



Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

PART X

CROSS-BORDER ENFORCEMENT

139 Search powers available on arrests under [F1sections 136, 137 and 137A].

[F2(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.]

(2) A constable to whom this section applies may search the person if the constable has reasonable grounds for believing that the person may present a danger to himself or others.

(3) Subject to subsections (4) to (6) below, a constable to whom this section applies may—

- (a) search the person for anything—
 - (i) which he might use to assist him to escape from lawful custody; or
 - (ii) which might be evidence relating to an offence; and

[F3(b)]

[F4(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;

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- (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.]
- (4) The power to search conferred by subsection (3) [^{F5}or (3B)] above is only a power to search to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence.
- (5) The powers conferred by this section to search a person are not to be construed as authorising a constable to require a person to remove any of his clothing in public other than an outer coat, jacket, headgear, gloves or footwear but they do authorise a search of a person's mouth.
- (6) A constable may not search a person in the exercise of the power conferred by subsection (3)(a) above unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything for which a search is permitted under that paragraph.
- (7) A constable may not search premises in the exercise of the power conferred by [^{F6}subsection (3B)] above unless he has reasonable grounds for believing that there is evidence for which a search is permitted under [^{F7}that subsection].
- (8) In so far as the power of search conferred by [^{F8}subsection (3B)] above relates to premises consisting of two or more separate dwellings, it is limited to a power to search—
- (a) any dwelling in which the arrest took place or in which the person arrested was immediately before his arrest; and
 - (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.
- (9) A constable searching a person in the exercise of the power conferred by subsection (2) above may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.
- (10) A constable searching a person in the exercise of the power conferred by subsection (3) (a) above may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing—
- (a) that he might use it to assist him to escape from lawful custody; or
 - (b) that it is evidence of an offence, or has been obtained in consequence of the commission of an offence.
- [^{F9}(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—

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- (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.]
- (11) Nothing in this section shall be taken to affect the power conferred by [^{F10}section 43 of the Terrorism Act 2000].
- (12) In this section—
- “item subject to legal privilege” has the meaning given to it—
 - (a) as respects anything in the possession of a person searched in England and Wales, by section 10 of the ^{M1}Police and Criminal Evidence Act 1984;
 - (b) as respects anything in the possession of a person searched in Scotland, by [^{F11}section 412 of the Proceeds of Crime Act 2002];
 - (c) as respects anything in the possession of a person searched in Northern Ireland, by Article 12 of the ^{M2}Police and Criminal Evidence (Northern Ireland) Order 1989;
 - “premises” includes any place and, in particular, includes—
 - (a) any vehicle, vessel, aircraft or hovercraft;
 - (b) any offshore installation;
 - (ba) [^{F12}any any renewable energy installation;] and
 - (c) any tent or movable structure; ^{F13}...
 - “offshore installation” has the meaning given to it by [^{F14}section 44 of the Petroleum Act 1998][^{F15}; 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).]

Textual Amendments

- F1** Words in s. 139 heading substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 17 para. 4\(2\)](#); [S.I. 2018/227](#), art. 2(g)

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- F2** S. 139(1) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(3)**; S.I. 2018/227, art. 2(g)
- F3** S. 139(3)(b) omitted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(4)**; S.I. 2018/227, art. 2(g)
- F4** S. 139(3A)(3B) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(5)**; S.I. 2018/227, art. 2(g)
- F5** Words in s. 139(4) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(6)**; S.I. 2018/227, art. 2(g)
- F6** Words in s. 139(7) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(7)(a)**; S.I. 2018/227, art. 2(g)
- F7** Words in s. 139(7) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(7)(b)**; S.I. 2018/227, art. 2(g)
- F8** Words in s. 139(8) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(8)**; S.I. 2018/227, art. 2(g)
- F9** S. 139(10A)-(10C) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(9)**; S.I. 2018/227, art. 2(g)
- F10** Words in s. 139(11) substituted (19.2.2001) by 2000 c. 11, ss. 125, 128, **Sch. 15 para. 9**; S.I. 2001/421, art. 2(a)
- F11** Words in s. 139(12) substituted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 24**; S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended by S.I. 2003/333, art. 14)
- F12** Words in s. 139(12) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(10)(a)**; S.I. 2018/227, art. 2(g)
- F13** Word in s. 139(12) omitted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(10)(b)**; S.I. 2018/227, art. 2(g)
- F14** Words in s. 139(12) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(10)(c)**; S.I. 2018/227, art. 2(g)
- F15** Words in s. 139(12) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(10)(d)**; S.I. 2018/227, art. 2(g)

Modifications etc. (not altering text)

- C1** S. 139 applied (with modifications) (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 87(2)-(5)
- C2** Ss. 136-139 applied (with modifications) (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 55(7)(8)61(2) (with [Sch. 21 paras. 40, 42, 43](#)); S.I. 2013/1042, art. 4(g)
- C3** S. 139(10): power of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, 138(2), [Sch. 1 Pt. 2 para. 81](#); S.I. 2003/708, art. 2(j)

Marginal Citations

- M1** 1984 c. 60.
- M2** S.I. 1989/1341 (N.I. 12).

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 51(10)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 11\(3\)](#)