b) require a person mentioned in paragraph (a) to remain in a specified part of the premises;
  - (c) require a person mentioned in paragraph (a) to refrain from entering a specified part of the premises;
  - (d) require a person mentioned in paragraph (a) to go from one specified part of the premises to another;
  - (e) require a person who is not a resident of the premises to refrain from entering them.
- (2) A requirement imposed under this paragraph shall cease to have effect after the conclusion of the search in relation to which it was imposed.
  - (3) Subject to sub-paragraphs (4) and (5), no requirement under this paragraph for the purposes of a search shall be imposed or have effect after the end of the period of four hours beginning with the time when the first (or only) requirement is imposed in relation to the search.
  - (4) In the case of a search by a constable, an officer of the Police Service of Northern Ireland of at least the rank of superintendent may extend the period mentioned in sub-paragraph (3) in relation to a search by a further period of four hours if he reasonably believes that it is necessary to do so in order to carry out the search or to prevent it from being frustrated.
  - (5) In the case of a search by a member of Her Majesty's forces, an officer of at least the rank of Major may extend the period mentioned in sub-paragraph (3) in relation to a search by a further period of four hours if he reasonably believes that it is necessary to do so in order to carry out the search or to prevent it from being frustrated.
  - (6) The power to extend a period conferred by sub-paragraph (4) or (5) may be exercised only once in relation to a particular search.

*Stopping and searching persons<sup>[F1]</sup>: general*

**Textual Amendments**

- F1** Words in Sch. 3 para. 4 cross-heading inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 6 para. 1(5)** (with s. 97); S.I. 2012/1205, art. 4(h)

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- 4 (1) [<sup>F2</sup>A member of Her Majesty's forces who is on duty] may—
- (a) stop a person in a public place, and
  - (b) search him for the purpose of ascertaining whether he has munitions unlawfully with him or wireless apparatus with him.
- (2) An [<sup>F3</sup>member of Her Majesty's forces who is on duty] may search a person—
- (a) who is not in a public place, and
  - (b) whom the [<sup>F4</sup>member concerned] reasonably suspects to have munitions unlawfully with him or to have wireless apparatus with him.
- (3) A member of Her Majesty's forces may search a person entering or found in a dwelling entered under paragraph 2.
- [<sup>F5</sup>(4) A constable may search a person (whether or not that person is in a public place) whom the constable reasonably suspects to have munitions unlawfully with him or to have wireless apparatus with him.]

#### Textual Amendments

- F2** Words in Sch. 3 para. 4(1) substituted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 6 para. 1\(2\)](#) (with s. 97); S.I. 2012/1205, art. 4(h)
- F3** Words in Sch. 3 para. 4(2) substituted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 6 para. 1\(3\)\(a\)](#) (with s. 97); S.I. 2012/1205, art. 4(h)
- F4** Words in Sch. 3 para. 4(2) substituted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 6 para. 1\(3\)\(b\)](#) (with s. 97); S.I. 2012/1205, art. 4(h)
- F5** Sch. 3 para. 4(4) inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 6 para. 1\(4\)](#) (with s. 97); S.I. 2012/1205, art. 4(h)

#### *[<sup>F6</sup>Stopping and searching persons in specified locations]*

#### Textual Amendments

- F6** [Sch. 3 paras. 4A-4I](#) inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 6 para. 2](#) (with s. 97); S.I. 2012/1205, art. 4(h)

- 4A (1) A senior officer may give an authorisation under this paragraph in relation to a specified area or place if the officer—
- (a) reasonably suspects (whether in relation to a particular case, a description of case or generally) that the safety of any person might be endangered by the use of munitions or wireless apparatus, and
  - (b) reasonably considers that—
    - (i) the authorisation is necessary to prevent such danger,
    - (ii) the specified area or place is no greater than is necessary to prevent such danger, and
    - (iii) the duration of the authorisation is no longer than is necessary to prevent such danger.
- (2) An authorisation under this paragraph authorises any constable to stop a person in the specified area or place and to search that person.

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- (3) A constable may exercise the power conferred by an authorisation under this paragraph only for the purpose of ascertaining whether the person has munitions unlawfully with that person or wireless apparatus with that person.
- (4) But the power conferred by such an authorisation may be exercised whether or not the constable reasonably suspects that there are such munitions or wireless apparatus.
- (5) A constable exercising the power conferred by an authorisation under this paragraph may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
- (6) Where a constable proposes to search a person by virtue of an authorisation under this paragraph, the constable may detain the person for such time as is reasonably required to permit the search to be carried out at or near the place where the person is stopped.
- (7) A senior officer who gives an authorisation under this paragraph orally must confirm it in writing as soon as reasonably practicable.
- (8) In this paragraph and paragraphs 4B to 4I—
  - “senior officer” means an officer of the Police Service of Northern Ireland of at least the rank of assistant chief constable,
  - “specified” means specified in an authorisation.
- 4B (1) An authorisation under paragraph 4A has effect during the period—
  - (a) beginning at the time when the authorisation is given, and
  - (b) ending with the specified date or at the specified time.
- (2) This paragraph is subject as follows.
- 4C The specified date or time must not occur after the end of the period of 14 days beginning with the day on which the authorisation is given.
- 4D (1) The senior officer who gives an authorisation must inform the Secretary of State of it as soon as reasonably practicable.
- (2) An authorisation ceases to have effect at the end of the period of 48 hours beginning with the time when it is given unless it is confirmed by the Secretary of State before the end of that period.
- (3) An authorisation ceasing to have effect by virtue of sub-paragraph (2) does not affect the lawfulness of anything done in reliance on it before the end of the period concerned.
- (4) When confirming an authorisation, the Secretary of State may—
  - (a) substitute an earlier date or time for the specified date or time;
  - (b) substitute a more restricted area or place for the specified area or place.
- 4E The Secretary of State may cancel an authorisation with effect from a time identified by the Secretary of State.
- 4F (1) A senior officer may—
  - (a) cancel an authorisation with effect from a time identified by the officer concerned;
  - (b) substitute an earlier date or time for the specified date or time;
  - (c) substitute a more restricted area or place for the specified area or place.

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- (2) Any such cancellation or substitution in relation to an authorisation confirmed by the Secretary of State under paragraph 4D does not require confirmation by the Secretary of State.
- 4G The existence, expiry or cancellation of an authorisation does not prevent the giving of a new authorisation.
- 4H (1) An authorisation under paragraph 4A given by a senior officer may specify—
- (a) the whole or part of Northern Ireland,
  - (b) the internal waters or any part of them, or
  - (c) any combination of anything falling within paragraph (a) and anything falling within paragraph (b).
- (2) In sub-paragraph (1)(b) “internal waters” means waters in the United Kingdom which are adjacent to Northern Ireland.
- (3) Where an authorisation specifies more than one area or place—
- (a) the power of a senior officer under paragraph 4B(1)(b) to specify a date or time includes a power to specify different dates or times for different areas or places (and the other references in this Schedule to the specified date or time are to be read accordingly), and
  - (b) the power of the Secretary of State under paragraph 4D(4)(b), and of a senior officer under paragraph 4F(1)(c), includes a power to remove areas or places from the authorisation.
- 4I (1) Sub-paragraph (2) applies if any decision of—
- (a) a senior officer to give, vary or cancel an authorisation under paragraph 4A, or
  - (b) the Secretary of State to confirm, vary or cancel such an authorisation,
- is challenged on judicial review or in any other legal proceedings.
- (2) The Secretary of State may issue a certificate that—
- (a) the interests of national security are relevant to the decision, and
  - (b) the decision was justified.
- (3) The Secretary of State must notify the person making the challenge (“the claimant”) if the Secretary of State intends to rely on a certificate under this paragraph.
- (4) Where the claimant is notified of the Secretary of State's intention to rely on a certificate under this paragraph—
- (a) the claimant may appeal against the certificate to the Tribunal established under section 91 of the Northern Ireland Act 1998, and
  - (b) sections 90(3) and (4), 91(2) to (9) and 92 of that Act (effect of appeal, procedure and further appeal) apply but subject to sub-paragraph (5).
- (5) In its application by virtue of sub-paragraph (4)(b), section 90(3) of the Act of 1998 is to be read as if for the words from “subsection” to “that purpose,” there were substituted “paragraph 4I(4)(a) of Schedule 3 to the Justice and Security (Northern Ireland) Act 2007 the Tribunal determines that—
- “(a) the interests of national security are relevant to the decision to which the certificate relates, and
  - (b) the decision was justified,”.

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- (6) Rules made under section 91 or 92 of the Act of 1998 which are in force immediately before this paragraph comes into force have effect in relation to a certificate under this paragraph—
- (a) with any necessary modifications, and
  - (b) subject to any later rules made by virtue of sub-paragraph (4)(b).]

#### *Seizure*

- 5 (1) This paragraph applies where an officer is empowered by virtue of this Schedule or section 25 or 26 to search premises or a person.
- (2) The officer may—
- (a) seize any munitions found in the course of the search (unless it appears to him that the munitions are being, have been and will be used only lawfully), and
  - (b) retain and, if necessary, destroy them.
- (3) The officer may—
- (a) seize any wireless apparatus found in the course of the search (unless it appears to him that the apparatus is being, has been and will be used only lawfully), and
  - (b) retain it.

#### *Records*

- 6 (1) Where an officer carries out a search of premises under this Schedule he shall, unless it is not reasonably practicable, make a written record of the search.
- (2) The record shall specify—
- (a) the address of the premises searched,
  - (b) the date and time of the search,
  - (c) any damage caused in the course of the search, and
  - (d) anything seized in the course of the search.
- (3) The record shall also include the name (if known) of any person appearing to the officer to be the occupier of the premises searched; but—
- (a) a person may not be detained in order to discover his name, and
  - (b) if the officer does not know the name of a person appearing to him to be the occupier of the premises searched, he shall include in the record a note describing him.
- (4) The record shall identify the officer—
- (a) in the case of a constable, by reference to his police number, and
  - (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.
- 7 (1) Where an officer makes a record of a search in accordance with paragraph 6, he shall supply a copy to any person appearing to him to be the occupier of the premises searched.
- (2) The copy shall be supplied immediately or as soon as is reasonably practicable.

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### *Offences*

- 8 (1) A person commits an offence if he—
- (a) knowingly fails to comply with a requirement imposed under paragraph 3, or
  - (b) wilfully obstructs, or seeks to frustrate, a search of premises under this Schedule.
- (2) A person guilty of an offence under this paragraph shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- 9 (1) A person commits an offence if he fails to stop when required to do so under paragraph 4 [<sup>F7</sup>or by virtue of paragraph 4A].
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Textual Amendments**

- F7** Words in [Sch. 3 para. 9\(1\)](#) inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 6 para. 3](#) (with [s. 97](#)); [S.I. 2012/1205, art. 4\(h\)](#)

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