

Status: Point in time view as at 01/08/2007.

Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3 N.I.

Section 24

MUNITIONS AND TRANSMITTERS: SEARCH AND SEIZURE

Interpretation

- 1 (1) In this Schedule “officer” means—
- (a) a member of Her Majesty's forces on duty, and
 - (b) a constable.
- (2) In this Schedule “authorised officer” means—
- (a) a member of Her Majesty's forces who is on duty and is authorised by a commissioned officer of those forces, and
 - (b) a constable who is authorised by an officer of the Police Service of Northern Ireland of at least the rank of inspector.
- (3) In this Schedule—
- (a) “munitions” means—
 - (i) explosives, firearms and ammunition, and
 - (ii) anything used or capable of being used in the manufacture of an explosive, a firearm or ammunition,
 - (b) “explosive” means—
 - (i) an article or substance manufactured for the purpose of producing a practical effect by explosion,
 - (ii) materials for making an article or substance within sub-paragraph (i),
 - (iii) anything used or intended to be used for causing or assisting in causing an explosion, and
 - (iv) a part of anything within sub-paragraph (i) or (ii),
 - (c) “firearm” includes an air gun or air pistol,
 - (d) “scanning receiver” means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for the purpose of automatically monitoring selected frequencies, or automatically scanning a selected range of frequencies, so as to enable transmissions on any of those frequencies to be detected or intercepted,
 - (e) “transmitter” means apparatus (or a part of apparatus) for wireless telegraphy designed or adapted for emission, as opposed to reception,
 - (f) “wireless apparatus” means a scanning receiver or a transmitter, and
 - (g) “wireless telegraphy” has the same meaning as in section 116 of the Wireless Telegraphy Act 2006 (c. 36).

Entering premises

- 2 (1) An officer may enter and search any premises for the purpose of ascertaining—

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- (a) whether there are any munitions unlawfully on the premises, or
 - (b) whether there is any wireless apparatus on the premises.
- (2) An officer may not enter a dwelling under this paragraph unless he is an authorised officer and he reasonably suspects that the dwelling—
- (a) unlawfully contains munitions, or
 - (b) contains wireless apparatus.
- (3) A constable exercising the power under sub-paragraph (1) may, if necessary, be accompanied by other persons.
- 3 (1) If the officer carrying out a search of premises under paragraph 2 reasonably believes that it is necessary in order to carry out the search or to prevent it from being frustrated, he may—
- (a) require a person who is on the premises when the search begins, or who enters during the search, to remain on the premises;
 - (b) require a person mentioned in paragraph (a) to remain in a specified part of the premises;
 - (c) require a person mentioned in paragraph (a) to refrain from entering a specified part of the premises;
 - (d) require a person mentioned in paragraph (a) to go from one specified part of the premises to another;
 - (e) require a person who is not a resident of the premises to refrain from entering them.
- (2) A requirement imposed under this paragraph shall cease to have effect after the conclusion of the search in relation to which it was imposed.
- (3) Subject to sub-paragraphs (4) and (5), no requirement under this paragraph for the purposes of a search shall be imposed or have effect after the end of the period of four hours beginning with the time when the first (or only) requirement is imposed in relation to the search.
- (4) In the case of a search by a constable, an officer of the Police Service of Northern Ireland of at least the rank of superintendent may extend the period mentioned in sub-paragraph (3) in relation to a search by a further period of four hours if he reasonably believes that it is necessary to do so in order to carry out the search or to prevent it from being frustrated.
- (5) In the case of a search by a member of Her Majesty's forces, an officer of at least the rank of Major may extend the period mentioned in sub-paragraph (3) in relation to a search by a further period of four hours if he reasonably believes that it is necessary to do so in order to carry out the search or to prevent it from being frustrated.
- (6) The power to extend a period conferred by sub-paragraph (4) or (5) may be exercised only once in relation to a particular search.

Stopping and searching persons

- 4 (1) An officer may—
- (a) stop a person in a public place, and
 - (b) search him for the purpose of ascertaining whether he has munitions unlawfully with him or wireless apparatus with him.

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- (2) An officer may search a person—
 - (a) who is not in a public place, and
 - (b) whom the officer reasonably suspects to have munitions unlawfully with him or to have wireless apparatus with him.
- (3) A member of Her Majesty's forces may search a person entering or found in a dwelling entered under paragraph 2.

Seizure

- 5 (1) This paragraph applies where an officer is empowered by virtue of this Schedule or section 25 or 26 to search premises or a person.
 - (2) The officer may—
 - (a) seize any munitions found in the course of the search (unless it appears to him that the munitions are being, have been and will be used only lawfully), and
 - (b) retain and, if necessary, destroy them.
 - (3) The officer may—
 - (a) seize any wireless apparatus found in the course of the search (unless it appears to him that the apparatus is being, has been and will be used only lawfully), and
 - (b) retain it.

Records

- 6 (1) Where an officer carries out a search of premises under this Schedule he shall, unless it is not reasonably practicable, make a written record of the search.
 - (2) The record shall specify—
 - (a) the address of the premises searched,
 - (b) the date and time of the search,
 - (c) any damage caused in the course of the search, and
 - (d) anything seized in the course of the search.
 - (3) The record shall also include the name (if known) of any person appearing to the officer to be the occupier of the premises searched; but—
 - (a) a person may not be detained in order to discover his name, and
 - (b) if the officer does not know the name of a person appearing to him to be the occupier of the premises searched, he shall include in the record a note describing him.
 - (4) The record shall identify the officer—
 - (a) in the case of a constable, by reference to his police number, and
 - (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.
- 7 (1) Where an officer makes a record of a search in accordance with paragraph 6, he shall supply a copy to any person appearing to him to be the occupier of the premises searched.
 - (2) The copy shall be supplied immediately or as soon as is reasonably practicable.

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Offences

- 8 (1) A person commits an offence if he—
- (a) knowingly fails to comply with a requirement imposed under paragraph 3, or
 - (b) wilfully obstructs, or seeks to frustrate, a search of premises under this Schedule.
- (2) A person guilty of an offence under this paragraph 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.
- 9 (1) A person commits an offence if he fails to stop when required to do so under paragraph 4.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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