

# **POLICE REFORM ACT 2002**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary on Sections*

#### **Part 4 Chapter 2: Provisions modifying and supplementing police powers**

#### *Section 48: Offences for which a person may be arrested without warrant*

269. This section amends section 24 of PACE for the purpose of including three further offences in the list of offences for which a power of summary arrest exists. It also provides for the complete list of arrestable offences previously in section 24(2) to be set out in a more accessible form in a new schedule. Under section 24 of PACE a constable may arrest without warrant anyone he has reasonable grounds to suspect has committed, is about to commit or is committing an arrestable offence. Section 24 sets out the definition of an arrestable offence as (a) any offence for which the sentence is fixed by law, (b) any offence for which a sentence of imprisonment of five years or more may be imposed and (c) any offence listed in subsection (2). If an offence is not listed as arrestable under section 24 of PACE, then unless general arrest conditions under section 25 of PACE apply, or there is a specific statutory power of arrest such as that attached to section 103(1)(b) of the Road Traffic Act 1988, the police are unable to take suspects into custody and question them. Questioning can only take place at the scene of the offence and a suspect may only be summonsed to appear at a magistrates' court to answer charges. Arrestable offences attract other investigative powers under PACE. For example under section 17(1)(b) of PACE a constable can enter and search any premises without a warrant for the purpose of arresting a person for an arrestable offence.
270. *Subsections (2) and (3)* have the effect of amending subsections 1(c) and (2) of section 24 of PACE to replace the list of arrestable offences in section 24(2) of PACE with a new Schedule 1A (see paragraph 274 below).
271. *Subsection (4)(a)* amends section 24(3)(a) of PACE to replace the reference to offences mentioned in section 24(2) of PACE with offences listed in Schedule 1A.
272. Section 24(3) of PACE provides that conspiring to commit, attempting to commit, inciting, aiding, abetting and counselling or procuring the commission of any offence under section 24(2) of PACE will constitute an arrestable offence without prejudice to section 2 of the Criminal Attempts Act 1981. However, where an offence is triable only summarily, it cannot be the object of a criminal attempt under section 1 of the Criminal Attempts Act 1981. Currently, section 24(3)(b) of PACE (attempts to commit such offences) specifically excludes an offence under section 12(1) of the Theft Act 1968 (taking a vehicle without consent). However this is now not the only summary only offence listed in section 24(2). *Subsection (4)(b)* therefore amends section 24(3)(b) to make it clear that it only applies to offences that are triable either way or indictable only.
273. *Subsection (5)* inserts, after Schedule 1 to PACE, new Schedule 1A – set out in Schedule 6 to this Act.