
EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which extends to England and Wales, applies certain provisions of the Police and Criminal Evidence Act 1984, subject to specified modifications, to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers. A relevant investigation is a criminal investigation conducted by officers of Revenue and Customs which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions. The Order consolidates the original Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2007 and subsequent amendments to it and makes further provision to remove certain anomalies.

Article 3 of the Order applies the provisions of the Act contained in Schedule 1, subject to specified modifications, to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers. Schedule 2 to the Order substitutes terms applicable to Revenue and Customs for certain words and phrases in the Act and sets out equivalent Revenue and Customs grades for specified ranks of constable.

Article 4 ensures that officers of Revenue and Customs do not have powers to charge a person, release a person on bail or to detain a person after charge.

Article 5(1) permits officers of Revenue and Customs to retain things found during a lawful search notwithstanding that the thing found is not evidence of an offence which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions. Article 5(2) ensures that nothing in the application of the Act to Revenue and Customs shall be construed to prevent any thing lawfully seized by a person under any enactment from being accepted and retained by an officer. Article 5(3) provides that the provisions in the Act on access and copying shall not apply to any thing seized as liable to forfeiture under the customs and excise Acts.

Article 6 inserts section 14A into the Act which provides that material acquired or created in the course of a trade or business is not excluded or special procedure material for the purposes of any enactment mentioned in subsection 9(2) of the Act.

Article 7 inserts section 14B into the Act which restricts the use of powers to apply for the production of documents under other enactments. An officer of Revenue and Customs may only use those other powers if he thinks that an application under Schedule 1 of the Act would not succeed because the material required does not consist of or include special procedure material.

Article 8 modifies subsection 18(1) of the Act to restrict the power of entry and search after arrest to relevant indictable offences.

Article 9 modifies section 30 of the Act to permit an arrested person to be taken to a designated office of Revenue and Customs or of the UK Border Agency as well as to a police station, and to be transferred between them.

Article 10 modifies section 35, and Article 11 modifies section 36, of the Act, by substituting the Commissioners for the chief officer of police for a police area.

Article 12 modifies section 41 of the Act by providing that the time from which the period of detention is calculated in the case of a person arrested outside England and Wales is the earliest of either the time at which the person arrives at the office of Revenue and Customs in England and Wales in which the offence for which he is arrested is being investigated or the time 24 hours after the time of his entry into England and Wales.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 13 modifies section 50 of the Act by substituting the Commissioners for police force and provides for the keeping of records of detention and the publication of an annual report containing information on detention by the Commissioners.

Article 14 modifies section 55 of the Act so that it has effect as if it related only to items which might cause injury.

Article 15 modifies section 77 of the Act by expanding the definition of “independent person” to include an officer of Revenue and Customs or any other person acting under the authority of the Commissioners.

Article 16 provides that where any provision of the Act applied to Revenue and Customs confers a power on an officer of Revenue and Customs (and does not provide that the power may only be exercised with the consent of some person other than the officer) the officer may use reasonable force in the exercise of the power.

Article 17 modifies subsection 24(2) of the Act so that it does not limit other enactments which confer upon officers of Revenue and Customs the power to arrest or detain persons.

Article 18 provides that an officer of Revenue and Customs searching premises under the authority of a warrant under section 8 of, or paragraph 12 of Schedule 1 to, the Act, may search persons found on the premises where he has reasonable cause to believe that person to be in possession of material likely to be of substantial value to the investigation of the offence. The power must be exercised by a person of the same sex as the person being searched.

Article 19 provides that powers and functions in the provisions of the Act applied to Revenue and Customs by the Order may only be exercised by officers of Revenue and Customs who are authorised to do so by the Commissioners.

Schedule 1 sets out the provisions of the Act which (subject to modification) are applied to Revenue and Customs. Schedule 2 defines expressions in the Act so as to create equivalent powers for and duties upon Revenue and Customs as would apply in similar circumstances to the police.