

SCHEDULE

Regulation 2(2)

Modifications of PACE when applied to investigations conducted by labour abuse prevention officers

Introductory

1. The provisions of PACE set out in regulation 3 have effect with the modifications set out in paragraphs 2 to 23.

General modifications

2. Except where expressly provided in these Regulations, each reference to a constable is to be read as, or in the case of sections 8, 9, 15, 16, 43 and 44 and Schedule 1 is to be read as including, a reference to a labour abuse prevention officer.

3. Each reference to “an officer” or “the officer” is to be read as “a labour abuse prevention officer” or “the labour abuse prevention officer”, as the case may be.

4. Except as provided in paragraph 17(b), each reference to an offence is to be read as a reference to a labour market offence.

5. Each reference to an indictable offence is to be read as a reference to a labour market offence which is an indictable offence.

6. Each reference to a criminal investigation is to be read as a reference to a criminal investigation in connection with a labour market offence.

7. Each reference to an offence (including a labour market offence) includes an offence committed, or suspected of having been committed, before the coming into force of these Regulations or of section 114B of PACE.

8. Each reference to a person being charged with an offence is to be read as a reference to a person being charged with an offence by a constable.

9. Each reference to a person being released on bail is to be read as a reference to a person being released on bail by a constable.

10.—(1) Where, under a provision of PACE as applied by these Regulations, a power is exercisable only by or with the authority of a labour abuse prevention officer of at least the grade of senior investigating officer, any labour abuse prevention officer is to be treated as being of the grade of senior investigating officer if the condition in sub-paragraph (2) is met.

(2) The condition is that the labour abuse prevention officer has been authorised by an officer of the Gangmasters and Labour Abuse Authority of at least the grade of director to exercise the power or, as the case may be, to give the authority for its exercise.

Specific modifications

11. Section 1 (power of constable to stop and search persons, vehicles etc.) is to be read as if—

(a) in the heading, the words “, vehicles etc” were omitted;

(b) for subsection (1), there were substituted—

“(1) A constable may exercise any power conferred by this section on any premises which is being searched by a labour abuse prevention officer in reliance on a warrant under section 8 or paragraph 12 of Schedule 1.”;

(c) in subsection (2)—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (i) the words “to (5)” were omitted;
 - (ii) in paragraph (a)—
 - (aa) in sub-paragraph (i), for the words “or vehicle” there were substituted “found on the premises”;
 - (bb) sub-paragraph (ii) were omitted;
 - (cc) for the words “stolen or prohibited articles” to “below applies” there were substituted “material which might be evidence in relation to a labour market offence”;
 - (iii) in paragraph (b), the words “or vehicle” were omitted;
 - (d) in subsection (3)—
 - (i) the words “or vehicle or anything in or on a vehicle” were omitted; and
 - (ii) for the words “he will find stolen” to the end there were substituted “the person to be searched has concealed on him material which might be evidence in relation to a labour market offence.”;
 - (e) after subsection (3), there were inserted—

“(3A) This section only gives a labour abuse prevention officer a power to search to the extent that is reasonably required for the purpose of discovering any such material.”; and
 - (f) in subsection (6)—
 - (i) for the words “an article” there were substituted “material, other than an item subject to legal privilege.”;
 - (ii) for the words from “a stolen” to “below applies” there were substituted “evidence of a labour market offence or to have been obtained in consequence of a labour market offence”;
 - (iii) at the end, there were inserted “if it is necessary to do so in order to prevent it being concealed, lost, altered or destroyed”.
- 12.** Section 2 (provisions relating to search under section 1 and other powers) is to be read as if—
- (a) in subsection (1)—
 - (i) the words “or vehicle” were omitted;
 - (ii) in paragraph (a), the word “or” were omitted; and
 - (iii) paragraph (b) were omitted;
 - (b) in subsection (2)—
 - (i) the words “, other than a search of an unattended vehicle,” were omitted;
 - (ii) in paragraph (a), the word “or” were omitted;
 - (iii) paragraph (b) were omitted;
 - (iv) the words “, subject to subsection (4) below,” were omitted;
 - (v) for the words “the appropriate person” there were substituted “the person proposed to be searched”;
 - (vi) in paragraph (i) (which appears after the words “the appropriate person”), the words “if the constable is not in uniform” were omitted; and
 - (vii) in paragraph (ii), the words “whether he is in uniform or not,” were omitted;
 - (c) in subsection (3)—
 - (i) in paragraph (a), the words “and the name” to the end were omitted; and

- (ii) in paragraph (d), for “section 3(7)” to the end there were substituted “section 3(7) below”;
 - (d) in subsection (8), the words “or vehicle” were omitted in both places;
 - (e) for subsection (9), there were substituted—
 - “(9) The power conferred by section 1 above is not to be construed as authorising a labour abuse prevention officer to require a person to remove any of his clothing, other than an outer coat, jacket or gloves, but it does authorise a search of a person’s mouth.”; and
 - (f) after subsection (9), there were inserted—
 - “(9A) No person may be searched except by a person of the same sex.”.
- 13.** Section 3 (duty to make records concerning searches) is to be read as if—
- (a) in subsection (1)—
 - (i) for the words “any such power” to “Aviation Security Act 1982,” there were substituted “the power conferred by section 1 above”; and
 - (ii) for the words “unless it is not practicable to do so” there were substituted “as soon as practicable”;
 - (b) for subsection (2) there were substituted—
 - “(2) If the search results in the person who was searched being—
 - (a) arrested by a labour abuse prevention officer;
 - (b) delivered into the custody of a constable under section 30(1A); and
 - (c) taken to a police station,the labour abuse prevention officer shall provide the record to the custody officer who shall make the record as part of the person’s custody record.”;
 - (c) in subsection (6)—
 - (i) the words “or a vehicle” were omitted;
 - (ii) in paragraph (a)(v), the words “except in the case of a search of an unattended vehicle,” were omitted;
 - (d) in subsection (7), the words “if a record of a search of a person has been made under this section,” were omitted; and
 - (e) in subsection (9), the words “and (8)” were omitted.
- 14.** Section 16 (execution of warrants) is to be read as if—
- (a) in subsections (3A) and (3B), for the words “police officer of at least the rank of inspector”, in each case, there were substituted “labour abuse prevention officer of at least the grade of senior investigating officer”; and
 - (b) in subsection (5)(a), the words “, if not in uniform,” were omitted.
- 15.** Section 17 (entry for the purpose of arrest etc.) is to be read as if—
- (a) in subsection (1)(a)(i), the reference to criminal proceedings were a reference to criminal proceedings in connection with a labour market offence; and
 - (b) in subsection (2), the words “Except for the purpose specified in paragraph (e) of subsection (1) above,” were omitted.
- 16.** Section 18 (entry and search after arrest) is to be read as if—
- (a) in subsections (4) and (6), for the words “the rank of inspector or above”, in each case, there were substituted “at least the grade of senior investigating officer”;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) in subsection (5)(a)—
 - (i) before the words “taken to a police station” there were inserted “delivered into the custody of a constable under section 30(1A) or”;
 - (ii) after the words “under section 30A” there were inserted “by a constable”; and
 - (c) in subsection (8), before the words “shall make the record” there were inserted “shall provide the record to the custody officer, who”.
- 17.** Section 21 (access and copying) is to be read as if—
- (a) in subsection (3)(b), the reference to the police were a reference to a labour abuse prevention officer; and
 - (b) in subsection (8)(b), the reference to an offence were a reference to a labour market offence or any other offence.
- 18.** Section 22 (retention) is to be read as if—
- (a) for subsection (1), there were substituted—
 - “(1) Subject to subsection (4) below, anything which has been—
 - (a) seized by a labour abuse prevention officer;
 - (b) taken away by a labour abuse prevention officer following a requirement made by virtue of section 19 or 20 above, or
 - (c) seized or taken away by another person under any enactment and accepted by a labour abuse prevention officer,may be retained so long as is necessary in all the circumstances.”;
 - (b) after subsection (2), there were inserted—
 - “(2A) Nothing in subsections (1) or (2) prevents anything lawfully seized by a labour abuse prevention officer from being accepted and retained by a constable.”;
 - (c) in subsection (3), for the words “no longer in police detention” to the end there were substituted “delivered into the custody of a constable under section 30(1A)”;
 - (d) after subsection (3), there were inserted—
 - “(3A) Where a labour abuse prevention officer delivers into the custody of a constable a person from whom an item was seized on one of the grounds mentioned in subsection (3), the labour abuse prevention officer shall give the seized item to the constable or, if that is not practicable, to the custody officer at the police station at which the person is detained.
 - (3B) The item mentioned in subsection (3A) is to be treated as if it had been seized by the constable under subsection (3) on one of the grounds mentioned in that subsection.
 - (3C) No such item may be retained by a constable when the person from whom it was seized is no longer in police detention or the custody of a court or is in the custody of a court but has been released on bail.”.
- 19.** Section 29 (voluntary attendance at police station etc) is to be read as if—
- (a) in the heading, for the words “at police station” there were substituted “with a labour abuse prevention officer”; and
 - (b) for the words “a police station or at any other place where a constable is present or accompanies a constable to a police station or any such other place” there were substituted “any place where a labour abuse prevention officer is present, including a police station, or accompanies a labour abuse prevention officer to such a place”.
- 20.** Section 30 (arrest elsewhere than at a police station) is to be read as if—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) in subsection (1A), for the words “taken by a constable to a police station” there were substituted “delivered into the custody of a constable”;
- (b) in subsection (1B), the words “section 30A (release of a person arrested elsewhere than at police station) and” were omitted;
- (c) in subsection (7A) for the words “reaches a police station” there were substituted “is delivered into the custody of a constable”;
- (d) in subsection (10)—
 - (i) the words “or in section 30A” were omitted; and
 - (ii) for the words “taking a person to a police station or releasing him under section 30A” there were substituted “delivering a person into the custody of a constable”;
- (e) in subsection (11), for the words “first arrives at the police station” to the end there were substituted “is delivered into the custody of a constable”; and
- (f) after subsection (11), there were inserted—

“(11A) Where a person who is delivered into the custody of a constable is taken by the constable to a police station, a labour abuse prevention officer shall provide any record made under subsection (11) to the custody officer for the police station.”.

21. Section 43 (warrants of further detention) is to be read as if—

- (a) in subsection (1), after the words “the further detention” there were inserted “by the police”;
- (b) in subsection (4), after the words “further detention” there were inserted “by the police”;
- (c) in subsection (7)(b), after the words “the police” there were inserted “or a labour abuse prevention officer”; and
- (d) in subsection (14)(c), after the words “the police” there were inserted “or a labour abuse prevention officer”.

22. Section 77(3) (confessions by mentally handicapped persons) is to be read as if in the definition of “independent person”, after “police officer” there were inserted “, a labour abuse prevention officer”.

23. Section 117 (power of constable to use reasonable force) is to be read as if—

- (a) at the end of paragraph (a), the word “and” were omitted; and
- (b) paragraph (b) were omitted.