

SCHEDULES

SCHEDULE 17

Section 119

CROSS-BORDER ENFORCEMENT: MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS OF PART 10 OF THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

- 1 Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement) is amended in accordance with paragraphs 2 to 8.

Powers of constables of PSNI etc under section 137

- 2 (1) Section 137 (cross-border powers of arrest etc.) is amended as follows.
- (2) In subsection (3), for “the conditions applicable to this subsection are satisfied” substitute “the condition applicable to this subsection is satisfied”.
- (3) For subsection (6) substitute—
- “(6) The condition applicable to subsection (3) above is that it appears to the constable that it would have been lawful for him to have exercised the powers had the suspected person been in Northern Ireland.”
- (4) In subsection (9), omit the definition of “arrestable offence”.
- 3 In section 138 (powers of arrest: supplementary provisions), omit subsections (3) to (5).

Powers to search premises under section 139

- 4 (1) Section 139 (search powers available on arrests under sections 136 and 137) is amended as follows.
- (2) In the heading, for “sections 136 and 137” substitute “sections 136, 137 and 137A”.
- (3) For subsection (1) substitute—
- “(1) The powers conferred by subsections (2) and (3) are available to a constable in relation to—
- (a) a person arrested under section 136(1), (2)(b) or (3)(a);
- (b) a person arrested under section 137(1) or (3);
- (c) a person arrested under section 137A in respect of a specified offence committed in England and Wales or Northern Ireland.”
- (4) Omit subsection (3)(b).
- (5) After subsection (3) insert—

Status: This is the original version (as it was originally enacted).

“(3A) The powers conferred by subsection (3B) are available to a constable in relation to—

- (a) a person arrested under section 136(1) or (3)(a) in the execution of a warrant issued in England and Wales in respect of an offence that is an indictable offence in England and Wales;
- (b) a person arrested under section 136(1) or (2)(b) in the execution of a warrant issued in Northern Ireland in respect of an offence that is an indictable offence in Northern Ireland;
- (c) a person arrested under section 137(1) in respect of an offence that is an indictable offence in England and Wales;
- (d) a person arrested under section 137(3) in respect of an offence that is an indictable offence in Northern Ireland;
- (e) a person arrested under section 137A(2) or (4) in respect of a specified offence committed in England and Wales;
- (f) a person arrested under section 137A(1) or (2) in respect of a specified offence committed in Northern Ireland.

(3B) The constable may enter and search any premises in which the person was when arrested or immediately before he was arrested for evidence relating to the offence.”

(6) In subsection (4), after “subsection (3)” insert “or (3B)”.

(7) In subsection (7)—

- (a) for “subsection (3)(b)” substitute “subsection (3B)”;
- (b) for “that paragraph” substitute “that subsection”.

(8) In subsection (8), for “subsection (3)(b)” substitute “subsection (3B)”.

(9) After subsection (10) insert—

“(10A) Where a constable of a police force in England and Wales searches premises in the exercise of the power conferred by subsection (3B) or where a constable of the British Transport Police searches premises in England and Wales in the exercise of that power—

- (a) the constable has the same powers as the constable would have under section 19 of the Police and Criminal Evidence Act 1984 if the search had taken place under section 32(2)(b) of that Act, and
- (b) sections 21 and 22 of that Act apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.

(10B) Where a constable of a police force in Northern Ireland searches premises in the exercise of the power conferred by subsection (3B)—

- (a) the constable has the same powers as the constable would have under Article 21 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) if the search had taken place under Article 34(2)(b) of that Order, and
- (b) Articles 23 and 24 of that Order apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.

(10C) Where a constable of a police force in Scotland searches premises in the exercise of the power conferred by subsection (3B), or where a constable of the British Transport Police searches premises in Scotland in the exercise of

that power, the constable has the same powers of seizure and retention as the constable would have if the search had taken place in the exercise of a power of the constable (by virtue of any rule of law) in relation to a person arrested and charged with an offence by the constable in Scotland.”

(10) In subsection (12)—

- (a) in the definition of “premises”, at the end of paragraph (b) (before the “and”) insert—
“(ba) any renewable energy installation;”;
- (b) omit the “and” after that definition;
- (c) in the definition of “offshore installation” for “section 1 of the Mineral Workings (Offshore Installations) Act 1971” substitute “section 44 of the Petroleum Act 1998”;
- (d) at the end of the subsection insert “; and
renewable energy installation” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act).”

Reciprocal powers of arrest - minor correction

5 In section 140 (reciprocal powers of arrest)—

- (a) in subsection (1), for the words in brackets substitute “(arrest without warrant)”;
- (b) in subsection (5), for the words in the second set of brackets substitute “(arrest without warrant)”.

References to the British Transport Commission Act 1949 - updating

6 In each of the following places, for references to “section 53 of the British Transport Commission Act 1949” substitute “section 24 of the Railways and Transport Safety Act 2003”—

- (a) section 136(1) and (2);
- (b) section 137(2A);
- (c) section 140(6A).

Other amendments

7 (1) Section 136 (execution of warrants) is amended as follows.

(2) After subsection (4) insert—

“(4A) The following provisions apply in relation to the execution under this section by a constable of a warrant issued in England and Wales or Northern Ireland—

- (a) where the warrant is executed under subsection (1), the constable has the same powers of entry and search for the purpose of executing the warrant as a constable of a police force in Scotland would have if the warrant had been issued in Scotland;
- (b) where the warrant is executed under subsection (2)(b) or (3)(a), the constable has the powers of entry and search conferred by section 137E;

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- (c) where the warrant is executed under subsection (1), (2)(b) or (3)(a), the constable has the powers conferred by section 139 in relation to the arrested person;
 - (d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.”
- (3) In subsection (5), omit paragraph (a).
- 8 (1) Section 137 (cross-border powers of arrest etc.) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) The following provisions apply in relation to an arrest under this section by a constable under subsection (1) or (3)—
- (a) where the arrest is under subsection (1) in Northern Ireland or under subsection (3) in England and Wales, the constable has the powers of entry and search conferred by section 137E;
 - (b) where the arrest is under subsection (1) or (3) in Scotland, the constable has the same powers of entry and search for the purpose of the arrest as a constable of a police force in Scotland would have if there were reasonable grounds for suspecting that the offence had been committed or attempted in Scotland;
 - (c) the constable has the powers conferred by section 139 in relation to the arrested person;
 - (d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.”
- (3) In subsection (8), omit paragraph (a).

PART 2

AMENDMENTS OF OTHER LEGISLATION

Finance Act 2007 (c. 11)

- 9 (1) Section 87 of the Finance Act 2007 (cross-border exercise of powers) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) In the application of section 137C where a person is arrested under section 137A by an officer of Revenue and Customs in respect of a specified offence that is being investigated by an officer of Revenue and Customs—
- (a) subsection (2)(b) is to be read as if (instead of requiring the detention to be authorised by both an officer of at least the rank of inspector in the arresting force and an officer of at least the rank of inspector in the investigating force) it required the detention to be authorised by an officer of Revenue and Customs of at least the grade equivalent to the rank of inspector;
 - (b) subsection (2)(c) is to be read as if (instead of requiring the detention to be authorised by both an officer of a rank above that of inspector in

- the arresting force and an officer of a rank above that of inspector in the investigating force) it required the detention to be authorised by an officer of Revenue and Customs of a grade above that equivalent to the rank of inspector;
- (c) subsection (3) is omitted;
 - (d) in subsections (4) and (5), the reference to an officer of the investigating force is to be read as a reference to an officer of Revenue and Customs;
 - (e) in subsection (6), the reference to an appropriate officer in the investigating force is to be read as a reference to an appropriate officer of Revenue and Customs (as defined by subsection (7));
 - (f) subsection (6)(a) is omitted;
 - (g) in subsection (7)(b), the reference to an officer of at least the rank of inspector is to be read as a reference to an officer of Revenue and Customs of at least the equivalent grade;
 - (h) in subsection (7)(c), the reference to an officer of a rank above that of inspector is to be read as a reference to an officer of Revenue and Customs of above the equivalent grade;
 - (i) subsections (8) to (10) are omitted.
- (2B) Where section 137C applies in accordance with subsection (2A), Schedule 7B applies with the following modifications—
- (a) any reference to a constable in the arresting force is to be read as a reference to an officer of Revenue and Customs;
 - (b) any reference to an officer of at least, or above, a particular rank in the investigating force is to be read as a reference to an officer of Revenue and Customs of at least, or above, the equivalent grade;
 - (c) any reference to the arresting force or to the investigating force (otherwise than in relation to a description of officer in the force) is to be read as a reference to officers of Revenue and Customs;
 - (d) instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to officers of Revenue and Customs;
 - (e) the Schedule is to be read as if it also provided for references in the provisions applied by section 137D(2)(d), (3)(d) and (4)(d) to a police station to include references to an office of Revenue and Customs.
- (2C) In the application of section 137C where a person is arrested under section 137A by an officer of Revenue and Customs in respect of a specified offence other than one that is being investigated by an officer of Revenue and Customs—
- (a) any reference to an officer of at least, or above, the rank of inspector in the arresting force is to be read as a reference to an officer of Revenue and Customs of at least, or above, the equivalent grade;
 - (b) the reference in subsection (6)(a) to the arresting force is to be read as a reference to any officer of Revenue and Customs.
- (2D) Where section 137C applies in accordance with subsection (2C), Schedule 7B applies with the following modifications—

Status: This is the original version (as it was originally enacted).

- (a) any reference to a constable in the arresting force is to be read as a reference to an officer of Revenue and Customs;
- (b) any reference to the arresting force (otherwise than in relation to a description of officer in the force) is to be read as a reference to officers of Revenue and Customs;
- (c) instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to officers of Revenue and Customs;
- (d) the Schedule is to be read as if it also provided for references in the provisions applied by section 137D(2)(d), (3)(d) and (4)(d) to a police station to include references to an office of Revenue and Customs.”

Crime and Courts Act 2013 (c.22)

- 10 (1) In Schedule 21 to the Crime and Courts Act 2013 (powers of immigration officers), Part 2 (modification of applied enactments) is amended as follows.
- (2) In paragraph 41, for “Paragraphs 42 and 43” substitute “Paragraphs 42 to 43”.
- (3) After paragraph 42 insert—
- “42A (1) This paragraph has effect in relation to the application of section 137C of the 1994 Act where a person is arrested under section 137A by an immigration officer in respect of a specified offence that is being investigated by an immigration officer.
- (2) Subsection (2)(b) is to be read as if (instead of requiring the detention to be authorised by both an officer of at least the rank of inspector in the arresting force and an officer of at least the rank of inspector in the investigating force) it required the detention to be authorised by an immigration officer of at least the grade equivalent to the rank of inspector.
- (3) Subsection (2)(c) is to be read as if (instead of requiring the detention to be authorised by both an officer of a rank above that of inspector in the arresting force and an officer of a rank above that of inspector in the investigating force) it required the detention to be authorised by an immigration officer of a grade above that equivalent to the rank of inspector.
- (4) Subsection (3) is omitted.
- (5) In subsections (4) and (5), the reference to an officer of the investigating force is to be read as a reference to an officer of Revenue and Customs.
- (6) In subsection (6), the reference to an appropriate officer in the investigating force is to be read as a reference to an appropriate immigration officer (as defined by subsection (7)).
- (7) Subsection (6)(a) is omitted.
- (8) In subsection (7)—

- (a) in paragraph (b), the reference to an officer of at least the rank of inspector is a reference to an immigration officer of at least the equivalent grade;
 - (b) in paragraph (c), the reference to an officer of a rank above that of inspector is to be read as a reference to an immigration officer of above the equivalent grade.
- (9) Subsections (8) to (10) are omitted.
- 42B (1) Where section 137C applies in accordance with paragraph 42A, Schedule 7B applies with the following modifications.
 - (2) Any reference to a constable in the arresting force is to be read as a reference to an immigration officer.
 - (3) Any reference to an officer of at least, or above, the rank of inspector in the investigating force is to be read as a reference to an immigration officer who is at least, or above, the equivalent grade.
 - (4) Any reference to the arresting force or to the investigating force (otherwise than in relation to a description of officer in the force) is to be read as a reference to immigration officers.
 - (5) Instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to immigration officers.
- 42C (1) This paragraph has effect in relation to the application of section 137C of the 1994 Act where a person is arrested under section 137A by an immigration officer in respect of a specified offence other than one that is being investigated by an immigration officer.
 - (2) Any reference to an officer of at least, or above, the rank of inspector in the arresting force is to be read as a reference to an immigration officer of at least, or above, the equivalent grade.
 - (3) The reference in subsection (6)(a) to the arresting force is to be read as a reference to any immigration officer.
- 42D (1) Where section 137C applies in accordance with paragraph 42C, Schedule 7B applies with the following modifications.
 - (2) Any reference to a constable in the arresting force is to be read as a reference to an immigration officer.
 - (3) Any reference to the arresting force (otherwise than in relation to a description of officer in the force) is to be read as a reference to immigration officers.
 - (4) Instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to immigration officers.”