



# Policing and Crime Act 2009

## 2009 CHAPTER 26

### PART 8

#### MISCELLANEOUS

### CHAPTER 2

#### OTHER

#### *Border controls*

#### 98 General information powers in relation to persons entering or leaving the UK

- (1) After section 157 of the [Customs and Excise Management Act 1979 \(c. 2\)](#) (general powers: bonds and security) insert—

**“157A General information powers in relation to persons entering or leaving the United Kingdom**

- (1) The proper officer of Revenue and Customs may require any person entering or leaving the United Kingdom—
- (a) to produce the person’s passport or travel documents for examination, or
  - (b) to answer any questions put by the proper officer of Revenue and Customs about the person’s journey.
- (2) In subsection (1) “passport” means—
- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
  - (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or

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- (c) a document that can be used (in some or all circumstances) instead of a passport.
- (3) Subsections (1) and (2) apply in relation to a transit air passenger arriving at the passenger's final destination in the United Kingdom as they apply in relation to a person entering the United Kingdom.
- (4) For the purposes of subsection (3) a transit air passenger is a person—
  - (a) who has arrived by air in the United Kingdom; and
  - (b) whose journey is continued or resumed by air to a destination in the United Kingdom which is not the place where the person is regarded for the purposes of this section as entering the United Kingdom; and the passenger's final destination is the destination of the continued or resumed journey.”
- (2) In section 4(3) of the Finance (No. 2) Act 1992 (c. 48) (non-application of enforcement powers in the Act of 1979 to certain movements between member States), after paragraph (g), insert—
  - “(ga) section 157A (general information powers in relation to persons entering or leaving the United Kingdom)”.

## 99 Powers in relation to cash

- (1) After section 164 of the Customs and Excise Management Act 1979 (c. 2) (general powers etc: powers to search persons) insert—

### “164A Powers to search for cash

- (1) The provisions of this Act which fall within subsection (2) (search powers for officers of Revenue and Customs etc.) apply in accordance with subsection (3) —
  - (a) for the purposes of searching for cash—
    - (i) which is recoverable property or is intended by any person for use in unlawful conduct; and
    - (ii) the amount of which is not less than the minimum amount;
  - (b) for the purposes of searching for cash to ensure compliance with the Cash Control Regulation; or
  - (c) for purposes connected to any such purposes.
- (2) The provisions of this Act which fall within this subsection are—
  - (a) section 28(1) (powers of access etc.);
  - (b) section 77(1) and (2) (information powers);
  - (c) section 159(1) to (4) (powers to examine and take account of goods); and
  - (d) section 164 (power to search persons including intimate searches).
- (3) Those provisions apply for the purposes mentioned in subsection (1) as if—
  - (a) any reference in them to goods included a reference to cash; and
  - (b) in section 164(1)—
    - (i) the reference to an article were a reference to cash; and
    - (ii) paragraphs (a) and (b) were omitted.

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- (4) The Treasury may by regulations provide for—
- (a) any provision of this Act to apply with modifications for the purposes of the provisions applied by subsections (1) to (3), or
  - (b) any other enactment to apply, with or without modifications, for the purposes of the provisions so applied.
- (5) This section does not limit the scope of any powers that exist apart from this section (whether under this Act or otherwise).
- (6) In this section—
- “the 2002 Act” means the Proceeds of Crime Act 2002;
  - “cash”—
    - (a) so far as relating to purposes falling within subsection (1)(a) above, has the meaning given by section 289(6) and (7) of the 2002 Act; and
    - (b) so far as relating to purposes falling within subsection (1)(b) above, has the same meaning as in the Cash Control Regulation;“the Cash Control Regulation” means Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community;
  - “minimum amount” has the meaning given by section 303 of the 2002 Act;
  - “modifications” includes omissions;
  - “recoverable property” has the meaning given by section 316(1) of the 2002 Act;
  - “unlawful conduct” has the meaning given by section 241 of the 2002 Act.”
- (2) In section 4(2) of the Finance (No. 2) Act 1992 (c. 48) (cases where enforcement powers exercisable)—
- (a) after “member States;” at the end of paragraph (b) omit “or”, and
  - (b) after “Kingdom” at the end of paragraph (c) insert “; or
  - (d) searching for cash that is recoverable property or intended for use in unlawful conduct”.
- (3) In section 4(5) of that Act (interpretation)—
- (a) after “In this section—”, insert—  
““cash” has the meaning given by section 289(6) and (7) of the Proceeds of Crime Act 2002;”,
  - (b) after “Economic Community;” omit “and”, and
  - (c) after “1979;” insert—  
““recoverable property” has the same meaning as in section 316(1) of the Proceeds of Crime Act 2002; and  
“unlawful conduct” has the same meaning as in section 241 of that Act;”.
- (4) After section 105(5) of the [Postal Services Act 2000 \(c. 26\)](#) (application of customs and excise enactments to certain postal packets) insert—
- “(6) And in this section “goods” includes cash (within the meaning of section 289(6) and (7) of the Proceeds of Crime Act 2002).”

**100 Lawful interception of postal items by Revenue and Customs**

- (1) After section 3(3) of the [Regulation of Investigatory Powers Act 2000 \(c. 23\)](#) (lawful interception without an interception warrant) insert—

“(3A) Conduct consisting in the interception of a communication in the course of its transmission by means of a public postal service is authorised by this section if it is conduct—

- (a) under section 159 of the Customs and Excise Management Act 1979 as applied by virtue of—
  - (i) section 105 of the Postal Services Act 2000 (power to open postal items etc.); or
  - (ii) that section 105 and another enactment; and
- (b) by an officer of Revenue and Customs.”

- (2) After section 17(3)(b) of that Act (exclusion of matters from legal proceedings) insert—

“(ba) any person deemed to be the proper officer of Revenue and Customs by virtue of section 8(2) of the Customs and Excise Management Act 1979;”.

**101 Prohibition on importation or exportation of false identity documents etc**

- (1) The importation or exportation of any identity document to which this section applies is prohibited.

- (2) This section applies to—

- (a) any false identity document,
- (b) any identity document issued or obtained in contravention of the law of the country or territory under whose jurisdiction the document is issued, and
- (c) any identity document intended to be used (whether by itself or otherwise and with or without modifications)—
  - (i) to establish for unlawful purposes a false identity or address, or
  - (ii) to provide for such purposes evidence of a false identity or address.

- (3) In this section—

“document” includes an article, or a combination of a document and an article, which is a card within the meaning of the [Identity Cards Act 2006 \(c. 15\)](#),

“false”, in relation to an identity document, has the same meaning as it has in section 9(1) of the [Forgery and Counterfeiting Act 1981 \(c. 45\)](#) in relation to an instrument,

“identity document” means any document which may be used (whether by itself or otherwise and with or without modifications) to establish, or provide evidence of, a person’s identity or address.

**102 Prohibition on importation of offensive weapons**

- (1) After section 141ZA of the [Criminal Justice Act 1988 \(c. 33\)](#) insert—

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### **“141ZB Importation of offensive weapons: prohibition**

- (1) The importation of an offensive weapon is prohibited, subject to section 141ZC.
- (2) In this section “offensive weapon” means a weapon of a description specified in an order made by the Secretary of State for the purposes of this subsection.
- (3) The Secretary of State may not specify any of the following under subsection (2)—
  - (a) a weapon subject to the Firearms Act 1968;
  - (b) a crossbow.
- (4) Orders under this section are to be made by statutory instrument.
- (5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) In the application of this section to Northern Ireland the reference in subsection (3) to the Firearms Act 1968 is to be construed as a reference to the Firearms (Northern Ireland) Order 2004.

### **141ZC Prohibition on importation of offensive weapons: exceptions**

- (1) The importation of a weapon is not prohibited by section 141ZB if one of the following exceptions applies.
- (2) Exception 1 is that the weapon is imported for the purposes only of functions carried out on behalf of—
  - (a) the Crown, or
  - (b) a visiting force.
- (3) Exception 2 is that the weapon is imported for the purposes only of making it available to a museum or gallery which does not distribute profits.
- (4) Exception 3 is that the weapon is imported for the purposes only of making it available for one or more of the following—
  - (a) theatrical performances;
  - (b) rehearsals of theatrical performances;
  - (c) the production of films;
  - (d) the production of television programmes.
- (5) In subsection (4)—

“films” has the meaning given by section 5B of the Copyright, Designs and Patents Act 1988;

“television programmes” has the meaning given by section 405 of the Communications Act 2003.
- (6) The Secretary of State may by order provide for further exceptions from the prohibition on importation of weapons under section 141ZB.
- (7) Orders under this section are to be made by statutory instrument.

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- (8) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (9) Expressions used in this section and in section 141 have the same meaning in this section as in that section.

**141ZD Prohibition on importation of offensive weapons: burdens of proof**

- (1) This section applies for the purposes of proceedings for an offence under the Customs and Excise Management Act 1979 relating to a weapon the importation of which is prohibited by section 141ZB above.
  - (2) An exception conferred by or under section 141ZC is to be taken not to apply unless sufficient evidence is adduced to raise an issue with respect to the exception.
  - (3) Where sufficient evidence is adduced to raise an issue with respect to an exception, it is to be taken to apply unless the contrary is proved beyond a reasonable doubt.”
- (2) Subsection (3) applies where in any proceedings—
- (a) a person (“the defendant”) is charged in respect of the same conduct with—
    - (i) an offence under any provision of the Customs and Excise Management Act 1979 by virtue of the prohibition on importation in section 141(4) of the Criminal Justice Act 1988 as it had effect before its repeal by this Act (“the old offence”), and
    - (ii) an offence under that provision of the 1979 Act by virtue of the prohibition on importation in section 141ZB(1) of the 1988 Act (“the new offence”),
  - (b) the only thing preventing the defendant from being found guilty of the new offence is the fact that it has not been proved beyond a reasonable doubt that the conduct took place after the commencement of this section, and
  - (c) the only thing preventing the defendant from being found guilty of the old offence is the fact that it has not been proved beyond a reasonable doubt that the conduct took place before the commencement of this section.
- (3) For the purpose of determining the guilt of the defendant it is to be conclusively presumed that the conduct took place after the commencement of this section.
- (4) A reference in subsection (2) to an offence includes a reference to—
- (a) aiding, abetting, counselling or procuring the commission of the offence,
  - (b) conspiracy to commit the offence,
  - (c) an attempt to commit the offence,
  - (d) incitement to commit the offence, and
  - (e) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence.

### *Football spectators*

#### **103 Prohibiting attendance at matches in Scotland and Northern Ireland etc**

- (1) In the provisions of the [Football Spectators Act 1989 \(c. 37\)](#) listed in subsection (2) for “England and Wales” (in each place) substitute “the United Kingdom”.
- (2) The provisions are—
  - (a) in section 14 (definition of banning order and other terms), subsections (2), (3), (4), (5) and (6),
  - (b) in section 19 (functions of enforcing authority and local police), subsections (2), (2A) and (2E)(a), and
  - (c) in section 21A (summary measures: detention), subsection (1).
- (3) In section 19(2B)(b) of that Act omit “if the match is outside the United Kingdom”.

#### **104 Requirements to report at police stations**

- (1) The police station specified under any of the provisions listed in subsection (2) may be in England, Wales, Scotland or Northern Ireland.
- (2) The provisions are—
  - (a) section 14E(2) of the [Football Spectators Act 1989](#) (banning order to include requirement to report initially at specified police station),
  - (b) section 19(2B) of that Act (notice, in connection with regulated football match outside United Kingdom, requiring person to report at specified police station),
  - (c) section 53(2) of the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\)](#) (football banning order to include requirement to report initially at specified police station),
  - (d) section 61(4) of that Act (notice, in connection with regulated football match outside United Kingdom, requiring person to report at specified police station).
- (3) In section 14E(2) of the [Football Spectators Act 1989 \(c. 37\)](#) omit “in England and Wales”.
- (4) In section 53(2)(a) of the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) omit “in Scotland”.
- (5) In section 66(1) of that Act for “Scotland” substitute “the United Kingdom”.

#### **105 Enforcement of 1989 Act in Scotland and Northern Ireland**

- (1) The following provisions of the [Football Spectators Act 1989](#) extend to Scotland and Northern Ireland—
  - (a) section 14J(1) (offence of failing to comply with a requirement imposed by a banning order or a requirement imposed under section 19(2B) or (2C)),
  - (b) section 19(6) (offence of failing, without reasonable excuse, to comply with a requirement imposed under section 19(2)),
  - (c) section 20(10) (offence of making a false statement, etc. in connection with an application for exemption from requirements imposed by or under Part 2).

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- (2) But in Scotland it is a defence where a person is charged with an offence by virtue of subsection (1)(a) to prove that the person had a reasonable excuse for failing to comply with the requirement in question.
- (3) A person guilty of an offence by virtue of subsection (1)(a) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (4) A person guilty of an offence by virtue of subsection (1)(b) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) A person guilty of an offence by virtue of subsection (1)(c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **106 Enforcement of 2006 Act in England and Wales and Northern Ireland**

- (1) The following provisions of the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) extend to England and Wales and Northern Ireland—
  - (a) section 68(1) and (2) (offences of failing to comply with a requirement imposed by a football banning order, under section 61(1) or by a notice under section 61(4), and defence of reasonable excuse),
  - (b) section 68(5) (offence of making a false statement, etc. in connection with an application for exemption from a notice under section 61(4)).
- (2) A person guilty of an offence under section 68(1)(a) or (c) of that Act by virtue of subsection (1)(a) is liable on summary conviction—
  - (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 5 on the standard scale (or both),
  - (b) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

But in relation to an offence committed before the commencement of section 281(5) of the [Criminal Justice Act 2003 \(c. 44\)](#) the reference in paragraph (a) to 51 weeks is to be read as a reference to 6 months.
- (3) A person guilty of an offence under section 68(1)(b) of the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\)](#) by virtue of subsection (1)(a) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) A person guilty of an offence by virtue of subsection (1)(b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Omit articles 1(5) and 5 of the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(Consequential Provisions and Modifications\) Order 2007 \(S.I. 2007/1098\)](#).

### **107 Relevant offences for purposes of Part 2 of 1989 Act**

In Schedule 1 to the [Football Spectators Act 1989 \(c. 37\)](#) (offences) in paragraph 1(a)

- (a) after “14J(1)” insert “, 19(6), 20(10)”, and
- (b) after “of this Act” insert “or section 68(1) or (5) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 by virtue of section 106 of the Policing and Crime Act 2009”.



*Other*

**108 Strategies for crime reduction etc: probation authorities**

- (1) The [Crime and Disorder Act 1998 \(c. 37\)](#) is amended as follows.
- (2) In section 5 (authorities responsible for strategies) after subsection (1)(a) insert—
  - “(aa) every provider of probation services operating within the area in pursuance of arrangements under section 3 of the Offender Management Act 2007 which provide for it to be a responsible authority under this section;”.
- (3) In that section, in subsection (1B)(b), after “substances” insert “or of reducing re-offending”.
- (4) In section 6 (duty to formulate and implement strategy) at the end of subsection (1) (b) insert “; and
  - (c) a strategy for the reduction of re-offending in the area”.
- (5) In that section, in subsection (9)(c), after “disorder” insert “or re-offending”.
- (6) In section 17(1) (duty to consider crime and disorder implications etc) at the end insert “; and
  - (c) re-offending in its area”.

**109 Application of aspects of UK law to SOCA employees working abroad**

In paragraph 20 of Schedule 1 to the Serious Organised Crime and Police Act 2005 (c.15) (SOCA not a Crown body)—

- (a) at the beginning insert “(1) Subject to sub-paragraphs (2) to (4),”, and
- (b) at the end insert—
  - “(2) A member of SOCA’s staff who is acting, or purporting to act, in the course of service as a member of SOCA’s staff is to be treated, for the purposes of section 31(1) of the Criminal Justice Act 1948 (jurisdiction in respect of certain indictable offences committed in foreign countries), as a British subject employed under Her Majesty’s Government in the United Kingdom in the service of the Crown who is acting, or purporting to act, in the course of the employment.
  - (3) A member of SOCA’s staff, so far as performing outside the United Kingdom in the course of employment with SOCA or another person duties as a member of SOCA’s staff, is to be treated as having overseas Crown employment for the purposes of sections 26 to 28 of the Income Tax (Earnings and Pensions) Act 2003 (liability to income tax on earnings for employees who are resident but not ordinarily resident in the UK or who are not resident in the UK).
  - (4) A member of SOCA’s staff who is obliged to live outside the United Kingdom in order to perform duties as a member of SOCA’s staff is to be treated as being in employment under the Crown for the

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purposes of section 299 of the Act of 2003 (no liability to income tax for Crown employees' foreign service allowances).”

**110 Partial exemption for SCDEA from Firearms Act 1968**

In section 54(3) of the [Firearms Act 1968 \(c. 27\)](#) (police and other persons who are exempt from certain provisions of the Act and to whom other provisions apply with modifications), at the end of paragraph (c), insert “, or

(d) a member of the Scottish Crime and Drug Enforcement Agency”.

**111 Removal of limitation on warrants under Misuse of Drugs Act 1971**

(1) Section 23 of the [Misuse of Drugs Act 1971 \(c. 38\)](#) (powers to search and obtain evidence) is amended as follows.

(2) In subsection (3) omit “acting for the police area in which the premises are situated”.

(3) Omit subsection (5).