

SCHEDULES

SCHEDULE 5

POLICE, CUSTOMS AND IMMIGRATION POWERS

PART 4

DESIGNATIONS: POWERS AND PRIVILEGES OF CONSTABLES

The Director General

- 10 (1) If the Director General is designated as a person having the powers and privileges of a constable, the Director General has—
- (a) in England and Wales and the adjacent United Kingdom waters, all the powers and privileges of an English and Welsh constable; and
 - (b) outside the United Kingdom and the United Kingdom waters, all the powers and privileges of a constable that are exercisable overseas.
- (2) But that is subject to any limitations included in the designation.

Other NCA officers

- 11 (1) If an NCA officer (other than the Director General) is designated as a person having the powers and privileges of a constable, the NCA officer has—
- (a) in England and Wales and the adjacent United Kingdom waters, all the powers and privileges of an English and Welsh constable;
 - (b) in Scotland and the adjacent United Kingdom waters, all the powers and privileges of a Scottish constable;
 - (c) in Northern Ireland and the adjacent United Kingdom waters, all the powers and privileges of a Northern Ireland constable; and
 - (d) outside the United Kingdom and the United Kingdom waters, all the powers and privileges of a constable that are exercisable overseas.
- (2) But that is subject to—
- (a) any limitations included in the designation; and
 - (b) sub-paragraphs (3) and (6).
- (3) An NCA officer may only exercise the powers and privileges of a Scottish constable in one or other of the following cases.
- (4) The first case is where—
- (a) a Scottish general authorisation is in force, and
 - (b) the powers and privileges are exercised in accordance with that authorisation.
- (5) The second case is where—

Status: This is the original version (as it was originally enacted).

- (a) a Scottish operational authorisation is in force in relation to a particular operation, and
 - (b) the powers and privileges are exercised—
 - (i) in connection with that operation, and
 - (ii) in accordance with that authorisation.
- (6) An NCA officer may only exercise the powers and privileges of a Northern Ireland constable in one or other of the following cases.
- (7) The first case is where—
- (a) a Northern Ireland general authorisation is in force, and
 - (b) the powers and privileges are exercised in accordance with that authorisation.
- (8) The second case is where—
- (a) a Northern Ireland general authorisation is in force,
 - (b) a Northern Ireland operational authorisation is in force in relation to a particular operation, and
 - (c) the powers and privileges are exercised—
 - (i) in connection with that operation, and
 - (ii) in accordance with that operational authorisation.
- (9) In this paragraph—
- “Northern Ireland general authorisation” means an agreement between—
- (a) the Director General, and
 - (b) the Department of Justice in Northern Ireland,
- about the exercise of the powers and privileges of Northern Ireland constables by NCA officers;
- “Northern Ireland operational authorisation” means an agreement, which is in conformity with the Northern Ireland general authorisation that is in force, between—
- (a) the Director General, and
 - (b) an officer in the Police Service of Northern Ireland who is at or above the rank of Assistant Chief Constable,
- about the exercise of the powers and privileges of Northern Ireland constables by NCA officers in connection with a particular operation;
- “Scottish general authorisation” means an agreement between—
- (a) the Director General, and
 - (b) the Scottish Ministers,
- about the exercise of the powers and privileges of Scottish constables by NCA officers;
- “Scottish operational authorisation” means an agreement between—
- (a) the Director General, and
 - (b) an officer in the Police Service of Scotland who is at or above the rank of Assistant Chief Constable,
- about the exercise of the powers and privileges of Scottish constables by NCA officers in connection with a particular operation.

Application of territorial restrictions

- 12 Any power or privilege of a constable is, when exercisable by the Director General or any other NCA officer, subject to any territorial restrictions on its exercise to which it is subject when exercisable by a constable.

Powers exercisable under warrant

- 13 (1) This paragraph applies to an enactment if it provides for the issuing of warrants which authorise a constable to exercise any power or privilege of a constable.
- (2) For the purpose of enabling a designated officer to exercise that power or privilege, the enactment has effect as if the designated officer were a constable.

Direction and control of NCA officers exercising powers in Scotland

- 14 When exercising the function of direction and control of the NCA in relation to the exercise by NCA officers of the powers and privileges of Scottish constables, the Director General must comply with any instruction given by the Lord Advocate or procurator fiscal in relation to the investigation of offences.

Employment law

- 15 (1) An NCA officer who is designated as having the powers and privileges of a constable is not to be regarded, by virtue of having those powers and privileges, as in police service for the purposes of any provision of the relevant employment legislation.
- (2) In this paragraph “relevant employment legislation” means—
- (a) the Trade Union and Labour Relations (Consolidation) Act 1992;
 - (b) the Employment Rights Act 1996;
 - (c) the Trade Union and Labour Relations (Northern Ireland) Order 1995;
 - (d) the Employment Rights (Northern Ireland) Order 1996.