Terrorism Act 2000

2000 CHAPTER 11

PART V

COUNTER-TERRORIST POWERS

[F1 Offenders released on licence: powers in connection with protecting public from risk of terrorism

Textual Amendments

F1 S. 43B and cross-heading inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 184(1)**, 208(5)(w)

43B Terrorist offenders released on licence: arrest without warrant pending recall decision

(1) Subject to subsection (2), a constable may arrest without warrant a terrorist offender who has been released on licence if the constable—

(a) has reasonable grounds for suspecting that the offender has breached a condition of their licence, and

(b) reasonably considers that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, to detain the offender until a recall decision is made.

(2) A terrorist offender who is detained under this section must (unless recalled or otherwise detained under any other power) be released—

(a) if a recall decision is made not to revoke the offender's licence (and accordingly the offender is not recalled to prison), as soon as practicable after that decision is made, or

(b) if a recall decision has not been made by the end of the relevant period, at the end of that period.

Changes to legislation: *Terrorism Act 2000, Cross Heading: Offenders released on licence: powers in connection with protecting public from risk of terrorism is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) Part 1 of Schedule 8 makes provision that applies where a terrorist offender is arrested under this section.

(4) In this section "terrorist offender" means—

(a) an offender to whom a restricted release provision applies or would apply but for the fact that the offender has been released on licence;

(b) a life prisoner within the meaning of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (see section 34 of that Act) who is serving a sentence for an offence within section 247A(2) of the Criminal Justice Act 2003;

(c) a life prisoner within the meaning of Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (see section 27 of that Act) who is serving a sentence, or is subject to an order for lifelong restriction, for an offence within section 1AB(2) of that Act;

(d) a life prisoner within the meaning of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) (see Article 2 of that Order) who is serving a sentence for an offence within Article 20A(2) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)).

(5) For the purposes of this section—

(a) a reference to an offender who has been released on licence includes an offender who —

(i) has been released temporarily pursuant to rules made under section 47(5) of the Prison Act 1952 or section 13(1)(c) of the Prison Act (Northern Ireland) 1953 (c. 18 (N.I.)), or

(ii) has been released temporarily on licence pursuant to rules made under section 39(6) of the Prisons (Scotland) Act 1989;

(b) a reference to a condition of an offender's licence includes a condition to which an offender's temporary release is subject;

(c) a reference to revocation of an offender's licence includes recall of an offender from temporary release.

(6) In this section—

"prison" includes any place where a person is liable to be detained;

"recall decision", in relation to a terrorist offender who has been released on licence, means a decision by any person with the power to revoke the offender's licence and recall the offender to prison whether or not to exercise that power;

the "relevant period" means—

(a) in relation to a terrorist offender who has been released on licence under the law of England and Wales, the period of 6 hours beginning with the time of the arrest under this section;

(b) in relation to a terrorist offender who has been released on licence under the law of Scotland or Northern Ireland, the period of 12 hours beginning with the time of the arrest under this section;

"restricted release provision" means—

(a) section 247A of the Criminal Justice Act 2003;

(b) section 1AB of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

(c) Article 20A of the Criminal Justice (Northern Ireland) Order 2008.

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(7) 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.**]**

[F2 43C Power to search terrorist offenders released on licence

(1) A constable may stop and search a terrorist offender who is within subsection (2) if the constable is satisfied that it is necessary to do so for purposes connected with protecting members of the public from a risk of terrorism.

(2) A terrorist offender is within this subsection if—
  (a) the offender has been released on licence (and not recalled), and
  (b) the offender's licence includes a search condition.

(3) The power in subsection (1) may be exercised in any place to which the constable lawfully has access (whether or not it is a place to which the public has access).

(4) Subsection (5) applies if a constable, in exercising the power in subsection (1) to stop a terrorist offender, stops a vehicle (see section 116(2)).

(5) The constable may search the vehicle and anything in or on it for purposes connected with protecting members of the public from a risk of terrorism.

(6) Nothing in subsection (5) confers a power to search any person, but the power to search in that subsection is in addition to the power in subsection (1) to search a terrorist offender.

(7) The power in subsection (1) to search a terrorist offender includes power to search anything carried by the offender.

(8) Subsection (5) of section 43B applies for the purposes of this section as it applies for the purposes of that section.

(9) In this section—

"search condition" means a condition requiring the offender to submit to a search of their person under this section;

"terrorist offender" has the same meaning as in section 43B.

(10) A person who has the powers of a constable in one part of the United Kingdom may exercise a power under this section in any part of the United Kingdom.**]**

Textual Amendments

F2 S. 43C inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 185**, 208(5)(w)

[F3 43D Search of premises of offender released on licence for purposes connected with protection from risk of terrorism

(1) A justice may issue a warrant under this section if, on the application of a senior police officer of the relevant force, the justice is satisfied that the requirements in subsection (2) are met.

(2) The requirements are—

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(a) that the person specified in the application is a relevant offender who has been released on licence (and not recalled),

(b) that there are reasonable grounds for believing that the person resides, or may regularly be found, at premises (whether residential or otherwise) specified in the application,

(c) that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, for a constable to enter and search premises specified in the application, and

(d) the occupier of the premises is unlikely to consent to a constable entering or searching the premises specified in the application.

(3) A warrant under this section must specify each set of premises to which it relates (which are to be premises in relation to which the requirements in subsection (2)(b) to (d) are met).

(4) A warrant under this section is a warrant that authorises a constable of the relevant force, for the purposes referred to in subsection (2)(c)—

(a) to enter the premises to which it relates, and

(b) to search the premises or, if the premises are multiple occupancy premises, the relevant parts of the premises.

(5) A warrant under this section may—

(a) authorise the constable executing it to use reasonable force if necessary to enter and search the premises;

(b) authorise entry to, and search of, the premises on more than one occasion (whether on a certain number of occasions or without limit), so far as the justice who issues the warrant is satisfied that such authorisation is necessary for the purposes referred to in subsection (2)(c).

(6) For the purposes of subsection (4)—

(a) "multiple occupancy premises" are premises at which two or more individuals who are not members of the same household reside;

(b) the reference to the "relevant parts" of multiple occupancy premises is to those parts of the premises to which the constable has reasonable grounds for believing that the person to whom the warrant relates has access.

(7) Subsection (5) of section 43B applies for the purposes of this section as it applies for the purposes of that section.

(8) In this section "relevant offender" means—

(a) a prisoner to whom Chapter 6 of Part 12 of the Criminal Justice Act 2003 applies (release of fixed-term prisoners);

(b) a life prisoner within the meaning of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (see section 34 of that Act);

(c) a short-term prisoner, long-term prisoner or life prisoner within the meaning of Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (see section 27 of that Act);

(d) a fixed-term prisoner within the meaning of Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (see Article 16 of that Order);

(e) a life prisoner within the meaning of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) (see Article 2 of that Order).

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(9) In this section—

"justice" means—

(a) a justice of the peace in England and Wales,

(b) a sheriff or summary sheriff in Scotland, or

(c) a lay magistrate in Northern Ireland;

"relevant force" means—

(a) if the premises specified in the application for the warrant are in England or Wales, the police force maintained for the police area in which those premises are situated,

(b) if those premises are in Scotland, the Police Service of Scotland, or

(c) if those premises are in Northern Ireland, the Police Service of Northern Ireland;

"senior police officer" means a constable of the rank of superintendent or above.**]**

Textual Amendments

F3 S. 43D inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 186**, 208(5)(w)

[F4 43E Seizure and retention of items found in search under section 43C or 43D

(1) This section applies where a constable carries out—

(a) a search of a terrorist offender under section 43C(1),

(b) a search of a vehicle, or anything in or on a vehicle, under section 43C(5), or

(c) a search of premises further to a warrant issued under section 43D.

(2) A constable may seize anything that the constable finds in the course of the search if—

(a) the constable reasonably suspects that—

(i) the thing is or contains evidence in relation to an offence, and

(ii) it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed, or

(b) the constable reasonably believes that it is necessary to do so for the purpose of ascertaining—

(i) whether the offender has breached a condition of the offender's licence, and

(ii) if so, whether the breach affects the risk of terrorism to which members of the public are exposed.

(3) Anything seized under subsection (2) may be—

(a) subjected to tests;

(b) retained for as long as is necessary in all the circumstances (but see subsection (5)).

(4) In particular (and regardless of the ground on which the thing was seized)—

(a) if a constable has reasonable grounds for believing that the thing is or contains evidence in relation to an offence, it may be retained—

(i) for use as evidence at a trial for an offence, or

(ii) for forensic examination or for investigation in connection with an offence;

(b) if a constable has reasonable grounds for believing that the thing has been obtained in consequence of the commission of an offence, it may be retained in order to establish its lawful owner.

(5) Anything seized under subsection (2)(b) that is not retained as mentioned in subsection (4)(a) or (b) may be retained for a maximum period of 7 days beginning with the day after the day on which the thing is seized.

(6) Nothing may be retained for either of the purposes mentioned in subsection (4)(a) if a photograph or copy would be sufficient for that purpose.

(7) In this section "offender" means—

(a) in relation to a search under section 43C, the terrorist offender to whom the search relates;

(b) in relation to a search under section 43D, the relevant offender in relation to whom the warrant authorising the search was issued.

(8) Nothing in this section affects any power of a court to make an order under section 1 of the Police (Property) Act 1897.**]**

Textual Amendments

F4 S. 43E inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 187**, 208(5)(w)

Changes to legislation:
Terrorism Act 2000, Cross Heading: Offenders released on licence: powers in connection with protecting public from risk of terrorism is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
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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):

- Sch. 4 para. 11(1)(aa) inserted by 2003 c. 44 Sch. 36 para. 14(2)
- Sch. 4 para. 11(2A) inserted by 2003 c. 44 Sch. 36 para. 14(3)
- Sch. 4 para. 11(1)(aa) words substituted by 2015 c. 2 Sch. 11 para. 17(2)
- Sch. 4 para. 11(2A) words substituted by 2015 c. 2 Sch. 11 para. 17(3)
- Sch. 8 para. 14(2A) inserted by 2008 c. 28 s. 16(3) (This amendment not applied to legislation.gov.uk. S. 16 repealed (31.10.2013) by 2012 c. 9, Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(d))
- Sch. 8 para. 14(4)(ba) inserted by 2008 c. 28 s. 16(5) (This amendment not applied to legislation.gov.uk. S. 16 repealed (31.10.2013) by 2012 c. 9, Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(d))
- Sch. 8 para. 15(1)(aa)(ab) inserted by 2010 c. 17 s. 17(4)(b) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 15(2A) inserted by 2010 c. 17 s. 17(7) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 15(4) inserted by 2010 c. 17 s. 17(8) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 14F(3)(b) and word omitted by 2012 c. 10 Sch. 24 para. 22 (This amendment not applied to legislation.gov.uk. The substitution of Sch. 8 para. 14F was repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 14-14I substituted for Sch. 8 para. 14 by 2010 c. 17 s. 17(2) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 20(3)-(3C) substituted for Sch. 8 para. 20(3) by 2010 c. 17 s. 18(2)(a) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 8 para. 20F(3) words omitted by 2012 c. 10 Sch. 24 para. 23 (This amendment not applied to legislation.gov.uk. The insertion of Sch. 8 para. 20F was repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))