

## SCHEDULE 3

Exercise of functions by officials other than police constables

### PART 3

Application of 2016 Act to designated customs officials

#### *Introductory*

#### **Application of 2016 Act in relation to designated customs officials**

**8.**—(1) Chapters 1 to 6 of Part 1 of the 2016 Act and sections 63, 65, 66 and 68 (power to arrest without warrant, other provisions about arrest and custody by police, and police searches) apply in relation to arrest and custody by designated customs officials and searches by them, subject to the adaptations in this Part.

(2) Sections 31 to 33 of the 2016 Act (rights of suspects at interview) apply, subject to those adaptations, in relation to a person who attends voluntarily for the purpose of being interviewed by a designated customs official.

#### *General adaptations*

#### **General adaptations**

**9.** In the provisions of the 2016 Act mentioned in paragraph 9, references in column 1 of the table are, subject to the specific adaptations in this Part, to be read in accordance with column 2—

<i>1. Reference in 2016 Act</i>	<i>2. How reference is to be read</i>
a constable	a designated customs official
the rank of sergeant	the grade of officer
the rank of inspector	the grade of higher officer
police custody	customs custody as defined by paragraph 13
a police station	a police station or Home Office custody suite

#### *Specific adaptations*

#### **Section 1 (power of a designated customs official)**

**10.**—(1) Section 1 applies only in relation to a Revenue and Customs offence relating to a general customs matter or customs revenue matter.

(2) In sub-paragraph (1)—

- (a) “Revenue and Customs offence” has the meaning given by subsection (2) of section 23A of the Criminal Law (Consolidation) (Scotland) Act 1995(1);

(1) Section 23A was inserted by the Finance Act 2007 (c.11); subsection (2) was amended by the Employment Act 2008 (c.24), section 12(2) and the Criminal Finances Act 2017 (c.22), section 18(2).

*Status: This is the original version (as it was originally made).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

- (b) “general customs matter” and “customs revenue matter” have the meaning given by Part 1 of the Borders, Citizenship and Immigration Act 2009.

**Section 11 (authorisation for keeping in custody beyond 12 hour limit)**

11. In section 11(2), for paragraph (a) read—

- “(a) is of or above the grade of higher officer, and”.

**Section 66 (cases involving removal of person)**

12. Section 66 applies with the substitution for subsection (3) of—

- “(3) Anything seized by a designated customs official in the course of a search carried out under this section may be retained by the designated customs official or by a constable.”.

*Supplementary*

**Customs custody**

13.—(1) For the purposes of provisions of the 2016 Act as applied by this Part of this Schedule, a person is in customs custody from the time the person is arrested by a designated customs official, or is transferred in accordance with the law into the custody of a designated customs official, until any one of the events mentioned in sub-paragraph (2) occurs.

(2) The events are—

- (a) the person is released from custody;
- (b) the person is brought before a court in accordance with section 21(2) of the 2016 Act;
- (c) the person is brought before a court in accordance with section 28(2) or (3) of the Criminal Procedure (Scotland) Act 1995;
- (d) the person is brought before a court in accordance with—
  - (i) any other enactment or rule of law which requires that a person in custody be brought before a court; or
  - (ii) a term of the warrant under which the person was arrested;
- (e) the person is transferred in accordance with the law into the custody of a person who is not a designated customs official;
- (f) the Principal Reporter directs under section 65(2)(b) of the Children’s Hearings (Scotland) Act 2011 that the person continue to be kept in a place of safety.

**Powers of search etc. under other enactments**

14. Where a person is arrested by a designated customs official under section 1 of the 2016 Act(2), a designated customs official may exercise any power that would be exercisable by a designated customs official if the person had been arrested under another enactment that confers power on a designated customs official to arrest in relation to the same offence.

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(2) 2016 asp 1.