

SCHEDULES

SCHEDULE 4

Section 8

NCA: GENERAL

Regulations as to equipment

- 1 (1) The Secretary of State may make regulations requiring equipment used by the NCA to satisfy such requirements as to design and performance as may be prescribed by the regulations.
- (2) The Secretary of State may, by regulations, make any of the following kinds of provision—
 - (a) provision requiring the NCA, when using equipment for the purposes specified in the regulations, to use only—
 - (i) the equipment which is specified in the regulations,
 - (ii) equipment which is of a description so specified, or
 - (iii) equipment which is of a type approved by the Secretary of State in accordance with the regulations;
 - (b) provision prohibiting the NCA from using equipment of a type approved as mentioned in sub-paragraph (a)(iii) except—
 - (i) where the conditions subject to which the approval was given are satisfied, and
 - (ii) in accordance with the other terms of that approval;
 - (c) provision requiring equipment used by the NCA to comply with such conditions as may be specified in the regulations, or as may be approved by the Secretary of State in accordance with the regulations;
 - (d) provision prohibiting the NCA from using equipment specified in the regulations, or any equipment of a description so specified.
- (3) Before making regulations under this section, the Secretary of State must consult—
 - (a) the Director General, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (4) In this paragraph “equipment” includes—
 - (a) vehicles, and
 - (b) headgear and protective and other clothing.

Liability of NCA for unlawful acts

- 2 (1) In any of the following cases, the NCA is liable in respect of unlawful conduct of a person in the same manner as an employer is liable in respect of unlawful conduct of employees in the course of their employment.

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- (2) The first case is where the unlawful conduct is conduct of a constable or other person which occurs when the person is carrying out, or purporting to carry out, functions whilst—
 - (a) seconded to the NCA to serve as an NCA officer, or
 - (b) provided for the assistance of the NCA under Part 3 of Schedule 3.
- (3) The second case is where the unlawful conduct is conduct of a person (other than an NCA officer) who is a member of an NCA-led international joint investigation team which occurs when the person is carrying out, or purporting to carry out, functions as a member of the team.
- (4) The third case is where the unlawful conduct is conduct of a person carrying out surveillance under section 76A of the Regulation of Investigatory Powers Act 2000 (foreign surveillance operations).
- (5) If (in any of those cases) the unlawful conduct is a tort, the NCA is accordingly to be treated as a joint tortfeasor.
- (6) If—
 - (a) the NCA pays a sum by virtue of this paragraph, and
 - (b) the Secretary of State receives under any international agreement a sum by way of reimbursement (in whole or in part) of the sum paid by the NCA,
 the Secretary of State must pay to the NCA the sum received by way of reimbursement.
- (7) This paragraph does not affect the liability of the NCA for the conduct of NCA officers.
- (8) References in this paragraph to unlawful conduct by a person include references to unlawful conduct by a person in reliance, or purported reliance, on a designation under section 9 or 10.

Assaults or obstruction in connection with joint investigation teams

- 3 (1) A person commits an offence if the person assaults a member of an NCA-led international joint investigation team who is carrying out functions as a member of the team.
- (2) A person guilty of that offence is liable on summary conviction to either or both of the following—
 - (a) imprisonment for a term not exceeding—
 - (i) 51 weeks on conviction in England and Wales;
 - (ii) 12 months on conviction in Scotland;
 - (iii) 6 months on conviction in Northern Ireland;
 - (b) a fine not exceeding level 5 on the standard scale.
- (3) A person commits an offence if the person resists or wilfully obstructs a member of an NCA-led international joint investigation team who is carrying out functions as a member of that team.
- (4) A person guilty of that offence is liable on summary conviction to either or both of the following—
 - (a) imprisonment for a term not exceeding—

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- (i) 51 weeks on conviction in England and Wales;
 - (ii) 12 months on conviction in Scotland;
 - (iii) 1 month on conviction in Northern Ireland;
 - (b) a fine not exceeding level 3 on the standard scale.
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences)—
- (a) the reference in sub-paragraph (2)(a) to the period of 51 weeks is to be read as a reference to the period of 6 months; and
 - (b) the reference in sub-paragraph (4)(a) to the period of 51 weeks is to be read as a reference to the period of 1 month.

Application of discrimination legislation to secondees: Northern Ireland

- 4 (1) An NCA secondee is to be treated, for the purposes of the provisions listed in sub-paragraph (2), as being employed by the NCA as respects any act done by the NCA in relation to that person.
- (2) Those provisions are—
- (a) Part 2 of the Sex Discrimination (Northern Ireland) Order 1976;
 - (b) Part 2 of the Disability Discrimination Act 1995;
 - (c) Part 2 of the Race Relations (Northern Ireland) Order 1997;
 - (d) the Fair Employment and Treatment (Northern Ireland) Order 1998, except Part VII.
- (3) For the purposes of the provisions listed in sub-paragraph (4)—
- (a) an NCA secondee is to be treated as being employed by the NCA (and as not being employed by any other person); and
 - (b) anything done by an NCA secondee in the performance, or purported performance, of his functions as an NCA secondee is to be treated as done in the course of that employment.
- (4) Those provisions are—
- (a) Article 42 of the Sex Discrimination (Northern Ireland) Order 1976;
 - (b) section 58 of the Disability Discrimination Act 1995;
 - (c) Article 32 of the Race Relations (Northern Ireland) Order 1997;
 - (d) Article 36 of the Fair Employment and Treatment (Northern Ireland) Order 1998.
- (5) In this paragraph “NCA secondee” means any constable or other person who has been seconded to the NCA to serve as an NCA officer.

Interpretation

- 5 (1) In this Schedule “NCA-led international joint investigation team” means any investigation team which is formed under the leadership of an NCA officer and is formed in accordance with—
- (a) any framework decision on joint investigation teams adopted under Article 87 of the Treaty on the Functioning of the European Union;

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- (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and the Protocol to that Convention established in accordance with that Article of the Treaty; or
 - (c) any international agreement to which the United Kingdom is a party and which is specified in an order made by the Secretary of State.
- (2) A reference in this paragraph to Article 87 of the Treaty on the Functioning of the European Union includes a reference to Article 34 of the Treaty on European Union (as it had effect before 1 December 2009).