



Justice and Security (Northern Ireland) Act 2007

2007 CHAPTER 6

Powers

21 Stop and question

- (1) A member of Her Majesty's forces on duty or a constable may stop a person for so long as is necessary to question him to ascertain his identity and movements.
- (2) A member of Her Majesty's forces on duty may stop a person for so long as is necessary to question him to ascertain—
 - (a) what he knows about a recent explosion or another recent incident endangering life;
 - (b) what he knows about a person killed or injured in a recent explosion or incident.
- (3) A person commits an offence if he—
 - (a) fails to stop when required to do so under this section,
 - (b) refuses to answer a question addressed to him under this section, or
 - (c) fails to answer to the best of his knowledge and ability a question addressed to him under this section.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) A power to stop a person under this section includes a power to stop a vehicle (other than an aircraft which is airborne).

22 Arrest

- (1) If a member of Her Majesty's forces on duty reasonably suspects that a person is committing, has committed or is about to commit any offence he may—
 - (a) arrest the person without warrant, and

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- (b) detain him for a period not exceeding four hours.
- (2) A person making an arrest under this section complies with any rule of law requiring him to state the ground of arrest if he states that he is making the arrest as a member of Her Majesty's forces.
- (3) For the purpose of arresting a person under this section a member of Her Majesty's forces may enter and search any premises in which he knows, or reasonably suspects, the person to be.
- (4) A member of Her Majesty's forces may seize, and detain for a period not exceeding four hours, anything which he reasonably suspects is being, has been or is intended to be used in the commission of an offence under section 31 and 32.
- (5) The reference to a rule of law in subsection (2) does not include a rule of law which has effect only by virtue of the Human Rights Act 1998 (c. 42).

23 Entry

- (1) A member of Her Majesty's forces on duty or a constable may enter any premises if he considers it necessary in the course of operations for the preservation of the peace or the maintenance of order.
- (2) A constable may not rely on subsection (1) to enter a building unless—
 - (a) he has authorisation, or
 - (b) it is not reasonably practicable to obtain authorisation.
- (3) Authorisation must be—
 - (a) written authorisation from an officer of the Police Service of Northern Ireland of at least the rank of superintendent, or
 - (b) if it is not reasonably practicable to obtain written authorisation, oral authorisation from an officer of the Police Service of Northern Ireland of at least the rank of inspector.
- (4) Written authorisation must relate to a specified area of Northern Ireland.
- (5) An officer giving oral authorisation shall make a written record as soon as is reasonably practicable.
- (6) Where a constable enters a building in reliance on subsection (1) he must ensure that as soon as is reasonably practicable a record is made of—
 - (a) the address of the building (if known),
 - (b) the location of the building,
 - (c) the date of entry,
 - (d) the time of entry,
 - (e) the purpose of entry,
 - (f) the police number of each constable entering, and
 - (g) the police number and rank of the authorising officer (if any).
- (7) A written authorisation, or a record under subsection (5) or (6), must be kept by the person who gave or made it—
 - (a) while any legal or complaint proceedings to which it might be relevant are pending, and
 - (b) in any event, for at least 12 months.

- (8) A copy of a written authorisation or of a record under subsection (5) or (6) must be given as soon as is reasonably practicable to the owner or occupier of the premises to which it relates.
- (9) A copy of a written authorisation or of a record under subsection (5) or (6) must be given as soon as is reasonably practicable to any person who requests a copy and who has, in the opinion of the person who has the authorisation or record, sufficient reason for the request.
- (10) In subsection (7)(a) “complaint proceedings” means proceedings on a complaint made or referred to the Police Ombudsman for Northern Ireland in accordance with the Police (Northern Ireland) Act 1998 (c. 32).

24 Search for munitions and transmitters

Schedule 3 (which confers power to search for munitions and transmitters) shall have effect.

25 Search for unlawfully detained persons

- (1) A member of Her Majesty's forces on duty who reasonably believes that a person is unlawfully detained in such circumstances that his life is in danger may enter and search any premises for the purpose of ascertaining whether the person is detained there.
- (2) A person may enter a dwelling in reliance on subsection (1) only if he is authorised for the purpose by a commissioned officer of Her Majesty's forces.

26 Premises: vehicles, &c.

- (1) A power under section 24 or 25 to search premises shall, in its application to vehicles (by virtue of section 42), be taken to include—
 - (a) power to stop a vehicle (other than an aircraft which is airborne), and
 - (b) power to take a vehicle or cause it to be taken, where necessary or expedient, to any place for the purpose of carrying out the search.
- (2) A person commits an offence if he fails to stop a vehicle when required to do so by virtue of this section.
- (3) A person guilty of an offence under subsection (2) shall be liable on summary conviction to—
 - (a) imprisonment for a term not exceeding six months,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (4) In the application to a place or vehicle of a power to search premises under section 24 or 25—
 - (a) a reference to the address of the premises shall be construed as a reference to the location of the place or vehicle together with its registration number (if any), and
 - (b) a reference to the occupier of the premises shall be construed as a reference to the occupier of the place or the person in charge of the vehicle.

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- (5) Where a search under Schedule 3 is carried out in relation to a vehicle, the person carrying out the search may, if he reasonably believes that it is necessary in order to carry out the search or to prevent it from being frustrated—
- (a) require a person in or on the vehicle to remain with it;
 - (b) require a person in or on the vehicle to go to and remain at any place to which the vehicle is taken by virtue of subsection (1)(b);
 - (c) use reasonable force to secure compliance with a requirement under paragraph (a) or (b) above.
- (6) Paragraphs 3(2) and (3), 6 and 7 of Schedule 3 shall apply to a requirement imposed under subsection (5) as they apply to a requirement imposed under that Schedule.
- (7) Paragraph 6 of Schedule 3 shall apply in relation to the search of a vehicle which is not habitually stationary only if it is moved for the purpose of the search by virtue of subsection (1)(b); and where that paragraph does apply, the reference to the address of the premises shall be construed as a reference to the location where the vehicle is searched together with its registration number (if any).

27 Examination of documents

- (1) A member of Her Majesty's forces who performs a search under sections 24 to 26—
- (a) may examine any document or record found in order to ascertain whether it contains information of the kind mentioned in section 58(1)(a) of the Terrorism Act 2000 (c. 11) (information likely to be useful for terrorism), and
 - (b) if necessary or expedient for the purpose of paragraph (a), may remove the document or record to another place and retain it there until the examination is completed.
- (2) Subsection (1) does not permit a person to examine a document or record if he has reasonable cause to believe that it is an item subject to legal privilege (within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))).
- (3) A document or record may not be retained by virtue of subsection (1)(b) for more than 48 hours.
- (4) A person who wilfully obstructs a member of Her Majesty's forces in the exercise of a power conferred by this section commits an offence.
- (5) A person guilty of an offence under subsection (4) 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.

28 Examination of documents: procedure

- (1) Where a document or record is examined under section 27—
- (a) it shall not be photographed or copied, and
 - (b) the person who examines it shall make a written record of the examination as soon as is reasonably practicable.
- (2) The record shall—

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- (a) describe the document or record,
 - (b) specify the object of the examination,
 - (c) state the address of the premises where the document or record was found,
 - (d) where the document or record was found in the course of a search of a person, state the person's name,
 - (e) where the document or record was found in the course of a search of any premises, state the name of a person appearing to the person making the record to be the occupier of the premises or to have had custody or control of the document or record when it was found,
 - (f) where the document or record is removed for examination from the place where it was found, state the date and time when it was removed, and
 - (g) where the document or record was examined at the place where it was found, state the date and time of examination.
- (3) The record shall identify the person by whom the examination was carried out by reference to his service number, rank and regiment.
- (4) Where a person makes a record of a search in accordance with this section, he shall as soon as is reasonably practicable supply a copy—
- (a) in a case where the document or record was found in the course of a search of a person, to that person, and
 - (b) in a case where the document or record was found in the course of a search of any premises, to a person appearing to the person making the record to be the occupier of the premises or to have had custody or control of the document or record when it was found.

29 Taking possession of land, &c.

If the Secretary of State considers it necessary for the preservation of the peace or the maintenance of order, he may authorise a person—

- (a) to take possession of land or other property;
- (b) to take steps to place buildings or other structures in a state of defence;
- (c) to detain property or cause it to be destroyed or moved;
- (d) to carry out works on land of which possession has been taken by virtue of this section;
- (e) to take any other action which interferes with a public right or with a private right of property.

30 Road closure: immediate

- (1) If he considers it immediately necessary for the preservation of the peace or the maintenance of order, an officer may—
- (a) wholly or partly close a road;
 - (b) divert or otherwise interfere with a road or the use of a road;
 - (c) prohibit or restrict the exercise of a right of way;
 - (d) prohibit or restrict the use of a waterway.
- (2) In this section “officer” means—
- (a) a member of Her Majesty's forces on duty, or
 - (b) a person authorised for the purposes of this section by the Secretary of State.

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31 Sections 29 and 30: supplementary

- (1) A person commits an offence if he interferes with—
 - (a) works executed in connection with the exercise of powers conferred by virtue of section 29 or 30, or
 - (b) any apparatus, equipment or other thing used in connection with the exercise of those powers.
- (2) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his interference.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to—
 - (a) imprisonment for a term not exceeding six months,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (4) An authorisation to exercise powers under section 29 or 30 may authorise—
 - (a) the exercise of all those powers, or
 - (b) the exercise of a specified power or class of powers.
- (5) An authorisation to exercise powers under section 29 or 30 may be addressed—
 - (a) to specified persons, or
 - (b) to persons of a specified class.

32 Road closure: by order

- (1) If the Secretary of State considers it necessary for the preservation of the peace or the maintenance of order he may by order direct that a specified road—
 - (a) shall be wholly closed,
 - (b) shall be closed to a specified extent, or
 - (c) shall be diverted in a specified manner.
- (2) A person commits an offence if he interferes with—
 - (a) road closure works, or
 - (b) road closure equipment.
- (3) A person commits an offence if—
 - (a) he executes any bypass works within 200 metres of road closure works,
 - (b) he has in his possession or under his control, within 200 metres of road closure works, materials or equipment suitable for executing bypass works, or
 - (c) he knowingly permits on land occupied by him the doing or occurrence of anything which is an offence under paragraph (a) or (b).
- (4) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action, possession, control or permission.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to—
 - (a) imprisonment for a term not exceeding six months,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.

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(6) In this section—

“bypass works” means works which facilitate the bypassing by vehicles of road closure works,

“road closure equipment” means any apparatus, equipment or other thing used in pursuance of an order under this section in connection with the closure or diversion of a road, and

“road closure works” means works executed in connection with the closure or diversion of a road specified in an order under this section (whether executed in pursuance of the order or in pursuance of power under an enactment to close or divert the road).

(7) An order—

- (a) may contain savings and transitional provisions,
- (b) may make provision generally or for specified purposes only, and
- (c) may make different provision for different purposes.

Changes to legislation:

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