

## SCHEDULES

### SCHEDULE 2

Section 6

#### OPERATIONAL POWERS OF ICRIR OFFICERS

##### *Designations and designated ICRIR officers*

- 1 In this Schedule—
- “designated” means designated under section 6(1) or (2) (and “designation” is to be read accordingly);
  - “designated ICRIR officer” means an ICRIR officer who is designated;
  - “operational powers” means the powers and privileges which a designated ICRIR officer has by virtue of a designation;
  - “powers and privileges of an English and Welsh constable” means the powers and privileges of a constable if, and to the extent that, they are exercisable in England and Wales or the adjacent United Kingdom waters;
  - “powers and privileges of a Northern Ireland constable” means the powers and privileges of a constable if, and to the extent that, they are exercisable in Northern Ireland or the adjacent United Kingdom waters;
  - “powers and privileges of a Scottish constable” means the powers and privileges of a constable if, and to the extent that, they are exercisable in Scotland or the adjacent United Kingdom waters;
  - “United Kingdom waters” means the sea and other waters within the seaward limits of the territorial sea.

##### *Effect of designation*

- 2 (1) A designated ICRIR officer has—
- (a) in Northern Ireland and the adjacent United Kingdom waters, all the powers and privileges of a Northern Ireland constable;
  - (b) in England and Wales and the adjacent United Kingdom waters, all the powers and privileges of an English and Welsh constable;
  - (c) in Scotland and the adjacent United Kingdom waters, all the powers and privileges of a Scottish constable.
- (2) But that is subject to—
- (a) section 6(3), and
  - (b) paragraphs 3 and 4.

##### *Exercise of the powers and privileges of a Scottish constable*

- 3 (1) A designated ICRIR officer may only exercise the powers and privileges of a Scottish constable in one or other of the following cases.
- (2) The first case is where—

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- (a) a Scottish general authorisation is in force, and
  - (b) the powers and privileges are exercised in accordance with that authorisation.
- (3) The second case is where—
- (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.
- (4) In this paragraph—
- “Scottish general authorisation” means an agreement between—
- (a) the Commissioner for Investigations, and
  - (b) the Scottish Ministers,
- about the exercise of the powers and privileges of Scottish constables by designated ICRIR officers;
- “Scottish operational authorisation” means an agreement between—
- (a) the Commissioner for Investigations, 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 designated ICRIR officers in connection with a particular operation.

#### *Limitations*

- 4 (1) A designation may be made subject to any limitations specified in the designation.
- (2) In particular, a designation may include—
- (a) limitations on which operational powers the designated ICRIR officer has;
  - (b) limitations on the purposes for which the designated ICRIR officer may exercise operational powers which that person has.
- (3) This paragraph does not apply to the designation of the Commissioner for Investigations under section 6(1).

#### *Duration of designation*

- 5 (1) A designation has effect without limitation of time, unless the designation specifies a period for which it is to have effect.
- (2) But that is subject to any modification or withdrawal of the designation.
- (3) This paragraph does not apply to the designation of the Commissioner for Investigations under section 6(1).

#### *Evidence of designation*

- 6 (1) A designated ICRIR officer must produce evidence of the designation if—
- (a) that ICRIR officer exercises, or purports to exercise, any operational power in relation to another person in reliance on the designation, and
  - (b) the other person requests that ICRIR officer to produce such evidence.

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- (2) If the designated ICRIR officer fails to produce such evidence, that failure does not make the exercise of the operational power invalid.

#### *Territorial restrictions*

- 7 Any power or privilege of a constable is, when exercisable by a designated ICRIR officer, subject to any territorial restrictions on its exercise to which it is subject when exercisable by a constable.

#### *Powers exercisable under warrant*

- 8 (1) This paragraph applies to legislation 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 ICRIR officer to exercise that power or privilege, the legislation has effect as if the designated ICRIR officer were a constable.

#### *Direction and control of ICRIR officers exercising powers in Scotland*

- 9 The ICRIR must ensure that any instruction given by the Lord Advocate or procurator fiscal in relation to the investigation of offences is complied with when designated ICRIR officers are exercising the powers and privileges of Scottish constables.

#### *Modification of references*

- 10 If a power or privilege of a constable is exercisable by any ICRIR officer, a reference to a constable in any legislation which relates to that power or privilege is to be taken to be, or to include, a reference to any ICRIR officer by whom that power or privilege is exercisable.

#### *Assaulting a designated ICRIR officer*

- 11 (1) Any person who assaults—
- (a) a designated ICRIR officer in the execution of that ICRIR officer's duty, or
  - (b) a person assisting a designated ICRIR officer in the execution of that ICRIR officer's duty,
- is guilty of an offence.
- (2) Sub-paragraph (1)(a) does not apply to an assault on a designated ICRIR officer under the law of England and Wales (instead see section 1 of the Emergency Workers (Offences) Act 2018).
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment in Northern Ireland, to imprisonment for a term not exceeding 2 years or to a fine, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
  - (c) on summary conviction in England and Wales, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both;

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(d) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.

(4) In this paragraph, the references to the execution of the duty of a designated ICRIR officer are references to—

- (a) the exercise of a power or privilege conferred by the designation of the ICRIR officer;
- (b) the performance of a duty imposed by the designation of the ICRIR officer.

*Resisting, obstructing or impeding a designated ICRIR officer*

12 (1) Any person who resists, obstructs or impedes—

- (a) a designated ICRIR officer in the execution of that ICRIR officer's duty, or
- (b) a person assisting a designated ICRIR officer in the execution of that ICRIR officer's duty,

is guilty of an offence.

(2) A person guilty of an offence under this paragraph is liable—

- (a) on conviction on indictment in Northern Ireland, to imprisonment for a term not exceeding 2 years or to a fine, or to both;
- (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
- (c) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 3 on the standard scale, or to both;
- (d) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.

(3) In this paragraph, the references to the execution of the duty of a designated ICRIR officer are references to—

- (a) the exercise of a power or privilege conferred by the designation of the ICRIR officer;
- (b) the performance of a duty imposed by the designation of the ICRIR officer.

(4) In relation to an offence committed before the commencement of section 280(2) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in sub-paragraph (2)(c) to 51 weeks is to be read as a reference to one month.

*Impersonating a designated ICRIR officer*

13 (1) Any person (P) who, with intent to deceive—

- (a) impersonates a designated ICRIR officer,
- (b) makes any statement or does any act calculated falsely to suggest that P is a designated ICRIR officer, or
- (c) makes any statement or does any act calculated falsely to suggest that P has powers as a designated ICRIR officer that exceed the powers that P actually has,

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is guilty of an offence.

- (2) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment in Northern Ireland, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum, or to both;
  - (c) on summary conviction in England and Wales, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both;
  - (d) on summary conviction in Scotland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 4 on the standard scale.

### *Regulations*

- 14 (1) The power of a national authority under section 58(2) to make consequential provision includes power to make such provision as the appropriate authority considers appropriate in consequence of—
- (a) designated ICRIR officers, or
  - (b) a description of designated ICRIR officers,
- having the powers and privileges of constables in accordance with this Schedule.
- (2) That provision may (in particular)—
- (a) provide for designated ICRIR officers to benefit from exemptions or other protection in respect of the exercise of operational powers;
  - (b) provide for the disclosure of information to, or the doing of other things in relation to, designated ICRIR officers;
  - (c) confer functions on ICRIR officers or any other person;
  - (d) provide for a class of ICRIR officers (whether identified by reference to a grade or pay scale or otherwise) to be treated as the equivalent of one or more ranks of the PSNI;
  - (e) apply (with or without modifications) any legislation or description of legislation.