

SCHEDULES

SCHEDULE 5

Article 7

SCHEDULE TO BE INSERTED AS SCHEDULE 2A TO THE 2003 ACT

Commencement Information

II Sch. 5 partly in force; Sch. 5 in force for specified purposes at 22.4.2007, see art. 1(2)(d)(3)

“SCHEDULE 2A

POWERS AND DUTIES OF COMMUNITY SUPPORT OFFICER

Powers to issue fixed penalty notice

1. A CSO shall have the power of a constable in uniform to give a fixed penalty notice under Article 60 of the Road Traffic Offenders (Northern Ireland) Order 1996 (fixed penalty notices) to any person who he has reason to believe has committed an offence under Article 42 or 43 of the Road Traffic (Northern Ireland) Order 1995 (dangerous, careless or inconsiderate cycling).

Power to require name and address: relevant offences

2.—(1) Subject to sub-paragraph (2), where a CSO has reason to believe that another person has committed a relevant offence, he may require that other person to give him his name and address.

(2) The power to impose a requirement under sub-paragraph (1) in relation to an offence under a relevant byelaw is exercisable only in, or in the vicinity of, a place to which the byelaw relates.

(3) A person who fails to comply with a requirement under sub-paragraph (1) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

(4) In this paragraph “relevant offence” means—

- (a) an offence under section 3 of the Vagrancy (Ireland) Act 1847;
- (b) an offence under section 24 of the Children and Young Persons Act (Northern Ireland) 1968;
- (c) an offence under Article 18 of the Public Order (Northern Ireland) Order 1987;
- (d) an offence under Article 3 or 4 of the Litter (Northern Ireland) Order 1994;
- (e) an offence under any of Articles 3, 30(9), 41, 50 or 60 to 64 of the Licensing (Northern Ireland) Order 1996;
- (f) an offence under a relevant byelaw.

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(5) In this paragraph and paragraph 4 “relevant byelaw” means a byelaw included in a list of byelaws which—

- (a) have been made by a relevant body with authority to make byelaws for any place; and
- (b) the Chief Constable and the relevant body have agreed to include in the list.

(6) The list must be published by the Chief Constable in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.

(7) A list of byelaws mentioned in sub-paragraph (6) may be amended from time to time by agreement between the Chief Constable and the relevant body in question, by adding byelaws to it or removing byelaws from it, and the amended list shall also be published by the Chief Constable as mentioned in sub-paragraph (6).

(8) A relevant body for the purposes of sub-paragraph (5) is—

- (a) a district council;
- (b) any other body specified in an order made by the Secretary of State.

(9) An order under sub-paragraph (8) may provide, in relation to any body specified in the order, that the agreement mentioned in sub-paragraph (5)(b) and (7) is to be made between the Chief Constable and the Secretary of State (rather than between the Chief Constable and the relevant body).

Power to require name and address: road traffic offences

3. A CSO shall have the powers of a constable—

- (a) under Article 177 of the Road Traffic (Northern Ireland) Order 1981 to require a person to give information about certain offences;
- (b) under Article 178 of that Order to require a pedal cyclist to give his name and address;
- (c) under Article 179 of that Order to require a pedestrian to give his name and address

Power to detain etc

4.—(1) Where, in a case in which a requirement has been imposed on another person under paragraph 2(1) or by virtue of paragraph 3—

- (a) that other person fails to comply with the requirement, or
- (b) the CSO who imposed the requirement has reasonable grounds for suspecting that the other person has given him a name or address that is false or inaccurate,

the CSO who imposed the requirement may require the other person to wait with him, for a period not exceeding 30 minutes, for the arrival of a constable.

(2) Sub-paragraph (1) does not apply if the requirement was imposed in connection with an offence under the Licensing (Northern Ireland) Order 1996 believed to have been committed on licensed premises (within the meaning of that Order).

(3) Where by virtue of paragraph 2 a CSO has the power to impose a requirement under sub-paragraph (1) of that paragraph in relation to an offence under a relevant byelaw, the CSO shall also have any power a constable has under the relevant byelaw to remove a person from a place.

(4) Where a CSO has reason to believe that another person is committing an offence under section 3 of the Vagrancy (Ireland) Act 1847, and requires him to stop doing whatever gives rise to that belief, the CSO may, if the other person fails to stop as required, require him to wait with the CSO, for a period not exceeding 30 minutes, for the arrival of a constable.

(5) A person who has been required under sub-paragraph (1) or (4) to wait with a CSO may, if requested to do so, elect that (instead of waiting) he will accompany the CSO imposing the requirement to a police station.

(6) A person who—

- (a) makes off while subject to a requirement under sub-paragraph (1) or (4), or
- (b) makes off while accompanying a person to a police station in accordance with an election under sub-paragraph (5),

is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Confiscation of alcohol: public processions

5. A CSO shall have the powers of a constable in uniform under section 13 of the Public Processions (Northern Ireland) Act 1998 (control of alcohol at public processions)—

- (a) to impose a requirement under subsection (1) or (3) of that section; and
- (b) to dispose under subsection (5) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by a CSO as if the references to a constable (except in subsection (8) (power to stop vehicles)) were references to the CSO.

Confiscation of alcohol: young persons

6.—(1) A CSO shall have the powers of a constable under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 (confiscation of intoxicating liquor)—

- (a) to impose a requirement under subsection (1) of that section; and
- (b) to dispose under subsection (2) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by a CSO as if the references to a constable in subsections (1) and (4) (but not the reference in subsection (5) (arrest)) were references to the CSO.

(2) Paragraph 4 applies in the case of a requirement imposed by a CSO under section 1(1) of that Act of 1997 on any person to state his name and address as it applies in the case of a requirement under paragraph 2(1).

Confiscation of tobacco etc

7.—(1) A CSO shall have the power to seize anything that a constable has power to seize under Article 5(1) of the Health and Personal Social Services (Northern Ireland) Order 1978 (seizure of tobacco etc from young persons).

(2) Article 5(2) of that Order (disposal) applies to anything seized by virtue of sub-paragraph (1) as it applies to anything seized by a constable under Article 5(1) of that Order.

Search and seizure powers: alcohol and tobacco

8.—(1) Where—

- (a) in exercise of the powers referred to in paragraph 5 or 6 a CSO has imposed, under section 13 of the Public Processions (Northern Ireland) Act 1998 or under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997, a requirement on a person to surrender alcohol;
- (b) that person fails to comply with that requirement; and

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(c) the CSO reasonably believes that the person has alcohol in his possession, the CSO may search him for it.

(2) Where—

- (a) in exercise of the powers referred to in paragraph 7 a CSO has sought to seize something which by virtue of that paragraph he has a power to seize;
- (b) the person from whom he sought to seize it fails to surrender it; and
- (c) the CSO reasonably believes that the person has it in his possession,

the CSO may search him for it.

(3) The power to search conferred by sub-paragraph (1) or (2)—

- (a) is to do so only to the extent that is reasonably required for the purpose of discovering whatever the CSO is searching for; and
- (b) does not authorise the CSO to require a person to remove any of his clothing in public other than an outer coat, jacket, headgear or gloves.

(4) A person who without reasonable excuse fails to consent to being searched under sub-paragraph (1) or (2) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(5) A CSO who proposes to exercise the power to search a person under sub-paragraph (1) or (2) must inform him that failing without reasonable excuse to consent to being searched is an offence.

(6) If the person in question fails to consent to being searched, the CSO may require him to give the CSO his name and address.

(7) Paragraph 4 applies in the case of a requirement imposed under sub-paragraph (6) as it applies in the case of a requirement under paragraph 2(1).

(8) If on searching the person the CSO discovers what he is searching for, he may seize it and dispose of it.

Powers to seize and retain: controlled drugs

9.—(1) If a CSO—

- (a) finds a controlled drug in a person's possession (whether or not he finds it in the course of searching the person by virtue of any other paragraph of this Schedule); and
- (b) reasonably believes that it is unlawful for the person to be in possession of it,

the CSO may seize it and retain it.

(2) If a CSO—

- (a) finds a controlled drug in a person's possession (as mentioned in sub-paragraph (1)); or
- (b) reasonably believes that a person is in possession of a controlled drug,

and reasonably believes that it is unlawful for the person to be in possession of it, the CSO may require him to give the CSO his name and address.

(3) If in exercise of the power conferred by sub-paragraph (1) the CSO seizes and retains a controlled drug, he must—

- (a) if the person from whom it was seized maintains that he was lawfully in possession of it, tell the person where inquiries about its recovery may be made; and
- (b) comply with a constable's instructions about what to do with it.

(4) A person who fails to comply with a requirement under sub-paragraph (2) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(5) Paragraph 4 applies in the case of a requirement imposed by virtue of sub-paragraph (2) as it applies in the case of a requirement under paragraph 2(1).

(6) In this paragraph, “controlled drug” has the same meaning as in the Misuse of Drugs Act 1971.

Entry to save life or limb or prevent serious damage to property

10. A CSO shall have the powers of a constable under Article 19 of the 1989 Order to enter and search any premises for the purpose of saving life or limb or preventing serious damage to property.

Entry to investigate licensing offences

11.—(1) A CSO shall have the powers of a constable under Article 71(1)(b) of the Licensing (Northern Ireland) Order 1996 to enter and inspect premises.

(2) Except as mentioned in sub-paragraph (3), a CSO shall not, in exercise of the power conferred by sub-paragraph (1), enter any premises except in the company, and under the supervision, of a constable.

(3) The prohibition in sub-paragraph (2) does not apply in relation to premises in respect of which the CSO reasonably believes that a licence under the Licensing (Northern Ireland) Order 1996 authorises the sale of intoxicating liquor for consumption off the premises.

Power to stop vehicles

12. A CSO shall have the power of a constable in uniform under Article 180(1) of the Road Traffic (Northern Ireland) Order 1981 to require a person driving a vehicle or riding a pedal cycle to stop.

Power to direct traffic and place traffic signs

13.—(1) A CSO shall have—

- (a) the power of a constable engaged in the regulation of traffic in a road to direct a person driving or propelling a vehicle to stop the vehicle or to make it proceed in, or keep to, a particular line of traffic;
- (b) the power of a constable in uniform engaged in the regulation of vehicular traffic in a road to direct a person on foot to stop proceeding along or across the carriageway.

(2) A CSO shall also have the power of a constable, for the purposes of a traffic survey, to direct a person driving or propelling a vehicle to stop the vehicle, to make it proceed in, or keep to, a particular line of traffic, or to proceed to a particular point on or near the road.

(3) Article 49 of the Road Traffic (Northern Ireland) Order 1995 (offences of failing to comply with directions of constable in uniform) shall have effect in relation to the exercise of the powers mentioned in sub-paragraphs (1) and (2), for the purposes for which they may be exercised and by a CSO, as if the references to a constable in uniform were references to a CSO.

(4) A CSO shall have the powers of a constable under Article 32 of the Road Traffic Regulation (Northern Ireland) Order 1997 to place traffic signs.

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(5) Article 50 of the Road Traffic (Northern Ireland) Order 1995 (contravention of indication given by traffic sign) shall apply to signs placed in the exercise of the powers conferred by virtue of sub-paragraph (4).

Carrying out of road checks

14. A CSO shall have the power to carry out any road check the carrying out of which by a police officer is authorised under Article 6 of the 1989 Order (road checks).

Cordoned areas

15. A CSO shall, in relation to any cordoned area have all the powers of a constable in uniform under section 36 of the Terrorism Act 2000 (c 11) (enforcement of cordoned area) to give orders, make arrangements or impose prohibitions or restrictions.

Power to stop and search vehicles etc in authorised areas

16.—(1) A CSO shall, in any authorised area, have all the powers of a constable in uniform by virtue of sections 44(1)(a) and (d) and (2)(b) and 45(2) of the Terrorism Act 2000 (powers of stop and search)—

- (a) to stop and search vehicles;
- (b) to search anything in or on a vehicle or anything carried by the driver of a vehicle or any passenger in a vehicle;
- (c) to search anything carried by a pedestrian; and
- (d) to seize and retain any article discovered in the course of a search carried out by him or by a constable by virtue of any provision of section 44(1) or (2) of that Act.

(2) References to a constable in subsections (1) and (4) of section 45 of that Act (which relate to the exercise of those powers) shall have effect in relation to the exercise of any of those powers by a CSO as references to a CSO.

(3) A CSO shall not exercise any power of stop, search or seizure by virtue of this paragraph except in the company, and under the supervision, of a constable.

Powers in relation to fireworks

17. A CSO shall have the powers of a constable under—

- (a) Article 3 of the 1989 Order in relation to any firework to which paragraph (9A) of that Article applies;
- (b) regulation 7(4) of the Explosives (Fireworks) Regulations (Northern Ireland) 2002.

Interpretation

18.—(1) In this Schedule—

“a CSO” means a person designated as a community support officer under section 30A;
“the 1989 Order” means the Police and Criminal Evidence (Northern Ireland) Order 1989.

(2) Expressions used in this Schedule and in the 1989 Order have the same meaning in this Schedule as in that Order.”.

Changes to legislation:

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