

SCHEDULES

SCHEDULE 2

ENFORCEMENT POWERS IN RELATION TO SHIPS

PART 2

SCOTLAND

Introductory

- 11 (1) This Part of this Schedule sets out the powers exercisable by Scottish constables and enforcement officers under sections 36 and 38(4).
- (2) In this Part of this Schedule—
- “items subject to legal privilege” has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (see section 412 of that Act);
 - “listed offence” has the meaning given by section 36(8);
 - “the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised.

Power to stop, board, divert and detain

- 12 (1) This paragraph applies if a Scottish constable or an enforcement officer has reasonable grounds to suspect that—
- (a) a listed offence is being, or has been, committed on the ship, or
 - (b) the ship is otherwise being used in connection with the commission of a listed offence.
- (2) The constable or enforcement officer may—
- (a) stop the ship;
 - (b) board the ship;
 - (c) require the ship to be taken to a port (in Scotland or elsewhere) and detained there.
- (3) Except as provided by sub-paragraph (5), authority of the Secretary of State is required before a constable or an enforcement officer may exercise the power conferred by sub-paragraph (2)(c) to require the ship to be taken to a port outside the United Kingdom.
- (4) Authority for the purposes of sub-paragraph (3) may be given only if the State or relevant territory in which the port is located is willing to receive the ship.
- (5) If the constable or enforcement officer is acting under authority given for the purposes of section 36(5), the constable or officer may require the ship to be taken to—

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- (a) a port in the home state or relevant territory in question, or
 - (b) if the home state or relevant territory requests, any other State or relevant territory willing to receive the ship.
- (6) The constable or enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of sub-paragraph (2) or (5).
- (7) A constable or an enforcement officer must give notice in writing to the master of any ship detained under this paragraph.
- (8) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a constable or an enforcement officer.

Power to search and obtain information

- 13 (1) This paragraph applies if a Scottish constable or an enforcement officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating—
- (a) to a listed offence, or
 - (b) to an offence that is connected with a listed offence.
- (2) The constable or enforcement officer may search—
- (a) the ship;
 - (b) anyone on the ship;
 - (c) anything on the ship (including cargo).
- (3) The constable or enforcement officer may require a person on the ship to give information about himself or herself.
- (4) The power to search conferred by sub-paragraph (2)—
- (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and
 - (b) in the case of a search of a person, does not authorise a constable or an enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.
- (5) In exercising a power conferred by sub-paragraph (2) or (3) a constable or an enforcement officer may—
- (a) open any containers;
 - (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the constable or officer has reasonable grounds to believe to be an item subject to legal privilege);
 - (c) make photographs or copies of anything the production of which the constable or officer has power to require.
- (6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.

- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3).

Power of arrest and seizure

- 14 (1) This paragraph applies if a Scottish constable or an enforcement officer has reasonable grounds to suspect that a listed offence has been, or is being, committed on the ship.
- (2) The constable or enforcement officer may arrest without warrant anyone whom the constable or officer has reasonable grounds for suspecting to be guilty of the offence.
- (3) The constable or enforcement officer may seize and detain anything found on the ship which appears to the constable or officer to be evidence of the offence (but not including anything that the constable or officer has reasonable grounds to believe to be an item subject to legal privilege).

Assistants

- 15 (1) A Scottish constable or an enforcement officer may—
- (a) be accompanied by other persons, and
 - (b) take equipment or materials,
- to assist the constable or officer in the exercise of powers under this Part of this Schedule.
- (2) A person accompanying a constable or an enforcement officer under sub-paragraph (1) may perform any of the constable's or officer's functions under this Part of this Schedule, but only under the constable's or officer's supervision.

Reasonable force

- 16 A Scottish constable or an enforcement officer may use reasonable force, if necessary, in the performance of functions under this Part of this Schedule.

Evidence of authority

- 17 A Scottish constable or an enforcement officer must produce evidence of the constable's or officer's authority if asked to do so.

Offences

- 18 (1) A person commits an offence under the law of Scotland if the person—
- (a) intentionally obstructs a constable or an enforcement officer in the performance of functions under this Part of this Schedule, or
 - (b) fails without reasonable excuse to comply with a requirement made by a constable or an enforcement officer in the performance of those functions.
- (2) A person who provides information in response to a requirement made by a Scottish constable or an enforcement officer in the performance of functions under this Part of this Schedule commits an offence under the law of Scotland if—
- (a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or

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- (b) the person intentionally fails to disclose any material particular.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.