



National Security Act 2023

2023 CHAPTER 32

PART 1

ESPIONAGE, SABOTAGE AND PERSONS ACTING FOR FOREIGN POWERS

Powers of investigation etc

23 Powers of search etc

[Schedule 2](#) confers powers of entry, search and seizure in relation to—

- (a) certain offences under [this Part](#) of this Act, and
- (b) acts or threats within section [33\(3\)\(b\)](#) or [\(c\)](#).

Commencement Information

- I1** S. 23 not in force at Royal Assent, see [s. 100\(1\)](#)
- I2** S. 23 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

24 Disclosure orders

[Schedule 3](#) makes provision for disclosure orders.

Commencement Information

- I3** S. 24 not in force at Royal Assent, see [s. 100\(1\)](#)
- I4** S. 24 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

25 Customer information orders

[Schedule 4](#) makes provision for customer information orders.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Cross Heading: Powers of investigation etc. (See end of Document for details)

Commencement Information

- I5** S. 25 not in force at Royal Assent, see **s. 100(1)**
I6 S. 25 in force at 20.12.2023 by **S.I. 2023/1272, reg. 2(a)**

26 Account monitoring orders

Schedule 5 makes provision for account monitoring orders.

Commencement Information

- I7** S. 26 not in force at Royal Assent, see **s. 100(1)**
I8 S. 26 in force at 20.12.2023 by **S.I. 2023/1272, reg. 2(a)**

27 Arrest without warrant

- (1) A constable may arrest without a warrant anyone who the constable reasonably suspects is, or has been, involved in foreign power threat activity.
- (2) **Schedule 6** makes provision about detention under **this section**.
- (3) Subject to **subsections (5) to (8)**, a person detained under **this section** must be released (unless detained under any other power) not later than the end of the period of 48 hours beginning with—
 - (a) the time of the person’s arrest under **this section**, or
 - (b) if the person was being detained under a provision listed in **subsection (4)** when arrested under **this section**, with the time when the person was detained under that provision.
- (4) Those provisions are—
 - (a) section 24 of the Police and Criminal Evidence Act 1984;
 - (b) Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (**S.I. 1989/1341 (N.I. 12)**);
 - (c) section 41 of, and Schedule 7 to, the Terrorism Act 2000;
 - (d) section 1 of the **Criminal Justice (Scotland) Act 2016 (asp 1)**;
 - (e) Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.
- (5) A person arrested under **this section** must be released if, on a review of the person’s detention under **Part 5 of Schedule 6**, the review officer does not authorise continued detention.

This subsection does not apply if the person is detained in accordance with **subsection (6)** or **(7)** or under any other power.

- (6) Where a police officer intends to make an application for a warrant under **paragraph 37 of Schedule 6** (warrant of further detention) to extend the period of a person’s detention, the person may be detained pending the making of the application.
- (7) Where an application has been made—
 - (a) under **paragraph 37 of Schedule 6** for a warrant to extend the period of a person’s detention, or

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- (b) under paragraph 44 of that Schedule to further extend the period of a person's detention,
the person may be detained pending the conclusion of proceedings on the application.
- (8) Where an application under paragraph 37 or 44 of Schedule 6 is granted in respect of a person's detention, the person may be detained, subject to paragraph 45 of that Schedule (conditions for detention), during the period specified in the warrant.
- (9) The refusal of an application in respect of a person's detention under paragraph 37 or 44 of Schedule 6 does not prevent the person's continued detention in accordance with this section.
- (10) Subsection (11) applies where—
- (a) a person is detained under this section in hospital, or
 - (b) a person detained under this section is removed to hospital because the person needs medical treatment.
- (11) Where this subsection applies—
- (a) any time during which the person is being questioned in hospital or (where this subsection applies by virtue of subsection (10)(b)) on the way there or back for the purpose of obtaining relevant evidence is to be included in calculating any period which falls to be calculated for the purposes of this section or Part 6 of Schedule 6, but
 - (b) any other time when the person is in hospital or (where this subsection applies by virtue of subsection (10)(b)) on the way there or back is not to be included.
- (12) In subsection (11) “relevant evidence” means, in relation to the detained person, evidence which indicates that the detained person is, or has been, involved in foreign power threat activity.
- (13) A person who has the powers of a constable in one part of the United Kingdom may exercise the power under subsection (1) in any part of the United Kingdom.
- (14) In this section and Schedule 6 references to involvement in foreign power threat activity do not include involvement in such activity occurring before this section comes into force.

Commencement Information

- I9** S. 27 not in force at Royal Assent, see s. 100(1)
I10 S. 27 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

28 Use of reasonable force

- (1) A power conferred on a constable by virtue of this Part—
- (a) is additional to powers which the constable has at common law or by virtue of any other enactment, and
 - (b) is not to be taken as affecting those powers.
- (2) A constable may if necessary use reasonable force for the purpose of exercising a power conferred on the constable by virtue of this Part.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Cross Heading: Powers of investigation etc. (See end of Document for details)

Commencement Information

- I11** S. 28 not in force at Royal Assent, see [s. 100\(1\)](#)
I12 S. 28 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

29 Border security

In paragraph 12(11) of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (definition of protected material)—

- (a) in paragraph (a)—
- (i) at the end of sub-paragraph (i) insert “or”;
 - (ii) omit the “or” at the end of sub-paragraph (ii);
 - (iii) omit sub-paragraph (iii);
- (b) in paragraph (b)(ii) omit “or (iii)”;
- (c) in paragraph (c)—
- (i) at the end of sub-paragraph (i) insert “or”;
 - (ii) omit the “or” at the end of sub-paragraph (ii);
 - (iii) omit sub-paragraph (iii).

Commencement Information

- I13** S. 29 not in force at Royal Assent, see [s. 100\(1\)](#)
I14 S. 29 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

30 Offences under Part 2 of the Serious Crime Act 2007

- (1) Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) is amended as follows.
- (2) After section 50 insert—

“50A Extra-territorial offences: defence for intelligence services and armed forces

- (1) This section applies where a person is charged with an offence under this Part by reason of a provision of Schedule 4 (extra-territorial jurisdiction).
- (2) It is a defence for the person to show that their act was necessary for—
- (a) the proper exercise of a function of an intelligence service, or
 - (b) the proper exercise of a function of the armed forces relating to intelligence.
- (3) A person is taken to have shown that their act was so necessary if—
- (a) sufficient evidence of that fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (4) The head of each intelligence service must ensure that the service has in place arrangements designed to ensure that acts of a member of the service to which

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a provision of Schedule 4 applies are necessary for the proper exercise of a function of the service.

(5) The Defence Council must ensure that the armed forces have in place arrangements designed to ensure that acts of—

- (a) a member of the armed forces, or
- (b) a civilian subject to service discipline when working in support of a member of the armed forces,

to which a provision of Schedule 4 applies are necessary for the proper exercise of a function of the armed forces relating to intelligence.

(6) The arrangements which must be in place by virtue of subsection (4) or (5) must be arrangements which the Secretary of State considers to be satisfactory.

(7) In this section—

“armed forces” means His Majesty’s forces (within the meaning of the Armed Forces Act 2006);

“civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006;

“GCHQ” has the meaning given by section 3(3) of the Intelligence Services Act 1994;

“head” means—

- (a) in relation to the Security Service, the Director General of the Security Service,
- (b) in relation to the Secret Intelligence Service, the Chief of the Secret Intelligence Service, and
- (c) in relation to GCHQ, the Director of GCHQ;

“intelligence service” means the Security Service, the Secret Intelligence Service or GCHQ.”

(3) For the heading before section 50 substitute “Defences”.

Commencement Information

I15 S. 30 not in force at Royal Assent, see [s. 100\(1\)](#)

I16 S. 30 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

Changes to legislation:

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