



Policing and Crime Act 2017

2017 CHAPTER 3

PART 4

POLICE POWERS

CHAPTER 4

POWERS UNDER THE MENTAL HEALTH ACT 1983

83 Protective searches: individuals removed etc under section 135 or 136 of the Mental Health Act 1983

After section 136B of the Mental Health Act 1983 (inserted by section 82) insert—

“136C Protective searches

- (1) Where a warrant is issued under section 135(1) or (2), a constable may search the person to whom the warrant relates if the constable has reasonable grounds for believing that the person—
 - (a) may present a danger to himself or herself or to others, and
 - (b) is concealing on his or her person an item that could be used to cause physical injury to himself or herself or to others.
- (2) The power to search conferred by subsection (1) may be exercised—
 - (a) in a case where a warrant is issued under section 135(1), at any time during the period beginning with the time when a constable enters the premises specified in the warrant and ending when the person ceases to be detained under section 135;
 - (b) in a case where a warrant is issued under section 135(2), at any time while the person is being removed under the authority of the warrant.

Changes to legislation: *Policing and Crime Act 2017, Section 83 is up to date with all changes known to be in force on or before 21 April 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) Where a person is detained under section 136(2) or (4), a constable may search the person, at any time while the person is so detained, if the constable has reasonable grounds for believing that the person—
- (a) may present a danger to himself or herself or to others, and
 - (b) is concealing on his or her person an item that could be used to cause physical injury to himself or herself or to others.
- (4) The power to search conferred by subsection (1) or (3) is only a power to search to the extent that is reasonably required for the purpose of discovering the item that the constable believes the person to be concealing.
- (5) The power to search conferred by subsection (1) or (3)—
- (a) does not authorise a constable to require a person to remove any of his or her clothing other than an outer coat, jacket or gloves, but
 - (b) does authorise a search of a person's mouth.
- (6) A constable searching a person in the exercise of the power to search conferred by subsection (1) or (3) may seize and retain anything found, if he or she has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or herself or to others.
- (7) The power to search a person conferred by subsection (1) or (3) does not affect any other power to search the person.”

Commencement Information

- 11** S. 83 in force for specified purposes at Royal Assent, see s. 183
- 12** S. 83 in force at 11.12.2017 in so far as not already in force by S.I. 2017/1017, **reg. 3(d)** (with **reg. 4**)

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)