SCHEDULES

SCHEDULE 8

UNMANNED AIRCRAFT: POWERS OF POLICE OFFICERS AND PRISON AUTHORITIES

PART 2

POWERS OF POLICE OFFICERS AND PRISON AUTHORITIES UNDER POLICE ACT 1997

Authorisations to interfere with property etc

11 (1) Section 93 of the Police Act 1997 (authorisations to interfere with property etc) is amended as follows.

(2) In subsection (2), in paragraph (a), for "serious crime" substitute "—

(i) serious crime, or

(ii) the use of an unmanned aircraft in the commission of a relevant offence".

(3) After subsection (2AA) insert—

"(2AB) Where the authorising officer is the Chief Constable of the Civil Nuclear Constabulary, the only purpose falling within subsection (2)(a) is the purpose of preventing or detecting the use of an unmanned aircraft in the commission of a relevant offence."

(4) After subsection (2AB) insert—

"(2AC) In the case of an England and Wales prison authorisation, the only purpose falling within subsection (2)(a) is the purpose of preventing or detecting the use of an unmanned aircraft in the commission of a relevant offence."

(5) After subsection (2AC) insert—

"(2AD) In the case of a Northern Ireland prison authorisation, the only purpose falling within subsection (2)(a) is the purpose of preventing or detecting the use of an unmanned aircraft in the commission of a relevant offence."

(6) After subsection (2AD) insert—

"(2AE) In the case of a Scottish penal institution authorisation, the only purpose falling within subsection (2)(a) is the purpose of preventing or detecting the use of an unmanned aircraft in the commission of a relevant offence."

(7) In subsection (3), after paragraph (aa) insert—

"(ab) if the authorising officer is within subsection (5)(ef), by a member of the Civil Nuclear Constabulary;".

(8) In subsection (3), after paragraph (da) insert—

"(db) in the case of an England and Wales prison authorisation, by—

(i) a prison officer,

(ii) an officer of a young offender institution,

(iii) an officer of a secure training centre, or

(iv) an officer of a secure college,

whose duties as such an officer are exercisable in relation to the relevant England and Wales institution (and, where that institution is a contracted out institution, such an officer who is temporarily attached to that institution is to be taken to have duties exercisable in relation to it);".

(9) In subsection (3), after paragraph (db) insert—

"(dc) in the case of a Northern Ireland prison authorisation, by—

(i) a prison officer, or

(ii) a member of custodial staff for a juvenile justice centre,

whose duties as such an officer or member of staff are exercisable in relation to the relevant Northern Ireland institution;".

(10) In subsection (3), after paragraph (dc) insert—

"(dd) in the case of a Scottish penal institution authorisation, by a Scottish prison officer whose duties as such an officer are exercisable in relation to the relevant Scottish penal institution (and, where that institution is a contracted out Scottish penal institution, a Scottish prison officer who is temporarily attached to that institution is to be taken to have duties exercisable in relation to it);".

(11) After subsection (4) insert—

"(4A) For the purposes of subsection (2), "relevant offence" means—

(a) an offence under any of these provisions of the Prison Act 1952—

(i) section 39 (assisting a prisoner to escape);

(ii) section 40B (conveyance etc of List A articles into or out of prison);

(iii) section 40C (conveyance etc of List B or C articles into or out of prison);

(iv) section 40CB (throwing articles into prison);

(b) an offence under any of these provisions of the Prison Act (Northern Ireland) 1953—

(i) section 29(1) (assisting escape from lawful custody);

(ii) section 33 (facilitating escape by conveying things into prison);

(iii) section 34A (conveyance etc of List A articles into or out of prison);

(iv) section 34B (conveyance etc of List B or C articles into or out of prison);

(c) an offence at common law in Scotland committed by assisting a prisoner in a penal institution in Scotland in escaping or attempting to escape from the institution;

(d) an offence at common law in Scotland committed by, intending to facilitate the escape of a prisoner from a penal institution in Scotland, doing any of the following things—

(i) bringing, throwing or otherwise conveying anything into the institution;

(ii) causing another person to bring, throw or otherwise convey anything into the institution;

(iii) giving anything to a prisoner or leaving anything in any place (whether inside or outside the institution);

(e) an offence under either of these provisions of the Prisons (Scotland) Act 1989—

(i) section 41 (unlawful introduction of proscribed articles into a prison);

(ii) section 41ZA (provision to and use by prisoners of personal communication devices);

(f) an offence under section 1(2) of the Aviation and Maritime Security Act 1990 (endangering safety at aerodromes);

(g) an offence under any of these provisions of the Air Navigation Order 2016—

(i) article 94A (certain unmanned aircraft: permission for flights over or near aerodromes);

(ii) article 239(4) (prohibited or restricted flying);

(iii) article 240 (endangering safety of an aircraft);

(iv) article 241 (endangering safety of any person or property);

(v) article 265A(2) (various requirements under the Unmanned Aircraft Implementing Regulation relating to UAS operators);

(vi) article 265B(2) (various requirements under the Unmanned Aircraft Implementing Regulation relating to remote pilots);

(h) an offence under article 265B(3) of the Air Navigation Order 2016 committed by the contravention of a relevant requirement set out or referred to in any of the following provisions of that Order—

(i) article 265B(5)(a), (h), (i) or (j);

(ii) article 265B(6);

(iii) article 265B(7)(e), but only insofar as that requirement (to comply with authorised limitations and conditions) regulates the operation of an unmanned aircraft during flight;

(iv) article 265B(7)(f), (g) or (i);

(v) article 265B(8), but only insofar as that requirement (conditions under which operations in the framework of the model aircraft clubs or associations may be conducted) regulates the operation of an unmanned aircraft during flight.

(4B) The Secretary of State may by regulations made by statutory instrument amend subsection (4A) to add or remove an offence.

(4C) The Secretary of State may not make regulations under subsection (4B) unless a draft of the statutory instrument containing the regulations has been laid before Parliament and approved by a resolution of each House of Parliament."

(12) In subsection (5), after paragraph (ee) insert—

"(ef) the Chief Constable of the Civil Nuclear Constabulary;".

(13) In subsection (5), after paragraph (ha) insert—

"(hb) a member of senior management for prisons in England and Wales—

(i) whose duties as a member of senior management for prisons in England and Wales are exercisable in relation to the relevant England and Wales institution, and

(ii) who is designated for the purposes of this paragraph by the Secretary of State;".

(14) In subsection (5), after paragraph (hb) insert—

"(hc) a member of senior management for prisons in Northern Ireland whose duties as a member of senior management for prisons in Northern Ireland are exercisable in relation to the relevant Northern Ireland institution;".

(15) In subsection (5), after paragraph (hc) insert—

"(hd) a member of senior management for penal institutions in Scotland—

(i) whose duties as a member of senior management for penal institutions in Scotland are exercisable in relation to the relevant Scottish penal institution, and

(ii) who is designated for the purposes of this paragraph by the Scottish Ministers;".

(16) In subsection (6), after paragraph (cb) insert—

"(cbza) in relation to a person within subsection (5)(ef), means any place where, under section 56 of the Energy Act 2004, the members of the Civil Nuclear Constabulary have the powers and privileges of a constable;".

(17) In subsection (6), after paragraph (cba) insert—

"(cbb) in relation to an England and Wales prison authorisation, means the area of—

(i) a prison in England or Wales,

(ii) a young offender institution in England or Wales,

(iii) a secure training centre in England or Wales, or

(iv) a secure college in England or Wales,

together with such area or areas adjoining the boundary of that prison, institution, centre or college as the authorising officer considers it necessary and proportionate for the authorisation to relate to;".

(18) In subsection (6), after paragraph (cbb) insert—

"(cbc) in relation to a Northern Ireland prison authorisation, means the area of—

(i) a prison in Northern Ireland,

(ii) a young offenders centre in Northern Ireland,

(iii) a remand centre in Northern Ireland, or

(iv) a juvenile justice centre in Northern Ireland,

together with such area or areas adjoining the boundary of that prison or centre as the authorising officer considers it necessary and proportionate for the authorisation to relate to;".

(19) In subsection (6), after paragraph (cbc) insert—

"(cbd) in relation to a Scottish penal institution authorisation, means the area of a penal institution in Scotland together with such area or areas adjoining the boundary of that institution as the authorising officer considers it necessary or proportionate for the authorisation to relate to;".

(20) After subsection (7) insert—

"(8) In this section—

"England and Wales prison authorisation" means an authorisation where the authorising officer is within subsection (5)(hb);

"contracted out institution" means—

(a) a prison or young offender institution that is a contracted out prison within the meaning of Part 4 of the Criminal Justice Act 1991 (see section 84(4) of that Act and the definition of "prison" in section 92(1) of that Act),

(b) a contracted out secure training centre within the meaning of sections 7 to 14 of the Criminal Justice and Public Order Act 1994 (see section 15 of that Act), or

(c) a contracted-out secure college within the meaning of Schedule 10 to the Criminal Justice and Courts Act 2015 (see paragraph 1 of that Schedule);

"contracted out Scottish penal institution" means a penal institution for the running of which a contract under section 106 of the Criminal Justice and Public Order Act 1994 is for the time being in force;

"member of custodial staff for a juvenile justice centre" means a person who is authorised by the managers of a juvenile justice centre to take charge of a person detained by them;

"member of senior management for penal institutions in Scotland" means a person—

(a) who is a member of staff of the Scottish Administration of a seniority designated for the purposes of this section by the Scottish Ministers, and

(b) whose duties are exercisable in relation to penal institutions in Scotland generally, or any type of such institutions;

"member of senior management for prisons in England and Wales" means a person—

(a) who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000, and

(b) whose duties as a senior official are exercisable in relation to prisons, young offender institutions, secure training centres or secure colleges in England and Wales;

"member of senior management for prisons in Northern Ireland" means a person—

(a) who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000, and

(b) whose duties as a senior official are exercisable in relation to prisons, young offenders centres, remand centres or juvenile justice centres in Northern Ireland;

"Northern Ireland prison authorisation" means an authorisation where the authorising officer is within subsection (5)(hc);

"Northern Ireland prison officer" means a person appointed under section 2(2) of the Prison Act (Northern Ireland) 1953 (including any person whose duties are exercisable in relation to a young offenders centre or remand centre in Northern Ireland);

"penal institution" has the meaning given by section 108 of the Criminal Justice (Scotland) Act 2016;

"prison", in relation to Northern Ireland, has the meaning given in section 47(1A) of the Prison Act (Northern Ireland) 1953;

"prisoner", in relation to a penal institution, means a person who is detained or imprisoned in such an institution;

"relevant England and Wales institution", in relation to an England and Wales prison authorisation, means the prison, young offender institution, secure training centre or secure college in England and Wales to which the authorisation relates;

"relevant Northern Ireland institution", in relation to a Northern Ireland prison authorisation, means the prison, young offenders centre, remand centre or juvenile justice centre in Northern Ireland to which the authorisation relates;

"relevant Scottish penal institution", in relation to a Scottish penal institution authorisation, means the penal institution in Scotland to which the authorisation relates;

"Scottish penal institution authorisation" means an authorisation where the authorising officer is within subsection (5)(hd);

"Scottish prison officer" means a person who holds a post, otherwise than as a medical officer, to which the person has been appointed for the purposes of section 3(1A) of the Prisons (Scotland) Act 1989;

"unmanned aircraft" means any aircraft operating or designed to operate autonomously or to be piloted remotely without a pilot on board."

12 (1) Section 94 of the Police Act 1997 (authorisations given in absence of authorising officer) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), omit the final "or";

(b) after paragraph (b) insert—

"(ba) in the case of an England and Wales prison authorisation, it is also not reasonably practicable for the application to be considered by the authorising officer's designated deputy;".

(3) In subsection (1), after paragraph (ba) insert—

"(bb) in the case of a Northern Ireland prison authorisation, it is also not reasonably practicable for the application to be considered by the authorising officer's designated deputy; or".

(4) In subsection (1), after paragraph (bb) insert—

"(bc) in the case of a Scottish penal institution authorisation, it is also not reasonably practicable for the application to be considered by the authorising officer's designated deputy."

(5) In subsection (2), after paragraph (dd) insert—

"(de) where the authorising officer is within paragraph (ef) of that subsection, by a person holding the rank of deputy or assistant chief constable in the Civil Nuclear Constabulary;".

(6) In subsection (2), after paragraph (fa) insert—

"(fb) in the case of an England and Wales prison authorisation, by a person—

(i) who is a member of the civil service (within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 — see section 1(4) of that Act),

(ii) whose duties are exercisable in relation to the relevant England and Wales institution, and

(iii) who is designated for the purposes of this paragraph by the Secretary of State;".

(7) In subsection (2), after paragraph (fb) insert—

"(fc) in the case of a Northern Ireland prison authorisation, by a person—

(i) who is a member of the Northern Ireland Civil Service,

(ii) whose duties are exercisable in relation to the relevant Northern Ireland institution, and

(iii) who is designated for the purposes of this paragraph by the Department of Justice in Northern Ireland;".

(8) In subsection (2), after paragraph (fc) insert—

"(fd) in the case of a Scottish penal institution authorisation, by a person—

(i) who is a member of staff of the Scottish Administration,

(ii) whose duties are exercisable in relation to the relevant Scottish penal institution, and

(iii) who is designated for the purposes of this paragraph by the Scottish Ministers;".

(9) In subsection (4), after paragraph (b) insert—

"(ba) in the case of an England and Wales prison authorisation, a member of senior management for prisons in England and Wales who is designated for the purposes of this paragraph by the Secretary of State;".

(10) In subsection (4), after paragraph (ba) insert—

"(bb) in the case of a Northern Ireland prison authorisation, a member of senior management for prisons in Northern Ireland who is designated for the purposes of this paragraph by the Department of Justice in Northern Ireland;".

(11) In subsection (4), after paragraph (bb) insert—

"(bc) in the case of a Scottish penal institution authorisation, a member of senior management for penal institutions in Scotland who is designated for the purpose of this paragraph by the Scottish Ministers."

(12) After subsection (4) insert—

"(4A) In this section "England and Wales prison authorisation", "member of senior management for prisons in England and Wales" and "relevant England and Wales institution" have the same meanings as in section 93."

(13) After subsection (4A) insert—

"(4B) In this section "member of senior management for prisons in Northern Ireland", "Northern Ireland prison authorisation" and "relevant Northern Ireland institution" have the same meanings as in section 93."

(14) After subsection (4B) insert—

"(4C) In this section, "member of senior management for penal institutions in Scotland", "Scottish penal institution authorisation" and "relevant Scottish penal institution" have the same meanings as in section 93."