

SCHEDULES

SCHEDULE 11

Section 38

SCHEDULE TO BE INSERTED AS SCHEDULE 3C TO THE POLICE REFORM ACT 2002

“SCHEDULE 3C

Section 38(6B)(b)

DESIGNATIONS UNDER SECTION 38: ADDITIONAL POWERS AND DUTIES

Introduction

- 1 (1) The designation of a person under section 38 as a community support officer or a community support volunteer may provide for any of paragraphs 2 to 11 to apply to the community support officer or the community support volunteer.
- (2) The designation may provide for any such paragraph to apply—
 - (a) to its full extent, or
 - (b) only in cases or circumstances described in the designation.
- (3) Where the designation provides for any of those paragraphs to apply—
 - (a) the community support officer or community support volunteer has any power or duty described in the paragraph as a power or duty of a community support officer or community support volunteer (subject to provision included in the designation under sub-paragraph (2)(b) or section 38(7A)), and
 - (b) any provision made by the paragraph in connection with the exercise of the power or the performance of the duty applies in relation to the exercise of the power or the performance of the duty by the community support officer or community support volunteer.
- (4) In this Schedule—
 - “CSO” means a person designated by a chief officer of police as a community support officer under section 38;
 - “CSV” means a person designated by a chief officer of police as a community support volunteer under section 38;
 - “the relevant police area”, in relation to a CSO or CSV, means the police area for which the police force in question is maintained.
- (5) Expressions used in this Schedule and in the 1984 Act have the same meanings in this Schedule as in that Act.

Powers to issue fixed penalty notices

- 2 (1) A CSO or CSV has the power of an authorised officer of a litter authority to give a notice under section 88 of the Environmental Protection Act 1990 (fixed penalty notices in respect of litter) in relation to an individual whom the CSO or CSV has

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reason to believe has committed an offence under section 87 of that Act at a place within the relevant police area.

- (2) A CSO or CSV has the power of an authorised officer of a local authority to give a notice under section 43(1) of the Anti-social Behaviour Act 2003 (penalty notices in respect of graffiti or fly-posting) in relation to an individual whom the CSO or CSV has reason to believe has committed an offence that is a relevant offence for the purposes of section 43(1) at a place within the relevant police area.
- (3) A CSO or CSV designated under section 38 by the Commissioner of Police of the Metropolis has the power of an authorised officer of a borough council to give a notice under section 15 of the London Local Authorities Act 2004 in relation to an individual whom the CSO or CSV has reason to believe has committed an offence under section 38(1) of the London Local Authorities Act 1990.
- (4) A CSO or CSV designated under section 38 by the Commissioner of Police for the City of London has the power of an authorised officer of a borough council to give a notice under section 15 of the London Local Authorities Act 2004 in relation to an individual whom the CSO or CSV has reason to believe has committed an offence under section 27(1) of the City of Westminster Act 1999 (unlicensed street trading).
- (5) A CSO or CSV has the power of an authorised officer of an authority to give a notice under section 237A of the Local Government Act 1972 or under section 12 of the Local Government Byelaws (Wales) Act 2012 (fixed penalty notices in relation to offences against certain byelaws) in relation to an individual whom the CSO or CSV has reason to believe has committed an offence against a listed byelaw at a place within the relevant police area.
- (6) A byelaw is a “listed byelaw” for the purposes of sub-paragraph (5) if, at the time the CSO or CSV gives the notice—
 - (a) it is a byelaw to which section 237A of the Local Government Act 1972 or to which section 12 of the Local Government Byelaws (Wales) Act 2012 (fixed penalty notices in relation to offences against certain byelaws) applies, and
 - (b) the chief officer of police for the relevant police area and the authority that made the byelaw have agreed to include it in a list of byelaws kept for the purposes of sub-paragraph (5).
- (7) The chief officer of police for the relevant police area must publish the list of byelaws kept for the purposes of sub-paragraph (5) in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.
- (8) The list of byelaws kept for the purposes of sub-paragraph (5) may be amended from time to time by agreement between the chief officer of police and the authority, by adding byelaws to it or removing byelaws from it.
- (9) Where the list of byelaws is amended, the amended list must be published by the chief officer as mentioned in sub-paragraph (7).

Powers to require names and addresses

- 3 (1) A CSO or CSV may require a person to give his or her name and address if the CSO or CSV has reason to believe that—
 - (a) the person has committed a relevant offence in the relevant police area, or

- (b) the person has committed a relevant licensing offence (whether or not in the relevant police area).
- (2) A person who fails to comply with a requirement under sub-paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this paragraph, “relevant offence” means any of the following offences—
 - (a) an offence in respect of which the CSO or CSV is authorised to give a penalty notice (whether in consequence of paragraph 2 of this Schedule or in consequence of provision included in his or her designation in reliance on section 38(6B)(a));
 - (b) an offence under section 3 or 4 of the Vagrancy Act 1824;
 - (c) an offence committed in a specified park which by virtue of section 2 of the Parks Regulation (Amendment) Act 1926 is an offence against the Parks Regulation Act 1872;
 - (d) an offence under section 39 of the Anti-social Behaviour, Crime and Policing Act 2014;
 - (e) an offence under a listed byelaw;
 - (f) an offence the commission of which appears to the CSO or CSV to have caused—
 - (i) injury, alarm or distress to any other person, or
 - (ii) the loss of, or any damage to, any other person’s property.
- (4) In this paragraph, “relevant licensing offence” means an offence under any of the following provisions of the Licensing Act 2003—
 - (a) section 141 (otherwise than by virtue of subsection (2)(c) or (3) of that section);
 - (b) section 142;
 - (c) section 146(1);
 - (d) section 149(1)(a), (3)(a) or (4)(a);
 - (e) section 150(1);
 - (f) section 150(2) (otherwise than by virtue of subsection (3)(b) of that section);
 - (g) section 152(1) (excluding paragraph (b)).
- (5) A byelaw is a “listed byelaw” for the purposes of sub-paragraph (3)(e) if, at the time the CSO or CSV requires a person to give his or her name and address—
 - (a) it is a byelaw which has been made by a relevant body with authority to make byelaws for any place within the relevant police area, and
 - (b) it is included in the list of byelaws published for the purposes of this paragraph by the chief officer of police for the relevant police area.
- (6) A byelaw may be included in the list of byelaws published for the purposes of this paragraph only if the chief officer of police and the relevant body which made the byelaw agree that it should be included.
- (7) The chief officer of police for the relevant police area must publish the list in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.

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- (8) The list of byelaws published for the purposes of this paragraph may be amended from time to time by agreement between the chief officer of police and the relevant body, by adding byelaws to it or removing byelaws from it.
- (9) Where the list of byelaws is amended, the amended list must be published by the chief officer as mentioned in sub-paragraph (8).
- (10) In sub-paragraphs (5), (6) and (8), “relevant body” means—
- (a) in England, a county council, a district council, a London borough council or a parish council;
 - (b) in Wales, a county council, a county borough council or a community council;
 - (c) the Greater London Authority;
 - (d) Transport for London;
 - (e) an Integrated Transport Authority for an integrated transport area in England;
 - (f) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
 - (g) a body specified in regulations made by the Secretary of State.
- (11) Regulations under sub-paragraph (10)(g) may provide, in relation to any body specified in the regulations, that the agreement mentioned in sub-paragraph (6) or (8) is to be made between the chief officer and the Secretary of State (rather than between the chief officer and the relevant body).
- (12) In the case of a relevant offence that is an offence under a listed byelaw (see sub-paragraphs (3)(e) and (5)), the power to impose a requirement under sub-paragraph (1) is exercisable only in a place to which the byelaw relates.
- (13) In its application in relation to an offence in respect of which the CSO or CSV is authorised to give a penalty notice under section 444A of the Education Act 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil), sub-paragraph (1)(a) of this paragraph has effect as if the words “in the relevant police area” were omitted.
- (14) In this paragraph, “specified park” has the same meaning as in section 162 of the Serious Organised Crime and Police Act 2005.

Powers to search for and seize alcohol and tobacco

- 4 (1) A CSO or CSV may search a person for alcohol or a container for alcohol if—
- (a) the CSO or CSV has (in consequence of provision included in his or her designation in reliance on section 38(6B)(a)) imposed a requirement on a person to surrender alcohol or a container for alcohol under section 63(2) of the Anti-social Behaviour, Crime and Policing Act 2014 or under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997,
 - (b) the person has failed to comply with the requirement, and
 - (c) the CSO or CSV reasonably believes that the person has alcohol or a container for alcohol in his or her possession.
- (2) A CSO or CSV may search a person for tobacco or cigarette papers where—
- (a) the CSO or CSV has (in consequence of provision included in his or her designation in reliance on section 38(6B)(a)) sought to seize the tobacco or

- cigarette papers under section 7(3) of the Children and Young Persons Act 1933 (seizure of tobacco from young persons),
- (b) the person from whom the CSO or CSV sought to seize the item has failed to surrender it, and
 - (c) the CSO or CSV reasonably believes that the person has it in his or her possession.
- (3) The power to search under sub-paragraph (1) or (2)—
- (a) is to do so only to the extent that is reasonably required for the purpose of discovering whatever the CSO or CSV is searching for, and
 - (b) does not authorise the CSO or CSV to require a person to remove any of his or her clothing in public other than an outer coat, jacket or gloves.
- (4) A person who without reasonable excuse fails to consent to being searched in the exercise of a power under this paragraph is guilty of an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (5) A CSO or CSV who proposes to exercise a power to search a person under sub-paragraph (1) or (2) must inform him or her that failing without reasonable excuse to consent to being searched is an offence.
- (6) If the person in question fails to consent to being searched, the CSO or CSV may require him or her to give the CSO or CSV his or her name and address.
- (7) If on searching the person the CSO or CSV discovers what he or she is searching for, the CSO or CSV may seize it and dispose of it.

Powers to seize and detain: controlled drugs

- 5 (1) A CSO or CSV may exercise the powers conferred by sub-paragraph (2) or (3) in the relevant police area.
- (2) If the CSO or CSV—
- (a) finds a controlled drug in a person’s possession (whether or not the CSO or CSV finds it in the course of searching the person in the exercise of a power or duty conferred or imposed by his or her designation under section 38), and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO or CSV may seize it and retain it.
- (3) If the CSO or CSV—
- (a) either—
 - (i) finds a controlled drug in a person’s possession (as mentioned in sub-paragraph (2)(a)), or
 - (ii) reasonably believes that a person is in possession of a controlled drug, and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO or CSV may require the person to give the CSO or CSV his or her name and address.

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- (4) If, in exercise of the power conferred by sub-paragraph (2), the CSO or CSV seizes and retains a controlled drug, the CSO or CSV must—
 - (a) if the person from whom it was seized maintains that he or she was lawfully in possession of it, tell the person where inquiries about its recovery may be made, and
 - (b) comply with a constable’s instructions about what to do with it.
- (5) A person who fails to comply with a requirement imposed under sub-paragraph (3) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (6) In this paragraph, “controlled drug” has the same meaning as in the Misuse of Drugs Act 1971.

Powers to seize and detain: psychoactive substances

- 6 (1) A CSO or CSV may exercise the powers conferred by sub-paragraph (2) or (3) in the relevant police area.
- (2) If the CSO or CSV—
 - (a) finds a psychoactive substance in a person’s possession (whether or not the CSO or CSV finds it in the course of searching the person in the exercise of a power or duty conferred or imposed by his or her designation under section 38), and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
 the CSO or CSV may seize it and retain it.
- (3) If the CSO or CSV—
 - (a) either—
 - (i) finds a psychoactive substance in a person’s possession (as mentioned in sub-paragraph (2)(a)), or
 - (ii) reasonably believes that a person is in possession of a psychoactive substance, and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
 the CSO or CSV may require the person to give the CSO or CSV his or her name and address.
- (4) If, in exercise of the power conferred by sub-paragraph (2), the CSO or CSV seizes and retains a psychoactive substance, the CSO or CSV must—
 - (a) if the person from whom it was seized maintains that he or she was lawfully in possession of it—
 - (i) tell the person where inquiries about its recovery may be made, and
 - (ii) explain the effect of sections 49 to 51 and 53 of the Psychoactive Substances Act 2016 (retention and disposal of items), and
 - (b) comply with a constable’s instructions about what to do with it.
- (5) Any substance seized in exercise of the power conferred by sub-paragraph (2) is to be treated for the purposes of sections 49 to 53 of the Psychoactive Substances Act 2016 as if it had been seized by a police or customs officer under section 36 of that Act.

Section 50 of that Act applies in relation to any such substance as if the reference in subsection (1)(b) to the police or customs officer who seized it were a reference to the CSO or CSV who seized it.

- (6) A person who fails to comply with a requirement imposed under sub-paragraph (3) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (7) In this paragraph, “police or customs officer” and “psychoactive substance” have the same meaning as in the Psychoactive Substances Act 2016.

Powers to detain pending arrival of a constable etc

- 7 (1) A CSO or CSV may require a person to wait with the CSO or CSV, for a period not exceeding 30 minutes, for the arrival of a constable where—
- (a) the CSO or CSV has required the person to give his or her name and address (whether in consequence of paragraph 3, 4(6), 5(3) or 6(3) or in consequence of provision included in his or her designation in reliance on section 38(6B)(a)), and
 - (b) either—
 - (i) the person has failed to comply with the requirement, or
 - (ii) the CSO or CSV has reasonable grounds for suspecting that the person has given a name or address that is false or inaccurate.
- (2) Sub-paragraph (1) does not apply if the requirement to give a name and address was imposed in connection with a relevant licensing offence mentioned in paragraph 3(4)(a), (c) or (f) which the CSO or CSV believes to have been committed on licensed premises (within the meaning of the Licensing Act 2003).
- (3) A CSO or CSV may require a person to wait with the CSO or CSV, for a period not exceeding 30 minutes, for the arrival of a constable where—
- (a) the CSO or CSV has reason to believe that the person is committing an offence under section 3 or 4 of the Vagrancy Act 1824,
 - (b) the CSO or CSV requires the person to stop doing whatever gives rise to that belief, and
 - (c) the person fails to stop as required.
- (4) A person who has been required under sub-paragraph (1) or (3) to wait with a CSO or CSV may, if requested to do so, elect that (instead of waiting) he or she will accompany the CSO or CSV to a police station in the relevant police area.
- (5) Where the person does not elect to accompany the CSO or CSV to the police station, and the constable arrives within the period of 30 minutes, the CSO or CSV is under a duty to remain with the person and the constable until the CSO or CSV has transferred control of the person to the constable.
- (6) Where the person does elect to accompany the CSO or CSV to the police station—
- (a) the CSO or CSV is under a duty to remain at the police station until the CSO or CSV has transferred control of the person to the custody officer there,
 - (b) until control is transferred, the CSO or CSV is treated for all purposes as having the person in his or her lawful custody, and
 - (c) for so long as the CSO or CSV remains at the police station or in its immediate vicinity (whether before control of the person is transferred or

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afterwards), the CSO or CSV is under a duty to prevent the person's escape and to assist in keeping the person under control.

- (7) A person who—
- (a) makes off while subject to a requirement under sub-paragraph (1) or (3), or
 - (b) makes off while accompanying a CSO or CSV to a police station in accordance with an election under sub-paragraph (4),
- is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Powers to search etc individuals detained under paragraph 7

- 8 (1) A CSO or CSV may exercise the powers set out in sub-paragraphs (2) and (3) in relation to a person whom the CSO or CSV has required to wait for the arrival of a constable under paragraph 7(1) or (3) (whether or not that person makes an election under paragraph 7(4)).
- (2) If the CSO or CSV has reasonable grounds for believing that the person may present a danger to himself or herself or to others, the CSO or CSV may search the person.
- (3) If the CSO or CSV has reasonable grounds for believing that the person may have concealed on him or her anything which might be used to assist in escaping from lawful custody, the CSO or CSV may search the person for that thing.
- (4) The power conferred by sub-paragraph (2) or (3)—
- (a) does not authorise a CSO or CSV to require a person to remove any of his or her clothing in public other than an outer coat, jacket or gloves;
 - (b) does authorise a search of a person's mouth.
- (5) A CSO or CSV searching a person under sub-paragraph (2) may seize and retain anything that is found, if the CSO or CSV has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or herself or to any other person.
- (6) A CSO or CSV searching a person under sub-paragraph (3) may seize and retain anything that is found, other than an item subject to legal privilege, if the CSO or CSV has reasonable grounds for believing that the person might use it to assist in escaping from lawful custody.
- (7) If a CSO or CSV seizes or retains anything under sub-paragraph (5) or (6), the CSO or CSV must—
- (a) tell the person from whom it was seized where inquiries about its recovery may be made, and
 - (b) comply with a constable's instructions about what to do with it.

Persons detained under paragraph 7: park trading offences

- 9 (1) If a CSO or CSV reasonably suspects that a person required to wait for the arrival of a constable under paragraph 7(1) has committed a park trading offence, the CSO or CSV may take possession of anything of a non-perishable nature which—
- (a) the person has in his or her possession or under his control, and
 - (b) the CSO or CSV reasonably believes to have been used in the commission of the offence.

- (2) The CSO or CSV may retain possession of the thing in question for a period not exceeding 30 minutes unless the person makes an election under paragraph 7(4), in which case the CSO or CSV may retain possession of the thing in question until he or she is able to transfer control of it to a constable.
- (3) In this paragraph “park trading offence” means an offence committed in a specified park which is a park trading offence for the purposes of the Royal Parks (Trading) Act 2000.
- (4) In sub-paragraph (3), “specified park” has the same meaning as in section 162 of the Serious Organised Crime and Police Act 2005.

Road traffic

- 10 A CSO or CSV has in the relevant police area the powers conferred on persons designated by regulations under section 99 of the Road Traffic Regulation Act 1984 (removal of abandoned vehicles).

Power to use reasonable force

- 11 A CSO or CSV has power to use reasonable force—
 - (a) to prevent a person whom the CSO or CSV has required under paragraph 7(1) or (3) to wait for a constable from making off, or to keep the person under control, at any time while the person is subject to the requirement;
 - (b) where such a person elects under paragraph 7(4) to accompany a CSO or CSV to a police station, to prevent the person from making off, or to keep the person under control, while the person is accompanying the CSO or CSV to the police station;
 - (c) where a CSO or CSV is fulfilling a duty imposed under paragraph 7(5) or (6), to prevent the person from making off (or escaping) and to keep him or her under control;
 - (d) where a CSO or CSV is exercising a power conferred by paragraph 8.”