

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 17. (See end of Document for details)

SCHEDULES

SCHEDULE 17

Section 92

AMENDMENTS OF TERRORISM ACT 2000

- 1 (1) Section 41 to the Terrorism Act 2000 (arrest without warrant) is amended as follows.
- (2) In subsection (3)(b)—
- (a) for the words from “Schedule 7” to “2019,” substitute “a provision listed in subsection (3A)”;
 - (b) for “examination under that Schedule” substitute “detention under that provision”.
- (3) After subsection (3) insert—
- “(3A) Those provisions are—
- (a) section 24 of the Police and Criminal Evidence Act 1984;
 - (b) Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
 - (c) Schedule 7;
 - (d) section 1 of the [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#);
 - (e) Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019;
 - (f) section 27 of the National Security Act 2023.”
- (4) After subsection (8) insert—
- “(8ZA) Subsection (8A) applies where—
- (a) a person is detained under this section in hospital, or
 - (b) a person detained under this section is removed to hospital because the person needs medical treatment.”
- (5) In subsection (8A)—
- (a) for the words before paragraph (a) substitute “Where this subsection applies”;
 - (b) in paragraph (a) after “hospital or” insert “(where this subsection applies by virtue of subsection (8ZA)(b))”;
 - (c) in paragraph (b) after “hospital or” insert “(where this subsection applies by virtue of subsection (8ZA)(b))”.

Commencement Information

- I1** Sch. 17 para. 1 not in force at Royal Assent, see 100(1)
- I2** Sch. 17 para. 1 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(d\)](#)

- 2 (1) Schedule 5 to the Terrorism Act 2000 (terrorist investigations) is amended as follows.

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- (2) In paragraph 3 (power to search premises within cordoned area)—
- (a) in sub-paragraph (1) for the words from “Subject” to “superintendent” substitute “A constable”;
 - (b) in sub-paragraph (2) for the words from “who” to “paragraph” substitute “may exercise the power in sub-paragraph (1) only”.
- (3) In paragraph 15 (search and seizure in urgent cases: England, Wales and Northern Ireland)—
- (a) at the end of sub-paragraph (1) insert “(subject to sub-paragraph (1A))”;
 - (b) after sub-paragraph (1) insert—
 - “(1A) An order under this paragraph giving the authority which may be given by a search warrant under paragraph 11 does not authorise a constable to retain confidential journalistic material.
 - (1B) “Confidential journalistic material” means material which is excluded material by virtue of section 11(1)(c) of the Police and Criminal Evidence Act 1984.”
- (4) After paragraph 15 insert—
- “15A (1) This paragraph applies where confidential journalistic material is seized by virtue of an order under paragraph 15 giving the authority which may be given by a search warrant under paragraph 11.
 - (2) A constable may apply to a Circuit judge for the issue of a warrant under this paragraph.
 - (3) An application under sub-paragraph (2) must be made as soon as reasonably practicable after the material is seized.
 - (4) The judge may grant an application under sub-paragraph (2) if satisfied that conditions 1 to 3 are met.
 - (5) Condition 1 is that the warrant is sought for the purposes of a terrorist investigation.
 - (6) Condition 2 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to a terrorist investigation.
 - (7) Condition 3 is that there are reasonable grounds for believing that it is in the public interest that the material should be retained having regard to the benefit likely to accrue to the terrorist investigation if the material is retained.
 - (8) A warrant under this paragraph is a warrant authorising the retention of confidential journalistic material.
 - (9) A warrant under this paragraph may impose conditions on the retention and use of the material.
 - (10) If the judge does not grant an application for the issue of a warrant under this paragraph in relation to any of the material to which the application relates, the judge may direct that the material is—
 - (a) returned to the person from whom it was seized, or

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(b) destroyed.

(11) “Confidential journalistic material” has the same meaning as in paragraph 15.”

(5) In paragraph 18 (application to Northern Ireland) before paragraph (f) insert—

“(ea) the reference in paragraph 15(1B) to section 11(1)(c) of the Police and Criminal Evidence Act 1984 is to be taken as a reference to Article 13(1)(c) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),”.

(6) In paragraph 31 (search and seizure in urgent cases: Scotland)—

- (a) at the end of sub-paragraph (1) insert “(subject to sub-paragraph (1A))”;
- (b) after sub-paragraph (1) insert—

“(1A) An order under this paragraph does not authorise a constable to retain confidential journalistic material.

(1B) “Confidential journalistic material” has the same meaning as in the Investigatory Powers Act 2016 (see section 264(6) and (7) of that Act).”

(7) After paragraph 31 insert—

“31A (1) This paragraph applies where confidential journalistic material is seized by virtue of an order under paragraph 31.

(2) The procurator fiscal may apply to a sheriff for the issue of a warrant under this paragraph.

(3) An application under sub-paragraph (2) must be made as soon as reasonably practicable.

(4) The sheriff may grant an application under sub-paragraph (2) if satisfied that conditions 1 to 3 are met.

(5) Condition 1 is that the warrant is sought for the purposes of a terrorist investigation.

(6) Condition 2 is that there are reasonable grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to a terrorist investigation.

(7) Condition 3 is that there are reasonable grounds for believing that it is in the public interest that the material should be retained having regard to the benefit likely to accrue to the terrorist investigation if the material is retained.

(8) A warrant under this paragraph is a warrant authorising the retention of confidential journalistic material.

(9) A warrant under this paragraph may impose conditions on the retention and use of the material.

(10) If the sheriff does not grant an application for the issue of a warrant under this paragraph in relation to any of the material to which the application relates, the sheriff may direct that the material is—

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- (a) returned to the person from whom it was seized, or
- (b) destroyed.

(11) “Confidential journalistic material” has the same meaning as in paragraph 31.”

Commencement Information

I3 Sch. 17 para. 2 not in force at Royal Assent, see 100(1)

I4 Sch. 17 para. 2 in force at 20.12.2023 by S.I. 2023/1272, **reg. 2(d)**

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