



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 4

#### POLICE POWERS

#### CHAPTER 8

##### CROSS-BORDER ENFORCEMENT

#### **116 Extension of cross-border powers of arrest: urgent cases**

- (1) In Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement), after section 137 insert—

**“137A Additional cross-border powers of arrest etc: urgent cases**

- (1) A constable of a police force in England and Wales may arrest a person in England and Wales without a warrant if—
- (a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in Scotland or in Northern Ireland, and
  - (b) the constable also has reasonable grounds for believing that it is necessary to arrest the person—
    - (i) to allow the prompt and effective investigation of the offence, or
    - (ii) to prevent any prosecution for the offence from being hindered by the disappearance of the person.
- (2) A constable of a police force in Scotland may arrest a person in Scotland without a warrant if—

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- (a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in England and Wales or in Northern Ireland, and
  - (b) the constable is satisfied that it would not be in the interests of justice to delay the arrest either to enable a warrant for the person's arrest to be obtained and then executed under section 136 or to enable a power of arrest under section 137 to be exercised.
- (3) Without prejudice to the generality of subsection (2)(b), it would not be in the interests of justice to delay an arrest for a purpose mentioned in that subsection if the constable reasonably believes that, unless the person is arrested without delay, the person will obstruct the course of justice in any way, including by seeking to avoid arrest or interfering with witnesses or evidence.
- (4) A constable of a police force in Northern Ireland may arrest a person in Northern Ireland without a warrant if—
- (a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in England and Wales or in Scotland, and
  - (b) the constable also has reasonable grounds for believing that it is necessary to arrest the person—
    - (i) to allow the prompt and effective investigation of the offence, or
    - (ii) to prevent any prosecution for the offence from being hindered by the disappearance of the person.
- (5) The power conferred by subsection (1) or (2) may be exercised by a constable appointed under section 24 of the Railways and Transport Safety Act 2003 in England and Wales or (as the case may be) in Scotland.
- (6) The following provisions apply in relation to an arrest under this section by a constable of a person suspected of having committed a specified offence in England and Wales or in Northern Ireland—
- (a) where the arrest is in England and Wales under subsection (1) or in Northern Ireland under subsection (4), the constable has the powers of entry and search conferred by section 137E;
  - (b) where the arrest is in Scotland under subsection (2), the constable has the same powers of entry and search for the purpose of the arrest as a constable of a police force in Scotland would have if there were reasonable grounds for suspecting that the offence had been committed in Scotland;
  - (c) the constable has the powers conferred by section 139 in relation to the arrested person;
  - (d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.
- (7) Where a constable is arresting under this section a person suspected of having committed a specified offence in Scotland, the constable has the same powers as a constable of a police force in Scotland would have if arresting the person for the offence in Scotland.
- (8) In this section—

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“constable of a police force”, in relation to Northern Ireland, means a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

“specified offence” has the meaning given by section 137B.

### **137B Meaning of “specified offence” for the purposes of section 137A**

- (1) In section 137A, “specified offence” has the meaning given by this section.
- (2) An offence committed in England and Wales is a specified offence if it is—
  - (a) an offence (including an offence under the common law) that is punishable by virtue of any statutory provision with imprisonment or another form of detention for a term of 10 years or with a greater punishment,
  - (b) an offence specified in Part 1 of Schedule 7A,
  - (c) an offence of attempting or conspiring to commit, or of inciting the commission of, an offence mentioned in paragraph (a) or (b), or
  - (d) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to an offence mentioned in paragraph (a) or (b).
- (3) An offence committed in Scotland is a specified offence if it is—
  - (a) an offence (including an offence under the common law) that is punishable by virtue of any statutory provision with imprisonment or another form of detention for a term of 10 years or with a greater punishment,
  - (b) an offence specified in Part 2 of Schedule 7A, or
  - (c) an offence of attempting or conspiring to commit, or of inciting the commission of, an offence mentioned in paragraph (a) or (b).
- (4) An offence committed in Northern Ireland is a specified offence if it is—
  - (a) an offence (including an offence under the common law) that is punishable by virtue of any statutory provision with imprisonment or another form of detention for a term of 10 years or with a greater punishment,
  - (b) an offence specified in Part 3 of Schedule 7A,
  - (c) an offence of attempting or conspiring to commit, or of inciting the commission of, an offence mentioned in paragraph (a) or (b), or
  - (d) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to an offence mentioned in paragraph (a) or (b).
- (5) The Secretary of State may by regulations made by statutory instrument amend Part 1, 2 or 3 of Schedule 7A so as to add an offence to, or remove an offence from, the offences for the time being specified in the Part.
- (6) Regulations under subsection (5) may add an offence to a Part of Schedule 7A only if—
  - (a) the offence is indictable, and
  - (b) the Secretary of State considers that it is necessary in the interests of justice to add the offence to the Part.

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- (7) For the purpose of subsection (6)(a), an offence is indictable if—
- (a) in the case of an offence under the law of England and Wales, it is an indictable offence in England and Wales;
  - (b) in the case of an offence under the law of Scotland, it may be tried on indictment in Scotland;
  - (c) in the case of an offence under the law of Northern Ireland, it is an indictable offence in Northern Ireland.
- (8) The Secretary of State may not make regulations under subsection (5) unless the Scottish Ministers and the Department of Justice in Northern Ireland consent to the making of the regulations.
- (9) A statutory instrument containing regulations under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (10) In this section—
- (a) a description of an offence in subsection (2)(a) or (b) or (4)(a) or (b) includes such an offence committed by aiding, abetting, counselling or procuring;
  - (b) a description of an offence in subsection (3)(a) or (b) includes such an offence committed by involvement art and part or by aiding, abetting, counselling or procuring;
  - (c) “statutory provision” means any provision of—
    - (i) an Act or subordinate legislation within the meaning of the Interpretation Act 1978;
    - (ii) an Act of the Scottish Parliament or an instrument made under such an Act;
    - (iii) a Measure or Act of the National Assembly for Wales or an instrument made under such a Measure or Act;
    - (iv) Northern Ireland legislation or an instrument made under Northern Ireland legislation.

### **137C Detention for the purpose of re-arrest**

- (1) A person arrested under section 137A in respect of a specified offence may be detained but only for the purpose of—
- (a) enabling a warrant for the person's arrest in respect of the offence to be obtained and then executed under section 136, or
  - (b) enabling the person to be re-arrested under section 137.
- (2) The person may be detained for that purpose—
- (a) for an initial period of 3 hours beginning with the time of the arrest;
  - (b) for a second period of no more than 21 hours beginning with the end of the initial period, but only if detention for that period is authorised by both an officer of at least the rank of inspector in the arresting force and an officer of at least the rank of inspector in the investigating force;
  - (c) for a third period of no more than 12 hours beginning with the end of the second period, but only if detention for that period is authorised by both an officer of a rank above that of inspector in the arresting force

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and an officer of a rank above that of inspector in the investigating force.

- (3) An officer of the arresting force may give an authorisation for the purpose of subsection (2)(b) or (c) only if satisfied that it is in the interests of justice to do so.
- (4) An officer of the investigating force may give an authorisation for the purpose of subsection (2)(b) only if satisfied that—
  - (a) there are reasonable grounds to suspect that the person has committed the specified offence,
  - (b) a constable intends that the person be arrested as soon as is reasonably practicable (whether by the obtaining and execution of a warrant under section 136 or under section 137) and is acting expeditiously for that purpose, and
  - (c) it is in the interests of justice to give the authorisation.
- (5) An officer of the investigating force may give an authorisation for the purpose of subsection (2)(c) only if satisfied that—
  - (a) there continue to be reasonable grounds to suspect that the person has committed the specified offence,
  - (b) a constable intends that the person be arrested as soon as is reasonably practicable (whether by the obtaining and execution of a warrant under section 136 or under section 137) and is acting expeditiously for that purpose, and
  - (c) it is in the interests of justice to give the authorisation.
- (6) If, at any time while the person is detained, an appropriate officer in the investigating force is satisfied that it is no longer in the interests of justice for the person to be detained—
  - (a) the officer must notify the arresting force, and
  - (b) the person must be released immediately.
- (7) In subsection (6), “appropriate officer” means—
  - (a) in relation to the person's detention for the initial period, any constable;
  - (b) in relation to the person's detention for the second period, an officer of at least the rank of inspector;
  - (c) in relation to the person's detention for the third period, an officer of a rank above that of inspector.
- (8) In this section—

“arresting force” means the police force of which the constable who arrested the person under section 137A is a member;

“investigating force” means the police force that is investigating the specified offence which the person arrested under section 137A is suspected of having committed;

“specified offence” has the same meaning as in section 137A (see sections 137A(8) and 137B).
- (9) In subsection (8), in the definition of “investigating force”, the reference to a police force includes a reference to—
  - (a) the National Crime Agency;

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- (b) any of the following (to the extent that their functions relate to the investigation of offences)—
    - (i) officers of Revenue and Customs;
    - (ii) immigration officers;
    - (iii) designated customs officials within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act).
- (10) In the application of this section in a case where the investigating force is a police force mentioned in subsection (9)(a) or (b)—
- (a) the reference to a constable in subsections (4)(b) and (5)(b), and the reference to a constable in the investigating force in subsection (7) (a), is to be read as a reference to a National Crime Agency officer designated under section 9 or 10 of the Crime and Courts Act 2013 (“a designated NCA officer”), an officer of Revenue and Customs, an immigration officer or a designated customs official (as the case may be);
  - (b) any reference to an officer of at least, or above, the rank of inspector in the investigating force is to be read as a reference to a designated NCA officer, an officer of Revenue and Customs, an immigration officer or a designated customs official (as the case may be) of at least, or above, the equivalent grade.

### **137D Rights of persons arrested under section 137A**

- (1) A person arrested under section 137A must be informed of the following matters as soon as is practicable after the arrest—
- (a) the purpose for which the person may be detained under section 137C;
  - (b) the provision made by that section about the periods for which the person may be detained.
- (2) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in England and Wales (subject to the modifications made by Part 1 of Schedule 7B)—
- (a) section 28 of the Police and Criminal Evidence Act 1984 (information to be given on arrest);
  - (b) section 56 of that Act (right to have someone informed when arrested);
  - (c) section 58 of that Act (access to legal advice);
  - (d) section 31 of the Children and Young Persons Act 1933 (separation of children and young persons from adults in police stations, courts etc);
  - (e) section 34 of that Act (additional protection for children and young persons).
- (3) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in Scotland (subject to the modifications made by Part 2 of Schedule 7B)—
- (a) section 3 of the Criminal Justice (Scotland) Act 2016 (asp 1) (information to be given on arrest);
  - (b) Chapter 5 of Part 1 of that Act (rights of suspects in police custody);
  - (c) section 51 of that Act (duty to consider child's well-being);

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- (d) section 52 of that Act (duties in relation to children in custody).
- (4) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in Northern Ireland (subject to the modifications made by Part 3 of Schedule 7B)—
- (a) Article 30 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (information to be given on arrest);
  - (b) Article 57 of that Order (right to have someone informed when arrested);
  - (c) Article 59 of that Order (access to legal advice);
  - (d) Article 9 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I.9)) (separation of child in police detention from adults charged with offences);
  - (e) Article 10 of that Order (additional protection for children and young persons).
- (5) The Secretary of State may by regulations made by statutory instrument—
- (a) amend this section so as to add to the provisions that for the time being apply as mentioned in subsection (2), (3) or (4);
  - (b) amend this section so as to remove any of those provisions that were added by virtue of paragraph (a);
  - (c) amend Schedule 7B so as to alter the modifications for the time being made by that Schedule, including by adding a modification or removing one;
  - (d) amend Schedule 7B so as to provide that any of the provisions that for the time being apply as mentioned in subsection (2), (3) or (4) do not apply in cases or circumstances set out in the Schedule.
- (6) Regulations under subsection (5) may include consequential provision, including provision amending any statutory provision; and, for that purpose, statutory provision has the same meaning as in section 137B (see subsection (10)(c) of that section).
- (7) The Secretary of State may not make regulations under subsection (5) unless the Scottish Ministers and the Department of Justice in Northern Ireland consent to the making of the regulations.
- (8) A statutory instrument containing regulations under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) In the application of Schedule 7B in a case where the investigating force is a police force mentioned in section 137C(9)(a) or (b), any reference to an officer of at least, or above, a particular rank in the investigating force is to be read as a reference to a designated NCA officer, an officer of Revenue and Customs, an immigration officer or a designated customs official (as the case may be) of at least, or above, the equivalent grade.”
- (2) After Schedule 7 to that Act insert, as Schedule 7A to that Act, the Schedule set out in Schedule 15 to this Act.
- (3) After Schedule 7A to that Act (as inserted by subsection (2) above) insert, as Schedule 7B to that Act, the Schedule set out in Schedule 16 to this Act.

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**Commencement Information**

- I1** [S. 116](#) in force for specified purposes at Royal Assent, see [s. 183](#)
- I2** [S. 116](#) in force at 1.3.2018 in so far as not already in force by [S.I. 2018/227, reg. 2\(f\)](#)



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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)