

Policing and Crime Bill

Cross-border enforcement

Introduction

1. The Bill extends the cross-border powers of arrest conferred by Part 10 of the Criminal Justice and Public Order Act 1994 (“the 1994 Act”) by giving a constable of a police force in a particular part of the United Kingdom power to arrest a person in that part who is reasonably suspected of having committed a specified offence in another part.

Background

2. Currently, the 1994 Act provides the police, in any of the jurisdictions of England and Wales, Scotland and Northern Ireland, with a power of arrest in relation to offences committed in another jurisdiction where a warrant has been issued.
3. Section 137 of the 1994 Act provides that a constable from one jurisdiction can, without a warrant, arrest (or in the case of Scottish constables, “detain”) a person in a jurisdiction other than their own ‘home’ jurisdiction, as long as that constable has reasonable grounds for suspecting that an offence has been committed or attempted in the constable’s ‘home’ jurisdiction.
4. The 1994 Act does not, however, provide for a police officer in one jurisdiction to arrest a person wanted in another where there is no warrant for their arrest. This allows suspects to evade arrest simply by crossing the boundary into another jurisdiction.

Solution

5. The provisions in the Bill close this gap by introducing a new cross-border power of arrest in urgent cases for the purpose of enabling the person to be re-arrested either under section 136 (where an arrest warrant is obtained) or under section 137 of the 1994 Act where no arrest warrant is issued.
6. In particular, it gives a constable of a police force (the ‘arresting force’), in a particular part of the United Kingdom, the power to arrest a person in that part who is reasonably suspected of having committed a specified offence and is being investigated by a police force (the ‘investigating force’) in another part.
7. Given that the criminal law differs in each of the three jurisdictions it is necessary to develop a bespoke, but analogous, list of offences for each jurisdiction. To allow for the appropriate consultation with, and consent of, the devolved administrations, and consultation with police forces in the three jurisdictions, the Bill provides for a list of offences to be specified in secondary legislation. This approach would also afford the flexibility to update the list in the light of experience and to reflect the creation of relevant new offences.

8. These offences are limited insofar as they must be tried on indictment, and the Secretary of State must be satisfied that it is necessary and in the interests of justice that the new power of arrest should apply to it. This additional safeguard will ensure that the Secretary of State considers whether the new power of arrest is appropriate and proportionate on a case by case basis for each offence.
9. The Bill also provides powers of entry and search for the purpose of making an arrest under Part 10 of the 1994 Act (as amended by clause 105). It applies only in relation to the exercise of powers of arrest in England and Wales or Northern Ireland, and only in respect of offences tried on indictment and certain other offences committed in England and Wales or Northern Ireland.

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