

POLICING AND CRIME BILL: KEELING SCHEDULES

This document shows provisions in other enactments as they would be amended by the Bill. It is intended to assist the consideration of these provisions in the Bill and should not be taken a definitive statement of the law as it would have effect on the enactment of the Bill.

Deletions are shown ~~struck through~~ and additions in *italics*.

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Section 44 of the Firearms Act 1968 as amended by clause 116

44: Appeals against police decisions.

(1) An appeal against a decision of a chief officer of police under section 28A, 29, 30A, 30B, 30C, 34, 36, 37 or 38 of this Act lies—

- (a) in England and Wales, to the Crown Court; and
- (b) in Scotland, to the sheriff.

(2) An appeal shall be determined on the merits (and not by way of review).

(3) The court or sheriff hearing an appeal may consider any evidence or other matter, whether or not it was available when the decision of the chief officer was taken.

(3A) The court or sheriff hearing an appeal must consider whether the chief officer had regard to any guidance issued under section 55A that was relevant to the chief officer's decision.

(4) In relation to an appeal specified in the first column of Part I of Schedule 5 to this Act, the third column shows the sheriff having jurisdiction to entertain the appeal.

(5) In Schedule 5 to this Act—

- (a) Part II shall have effect in relation to appeals to the Crown Court;
- and
- (b) Part III shall have effect in relation to appeals to the sheriff.

Section 57 of the Firearms Act 1968 as amended by clause 111

57: Interpretation.

~~(1) In this Act, the expression “firearm” means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged and includes—~~

- ~~(a) any prohibited weapon, whether it is such a lethal weapon as aforesaid or not; and~~
- ~~(b) any component part of such a lethal or prohibited weapon; and~~
- ~~(c) any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon;~~

(1) In this Act, the expression “firearm” means—

- (a) a lethal barrelled weapon (see subsection (1B));*
- (b) a prohibited weapon;*
- (c) a relevant component part in relation to a lethal barrelled weapon or a prohibited weapon (see subsection (1C));*
- (d) an accessory to a lethal barrelled weapon or a prohibited weapon where the accessory is designed or adapted to diminish the noise or flash caused by firing the weapon;*

and so much of section 1 of this Act as excludes any description of firearm from the category of firearms to which that section applies shall be construed as also excluding component parts of, and accessories to, firearms of that description.

[(1A) repealed]

(1B) In subsection (1)(a), “lethal barrelled weapon” means a barrelled weapon of any description from which a shot, bullet or other missile, with kinetic energy of more than one joule at the muzzle of the weapon, can be discharged.

(1C) Subsection (1) is subject to section 57A (exception for airsoft guns).

(1D) For the purposes of subsection (1)(c), each of the following items is a relevant component part in relation to a lethal barrelled weapon or a prohibited weapon—

- (a) a barrel, chamber or cylinder,*
- (b) a frame, body or receiver,*
- (c) a breech block, bolt or other mechanism for containing the pressure of discharge at the rear of a chamber,*

but only where the item is capable of being used as a part of a lethal barrelled weapon or a prohibited weapon.

(2) In this Act, the expression “ammunition” means ammunition for any firearm and includes grenades, bombs and other like missiles, whether capable of use with a firearm or not, and also includes prohibited ammunition.

(2A) In this Act “self-loading” and “pump-action” in relation to any weapon mean respectively that it is designed or adapted (otherwise than as mentioned in section 5(1)(a)) so that it is automatically reloaded or that it is so designed or adapted that it is re-loaded by the manual operation of the fore-end or forestock of the weapon.

(2B) In this Act “revolver”, in relation to a smooth-bore gun, means a gun containing a series of chambers which revolve when the gun is fired.

(3) For purposes of sections 45, 46, 50, 51(4) and 52 of this Act, the offences under this Act relating specifically to air weapons are those under sections 22(4), 22(5), 23(1), 24(4) and 24ZA(1).

(4) In this Act—

“acquire” means hire, accept as a gift or borrow and “acquisition” shall be construed accordingly;

“air weapon” has the meaning assigned to it by section 1(3)(b) of this Act;

“another member State” means a member State other than the United Kingdom, and “other member States” shall be construed accordingly;

“area” means a police area;

“Article 7 authority” means a document issued by virtue of section 32A(1)(b) or (2) of this Act;

“certificate” (except in a context relating to the registration of firearms dealers) and “certificate under this Act” mean a firearm certificate or a shot gun certificate and—

(a) “firearm certificate” means a certificate granted by a chief officer of police under this Act in respect of any firearm or ammunition to which section 1 of this Act applies and includes a certificate granted in Northern Ireland under section 1 of the Firearms Act 1920 or under an enactment of the Parliament of Northern Ireland amending or substituted for that section; and

(b) “shot gun certificate” means a certificate granted by a chief officer of police under this Act and authorising a person to possess shot guns;

“civilian officer” means—

(a) as respects England and Wales—

(i) a person employed by a chief constable established under section 2 of the Police Reform and Social Responsibility Act 2011,

(ii) a person employed by the Commissioner of Police of the Metropolis, or

(iii) a person employed by the Corporation of the City of London who is under the direction and control of the Commissioner of Police for the City of London;

(b) as respects Scotland, a member of police staff within the meaning of the Police and Fire Reform (Scotland) Act 2012;

“European firearms pass” means a document to which the holder of a certificate under this Act is entitled by virtue of section 32A(1)(a) of this Act;

“European weapons directive” means the directive of the Council of the European Communities No. 91/477/EEC (directive on the control of the acquisition and possession of weapons);

“firearms dealer” means a person who, by way of trade or business—
(a) manufactures, sells, transfers, repairs, tests or proves firearms or ammunition to which section 1 of this Act applies or shot guns; or
(b) sells or transfers air weapons;

“imitation firearm” means any thing which has the appearance of being a firearm (other than such a weapon as is mentioned in section 5(1)(b) of this Act) whether or not it is capable of discharging any shot, bullet or other missile;

“premises” includes any land;

“prescribed” means prescribed by rules made by the Secretary of State under section 53 of this Act;

“prohibited weapon” and “prohibited ammunition” have the meanings assigned to them by section 5(2) of this Act;

“public place” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise¹;

“registered”, in relation to a firearms dealer, means registered either—
(a) in Great Britain, under section 33 of this Act, or
(b) in Northern Ireland, under section 8 of the Firearms Act 1920 or any enactment of the Parliament of Northern Ireland amending or substituted for that section,
and references to “the register”, “registration” and a “certificate of registration” shall be construed accordingly, except in section 40;

“rifle” includes carbine;

“shot gun” has the meaning assigned to it by section 1(3)(a) of this Act and, in sections 3(1) and 45(2) of this Act and in the definition of

¹ In Scotland, the definition of a “public place” is as follows - “public place” includes any road (within the meaning of the Roads (Scotland) Act 1984) and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.

“firearms dealer”, includes any component part of a shot gun and any accessory to a shot gun designed or adapted to diminish the noise or flash caused by firing the gun;

“slaughtering instrument” means a firearm which is specially designed or adapted for the instantaneous slaughter of animals or for the instantaneous stunning of animals with a view to slaughtering them; and

“transfer” includes let on hire, give, lend and part with possession, and “transferee” and “transferee” shall be construed accordingly.

(4A) For the purposes of any reference in this Act to the use of any firearm or ammunition for a purpose not authorised by the European weapons directive, the directive shall be taken to authorise the use of a firearm or ammunition as or with a slaughtering instrument and the use of a firearm and ammunition-

- (a) for sporting purposes;
- (b) for the shooting of vermin, or, in the course of carrying on activities in connection with the management of any estate, of other wildlife; and
- (c) for competition purposes and target shooting outside competitions.

(5) The definitions in subsections (1) to (3) above apply to the provisions of this Act except where the context otherwise requires.

(6) For purposes of this Act—

- (a) the length of the barrel of a firearm shall be measured from the muzzle to the point at which the charge is exploded on firing; and
- (b) a shot gun or an air weapon shall be deemed to be loaded if there is ammunition in the chamber or barrel or in any magazine or other device which is in such a position that the ammunition can be fed into the chamber or barrel by the manual or automatic operation of some part of the gun or weapon.

Section 58 of the Firearms Act 1968 as amended by clause 112

58: Particular savings.

(1) Nothing in this Act shall apply to the proof houses of the Master, Wardens and Society of the Mystery of Gunmakers of the City of London and the guardians of the Birmingham proof house or the rifle range at Small Heath in Birmingham where firearms are sighted and tested, so as to interfere in any way with the operations of those two companies in proving firearms under the provisions of the Gun Barrel Proof Act 1868 or any other Acts for the time being in force, or to any person carrying firearms to or from any such proof house when being taken to such proof house for the purposes of proof or being removed therefrom after proof.

(2) Apart from—

(a) ~~section 21~~ sections 19, 20 and 21 and Schedule 3, and

(b) any other provision of this Act so far as it applies in relation to an offence under sections 19, 20 or 21 ~~section 21~~,

nothing in this Act relating to firearms shall apply to an antique firearm which is sold, transferred, purchased, acquired or possessed as a curiosity or ornament.

(2A) For the purposes of subsection (2), a firearm is an “antique firearm” if—

(a) its chamber is capable of being used only with a cartridge of a description specified in regulations made by statutory instrument by the Secretary of State, or

(b) its ignition system is of a description specified in regulations made by statutory instrument by the Secretary of State.

(2B) Regulations under subsection (2A) may make different provision for different purposes.

(2C) Subject to subsection (2D), a statutory instrument containing regulations under subsection (2A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(2D) A statutory instrument containing regulations under subsection (2A) which contain only provision amending regulations previously made under that subsection so as to remove a description of cartridge or a description of ignition system from the descriptions specified in those regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The provisions of this Act relating to ammunition shall be in addition to and not in derogation of any enactment relating to the keeping and sale of explosives.

(4) The powers of arrest and entry conferred by Part III of this Act shall be without prejudice to any power of arrest or entry which may exist apart from this Act; and section 52(3) of this Act is not to be taken as prejudicing the

power of a constable, when arresting a person for an offence, to seize property found in his possession or any other power of a constable to seize firearms, ammunition or other property, being a power exercisable apart from that subsection.

(5) Nothing in this Act relieves any person using or carrying a firearm from his obligation to take out a licence to kill game under the enactments requiring such a licence.

Section 102 of the Local Government Act 1972 as amended by clause 7

102: Appointment of committees.

(1) For the purpose of discharging any functions in pursuance of arrangements made under section 101 above or section 53 of the Children Act 1989

- (a) a local authority may appoint a committee [or a sub-committee]² of the authority; or
- (b) two or more local authorities may appoint a joint committee of those authorities; or
- (c) any such committee may appoint one or more sub-committees.

(1A) For the purpose of discharging any function in pursuance of arrangements made under section 9E(2)(b)(iv), (3)(b), (4)(a) or (5)(a) of the Local Government Act 2000 or under regulations made under section 18 of that Act (discharge of functions by area committees)–

- (a) a local authority may appoint a committee of the authority; or
- (b) any such committee may appoint one or more sub-committees.

(2) Subject to the provisions of this section, the number of members of a committee appointed under subsection (1) or (1A) above, their term of office, and the area (if restricted) within which the committee are to exercise their authority shall be fixed by the appointing authority or authorities or, in the case of a sub-committee, by [the appointing authority or committee (as the case may be)]³.

(3) A committee appointed under subsection (1) or (1A) above, other than a committee for regulating and controlling the finance of the local authority or of their area, may, subject to section 104 below, include persons who are not members of the appointing authority or authorities or, in the case of a sub-committee, the authority or authorities of whom they are a sub-committee.

(4) A local authority may appoint a committee, and two or more local authorities may join in appointing a committee, to advise the appointing authority or authorities, or, where the appointing authority or each of the authorities operate executive arrangements, any executive of that or those authorities, or a committee or member of that executive, on any matter relating to the discharge of their functions, and any such committee—

- (a) may consist of such persons (whether members of the appointing authority or authorities or not) appointed for such term as may be determined by the appointing authority or authorities; and
- (b) may appoint one or more sub-committees to advise the committee with respect to any such matter.

² This will be inserted by the Local Government and Housing Act 1989 once the relevant paragraph is commenced.

³ See fn 2.

[(4A) A local authority may appoint one or more sub-committees of a committee appointed by them under subsection (4) above to advise the committee with respect to any matter relating to the discharge of functions with respect to which the committee is appointed to advise.]⁴

(5) Every member of a committee appointed under this section who at the time of his appointment was a member of the appointing authority or one of the appointing authorities shall upon ceasing to be a member of that authority also cease to be a member of the committee; but for the purposes of this section a member of a local authority shall not be deemed to have ceased to be a member of the authority by reason of retirement if he has been re-elected a member thereof not later than the day of his retirement.

(6) *Subsection (7) applies in relation to—*

- (a) a committee or sub-committee appointed by a local authority in England wholly or partly for the purposes of discharging functions of a fire and rescue authority,*
- (b) a joint committee appointed by two or more local authorities in England wholly or partly for the purpose of discharging such functions,*
or
- (c) a sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging such functions.*

(7) *A relevant police and crime commissioner may only be appointed to a committee or sub-committee to which this subsection applies in response to a request made by the commissioner to the appointing authority or authorities or, in the case of a sub-committee, to the appointing committee.*

(8) *If a request under subsection (7) is made to an appointing authority or authorities or an appointing committee, they must—*

- (a) consider the request,*
- (b) give reasons for their decision to agree to or refuse the request,*
and
- (c) publish those reasons in such manner as they think appropriate.*

(9) *A relevant police and crime commissioner may attend, speak at and vote at a meeting of a committee to which the commissioner is appointed in accordance with this section only if and to the extent that the business of the meeting relates to the functions of a fire and rescue authority.*

(10) *Subsection (11) defines “relevant police and crime commissioner” for the purposes of this section in relation to—*

- (a) a committee or sub-committee appointed by a local authority,*
- (b) a joint committee appointed by two or more local authorities, or*
- (c) a sub-committee appointed by a committee of a local authority or a joint committee of two or more local authorities.*

⁴ See fn 2.

(11) For those purposes “relevant police and crime commissioner” means a police and crime commissioner—

(a) whose area is the same as, or contains all of, the area of that local authority or (as the case may be) one or more of those local authorities, or

(b) all or part of whose area falls within the area of that local authority or (as the case may be) one or more of those local authorities.

Section 135 of the Mental Health Act 1983 as amended by clauses 78 to 80

135: Warrant to search for and remove patients.

(1) If it appears to a justice of the peace, on information on oath laid by an approved mental health professional, that there is reasonable cause to suspect that a person believed to be suffering from mental disorder—

(a) has been, or is being, ill-treated, neglected or kept otherwise than under proper control, in any place within the jurisdiction of the justice, or

(b) being unable to care for himself, is living alone in any such place, the justice may issue a warrant authorising any constable to enter, if need be by force, any premises specified in the warrant in which that person is believed to be, and, if thought fit, to remove him to a place of safety with a view to the making of an application in respect of him under Part II of this Act, or of other arrangements for his treatment or care.

(1A) If the premises specified in the warrant are a place of safety, the constable executing the warrant may, instead of removing the person to another place of safety, keep the person at those premises for the purpose mentioned in subsection (1).

(2) If it appears to a justice of the peace, on information on oath laid by any constable or other person who is authorised by or under this Act or under article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 to take a patient to any place, or to take into custody or retake a patient who is liable under this Act or under the said article 8⁴ to be so taken or retaken—

(a) that there is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the justice; and

(b) that admission to the premises has been refused or that a refusal of such admission is apprehended,

the justice may issue a warrant authorising any constable to enter the premises, if need be by force, and remove the patient.

(3) A patient who is removed to a place of safety in the execution of a warrant issued ~~under this section~~ *under subsection (1), or kept at the premises specified in the warrant under subsection (1A),* may be detained there for a period not exceeding ~~72 hours~~ *the permitted period of detention.*

(3ZA) In subsection (3), “the permitted period of detention” means—

(a) the period of 24 hours beginning with—

(i) in a case where the person is removed to a place of safety, the time when the person arrives at that place;

- (ii) in a case where the person is kept at the premises specified in the warrant, the time when the constable first entered the premises to execute the warrant; or*
- (b) where an authorisation is given in relation to the person under section 136B, that period of 24 hours and such further period as is specified in the authorisation.*

(3A) A constable, an approved mental health professional or a person authorised by either of them for the purposes of this subsection may, before the end of ~~the period of 72 hours~~ *the permitted period of detention* mentioned in subsection (3) above, take a person detained in a place of safety under that subsection to one or more other places of safety.

(3B) A person taken to a place of safety under subsection (3A) above may be detained there for a period ending no later than the end of ~~the period of 72 hours~~ *the permitted period of detention* mentioned in subsection (3) above.

(4) In the execution of a warrant issued under subsection (1) above, a constable shall be accompanied by an approved mental health professional and by a registered medical practitioner, and in the execution of a warrant issued under subsection (2) above a constable may be accompanied—

- (a) by a registered medical practitioner;
- (b) by any person authorised by or under this Act or under article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 to take or retake the patient.

(5) It shall not be necessary in any information or warrant under subsection (1) above to name the patient concerned.

(6) In this section “place of safety” means residential accommodation provided by a local social services authority under Part 1 of the Care Act 2014 or Part III of the National Assistance Act 1948, a hospital as defined by this Act, a police station, an independent hospital or care home for mentally disordered persons or any other suitable place ~~the occupier of which is willing temporarily to receive the patient.~~

(7) *For the purpose of subsection (6)—*

(a) a house, flat or room where a person is living may not be regarded as a suitable place unless—

(i) if the person believed to be suffering from a mental disorder is the sole occupier of the place, that person agrees to the use of the place as a place of safety;

(ii) if the person believed to be suffering from a mental disorder is an occupier of the place but not the sole occupier, both that person and one of the other occupiers agree to the use of the place as a place of safety;

(iii) if the person believed to be suffering from a mental disorder is not an occupier of the place, both that person and the

occupier (or, if more than one, one of the occupiers) agree to the use of the place as a place of safety;

(b) a place other than one mentioned in paragraph (a) may not be regarded as a suitable place unless a person who appears to the constable exercising powers under this section to be responsible for the management of the place agrees to its use as a place of safety.

(8) This section is subject to section 136A which makes provision about the removal and taking of persons to a police station under this section.

Section 136 of the Mental Health Act 1983 as amended by clauses 78 to 80

136: ~~Mentally disordered persons found in public places. Removal etc of mentally disordered persons without a warrant~~

~~(1) If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety within the meaning of section 135 above.~~

(1) If a person appears to a constable to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons—

(a) remove the person to a place of safety within the meaning of section 135, or

(b) if the person is already at a place of safety within the meaning of that section, keep the person at that place or remove the person to another place of safety.

(1A) The power of a constable under subsection (1) may be exercised where the mentally disordered person is at any place, other than—

(a) any house, flat or room where that person, or any other person, is living, or

(b) any yard, garden, garage or outhouse that is used in connection with the house, flat or room, other than one that is also used in connection with one or more other houses, flats or rooms.

(1B) For the purpose of exercising the power under subsection (1), a constable may enter any place where the power may be exercised, if need be by force.

(1C) Before deciding to remove a person to, or to keep a person at, a place of safety under subsection (1), the constable must, if it is practicable to do so, consult—

(a) a registered medical practitioner,

(b) a registered nurse,

(c) an approved mental health professional, or

(d) a person of a description specified in regulations made by the Secretary of State.

~~(2) A person removed to removed to, or kept at a place of safety under this section may be detained there for a period not exceeding 72 hours the permitted period of detention for the purpose of enabling him to be examined by a registered medical practitioner and to be interviewed by an [approved~~

mental health professional and of making any necessary arrangements for his treatment or care.

(2A) *In subsection (2), “the permitted period of detention” means—*

(a) the period of 24 hours beginning with—

(i) in a case where the person is removed to a place of safety, the time when the person arrives at that place;

(ii) in a case where the person is kept at a place of safety, the time when the constable decides to keep the person at that place; or

(b) where an authorisation is given in relation to the person under section 136B, that period of 24 hours and such further period as is specified in the authorisation.

(3) A constable, an approved mental health professional or a person authorised by either of them for the purposes of this subsection may, before the end of ~~the period of 72 hours~~ *the permitted period of detention* mentioned in subsection (2) above, take a person detained in a place of safety under that subsection to one or more other places of safety.

(4) A person taken to a place of a safety under subsection (3) above may be detained there for a purpose mentioned in subsection (2) above for a period ending no later than the end of ~~the period of 72 hours~~ *the permitted period of detention* mentioned in that subsection.

(5) *This section is subject to section 136A which makes provision about the removal and taking of persons to a police station, and the keeping of persons at a police station, under this section.*

Section 138 of the Mental Health Act 1983 as amended by clause 80
138: Retaking of patients escaping from custody.

(1) If any person who is in legal custody by virtue of section 137 above escapes, he may, subject to the provisions of this section, be retaken—

- (a) in any case, by the person who had his custody immediately before the escape, or by any constable or approved mental health professional;
- (b) if at the time of the escape he was liable to be detained in a hospital within the meaning of Part II of this Act, or subject to guardianship under this Act, or a community patient who was recalled to hospital under section 17E above, by any other person who could take him into custody under section 18 above if he had absented himself without leave.

(2) A person to whom paragraph (b) of subsection (1) above applies shall not be retaken under this section after the expiration of the period within which he could be retaken under section 18 above if he had absented himself without leave on the day of the escape unless he is subject to a restriction order under Part III of this Act or an order or direction having the same effect as such an order; and subsection (4) of the said section 18 shall apply with the necessary modifications accordingly.

(3) A person who escapes while being taken to or detained in a place of safety under section 135 or 136 above shall not be retaken under this section ~~after the expiration of the period of 72 hours beginning with the time when he escapes or the period during which he is liable to be so detained, whichever expires first –~~

(a) in a case where the person escapes while being removed to a place of safety in the execution of a warrant under section 135(1) or under section 136(1), after the end of the period of 24 hours beginning with the escape;

(b) in a case where the person escapes after the beginning of the period that is the permitted period of detention in relation to the person under section 135(3ZA) or 136(2A), after the end of that period (taking into account any authorisation under section 136B(1) that was given before the person escaped).

(4) This section, so far as it relates to the escape of a person liable to be detained in a hospital within the meaning of Part II of this Act, shall apply in relation to a person who escapes—

(a) while being taken to or from such a hospital in pursuance of regulations under section 19 above, or of any order, direction or authorisation under Part III or VI of this Act (other than under section 35, 36, 38, 53, 83 or 85) or under section 123 above; or

(b) while being taken to or detained in a place of safety in pursuance of an order under Part III of this Act (other than under section 35, 36 or 38 above) pending his admission to such a hospital,

as if he were liable to be detained in that hospital and, if he had not previously been received in that hospital, as if he had been so received.

(5) In computing for the purposes of the power to give directions under section 37(4) above and for the purposes of sections 37(5) and 40(1) above the period of 28 days mentioned in those sections, no account shall be taken of any time during which the patient is at large and liable to be retaken by virtue of this section.

(6) Section 21 above shall, with any necessary modifications, apply in relation to a patient who is at large and liable to be retaken by virtue of this section as it applies in relation to a patient who is absent without leave and references in that section to section 18 above shall be construed accordingly.

Section 17 of the Police and Criminal Evidence Act 1984 as amended by clause 71

17: Entry for purpose of arrest etc.

(1) Subject to the following provisions of this section, and without prejudice to any other enactment, a constable may enter and search any premises for the purpose—

(a) of executing—

(i) a warrant of arrest issued in connection with or arising out of criminal proceedings; or

(ii) a warrant of commitment issued under section 76 of the Magistrates' Courts Act 1980;

(b) of arresting a person for an [indictable] 1 offence;

(c) of arresting a person for an offence under—

(i) section 1 (prohibition of uniforms in connection with political objects) of the Public Order Act 1936;

(ii) any enactment contained in sections 6 to 8 or 10 of the Criminal Law Act 1977 (offences relating to entering and remaining on property);

(iii) section 4 of the Public Order Act 1986 (fear or provocation of violence);

(iiia) section 4 (driving etc. when under influence of drink or drugs) or 163 (failure to stop when required to do so by constable in uniform) of the Road Traffic Act 1988;

(iiib) section 27 of the Transport and Works Act 1992 (which relates to offences involving drink or drugs);

(iv) section 76 of the Criminal Justice and Public Order Act 1994 (failure to comply with interim possession order);

(v) any of sections 4, 5, 6(1) and (2), 7 and 8(1) and (2) of the Animal Welfare Act 2006 (offences relating to the prevention of harm to animals);

(vi) section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (squatting in a residential building);

(ca) of arresting, in pursuance of section 32(1A) of the Children and Young Persons Act 1969, any child or young person who has been remanded [to local authority accommodation or youth detention accommodation under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

(caa) of arresting a person for an offence to which section 61 of the Animal Health Act 1981 applies;

(cab) of arresting a person under any of the following provisions—

(i) section 30D(1) or (2A);

(ii) section 46A(1) or (1A);

(iii) section 5B(7) of the Bail Act 1976 (arrest where a person fails to surrender to custody in accordance with a court order);

(iv) section 7(3) of the Bail Act 1976 (arrest where a person is not likely to surrender to custody etc);

(v) section 97(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (arrest where a child is suspected of breaking conditions of remand)

(cb) of recapturing any person who is, or is deemed for any purpose to be, unlawfully at large while liable to be detained—

(i) in a prison, young offender institution, secure training centre or secure college, or

(ii) in pursuance of section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 12 (dealing with children and young persons guilty of grave crimes), in any other place;

(d) of recapturing any person whatever who is unlawfully at large and whom he is pursuing; or

(e) of saving life or limb or preventing serious damage to property.

(2) Except for the purpose specified in paragraph (e) of subsection (1) above, the powers of entry and search conferred by this section—

(a) are only exercisable if the constable has reasonable grounds for believing that the person whom he is seeking is on the premises; and

(b) are limited, in relation to premises consisting of two or more separate dwellings, to powers to enter and search—

(i) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling; and

(ii) any such dwelling in which the constable has reasonable grounds for believing that the person whom he is seeking may be.

(3) The powers of entry and search conferred by this section are only exercisable for the purposes specified in subsection (1)(c)(ii), (iv) or (vi) above by a constable in uniform.

(4) The power of search conferred by this section is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.

(5) Subject to subsection (6) below, all the rules of common law under which a constable has power to enter premises without a warrant are hereby abolished.

(6) Nothing in subsection (5) above affects any power of entry to deal with or prevent a breach of the peace.

Section 30 of the Police and Criminal Evidence Act 1984 as amended by clause 52(3)

30: Arrest elsewhere than at police station.

(1) Subsection (1A) applies where a person is, at any place other than a police station—

- (a) arrested by a constable for an offence, or
- (b) taken into custody by a constable after being arrested for an offence by a person other than a constable.

(1A) The person must be taken by a constable to a police station as soon as practicable after the arrest.

(1B) Subsection (1A) has effect subject to section 30A (release ~~on bail of a person arrested elsewhere than at police station~~) and subsection (7) (release without bail).

(2) Subject to subsections (3) and (5) below, the police station to which an arrested person is taken under subsection (1A) above shall be a designated police station.

(3) A constable to whom this subsection applies may take an arrested person to any police station unless it appears to the constable that it may be necessary to keep the arrested person in police detention for more than six hours.

(4) Subsection (3) above applies—

- (a) to a constable who is working in a locality covered by a police station which is not a designated police station; and
- (b) to a constable belonging to a body of constables maintained by an authority other than a [local policing body.

(5) Any constable may take an arrested person to any police station if—

- (a) either of the following conditions is satisfied—
 - (i) the constable has arrested him without the assistance of any other constable and no other constable is available to assist him;
 - (ii) the constable has taken him into custody from a person other than a constable without the assistance of any other constable and no other constable is available to assist him; and
- (b) it appears to the constable that he will be unable to take the arrested person to a designated police station without the arrested person injuring himself, the constable or some other person.

(6) If the first police station to which an arrested person is taken after his arrest is not a designated police station, he shall be taken to a designated police station not more than six hours after his arrival at the first police station unless he is released previously.

(7) A person arrested by a constable at any place other than a police station must be released without bail if the condition in subsection (7A) is satisfied.

(7A) The condition is that, at any time before the person arrested reaches a police station, a constable is satisfied that there are no grounds for keeping him under arrest ~~or releasing him on bail under section 30A.~~

(8) A constable who releases a person under subsection (7) above shall record the fact that he has done so.

(9) The constable shall make the record as soon as is practicable after the release.

(10) Nothing in subsection (1A) or in section 30A prevents a constable delaying taking a person to a police station or releasing him ~~on bail under section 30A~~ if the condition in subsection (10A) is satisfied.

(10A) The condition is that the presence of the person at a place (other than a police station) is necessary in order to carry out such investigations as it is reasonable to carry out immediately.

(11) Where there is any such delay the reasons for the delay must be recorded when the person first arrives at the police station or (as the case may be) is released ~~on bail under section 30A.~~

(12) Nothing in subsection (1A) or section 30A above shall be taken to affect—

- (a) paragraphs 16(3) or 18(1) of Schedule 2 to the Immigration Act 1971;
- (b) section 34(1) of the Criminal Justice Act 1972; or
- (c) any provision of the Terrorism Act 2000.

(13) Nothing in subsection (10) above shall be taken to affect paragraph 18(3) of Schedule 2 to the Immigration Act 1971.

**Section 30A of the Police and Criminal Evidence Act 1984 as amended
by clauses 51 and 72**

30A: ~~Bail~~ Release of a person arrested elsewhere than at police station

(1) A constable may release ~~on bail~~ a person who is arrested or taken into custody in the circumstances mentioned in section 30(1) -

- (a) without bail unless subsection (1A) applies, or
- (b) on bail if subsection (1A) applies.

(1A) This subsection applies if—

- (a) the constable is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which would be imposed), and
- (b) a police officer of the rank of inspector or above authorises the release on bail (having considered any representations made by the person).

(2) A person may be released ~~on bail~~ under subsection (1) at any time before he arrives at a police station.

(3) A person released on bail under subsection (1) must be required to attend a police station.

(3A) Where a constable releases a person on bail under subsection (1)—

- (a) no recognizance for the person's surrender to custody shall be taken from the person,
- (b) no security for the person's surrender to custody shall be taken from the person or from anyone else on the person's behalf,
- (c) the person shall not be required to provide a surety or sureties for his surrender to custody, and
- (d) no requirement to reside in a bail hostel may be imposed as a condition of bail.

(3B) Subject to subsection (3A), where a constable releases a person on bail under subsection (1) the constable may impose, as conditions of the bail, such requirements as appear to the constable to be necessary—

- (a) to secure that the person surrenders to custody,
- (b) to secure that the person does not commit an offence while on bail,
- (c) to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person, or
- (d) for the person's own protection or, if the person is ~~under the age of 17~~ *under the age of 18*, for the person's own welfare or in the person's own interests.

(4) Where a person is released on bail under subsection (1), a requirement may be imposed on the person as a condition of bail only under the preceding provisions of this section.

(5) The police station which the person is required to attend may be any police station.

Section 30B of the Police and Criminal Evidence Act 1984 as amended by clauses 52 and 61

30B: ~~Bail under Section 30A:~~ notices

(1) Where a constable ~~grants bail to~~ releases a person under section 30A, he must give that person a notice in writing before he is released.

(2) The notice must state—

- (a) the offence for which he was arrested, ~~and~~
- (b) the ground on which he was arrested, ~~and~~
- (c) *whether the person is being released without bail or on bail.*

(3) ~~The notice~~ *A notice given to a person who is released on bail* must inform him that he is required to attend a police station.

~~(4) It may also specify the police station which he is required to attend and the time when he is required to attend.~~

~~(4) The notice must also specify—~~

- ~~(a) the police station which the person is required to attend, and~~
- ~~(b) the time on the bail end date when the person is required to attend the police station.~~

~~(4A) If the person is granted bail subject to conditions under section 30A(3B), the notice also—~~

- ~~(a) must specify the requirements imposed by those conditions,~~
- ~~(b) must explain the opportunities under sections 30CA(1) and 30CB(1) for variation of those conditions, ~~and~~~~
- ~~(c) if it does not specify the police station at which the person is required to attend, must specify a police station at which the person may make a request under section 30CA(1)(b).~~

~~(5) If the notice does not include the information mentioned in subsection (4), the person must subsequently be given a further notice in writing which contains that information.~~

(6) The person may be required to attend a different police station from that specified in the notice under subsection (1) or ~~(5) or to attend at a different time to attend at a different time or an additional time.~~

(6A) A person may not be required under subsection (6) to attend a police station at a time which is after the bail end date in relation to the person.

(7) He must be given notice in writing of any such change as is mentioned in subsection (6) but more than one such notice may be given to him.

(8) In this section “bail end date”, in relation to a person, means the last day of the period of 28 days beginning with the day after the day on which the

person was arrested for the offence in relation to which bail is granted under section 30A.

**Section 30C of the Police and Criminal Evidence Act 1984 as amended
by clauses 52 and 64**

30C: ~~Bail under Section 30A:~~ supplemental

(1) A person who has been required to attend a police station is not required to do so if he is given notice in writing that his attendance is no longer required.

(2) If a person is required to attend a police station which is not a designated police station he must be—

(a) released, or

(b) taken to a designated police station,
not more than six hours after his arrival.

(3) Nothing in the Bail Act 1976 applies in relation to bail under section 30A.

(4) Nothing in section 30A or 30B or in this section prevents the re-arrest without a warrant of a person released ~~on bail~~ under section 30A if, *since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before the person's release* ~~new evidence justifying a further arrest has come to light since his release.~~

Section 30CA of the Police and Criminal Evidence Act 1984 as amended by clause 61

30CA: Bail under section 30A: variation of conditions by police

(1) Where a person released on bail under section 30A(1) is on bail subject to conditions—

(a) a relevant officer at the police station at which the person is required to attend, or

~~(b) where no notice under section 30B specifying that police station has been given to the person, a relevant officer at the police station specified under section 30B(4A)(c),~~

may, at the request of the person but subject to subsection (2), vary the conditions.

(2) On any subsequent request made in respect of the same grant of bail, subsection (1) confers power to vary the conditions of the bail only if the request is based on information that, in the case of the previous request or each previous request, was not available to the relevant officer considering that previous request when he was considering it.

(3) Where conditions of bail granted to a person under section 30A(1) are varied under subsection (1)—

(a) paragraphs (a) to (d) of section 30A(3A) apply,

(b) requirements imposed by the conditions as so varied must be requirements that appear to the relevant officer varying the conditions to be necessary for any of the purposes mentioned in paragraphs (a) to (d) of section 30A(3B), and

(c) the relevant officer who varies the conditions must give the person notice in writing of the variation.

(4) Power under subsection (1) to vary conditions is, subject to subsection (3)(a) and (b), power—

(a) to vary or rescind any of the conditions, and

(b) to impose further conditions.

(5) In this section “relevant officer”, in relation to a designated police station, means a custody officer but, in relation to any other police station—

(a) means a constable who is not involved in the investigation of the offence for which the person making the request under subsection (1) was under arrest when granted bail under section 30A(1), if such a constable is readily available, and

(b) if no such constable is readily available—

(i) means a constable other than the one who granted bail to the person, if such a constable is readily available, and

(ii) if no such constable is readily available, means the constable who granted bail.

Section 30D of the Police and Criminal Evidence Act 1984 as amended by clause 61

30D: Failure to answer to bail under section 30A

- (1) A constable may arrest without a warrant a person who—
- (a) has been released on bail under section 30A subject to a requirement to attend a specified police station, but
 - (b) fails to attend the police station at the specified time.
- (2) A person arrested under subsection (1) must be taken to a police station (which may be the specified police station or any other police station) as soon as practicable after the arrest.
- (2A) A person who has been released on bail under section 30A may be arrested without a warrant by a constable if the constable has reasonable grounds for suspecting that the person has broken any of the conditions of bail.
- (2B) A person arrested under subsection (2A) must be taken to a police station (which may be the specified police station mentioned in subsection (1) or any other police station) as soon as practicable after the arrest.
- (3) In subsection (1), “specified” means specified in a notice under subsection (1) ~~or (5)~~ of section 30B or, if notice of change has been given under subsection (7) of that section, in that notice.
- (4) For the purposes of—
- (a) section 30 (subject to the obligations in subsections (2) and (2B)),
 - and
 - (b) section 31,
- an arrest under this section is to be treated as an arrest for an offence.

Section 34 of the Police and Criminal Evidence Act 1984 as amended by clauses 53 and 65

34: Limitations on police detention.

(1) A person arrested for an offence shall not be kept in police detention except in accordance with the provisions of this Part of this Act.

(2) Subject to subsection (3) below, if at any time a custody officer—
(a) becomes aware, in relation to any person in police detention, that the grounds for the detention of that person have ceased to apply; and
(b) is not aware of any other grounds on which the continued detention of that person could be justified under the provisions of this Part of this Act,

it shall be the duty of the custody officer, subject to subsection (4) below, to order his immediate release from custody.

(3) No person in police detention shall be released except on the authority of a custody officer at the police station where his detention was authorised or, if it was authorised at more than one station, a custody officer at the station where it was last authorised.

(4) A person who appears to the custody officer to have been unlawfully at large when he was arrested is not to be released under subsection (2) above.

(5) A person whose release is ordered under subsection (2) above shall be released —

- (a) *without bail unless subsection (5A) applies, or*
- (b) *on bail if subsection (5A) applies.*

~~without bail unless it appears to the custody officer—~~

- ~~(a) that there is need for further investigation of any matter in connection with which he was detained at any time during the period of his detention; or~~
- ~~(b) that, in respect of any such matter, proceedings may be taken against him or he may be [given a youth caution under section 66ZA of the Crime and Disorder Act 1998,~~

~~and, if it so appears, he shall be released on bail.~~

(5A) This subsection applies if—

- (a) it appears to the custody officer—*
 - (i) that there is need for further investigation of any matter in connection with which the person was detained at any time during the period of the person's detention, or*
 - (ii) that, in respect of any such matter, proceedings may be taken against the person or the person may be given a youth caution under section 66ZA of the Crime and Disorder Act 1998,**and*

- (b) the pre-conditions for bail are satisfied.*

(5B) Subsection (5C) applies where—

- (a) a person is released under subsection (5), and*
- (b) the custody officer determines that—*
 - (i) there is not sufficient evidence to charge the person with an offence,*
 - or*
 - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.*

(5C) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(5D) Subsection (5C) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

(5E) In this Part “caution” includes—

- (a) a conditional caution within the meaning of Part 3 of the Criminal Justice Act 2003;*
- (b) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998;*
- (c) a youth caution under section 66ZA of that act.*

(6) For the purposes of this Part of this Act a person arrested under section 6D of the Road Traffic Act 1988 or section 30(2) of the Transport and Works Act 1992 (c. 42) is arrested for an offence.

(7) For the purposes of this Part a person who—

- (a) attends a police station to answer to bail granted under section 30A,
- (b) returns to a police station to answer to bail granted under this Part,
- or
- (c) is arrested under section 30D or 46A,

is to be treated as arrested for an offence and that offence is the offence in connection with which he was granted bail.

But this subsection is subject to section 47(6) (which provides for the calculation of certain periods, where a person has been granted bail under this Part, by reference to time when the person is in police detention only).

(8) Subsection (7) does not apply in relation to a person who is granted bail subject to the duty mentioned in section 47(3)(b) and who either—

- (a) attends a police station to answer to such bail, or
 - (b) is arrested under section 46A for failing to do so,
- (provision as to the treatment of such persons for the purposes of this Part being made by section 46ZA).

Section 37 of the Police and Criminal Evidence Act 1984 as amended by clauses 53 and 65

37: Duties of custody officer before charge.

(1) Where—

(a) a person is arrested for an offence—

(i) without a warrant; or

(ii) under a warrant not endorsed for bail,

the custody officer at each police station where he is detained after his arrest shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such period as is necessary to enable him to do so.

(2) If the custody officer determines that he does not have such evidence before him, the person arrested shall be released ~~either on bail or without bail, unless the custody officer has reasonable grounds for believing that his detention without being charged is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him.~~ —

(a) without bail unless the pre-conditions for bail are satisfied, or

(b) on bail if those pre-conditions are satisfied, (subject to subsection (3)).

(3) If the custody officer has reasonable grounds for *believing that the person's detention without being charged is necessary to secure or preserve evidence relating to an offence for which the person is under arrest or to obtain such evidence by questioning the person* ~~so believing~~, he may authorise the person arrested to be kept in police detention.

(4) Where a custody officer authorises a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.

(5) Subject to subsection (6) below, the written record shall be made in the presence of the person arrested who shall at that time be informed by the custody officer of the grounds for his detention.

(6) Subsection (5) above shall not apply where the person arrested is, at the time when the written record is made—

(a) incapable of understanding what is said to him;

(b) violent or likely to become violent; or

(c) in urgent need of medical attention.

(6A) Subsection (6B) applies where—

(a) a person is released under subsection (2), and

(b) the custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence,
or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(6B) The custody officer must be given the person notice in writing that the person is not to be prosecuted.

(6C) Subsection (6B) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

(7) Subject to section 41(7) below, if the custody officer determines that he has before him sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested—

(a) shall be—

- (i) released without charge and on bail, or
- (ii) kept in police detention,

for the purpose of enabling the Director of Public Prosecutions to make a decision under section 37B below,

~~(b) shall be released without charge and on bail but not for that purpose,~~

~~(c) shall be released without charge and without bail, or~~

(b) shall be released without charge and without bail unless the pre-conditions for bail are satisfied,

(c) shall be released without charge and on bail if those preconditions are satisfied but not for the purpose mentioned in paragraph (a), or

(d) shall be charged.

(7A) The decision as to how a person is to be dealt with under subsection (7) above shall be that of the custody officer.

(7B) Where a person is dealt with under subsection (7)(a) above, it shall be the duty of the custody officer to inform him that he is being released, or (as the case may be) detained, to enable the Director of Public Prosecutions to make a decision under section 37B below.

(8) Where—

- (a) a person is released under subsection (7)(b) or (c) above; and
- (b) at the time of his release a decision whether he should be prosecuted for the offence for which he was arrested has not been taken,

it shall be the duty of the custody officer so to inform him.

(8ZA) Where—

(a) a person is released under subsection (7)(b) or (c), and

(b) the custody officer makes a determination as mentioned in subsection (6A)(b), subsections (6B) and (6C) apply.

(8A) Subsection (8B) applies if the offence for which the person is arrested is one in relation to which a sample could be taken under section 63B below and the custody officer—

(a) is required in pursuance of subsection (2) above to release the person arrested and decides to release him on bail, or
(b) decides in pursuance of subsection (7)(a) or ~~(b)~~ (c) above to release the person without charge and on bail.

(8B) The detention of the person may be continued to enable a sample to be taken under section 63B, but this subsection does not permit a person to be detained for a period of more than 24 hours after the relevant time.

(9) If the person arrested is not in a fit state to be dealt with under subsection (7) above, he may be kept in police detention until he is.

(10) The duty imposed on the custody officer under subsection (1) above shall be carried out by him as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.

[Subsections (11) to (14) repealed]

(15) In this Part of this Act—

“arrested juvenile” means a person arrested with or without a warrant who appears to be under the age of 17;

“endorsed for bail” means endorsed with a direction for bail in accordance with section 117(2) of the Magistrates' Courts Act 1980.

Section 37CA of the Police and Criminal Evidence Act 1984 as amended by clauses 54 and 65

37CA: Breach of bail following release under section ~~37(7)(b)~~ 37(7)(c)

(1) This section applies where a person released on bail under section 37(7)(b) above or subsection (2)(b) below—

- (a) is arrested under section 46A below in respect of that bail, and
- (b) is being detained following that arrest at the police station mentioned in section 46A(2) below.

(2) The person arrested—

- (a) shall be charged, or
- (b) shall be released without charge, ~~either on bail or without bail.~~ —
 - (i) *without bail unless the pre-conditions for bail are satisfied, or*
 - (ii) *on bail if those pre-conditions are satisfied.*

(3) The decision as to how a person is to be dealt with under subsection (2) above shall be that of a custody officer.

(4) A person released on bail under subsection (2)(b) above shall be released on bail subject to the same conditions (if any) which applied immediately before his arrest (*and the reference in section 50A to any conditions of bail which would be imposed is to be read accordingly*).

(5) *Subsection (6) applies where—*

- (a) *a person is released under subsection (2), and*
- (b) *a custody officer determines that—*
 - (i) *there is not sufficient evidence to charge the person with an offence, or*
 - (ii) *there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.*

(6) *The custody officer must give the person in writing notice that the person is not to be prosecuted.*

(7) *Subsection (6) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.*

Section 37D of the Police and Criminal Evidence Act 1984 as amended by clauses 54 and 63

37D: Release on bail under section 37: further provision

~~(1) Where a person is released on bail under [37, 37C(2)(b) or 37CA(2)(b)] 3 above, a custody officer may subsequently appoint a different time, or an additional time, at which the person is to attend at the police station to answer bail.~~

~~(2) The custody officer shall give the person notice in writing of the exercise of the power under subsection (1).~~

~~(3) The exercise of the power under subsection (1) shall not affect the conditions (if any) to which bail is subject.~~

(4) Where a person released on bail under section 37(7)(a) or 37C(2)(b) above returns to a police station to answer bail or is otherwise in police detention at a police station, he may be kept in police detention to enable him to be dealt with in accordance with section 37B or 37C above or to enable the power under ~~subsection (1) above~~ *section 47(4A)* to be exercised.

(4A) Where a person released on bail under section ~~37(7)(b)~~ 37(7)(c) or 37CA(2)(b) above returns to a police station to answer bail or is otherwise in police detention at a police station, he may be kept in police detention to enable him to be dealt with in accordance with section 37CA above or to enable the power under ~~subsection (1) above~~ *section 47(4A)* to be exercised.

(5) If the person mentioned in subsection (4) or (4A) above is not in a fit state to enable him to be dealt with as mentioned in that subsection or to enable the power under subsection (1) above to be exercised, he may be kept in police detention until he is.

(6) Where a person is kept in police detention by virtue of subsection (4), (4A) or (5) above, section 37(1) to (3) and (7) above (and section 40(8) below so far as it relates to section 37(1) to (3)) shall not apply to the offence in connection with which he was released on bail under section [37(7), 37C(2)(b) or 37CA(2)(b)] 6 above.

Section 39 of the Police and Criminal Evidence Act 1984 as amended by clause 74

39: Responsibilities in relation to persons detained.

(1) Subject to subsections (2) and (4) below, it shall be the duty of the custody officer at a police station to ensure—

(a) that all persons in police detention at that station are treated in accordance with this Act and any code of practice issued under it and relating to the treatment of persons in police detention; and

(b) that all matters relating to such persons which are required by this Act or by such codes of practice to be recorded are recorded in the custody records relating to such persons.

(2) If the custody officer, in accordance with any code of practice issued under this Act, transfers or permits the transfer of a person in police detention—

(a) ~~to the custody of a police officer investigating an offence for which that person is in police detention another police officer at the police station where the person is in police detention, for the purpose of an interview that is part of the investigation of an offence for which the person is in police detention or otherwise in connection with the investigation of such an offence; or~~

(b) to the custody of an officer who has charge of that person outside the police station,

the custody officer shall cease in relation to that person to be subject to the duty imposed on him by subsection (1)(a) above; and it shall be the duty of the officer to whom the transfer is made to ensure that he is treated in accordance with the provisions of this Act and of any such codes of practice as are mentioned in subsection (1) above.

(3) If the person detained is subsequently returned to the custody of the custody officer, it shall be the duty of the officer investigating the offence to report to the custody officer as to the manner in which this section and the codes of practice have been complied with while that person was in his custody.

(3A) Subsections (3B) and (3C) apply if the custody officer, in accordance with any code of practice issued under this Act, transfers or permits the transfer of a person in police detention to an officer mentioned in subsection (2)(a) for the purpose of an interview that is to be conducted to any extent by means of a live link by another police officer who is investigating the offence but is not at the police station where the person in police detention is held at the time of the interview.

(3B) The officer who is not at the police station has the same duty as the officer mentioned in subsection (2)(a) to ensure that the person is treated in accordance with the provisions of this Act and of any such codes of practice as are mentioned in subsection (1).

(3C) If the person detained is subsequently returned to the custody of the custody officer, the officer who is not at the police station also has the same duty under subsection (3) as the officer mentioned in subsection (2)(a).

(3D) For the purpose of subsection (3C), subsection (3) applies as if the reference to “in his custody” were a reference to “being interviewed”.

(3E) In subsection (3A), “live link” means an arrangement by which the officer who is not at the police station is able to see and hear, and to be seen and heard by, the person in police detention, any legal representative of that person and the officer who has custody of that person at the police station (and for this purpose any impairment of eyesight or hearing is to be disregarded).

(4) If an arrested juvenile is [moved to local authority accommodation] 1 under section 38(6) above, the custody officer shall cease in relation to that person to be subject to the duty imposed on him by subsection (1) above.

[Subsection (5) repealed]

(6) Where—

(a) an officer of higher rank than the custody officer gives directions relating to a person in police detention; and

(b) the directions are at variance—

(i) with any decision made or action taken by the custody officer in the performance of a duty imposed on him under this Part of this Act; or

(ii) with any decision or action which would but for the directions have been made or taken by him in the performance of such a duty,

the custody officer shall refer the matter at once to an officer of the rank of superintendent or above who is responsible for the police station for which the custody officer is acting as custody officer.

Section 41 of the Police and Criminal Evidence Act 1984 as amended by clause 55, 64 and 66

41: Limits on period of detention without charge.

(1) Subject to the following provisions of this section and to sections 42 and 43 below, a person shall not be kept in police detention for more than 24 hours without being charged.

(2) The time from which the period of detention of a person is to be calculated (in this Act referred to as “the relevant time”)—

- (a) in the case of a person to whom this paragraph applies, shall be—
 - (i) the time at which that person arrives at the relevant police station; or
 - (ii) the time 24 hours after the time of that person's arrest, whichever is the earlier;

(b) in the case of a person arrested outside England and Wales, shall be—

- (i) the time at which that person arrives at the first police station to which he is taken in the police area in England or Wales in which the offence for which he was arrested is being investigated; or
- (ii) the time 24 hours after the time of that person's entry into England and Wales, whichever is the earlier;

(c) in the case of a person who—

- (i) attends voluntarily at a police station; or
- (ii) accompanies a constable to a police station without having been arrested,

and is arrested at the police station, the time of his arrest;

(ca) in the case of a person who attends a police station to answer to bail granted under section 30A, the time when he arrives at the police station;

(d) in any other case, except where subsection (5) below applies, shall be the time at which the person arrested arrives at the first police station to which he is taken after his arrest.

(3) Subsection (2)(a) above applies to a person if—

- (a) his arrest is sought in one police area in England and Wales;
- (b) he is arrested in another police area; and
- (c) he is not questioned in the area in which he is arrested in order to obtain evidence in relation to an offence for which he is arrested;

and in sub-paragraph (i) of that paragraph “the relevant police station” means the first police station to which he is taken in the police area in which his arrest was sought.

(4) Subsection (2) above shall have effect in relation to a person arrested under section 31 above as if every reference in it to his arrest or his being

arrested were a reference to his arrest or his being arrested for the offence for which he was originally arrested.

(5) If—

- (a) a person is in police detention in a police area in England and Wales (“the first area”); and
- (b) his arrest for an offence is sought in some other police area in England and Wales (“the second area”); and
- (c) he is taken to the second area for the purposes of investigating that offence, without being questioned in the first area in order to obtain evidence in relation to it,

the relevant time shall be—

- (i) the time 24 hours after he leaves the place where he is detained in the first area; or
- (ii) the time at which he arrives at the first police station to which he is taken in the second area,

whichever is the earlier.

(6) When a person who is in police detention is removed to hospital because he is in need of medical treatment, any time during which he is being questioned in hospital or on the way there or back by a police officer for the purpose of obtaining evidence relating to an offence shall be included in any period which falls to be calculated for the purposes of this Part of this Act, but any other time while he is in hospital or on his way there or back shall not be so included.

(7) Subject to subsection (8) below, a person who at the expiry of 24 hours after the relevant time is in police detention and has not been charged shall be released at that time ~~either on bail or without bail.~~ –

- (a) without bail unless the pre-conditions for bail are satisfied, or*
- (b) on bail if those pre-conditions are satisfied.*

(8) Subsection (7) above does not apply to a person whose detention for more than 24 hours after the relevant time has been authorised or is otherwise permitted in accordance with section 42 or 43 below.

(9) A person released under subsection (7) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless ~~new evidence justifying a further arrest has come to light since, since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before his release;~~ *since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before his release;* but this subsection does not prevent an arrest under section 46A below.

(10) *Subsection (11) applies where—*

- (a) a person is released under subsection (7), and*
- (b) a custody officer determines that—*
 - (i) there is not sufficient evidence to charge the person with an offence, or*

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(11) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(12) Subsection (11) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

Section 42 of the Police and Criminal Evidence Act 1984 as amended by clause 55, 64 and 66

42: Authorisation of continued detention.

- (1) Where a police officer of the rank of superintendent or above who is responsible for the police station at which a person is detained has reasonable grounds for believing that—
- (a) the detention of that person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
 - (b) an offence for which he is under arrest is an indictable offence; and
 - (c) the investigation is being conducted diligently and expeditiously,
- he may authorise the keeping of that person in police detention for a period expiring at or before 36 hours after the relevant time.
- (2) Where an officer such as is mentioned in subsection (1) above has authorised the keeping of a person in police detention for a period expiring less than 36 hours after the relevant time, such an officer may authorise the keeping of that person in police detention for a further period expiring not more than 36 hours after that time if the conditions specified in subsection (1) above are still satisfied when he gives the authorisation.
- (3) If it is proposed to transfer a person in police detention to another police area, the officer determining whether or not to authorise keeping him in detention under subsection (1) above shall have regard to the distance and the time the journey would take.
- (4) No authorisation under subsection (1) above shall be given in respect of any person—
- (a) more than 24 hours after the relevant time; or
 - (b) before the second review of his detention under section 40 above has been carried out.
- (5) Where an officer authorises the keeping of a person in police detention under subsection (1) above, it shall be his duty—
- (a) to inform that person of the grounds for his continued detention; and
 - (b) to record the grounds in that person's custody record.
- (6) Before determining whether to authorise the keeping of a person in detention under subsection (1) or (2) above, an officer shall give—
- (a) that person; or
 - (b) any solicitor representing him who is available at the time when it falls to the officer to determine whether to give the authorisation,
- an opportunity to make representations to him about the detention.
- (7) Subject to subsection (8) below, the person in detention or his solicitor may make representations under subsection (6) above either orally or in writing.

(8) The officer to whom it falls to determine whether to give the authorisation may refuse to hear oral representations from the person in detention if he considers that he is unfit to make such representations by reason of his condition or behaviour.

(9) Where—

(a) an officer authorises the keeping of a person in detention under subsection (1) above; and

(b) at the time of the authorisation he has not yet exercised a right conferred on him by section 56 or 58 below,

the officer—

(i) shall inform him of that right;

(ii) shall decide whether he should be permitted to exercise it;

(iii) shall record the decision in his custody record; and

(iv) if the decision is to refuse to permit the exercise of the right, shall also record the grounds for the decision in that record.

(10) Where an officer has authorised the keeping of a person who has not been charged in detention under subsection (1) or (2) above, he shall be released from detention, ~~either on bail or without bail~~, not later than 36 hours after the relevant time, ~~unless—~~

~~(a) he has been charged with an offence; or~~

~~(b) his continued detention is authorised or otherwise permitted in accordance with section 43 below. —~~

(a) without bail unless the pre-conditions for bail are satisfied, or

(b) on bail if those pre-conditions are satisfied,

(subject to subsection (10A)).

(10A) Subsection (10) does not apply if—

(a) the person has been charged with an offence, or

(b) the person's continued detention is authorised or otherwise permitted in accordance with section 43.

(11) A person released under subsection (10) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless, ~~new evidence justifying a further arrest has come to light since~~ *since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before* his release; but this subsection does not prevent an arrest under section 46A below.

(12) Subsection (13) applies where—

(a) a person is released under subsection (10), and

(b) a custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(13) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(14) Subsection (13) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

Section 43 of the Police and Criminal Evidence Act 1984 as amended by clauses 56, 64 and 66

43: Warrants of further detention.

(1) Where, on an application on oath made by a constable and supported by an information, a magistrates' court is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it may issue a warrant of further detention authorising the keeping of that person in police detention.

(2) A court may not hear an application for a warrant of further detention unless the person to whom the application relates—

- (a) has been furnished with a copy of the information; and
- (b) has been brought before the court for the hearing.

(3) The person to whom the application relates shall be entitled to be legally represented at the hearing and, if he is not so represented but wishes to be so represented—

- (a) the court shall adjourn the hearing to enable him to obtain representation; and
- (b) he may be kept in police detention during the adjournment.

(4) A person's further detention is only justified for the purposes of this section or section 44 below if—

- (a) his detention without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
- (b) an offence for which he is under arrest is an indictable offence; and
- (c) the investigation is being conducted diligently and expeditiously.

(5) Subject to subsection (7) below, an application for a warrant of further detention may be made—

- (a) at any time before the expiry of 36 hours after the relevant time; or
- (b) in a case where—

- (i) it is not practicable for the magistrates' court to which the application will be made to sit at the expiry of 36 hours after the relevant time; but
- (ii) the court will sit during the 6 hours following the end of that period,

at any time before the expiry of the said 6 hours.

(6) In a case to which subsection (5)(b) above applies—

- (a) the person to whom the application relates may be kept in police detention until the application is heard; and
- (b) the custody officer shall make a note in that person's custody record—
 - (i) of the fact that he was kept in police detention for more than 36 hours after the relevant time; and
 - (ii) of the reason why he was so kept.

- (7) If—
- (a) an application for a warrant of further detention is made after the expiry of 36 hours after the relevant time; and
 - (b) it appears to the magistrates' court that it would have been reasonable for the police to make it before the expiry of that period, the court shall dismiss the application.
- (8) Where on an application such as is mentioned in subsection (1) above a magistrates' court is not satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it shall be its duty—
- (a) to refuse the application; or
 - (b) to adjourn the hearing of it until a time not later than 36 hours after the relevant time.
- (9) The person to whom the application relates may be kept in police detention during the adjournment.
- (10) A warrant of further detention shall—
- (a) state the time at which it is issued;
 - (b) authorise the keeping in police detention of the person to whom it relates for the period stated in it.
- (11) Subject to subsection (12) below, the period stated in a warrant of further detention shall be such period as the magistrates' court thinks fit, having regard to the evidence before it.
- (12) The period shall not be longer than 36 hours.
- (13) If it is proposed to transfer a person in police detention to a police area other than that in which he is detained when the application for a warrant of further detention is made, the court hearing the application shall have regard to the distance and the time the journey would take.
- (14) Any information submitted in support of an application under this section shall state—
- (a) the nature of the offence for which the person to whom the application relates has been arrested;
 - (b) the general nature of the evidence on which that person was arrested;
 - (c) what inquiries relating to the offence have been made by the police and what further inquiries are proposed by them;
 - (d) the reasons for believing the continued detention of that person to be necessary for the purposes of such further inquiries.
- (15) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or, subject to subsection (16) below, released, ~~either on bail or without bail.~~ —
- (a) *without bail unless the pre-conditions for bail are satisfied, or*

(b) on bail if those pre-conditions are satisfied.

(16) A person need not be released under subsection (15) above—
(a) before the expiry of 24 hours after the relevant time; or
(b) before the expiry of any longer period for which his continued detention is or has been authorised under section 42 above.

(17) Where an application under this section is refused, no further application shall be made under this section in respect of the person to whom the refusal relates, unless supported by evidence which has come to light since the refusal.

(18) Where a warrant of further detention is issued, the person to whom it relates shall, ~~be released from police detention, either on bail or without bail, upon or before the expiry of the warrant unless he is charged.~~
unless the person is charged, be released from police detention upon or before the expiry of the warrant—

*(a) without bail unless the pre-conditions for bail are satisfied, or
(b) on bail if those pre-conditions are satisfied.*

(19) A person released under subsection (18) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless, ~~new evidence justifying a further arrest has come to light since~~ *since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before his release;* but this subsection does not prevent an arrest under section 46A below.

(20) *Subsection (21) applies where—*

(a) a person is released under subsection (15) or (18), and

(b) a custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(13) *The custody officer must give the person notice in writing that the person is not to be prosecuted.*

(14) *Subsection (21) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.*

Section 44 of the Police and Criminal Evidence Act 1984 as amended by clauses 56 and 66

44: Extension of warrants of further detention.

(1) On an application on oath made by a constable and supported by an information a magistrates' court may extend a warrant of further detention issued under section 43 above if it is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified.

(2) Subject to subsection (3) below, the period for which a warrant of further detention may be extended shall be such period as the court thinks fit, having regard to the evidence before it.

(3) The period shall not—
(a) be longer than 36 hours; or
(b) end later than 96 hours after the relevant time.

(4) Where a warrant of further detention has been extended under subsection (1) above, or further extended under this subsection, for a period ending before 96 hours after the relevant time, on an application such as is mentioned in that subsection a magistrates' court may further extend the warrant if it is satisfied as there mentioned; and subsections (2) and (3) above apply to such further extensions as they apply to extensions under subsection (1) above.

(5) A warrant of further detention shall, if extended or further extended under this section, be endorsed with a note of the period of the extension.

(6) Subsections (2), (3) and (14) of section 43 above shall apply to an application made under this section as they apply to an application made under that section.

(7) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or, subject to subsection (8) below, released, ~~either on bail or without bail~~ —
(a) *without bail unless the pre-conditions for bail are satisfied, or*
(b) *on bail if those pre-conditions are satisfied.*

(8) A person need not be released under subsection (7) above before the expiry of any period for which a warrant of further detention issued in relation to him has been extended or further extended on an earlier application made under this section.

(9) *Subsection (10) applies where—*
(a) *a person is released under subsection (7), and*
(b) *a custody officer determines that—*

- (i) there is not sufficient evidence to charge the person with an offence, or*
- (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.*

(10) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(11) Subsection (10) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

Section 45 of the Police and Criminal Evidence Act 1984 as amended by clause 73

45: Detention before charge—supplementary.

(1) In ~~sections 43 and 44~~ *sections 43, 44 and 45ZB* of this Act “magistrates’ court” means a court consisting of two or more justices of the peace sitting otherwise than in open court.

(2) Any reference in this Part of this Act to a period of time or a time of day is to be treated as approximate only.

Section 45A of the Police and Criminal Evidence Act 1984 as amended by clause 73

**~~45A: Use of video-conferencing facilities for decisions about detention~~
*Use of live links for other decisions about detention***

(1) Subject to the following provisions of this section, the Secretary of State may by regulations provide that, in the case of an arrested person who is held in a police station, some or all of the functions mentioned in subsection (2) may be performed (notwithstanding anything in the preceding provisions of this Part) by an officer who—

- (a) is not present in that police station; but
- (b) has access to the use of ~~video-conferencing facilities that enable him to communicate with persons in that station~~ *a live link*.

(2) Those functions are—

- (a) the functions in relation to an arrested person taken to, or answering to bail at, a police station that is not a designated police station which, in the case of an arrested person taken to a station that is a designated police station, are functions of a custody officer under section 37, 38 or 40 above; and
- (b) the function of carrying out a review under section 40(1)(b) above (review, by an officer of at least the rank of inspector, of the detention of person arrested but not charged).

(3) Regulations under this section shall specify the use to be made in the performance of the functions mentioned in subsection (2) above of ~~the facilities mentioned in subsection (1) above~~ *a live link*.

(4) Regulations under this section shall not authorise the performance of any of the functions mentioned in subsection (2)(a) above by such an officer as is mentioned in subsection (1) above unless he is a custody officer for a designated police station.

(5) Where any functions mentioned in subsection (2) above are performed in a manner authorised by regulations under this section—

- (a) any obligation of the officer performing those functions to make a record in connection with the performance of those functions shall have effect as an obligation to cause another officer to make the record; and
- (b) any requirement for the record to be made in the presence of the arrested person shall apply to the making of that record by that other officer.

(6) Where the functions mentioned in subsection (2)(b) are performed in a manner authorised by regulations under this section, the requirements under section 40(12) and (13) above for—

- (a) the arrested person, or
- (b) a solicitor representing him,

to be given any opportunity to make representations (whether in writing or orally) to the person performing those functions shall have effect as a requirement for that person, or such a solicitor, to be given an opportunity to make representations in a manner authorised by subsection (7) below.

- (7) Representations are made in a manner authorised by this subsection—
- (a) in a case where facilities exist for the immediate transmission of written representations to the officer performing the functions, if they are made either—
 - (i) orally to that officer by means of ~~the video conferencing facilities~~ *the live link* used by him for performing those functions;
 - or
 - (ii) in writing to that officer by means of the facilities available for the immediate transmission of the representations;
 - and
 - (b) in any other case if they are made orally to that officer by means of ~~the video conferencing facilities~~ *the live link* used by him for performing the functions.

(8) Regulations under this section may make different provision for different cases and may be made so as to have effect in relation only to the police stations specified or described in the regulations.

(9) Regulations under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

~~(10) Any reference in this section to video conferencing facilities, in relation to any functions, is a reference to any facilities (whether a live television link or other facilities) by means of which the functions may be performed with the officer performing them, the person in relation to whom they are performed and any legal representative of that person all able to both see and to hear each other.~~

(10) In this section, “live link”, in relation to any functions, means an arrangement by which the functions may be performed by an officer who is not present at the police station where an arrested person is held but who is able (for the purpose of the functions) to see and hear, and to be seen and heard by, the arrested person and any legal representative of that person (and for this purpose any impairment of eyesight or hearing is to be disregarded).

Section 46A of the Police and Criminal Evidence Act 1984 as amended by clause 60

46A: Power of arrest for failure to answer to police bail.

(1) A constable may arrest without a warrant any person who, having been released on bail under this Part of this Act subject to a duty to attend at a police station, fails to attend at that police station at the time appointed for him to do so.

(1ZA) The reference in subsection (1) to a person who fails to attend at a police station at the time appointed for him to do so includes a reference to a person who—

- (a) attends at a police station to answer to bail granted subject to the duty mentioned in section 47(3)(b), but
- (b) leaves the police station at any time before the beginning of proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 in relation to him.

(1ZB) The reference in subsection (1) to a person who fails to attend at a police station at the time appointed for the person to do so includes a reference to a person who—

- (a) attends at a police station to answer to bail granted subject to the duty mentioned in section 47(3)(b), but
- (b) refuses to be searched under section 54B.

(1A) A person who has been released on bail under ~~section 37, 37C(2)(b) or 37CA(2)(b) above~~ *this Part* may be arrested without warrant by a constable if the constable has reasonable grounds for suspecting that the person has broken any of the conditions of bail.

(2) A person who is arrested under this section shall be taken to the police station appointed as the place at which he is to surrender to custody as soon as practicable after the arrest.

(3) For the purposes of—

- (a) section 30 above (subject to the obligation in subsection (2) above), and
 - (b) section 31 above,
- an arrest under this section shall be treated as an arrest for an offence.

Section 47 of the Police and Criminal Evidence Act 1984 as amended by clauses 60, 63 and 64

47: Bail after arrest

(1) Subject to the following provisions of this section, a release on bail of a person under this Part of this Act shall be a release on bail granted in accordance with sections 3, 3A, 5 and 5A of the Bail Act 1976 as they apply to bail granted by a constable.

(1A) The normal powers to impose conditions of bail shall be available to him where a custody officer releases a person on bail under *this Part (except sections 37C(2)(b) and 37CA(2)(b))* ~~section 37 above or section 38(1) above (including that subsection as applied by section 40(10) above)~~ but not in any other cases.

In this subsection, “the normal powers to impose conditions of bail” has the meaning given in section 3(6) of the Bail Act 1976.

(1B) No application may be made under section 5B of the Bail Act 1976 if a person is released on bail under section ~~37~~, 37C(2)(b) or 37CA(2)(b) above.

(1C) Subsections (1D) to (1F) below apply where a person released on bail under section ~~37~~, 37C(2)(b) or 37CA(2)(b) above is on bail subject to conditions.

(1D) The person shall not be entitled to make an application under section 43B of the Magistrates' Courts Act 1980.

(1E) A magistrates' court may, on an application by or on behalf of the person, vary the conditions of bail; and in this subsection “vary” has the same meaning as in the Bail Act 1976.

(1F) Where a magistrates' court varies the conditions of bail under subsection (1E) above, that bail shall not lapse but shall continue subject to the conditions as so varied.

(2) Nothing in the Bail Act 1976 shall prevent the re-arrest without warrant of a person released on bail subject to a duty to attend at a police station if, ~~new evidence justifying a further arrest has come to light since his release~~ *since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before the person's release.*

(3) Subject to [subsections (3A) and (4)] 7 below, in this Part of this Act references to “bail” are references to bail subject to a duty—

(a) to appear before a magistrates' court at such time and such place as the custody officer may appoint;

(b) to attend at such police station as the custody officer may appoint at such time as he may appoint for the purposes of—

- (i) proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 (use of live link direction at preliminary hearings where accused is at police station); and
 - (ii) any preliminary hearing in relation to which such a direction is given; or
- (c) to attend at such police station as the custody officer may appoint at such time as he may appoint for purposes other than those mentioned in paragraph (b) (*subject to section 47ZA*).

(3A) Where a custody officer grants bail to a person subject to a duty to appear before a magistrates' court, he shall appoint for the appearance—

- (a) a date which is not later than the first sitting of the court after the person is charged with the offence; or
- (b) where he is informed by the designated officer for the relevant local justice area that the appearance cannot be accommodated until a later date, that later date.

(4) Where a custody officer has granted bail to a person subject to a duty to appear at a police station, the custody officer may give notice in writing to that person that his attendance at the police station is not required.

(4A) Where a person has been granted bail under this Part subject to a duty to attend at a police station, a custody officer may subsequently appoint a different time, or an additional time, at which the person is to attend at the police station to answer bail.

(4B) The custody officer must give the person notice in writing of the exercise of the power under subsection (4A).

(4C) The exercise of the power under subsection (4A) does not affect the conditions of bail (if any).

(4D) A custody officer may not appoint a time for a person's attendance under subsection (4A) which is after the end of the applicable bail period in relation to the person.

(4E) Subsection (4D) is subject to section 47ZL.

[Subsection (5) repealed]

(6) Where a person who has been granted bail under this Part and either has attended at the police station in accordance with the grant of bail or has been arrested under section 46A above is detained at a police station, any time during which he was in police detention prior to being granted bail shall be included as part of any period which falls to be calculated under this Part of this Act and any time during which he was on bail shall not be so included.

(7) Where a person who was released on bail [under this Part] 15 subject to a duty to attend at a police station is re-arrested, the provisions of this Part of

this Act shall apply to him as they apply to a person arrested for the first time; but this subsection does not apply to a person who is arrested under section 46A above or has attended a police station in accordance with the grant of bail (and who accordingly is deemed by section 34(7) above to have been arrested for an offence) or to a person to whom section 46ZA(4) or (5) applies.

(8) In the Magistrates' Courts Act 1980—

(a) the following section shall be substituted for section 43—

43.— “ Bail on arrest

(1) Where a person has been granted bail under the Police and Criminal Evidence Act 1984 subject to a duty to appear before a magistrates' court, the court before which he is to appear may appoint a later time as the time at which he is to appear and may enlarge the recognizances of any sureties for him at that time.

(2) The recognizance of any surety for any person granted bail subject to a duty to attend at a police station may be enforced as if it were conditioned for his appearance before a magistrates' court for the petty sessions area in which the police station named in the recognizance is situated.”

; and

(b) the following subsection shall be substituted for section 117(3)—

“(3) Where a warrant has been endorsed for bail under subsection (1) above—

(a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and

(b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.”.

Section 60 of the Police and Criminal Evidence Act 1984 as amended by clause 75

60: ~~Tape-recording~~ *Audio recording* of interviews.

(1) It shall be the duty of the Secretary of State—

(a) to issue a code of practice in connection with the ~~tape-recording~~ *audio recording* of interviews of persons suspected of the commission of criminal offences which are held by police officers at police stations; and

(b) to make an order requiring the ~~tape-recording~~ *audio recording* of interviews of persons suspected of the commission of criminal offences, or of such descriptions of criminal offences as may be specified in the order, which are so held, in accordance with the code as it has effect for the time being.

(2) An order under subsection (1) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Section 63B of the Police and Criminal Evidence Act 1984 as amended
by clauses 72 and 77**

63B: Testing for presence of Class A drugs.

(1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if—

- (a) either the arrest condition or the charge condition is met;
- (b) both the age condition and the request condition are met; and
- (c) the notification condition is met in relation to the arrest condition, the charge condition or the age condition (as the case may be).

(1A) The arrest condition is that the person concerned has been arrested for an offence but has not been charged with that offence and either—

- (a) the offence is a trigger offence; or
- (b) a police officer of at least the rank of inspector has reasonable grounds for suspecting that the misuse by that person of a specified Class A drug caused or contributed to the offence and has authorised the sample to be taken.

(2) The charge condition is either —

- (a) that the person concerned has been charged with a trigger offence; or
- (b) that the person concerned has been charged with an offence and a police officer of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.

(3) The age condition is—

- (a) if the arrest condition is met, that the person concerned has attained the age of 18;
- (b) if the charge condition is met, that he has attained the age of 14.

(4) The request condition is that a police officer has requested the person concerned to give the sample.

(4A) The notification condition is that—

- (a) the relevant chief officer has been notified by the Secretary of State that appropriate arrangements have been made for the police area as a whole, or for the particular police station, in which the person is in police detention, and
- (b) the notice has not been withdrawn.

(4B) For the purposes of subsection (4A) above, appropriate arrangements are arrangements for the taking of samples under this section from whichever of the following is specified in the notification—

- (a) persons in respect of whom the arrest condition is met;

- (b) persons in respect of whom the charge condition is met;
- (c) persons who have not attained the age of 18.

(5) Before requesting the person concerned to give a sample, an officer must—

- (a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and
- (b) in a case within subsection (1A)(b) or (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.

(5A) In the case of a person who ~~has not attained the age of 17~~ *has not attained the age of 18* —

- (a) the making of the request under subsection (4) above;
 - (b) the giving of the warning and (where applicable) the information under subsection (5) above; and
 - (c) the taking of the sample,
- may not take place except in the presence of an appropriate adult.

(5B) If a sample is taken under this section from a person in respect of whom the arrest condition is met no other sample may be taken from him under this section during the same continuous period of detention but—

- (a) if the charge condition is also met in respect of him at any time during that period, the sample must be treated as a sample taken by virtue of the fact that the charge condition is met;
- (b) the fact that the sample is to be so treated must be recorded in the person's custody record.

(5C) Despite subsection (1)(a) above, a sample may be taken from a person under this section if—

- (a) he was arrested for an offence (the first offence),
- (b) the arrest condition is met but the charge condition is not met,
- (c) before a sample is taken by virtue of subsection (1) above he would (but for his arrest as mentioned in paragraph (d) below) be required to be released from police detention,
- (d) he continues to be in police detention by virtue of his having been arrested for an offence not falling within subsection (1A) above, and
- (e) the sample is taken before the end of the period of 24 hours starting with the time when his detention by virtue of his arrest for the first offence began.

(5D) A sample must not be taken from a person under this section if he is detained in a police station unless he has been brought before the custody officer.

(6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument. No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.

(6A) The Secretary of State may by order made by statutory instrument amend—

- (a) paragraph (a) of subsection (3) above, by substituting for the age for the time being specified a different age specified in the order, or different ages so specified for different police areas so specified;
- (b) paragraph (b) of that subsection, by substituting for the age for the time being specified a different age specified in the order.

(6B) A statutory instrument containing an order under subsection (6A) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(7) Information obtained from a sample taken under this section may be disclosed—

- (a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the Bail Act 1976) to the person concerned;
- (aa) for the purpose of informing any decision about the giving of a conditional caution under Part 3 of the Criminal Justice Act 2003 or a youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998 to the person concerned;
- (b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;
- (c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;
- (ca) for the purpose of an assessment which the person concerned is required to attend by virtue of section 9(2) or 10(2) of the Drugs Act 2005;
- (cb) for the purpose of proceedings against the person concerned for an offence under section 12(3) or 14(3) of that Act;
- (d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.

(8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.

[Subsection (9) repealed]

(10) In this section—

“appropriate adult”, in relation to a person who ~~has not attained the age of 17~~ *has not attained the age of 18*, means—

- (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation; or
- (b) a social worker of a local authority; or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a

~~person employed by the police~~ *a person employed for, or engaged on, police purposes; and “police purposes” has the meaning given by section 101(2) of the Police Act 1996;*

“relevant chief officer” means—

(a) in relation to a police area, the chief officer of police of the police force for that police area; or

(b) in relation to a police station, the chief officer of police of the police force for the police area in which the police station is situated.

Section 63F of the Police and Criminal Evidence Act 1984 as amended by clause 69

63F: Retention of section 63D material: persons arrested for or charged with a qualifying offence

- (1) This section applies to section 63D material which—
- (a) relates to a person who is arrested for, or charged with, a qualifying offence but is not convicted of that offence, and
 - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.
- (2) If the person has previously been convicted of a recordable offence which is not an excluded offence, or is so convicted before the material is required to be destroyed by virtue of this section, the material may be retained indefinitely.
- (2A) In subsection (2), references to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).*
- (3) Otherwise, material falling within subsection (4) or (5) may be retained until the end of the retention period specified in subsection (6).
- (4) Material falls within this subsection if it—
- (a) relates to a person who is charged with a qualifying offence but is not convicted of that offence, and
 - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.
- (5) Material falls within this subsection if—
- (a) it relates to a person who is arrested for a qualifying offence but is not charged with that offence,
 - (b) it was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence, and
 - (c) the Commissioner for the Retention and Use of Biometric Material has consented under section 63G to the retention of the material.
- (6) The retention period is—
- (a) in the case of fingerprints, the period of 3 years beginning with the date on which the fingerprints were taken, and
 - (b) in the case of a DNA profile, the period of 3 years beginning with the date on which the DNA sample from which the profile was derived was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).

(7) The responsible chief officer of police or a specified chief officer of police may apply to a District Judge (Magistrates' Courts) for an order extending the retention period.

(8) An application for an order under subsection (7) must be made within the period of 3 months ending on the last day of the retention period.

(9) An order under subsection (7) may extend the retention period by a period which—

- (a) begins with the end of the retention period, and
- (b) ends with the end of the period of 2 years beginning with the end of the retention period.

(10) The following persons may appeal to the Crown Court against an order under subsection (7), or a refusal to make such an order—

- (a) the responsible chief officer of police;
- (b) a specified chief officer of police;
- (c) the person from whom the material was taken.

(11) In this section—

“excluded offence”, in relation to a person, means a recordable offence—

- (a) which—
 - (i) is not a qualifying offence,
 - (ii) is the only recordable offence of which the person has been convicted, and
 - (iii) was committed when the person was aged under 18, and
- (b) for which the person was not given a relevant custodial sentence of 5 years or more,

“relevant custodial sentence” has the meaning given by section 63K(6),

“a specified chief officer of police” means—

- (a) the chief officer of the police force of the area in which the person from whom the material was taken resides, or
- (b) a chief officer of police who believes that the person is in, or is intending to come to, the chief officer's police area.

(12) *For the purposes of the definition of “excluded offence” in subsection (11)*

- (a) *references to a recordable offence or qualifying offence include an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence or (as the case may be) a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted), and*
- (b) *in the application of paragraph (b) of that definition in relation to an offence under the law of a country or territory outside England and Wales, the reference to a relevant custodial sentence of 5 years or more is to be read as a reference to any sentence of imprisonment or detention of 5 years or more.*

**Section 63H of the Police and Criminal Evidence Act 1984 as amended
by clause 69**

**63H: Retention of section 63D material: persons arrested for or charged
with a minor offence**

- (1) This section applies to section 63D material which—
- (a) relates to a person who—
 - (i) is arrested for or charged with a recordable offence other than a qualifying offence,
 - (ii) if arrested for or charged with more than one offence arising out of a single course of action, is not also arrested for or charged with a qualifying offence, and
 - (iii) is not convicted of the offence or offences in respect of which the person is arrested or charged, and
 - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence or offences in respect of which the person is arrested or charged.

(2) If the person has previously been convicted of a recordable offence which is not an excluded offence, the material may be retained indefinitely.

(2A) In subsection (2), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).

(3) In this section “*excluded offence*” has the meaning given by section 63F(11) (*read with section 63F(12)*).

Section 63K of the Police and Criminal Evidence Act 1984 as amended by clause 69

63K: Retention of section 63D material: exception for persons under 18 convicted of first minor offence

- (1) This section applies to section 63D material which—
- (a) relates to a person who—
 - (i) is convicted of a recordable offence other than a qualifying offence,
 - (ii) has not previously been convicted of a recordable offence, and
 - (iii) is aged under 18 at the time of the offence, and
 - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.

(1A) In subsection (1)(a)(ii), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).

(2) Where the person is given a relevant custodial sentence of less than 5 years in respect of the offence, the material may be retained until the end of the period consisting of the term of the sentence plus 5 years.

(3) Where the person is given a relevant custodial sentence of 5 years or more in respect of the offence, the material may be retained indefinitely.

(4) Where the person is given a sentence other than a relevant custodial sentence in respect of the offence, the material may be retained until—

- (a) in the case of fingerprints, the end of the period of 5 years beginning with the date on which the fingerprints were taken, and
- (b) in the case of a DNA profile, the end of the period of 5 years beginning with—
 - (i) the date on which the DNA sample from which the profile was derived was taken, or
 - (ii) if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken.

(5) But if, before the end of the period within which material may be retained by virtue of this section, the person is again convicted of a recordable offence, the material may be retained indefinitely.

(5A) In subsection (5), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.

- (6) In this section, “relevant custodial sentence” means any of the following—
- (a) a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000;
 - (b) a sentence of a period of detention and training (excluding any period of supervision) which a person is liable to serve under an order under section 211 of the Armed Forces Act 2006 or a secure training order.

Section 63N of the Police and Criminal Evidence Act 1984 as amended by clause 69

63N: Retention of section 63D material given voluntarily

- (1) This section applies to the following section 63D material—
- (a) fingerprints taken with the consent of the person from whom they were taken, and
 - (b) a DNA profile derived from a DNA sample taken with the consent of the person from whom the sample was taken.
- (2) Material to which this section applies may be retained until it has fulfilled the purpose for which it was taken or derived.
- (3) Material to which this section applies which relates to—
- (a) a person who is convicted of a recordable offence, or
 - (b) a person who has previously been convicted of a recordable offence (other than a person who has only one exempt conviction), may be retained indefinitely.
- (4) For the purposes of subsection (3)(b), a conviction is exempt if it is in respect of a recordable offence, other than a qualifying offence, committed when the person is aged under 18.
- (5) The reference to a recordable offence in subsection (3)(a) includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.*
- (6) The reference to a recordable offence in subsections (3)(b) and (4), and the reference to a qualifying offence in subsection (4), includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence or (as the case may be) a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).*

Section 65 of the Police and Criminal Evidence Act 1984 as amended by clause 72

65: Part V—supplementary.

(1) In this Part of this Act—

“analysis”, in relation to a skin impression, includes comparison and matching;

“appropriate consent” means —

(a) in relation to a person who ~~has attained the age of 17 years~~ *has attained the age of 18 years*, the consent of that person;

(b) in relation to a person who has not attained that age but has attained the age of 14 years, the consent of that person and his parent or guardian; and

(c) in relation to a person who has not attained the age of 14 years, the consent of his parent or guardian;

“DNA profile” means any information derived from a DNA sample;

“DNA sample” means any material that has come from a human body and consists of or includes human cells;

“extradition arrest power” means any of the following—

(a) a Part 1 warrant (within the meaning given by the Extradition Act 2003) in respect of which a certificate under section 2 of that Act has been issued;

(b) section 5 of that Act;

(c) a warrant issued under section 71 of that Act;

(d) a provisional warrant (within the meaning given by that Act);

“fingerprints”, in relation to any person, means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of—

(a) any of that person's fingers; or

(b) either of his palms;

“intimate sample” means—

(a) a sample of blood, semen or any other tissue fluid, urine or pubic hair;

(b) a dental impression;

(c) a swab taken from any part of a person's genitals (including pubic hair) or from a person's body orifice other than the mouth;

“intimate search” means a search which consists of the physical examination of a person's body orifices other than the mouth;

“non-intimate sample” means—

(a) a sample of hair other than pubic hair;

(b) a sample taken from a nail on from under a nail;

(c) a swab taken from any part of a person's body other than a part from which a swab taken would be an intimate sample;

(d) saliva;

(e) a skin impression;

“offence”, in relation to any country or territory outside England and Wales, includes an act punishable under the law of that country or territory, however it is described;

“registered dentist” has the same meaning as in the Dentists Act 1984;

“skin impression”, in relation to any person, means any record (other than a fingerprint) which is a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of the whole or any part of his foot or of any other part of his body;

“registered health care professional” means a person (other than a medical practitioner) who is—

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State;

“the responsible chief officer of police”, in relation to material to which section 63D or 63R applies, means the chief officer of police for the police area—

- (a) in which the material concerned was taken, or
- (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken;

“section 63D material” means fingerprints or DNA profiles to which section 63D applies;

“speculative search”, in relation to a person's fingerprints or samples, means such a check against other fingerprints or samples or against information derived from other samples as is referred to in section 63A(1) above;

“sufficient” and “insufficient”, in relation to a sample, means (subject to subsection (2) below) sufficient or insufficient (in point of quantity or quality) for the purpose of enabling information to be produced by the means of analysis used or to be used in relation to the sample.

“the terrorism provisions” means section 41 of the Terrorism Act 2000, and any provision of Schedule 7 to that Act conferring a power of detention; and

“terrorism” has the meaning given in section 1 of that Act.

“terrorist investigation” has the meaning given by section 32 of that Act;

(1A) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(1B) An order under subsection (1) shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) References in this Part of this Act to a sample's proving insufficient include references to where, as a consequence of—

- (a) the loss, destruction or contamination of the whole or any part of the sample,
- (b) any damage to the whole or a part of the sample, or
- (c) the use of the whole or a part of the sample for an analysis which produced no results or which produced results some or all of which must be regarded, in the circumstances, as unreliable,

the sample has become unavailable or insufficient for the purpose of enabling information, or information of a particular description, to be obtained by means of analysis of the sample.

(2A) In subsection (2), the reference to the destruction of a sample does not include a reference to the destruction of a sample under section 63R (requirement to destroy samples).

(2B) Any reference in sections 63F, 63H, 63P or 63U to a person being charged with an offence includes a reference to a person being informed that the person will be reported for an offence.

(3) For the purposes of this Part, a person has in particular been convicted of an offence under the law of a country or territory outside England and Wales if—

- (a) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity; or
- (b) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against him in respect of the offence.

Section 67 of the Police and Criminal Evidence Act 1984 as amended by clause 76 and paragraph 7 of Schedule 12

67: Codes of practice – supplementary

(1) In this section, “code” means a code of practice under section 60, 60A or 66.

(2) The Secretary of State may at any time revise the whole or any part of a code.

(3) A code may be made, or revised, so as to—
(a) apply only in relation to one or more specified areas,
(b) have effect only for a specified period,
(c) apply only in relation to specified offences or descriptions of offender.

(4) Before issuing a code, or any revision of a code, the Secretary of State must consult—
(a) such persons as appear to the Secretary of State to represent the views of police and crime commissioners,
(aa) the Mayor's Office for Policing and Crime,
(ab) the Common Council of the City of London,
(b) ~~the Association of Chief Police Officers of England, Wales and Northern Ireland~~ *the National Police Chiefs' Council*,
(c) the General Council of the Bar,
(d) the Law Society of England and Wales,
(e) the Institute of Legal Executives, and
(f) such other persons as he thinks fit.

*(4A) The duty to consult under subsection (4) does not apply to a revision of a code where the Secretary of State considers that—
(a) the revision is necessary in consequence of legislation, and
(b) the Secretary of State has no discretion as to the nature of the revision.*

(4B) Where, in consequence of subsection (4A), a revision of a code is issued without prior consultation with the persons mentioned in subsection (4), the Secretary of State must (at the same time as issuing the revision) publish a statement that, in his or her opinion, paragraphs (a) and (b) of subsection (4A) apply to the revision.

*(4C) In subsection (4A), “legislation” means any provision of—
(a) an Act,
(b) subordinate legislation within the meaning of the Interpretation Act 1978.*

(5) A code, or a revision of a code, does not come into operation until the Secretary of State by order so provides.

(6) The power conferred by subsection (5) is exercisable by statutory instrument.

(7) An order bringing a code into operation may not be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(7A) An order bringing a revision of a code into operation must be laid before Parliament if the order has been made without a draft having been so laid and approved by a resolution of each House.

(7B) When an order or draft of an order is laid, the code or revision of a code to which it relates must also be laid.

(7C) No order or draft of an order may be laid until the consultation required by subsection (4) has taken place.

(7D) An order bringing a code, or a revision of a code, into operation may include transitional or saving provisions.

[Subsection (8) repealed]

(9) Persons other than police officers who are charged with the duty of investigating offences or charging offenders shall in the discharge of that duty have regard to any relevant provision of a code.

(9A) Persons on whom powers are conferred by—
(a) any designation under section 38 or 39 of the Police Reform Act 2002 (c. 30) (police powers for civilian staff *and volunteers*), or
(b) any accreditation under section 41 of that Act (accreditation under community safety accreditation schemes),
shall have regard to any relevant provision of a code in the exercise or performance of the powers and duties conferred or imposed on them by that designation or accreditation.

(10) A failure on the part—
(a) of a police officer to comply with any provision of a code;
(b) of any person other than a police officer who is charged with the duty of investigating offences or charging offenders to have regard to any relevant provision of a code in the discharge of that duty, or
(c) of a person designated under section 38 or 39 or accredited under section 41 of the Police Reform Act 2002 (c. 30) to have regard to any relevant provision of a code in the exercise or performance of the powers and duties conferred or imposed on him by that designation or accreditation,
shall not of itself render him liable to any criminal or civil proceedings.

(11) In all criminal and civil proceedings any code shall be admissible in evidence; and if any provision of a code appears to the court or tribunal

conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(12) In subsection (11) “criminal proceedings” includes service proceedings.

(13) In this section “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.

Section 113 of the Police and Criminal Evidence Act 1984 as amended by clause 75

113: Application of Act to Armed Forces.

- (1) The Secretary of State may by order make provision in relation to—
- (a) investigations of service offences,
 - (b) persons arrested under a power conferred by or under the Armed Forces Act 2006,
 - (c) persons charged under that Act with service offences,
 - (d) persons in service custody, or
 - (e) persons convicted of service offences,
- which is equivalent to that made by any provision of Part 5 of this Act (or this Part of this Act so far as relating to that Part), subject to such modifications as the Secretary of State considers appropriate.
- (2) Section 67(9) above shall not have effect in relation to investigations of service offences.
- (3) The Secretary of State shall issue a code of practice, or a number of such codes, for persons other than police officers who are concerned with—
- (a) the exercise of powers conferred by or under Part 3 of the Armed Forces Act 2006; or
 - (b) investigations of service offences.
- (3A) In subsections (4) to (10), “code” means a code of practice under subsection (3).
- (4) Without prejudice to the generality of subsection (3) above, a code may contain provisions, in connection with the powers mentioned in subsection (3)(a) above or the investigations mentioned in subsection (3)(b) above, as to the following matters—
- (a) the ~~tape-recording~~ *audio recording* of interviews;
 - (b) searches of persons and premises; and
 - (c) the seizure of things found on searches.
- (5) The Secretary of State may at any time revise the whole or any part of a code.
- (6) A code may be made, or revised, so as to—
- (a) apply only in relation to one or more specified areas,
 - (b) have effect only for a specified period,
 - (c) apply only in relation to specified offences or descriptions of offender.
- (7) The Secretary of State must lay a code, or any revision of a code, before Parliament.

(8) A failure on the part of any person to comply with any provision of a code shall not of itself render him liable to any criminal or civil proceedings except those to which this subsection applies.

(9) Subsection (8) above applies to proceedings in respect of an offence under a provision of Part 1 of the Armed Forces Act 2006 other than section 42 (criminal conduct).

(10) In all criminal and civil proceedings any code shall be admissible in evidence and if any provision of a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

[Subsection (11) repealed]

(12) Parts VII and VIII of this Act have effect for the purposes of [service proceedings subject to any modifications which the Secretary of State may by order specify.

(12A) In this section—

“service offence” has the meaning given by section 50 of the Armed Forces Act 2006;

“criminal proceedings” includes service proceedings;

“service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and

“civilian court” has the meaning given by section 374 of the Armed Forces Act 2006;

and section 376(1) and (2) of that Act (meaning of “convicted” in relation to summary hearings and the SAC) apply for the purposes of subsection (1)(e) above as they apply for the purposes of that Act.

(13) An order under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(14) Section 373(5) and (6) of the Armed Forces Act 2006 (supplementary provisions) apply in relation to an order under this section as they apply in relation to an order under that Act.

Section 95 of the Road Traffic Regulation Act 1984 as amended by clause 45

NB: the Bill repeals this section so far as it extends to England and Wales. The following changes apply so far as it extends to Scotland.

95: Appointment of traffic wardens.

~~(1) A chief officer of police in England and Wales (other than the Commissioner of Police for the City of London), and the Common Council of the City of London may, subject to subsection (5) below, appoint persons to discharge, in aid of the police, functions normally undertaken by the police in connection with the control and regulation of, or the enforcement of the law relating to, traffic (including pedestrians) or stationary vehicles; and persons so appointed by the Common Council shall act under the direction of the chief officer of police, but shall be deemed to be employed by the Common Council.~~

(2) Police staff appointed under section 26 of the Police and Fire Reform (Scotland) Act 2012 and employed by the Scottish Police Authority may be designated by the chief constable of the Police Service of Scotland to discharge ~~any such functions as are mentioned in subsection (1) above~~, *in aid of the police, functions normally undertaken by the police in connection with the control and regulation of, or the enforcement of the law relating to, traffic (including pedestrians) or stationary vehicles.*

~~(3) Persons employed under subsection (1) or in accordance with subsection (2) above shall be known as “traffic wardens”.~~

(4) A person ~~(whether in England or Wales or in Scotland)~~ employing traffic wardens for the purposes mentioned in ~~subsection (1)~~ *subsection (2) above* (the “employer”) may also (subject to subsection (5) below) employ them to act, under the direction of the chief officer of police, for other purposes connected with the control and regulation of traffic (including pedestrians) or stationary vehicles; and in particular—

(a) where the employer provides school crossing patrols under section 26 of this Act, whether as being the appropriate authority or by agreement with the appropriate authority, the traffic wardens may be employed to act as school crossing patrols, and

(b) the employer may, under arrangements made with a local authority ~~or (in England or Wales) with the Secretary of State~~, employ the traffic wardens to act as parking attendants at street parking places provided or controlled by the local authority ~~or, as the case may be, by the Secretary of State.~~

~~(4A) For the purposes of subsection (4) above, Transport for London is a local authority.~~

(5) Traffic wardens shall not be employed to discharge functions other than those prescribed as appropriate for the purpose by order of the Secretary of

State made by statutory instrument; and no order shall be made under this subsection unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament.

(6) A [person] 10 shall not employ as a traffic warden any person who is a constable, and shall take steps to ensure that only persons adequately qualified are appointed traffic wardens, and that traffic wardens are suitably trained before undertaking their duties.

(7) Traffic wardens shall wear such uniform as the Secretary of State may determine, and shall not act as traffic wardens when not in uniform.

Section 96 of the Road Traffic Regulation Act 1984 as amended by clause 45

NB: the Bill repeals this section so far as it extends to England and Wales. The following changes apply so far as it extends to Scotland.

96: Additional powers of traffic wardens.

(1) An order under section 95(5) of this Act may provide that, for the purposes of any functions which traffic wardens are authorised by the order to discharge, but subject to the provisions of subsection (3) below, references to a constable or police constable in all or any of the enactments specified in subsection (2) below shall include references to a traffic warden.

(2) The enactments referred to in subsection (1) above are—

~~(a) section 52 of the Metropolitan Police Act 1839, so far as it relates to the giving by the commissioner of directions to constables for preventing obstructions;~~

~~(b) section 22 of the local Act of the second and third year of the reign of Queen Victoria, chapter 94, so far as it makes similar provision with respect to the City of London;~~

(bb) in this Act—

(i) section 100(3) (which relates to the interim disposal of vehicles removed under section 99); and

(ii) sections 104 and 105 (which relate to the immobilisation of illegally parked vehicles);

(c) in the Road Traffic Act 1988 —

(i) sections 35(1), 36 and 37 (which relate to compliance with traffic directions given by police constables);

(ii) section 163 (which relates to the power of a constable to stop vehicles);

(iii) section 164(1), (2) and (6) (which relate to the power of a constable to require the production of a driving licence in certain circumstances); and

(iv) sections 165 and 169 (which relate to the powers of constables to obtain names and addresses of drivers and others and to require production of evidence of insurance or security and test certificates); and

~~(d) section 11 of the Road Traffic Offenders Act 1988.~~

(3) Any power of a constable for the purposes of the following provisions of [the Road Traffic Act 1988, namely, sections 163, 164(1), (2) and (6) and 165] 9, shall be exercisable by a traffic warden under an order made by virtue of subsection (1) above only where—

(a) the traffic warden is assisting a constable, or

(b) the traffic warden has reasonable cause to believe that an offence has been committed of a description specified in relation to the section in question for the purposes of this paragraph by the order, and, in the case of a power for the purposes of section 165 of the Road Traffic Act

1988, the order authorises the use of that power in relation to that offence, or

(c) in the case of a power for the purposes of section 159 of that Act, the traffic warden is exercising functions in connection with the control and regulation of traffic (including pedestrians) or stationary vehicles.

(4) Where an order has been made pursuant to subsection (2)(bb)(i) above, in section 100(3) of this Act the words “chief officer of the police force to which the constable belongs” shall be deemed to include a reference to a chief officer of police under whose direction a traffic warden acts.

(5) Any order made under section 95(5) of this Act may make different provision for different cases or classes of case, or in respect of different areas.

Section 97 of the Road Traffic Regulation Act 1984 as amended by clause 45

NB: the Bill repeals this section so far as it extends to England and Wales. The following changes apply so far as it extends to Scotland.

97: Supplementary provisions as to traffic wardens.

(1) Neither regulations under section 7 of the Superannuation Act 1972 nor any local Act scheme within the meaning of section 8 of that Act shall apply to traffic wardens by virtue of section 95 or 96 of this Act; but, in relation to such traffic wardens as their employer may determine, those regulations (or, if the expenses of that employer are paid by a local Act authority, the local Act scheme) shall apply, subject to such adaptations, modifications and exceptions as the Secretary of State may by regulations prescribe.

[Subsection (2) repealed]

(3) The expenses incurred for the purposes of or in connection with the functions of ~~the Common Council or~~ a police authority under section 95 of this Act shall be defrayed as if those expenses were expenses incurred for the purposes of the police force maintained by ~~the Common Council or the~~ authority.

[Subsection (4) repealed]

(5) Any power of a person to acquire, or authorise the acquisition of, land for the purposes of a police force shall include power to acquire, or authorise the acquisition of land for the purposes of the functions of the person under sections 95 and 96 of this Act; and any land occupied for the purposes of those functions shall be deemed to be occupied for the purposes of the police force.

Schedule to the Firearms (Amendment) Act 1988 as amended by clause 115

Firearms and ammunition in museums

1-

(1) The Secretary of State may, on an application in writing made on behalf of a museum to which this Schedule applies, grant a museum firearms licence in respect of that museum.

(2) While a museum firearms licence (in this Schedule referred to as a "licence") is in force in respect of a museum the persons responsible for its management and their servants—

(a) may, without holding a firearm certificate or shot gun certificate, have in their possession, and purchase or acquire, for the purposes of the museum firearms and ammunition which are or are to be normally exhibited or kept on its premises or on such of them as are specified in the licence; and

(b) if the licence so provides, may, without the authority of the Secretary of State or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) under section 5 of the principal Act, have in their possession, purchase or acquire for those purposes any prohibited weapons and ammunition which are or are to be normally exhibited or kept as aforesaid.

(3) The Secretary of State or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) shall not grant a licence in respect of a museum unless, after consulting the chief officer of police for the area in which the premises to which the licence is to apply are situated, he or they is satisfied that the arrangements for exhibiting and keeping the firearms and ammunition in question are or will be such as not to endanger the public safety or the peace.

(4) A licence shall be in writing and be subject to such conditions specified in it as the Secretary of State thinks necessary or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) think necessary for securing the safe custody of the firearms and ammunition in question.

(5) A licence shall, unless previously revoked or cancelled, continue in force for five years from the date on which it is granted but shall be renewable for further periods of five years at a time and sub-paragraph (3) above shall apply to the renewal of a licence as it applies to a grant.

(6) The Secretary of State may by order substitute for the periods mentioned in sub-paragraph (5) above such longer or shorter periods as are specified in the order.

(7) The power to make an order under sub-paragraph (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

2.—

(1) The Secretary of State may by notice in writing to the persons responsible for the management of a museum—

- (a) vary the conditions specified in a licence held in respect of the museum; or
- (b) vary the licence so as to extend or restrict the premises to which it applies.

(2) A notice under sub-paragraph (1) above may require the persons in question to deliver up the licence to the Secretary of State or, in the case of a notice given by them (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers within twenty-one days of the date of the notice for the purpose of having it amended in accordance with the variation.

(3) The Secretary of State may by notice in writing to the persons responsible for the management of a museum revoke a licence held in respect of the museum if—

- (a) at any time, after consulting the chief officer of police for the area in which the premises to which it applies are situated, he is satisfied that the continuation of the exemption conferred by the licence would result in danger to the public safety or to the peace; or
- (b) those persons or any of them or any servant of theirs has been convicted of an offence under this Schedule; or
- (c) those persons have failed to comply with a notice under this paragraph requiring them to deliver up the licence.

(4) Where a licence is revoked the Secretary of State or, in the case of a revocation made by them (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall by notice in writing require the persons responsible for the management of the museum in question to surrender the licence to him or them .

~~3.—~~

~~(1) There shall be payable—~~

- ~~(a) on the grant or renewal of a licence a fee of £200 or of such lesser amount as the Secretary of State may in any particular case determine;~~
- ~~(b) on the extension of a licence to additional premises, a fee of £75.~~

~~(2) This paragraph shall be included in the provisions that may be amended by an order under section 43 of the principal Act.~~

3A-

(1) The Secretary of State may by regulations authorise the appropriate national authority to require payment of a fee before a licence is granted, varied or renewed.

(2) Regulations under sub-paragraph (1) must specify the amount of any fee that may be charged.

(3) The regulations may make different provision for different cases (including specifying different fees for different cases).

(4) The regulations may include—

- (a) incidental, supplementary or consequential provision;*
- (b) transitional, transitory or saving provision.*

(5) Regulations under this paragraph are to be made by statutory instrument.

(6) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section, “the appropriate national authority” means—

- (a) in or as regards England and Wales, the Secretary of State;*
- (b) in or as regards Scotland, the Scottish Ministers.*

4.—

(1) It is an offence—

- (a) for a person knowingly or recklessly to make a statement false in any material particular for the purpose of procuring the grant, renewal or variation of a licence;
- (b) for the persons or any of the persons responsible for the management of a museum to fail to comply or to cause or permit another person to fail to comply with any condition specified in the licence held in respect of that museum.

(2) An offence under sub-paragraph (1) above shall be punishable on summary conviction with imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(3) It is an offence for a person to fail to comply with a notice under paragraph 2(4) above; and that offence shall be punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

(4) In proceedings against any person for an offence under sub-paragraph (1)(b) above it is a defence for him to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) Where an offence under this paragraph committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its members sub-paragraph (5) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

5-

(1) This Schedule applies to the following museums—

The Armouries, H.M. Tower of London

The National Army Museum

The National Museum of Wales

The Royal Air Force Museum

The Science Museum

The Victoria and Albert Museum

The Royal Marines Museum

The Fleet Air Arm Museum

The Royal Navy Museum

The Royal Navy Submarine Museum

The British Museum

The Imperial War Museum

The National Maritime Museum

The National Museums of Scotland

The National Museums and Galleries on Merseyside

The Wallace Collection

Any other museum or similar institution in Great Britain which has as its purpose, or one of its purposes, the preservation for the public benefit of a collection of historical, artistic or scientific interest which includes or is to include firearms and which is maintained wholly or mainly out of money provided by Parliament or by a local authority.

(2) This Schedule also applies to any museum or similar institution in Great Britain which is of a description specified in an order made for the purposes of this sub-paragraph by the Secretary of State or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) and whose collection includes or is to include firearms.

(3) An order under sub-paragraph (2) above may specify any description of museum or similar institution which appears to the Secretary of State or, as the case may be, the Scottish Ministers to have as its purpose, or one of its purposes, the preservation for the public benefit of a collection of historical, artistic or scientific interest.

(4) The power to make an order under sub-paragraph (2) above shall be exercisable by statutory instrument.

6-

In this Schedule references to the persons responsible for the management of a museum are to the board of trustees, governing body or other person or persons (whether or not incorporated) exercising corresponding functions.

Section 136 of the Criminal Justice and Public Order Act 1994 as amended by paragraphs 6 and 7 of Schedule 15

136: Execution of warrants.

(1) A warrant issued in England, Wales or Northern Ireland for the arrest of a person charged with an offence may (without any endorsement) be executed in Scotland by any constable of any police force of the country of issue or of the country of execution, or by a constable appointed under ~~section 53 of the British Transport Commission Act 1949~~ *section 24 of the Railways and Transport Safety Act 2003*, as well as by any other persons within the directions in the warrant.

(2) A warrant issued in—

- (a) Scotland; or
- (b) Northern Ireland,

for the arrest of a person charged with an offence may (without any endorsement) be executed in England or Wales by any constable of any police force of the country of issue or of the country of execution, or by a constable appointed under ~~section 53 of the British Transport Commission Act 1949~~ *section 24 of the Railways and Transport Safety Act 2003*, as well as by any other persons within the directions in the warrant.

(3) A warrant issued in—

- (a) England or Wales; or
- (b) Scotland,

for the arrest of a person charged with an offence may (without any endorsement) be executed in Northern Ireland by any constable of any police force of the country of issue or of the country of execution as well as by any other persons within the directions in the warrant.

(4) A person arrested in pursuance of a warrant shall be taken, as soon as reasonably practicable, to any place to which he is committed by, or may be conveyed under, the warrant.

(4A) The following provisions apply in relation to the execution under this section by a constable of a warrant issued in England and Wales or Northern Ireland—

- (a) where the warrant is executed under subsection (1), the constable has the same powers of entry and search for the purpose of executing the warrant as a constable of a police force in Scotland would have if the warrant had been issued in Scotland;*
- (b) where the warrant is executed under subsection (2)(b) or (3)(a), the constable has the powers of entry and search conferred by section 137E;*
- (c) where the warrant is executed under subsection (1), (2)(b) or (3)(a), 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.

(5) A constable executing a warrant—

~~(a) under subsection (1), (2)(b) or (3)(a) of this section may use reasonable force and shall have the powers of search conferred by section 139;~~

(b) under subsection (2)(a) or (3)(b) of this section shall have the same powers and duties, and the person arrested the same rights, as they would have had if execution had been in Scotland by a constable of a police force in Scotland.

(6) Any other person within the directions in a warrant executing that warrant under this section shall have the same powers and duties, and the person arrested the same rights, as they would have had if execution had been in the country of issue by the person within those directions.

(7) This section applies as respects—

(a) a warrant of commitment and a warrant to arrest a witness issued by a judicial authority in England, Wales or Northern Ireland as it applies to a warrant for arrest; and

(b) a warrant for committal, a warrant to imprison (or to apprehend and imprison) and a warrant to arrest a witness issued by a judicial authority in Scotland as it applies to a warrant for arrest.

(7A) This section applies as respects a warrant issued under paragraph 3(2) of Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000 (warrant for arrest of offender referred back to court by youth offender panel) or under Schedule 2 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation orders: breach etc.) as it applies to a warrant issued in England or Wales for the arrest of a person charged with an offence,

(8) In this section “judicial authority” means any justice of the peace or the judge of any court exercising jurisdiction in criminal proceedings; and any reference to a part of the United Kingdom in which a warrant may be executed includes a reference to the adjacent sea and other waters within the seaward limits of the territorial sea.

(9) Powers under this section and ~~sections 137 to 139~~ *sections 137 and 137E to 139* may be exercised by an officer of Revenue and Customs in accordance with section 87 of the Finance Act 2007.

Section 137 of the Criminal Justice and Public Order Act 1994 as amended by paragraphs 2, 6 and 8 of Schedule 15

137: Cross-border powers of arrest etc.

(1) If the condition applicable to this subsection is satisfied, any constable of a police force in England and Wales who has reasonable grounds for suspecting that an offence has been committed or attempted in England or Wales and that the suspected person is in Scotland or in Northern Ireland may arrest without a warrant the suspected person wherever he is in Scotland or in Northern Ireland.

(2) If the condition applicable to this subsection is satisfied, any constable of a police force in Scotland who has reasonable grounds for suspecting that an offence has been committed or attempted in Scotland and that the suspected person is in England or Wales or in Northern Ireland may, as respects the suspected person, wherever he is in England or Wales or in Northern Ireland, exercise the same powers of arrest or detention as it would be competent for him to exercise were the person in Scotland.

(2A) The powers conferred by subsections (1) and (2) may be exercised in England and Wales and Scotland by a constable appointed under ~~section 53 of the British Transport Commission Act 1949~~ *section 24 of the Railways and Transport Safety Act 2003*.

~~(3) If the conditions applicable to this subsection are satisfied~~ *the condition applicable to this subsection is satisfied*, any constable of a police force in Northern Ireland who has reasonable grounds for suspecting that an offence has been committed or attempted in Northern Ireland and that the suspected person is in England or Wales or in Scotland may arrest without a warrant the suspected person wherever he is in England or Wales or in Scotland.

(4) The condition applicable to subsection (1) above is that it appears to the constable that it would have been lawful for him to have exercised the powers had the suspected person been in England and Wales.

(5) The condition applicable to subsection (2) above is that it appears to the constable that it would have been lawful for him to have exercised the powers had the suspected person been in Scotland.

~~(6) The conditions applicable to subsection (3) above are—~~
~~(a) that the suspected offence is an arrestable offence; or~~
~~(b) that, in the case of any other offence, it appears to the constable that service of a summons is impracticable or inappropriate for any of the reasons specified in subsection (3) of section 138.~~

(6) The condition applicable to subsection (3) above is that it appears to the constable that it would have been lawful for him to have exercised the powers had the suspected person been in Northern Ireland.

(7) It shall be the duty of a constable who has arrested or, as the case may be detained, a person under this section—

(a) if he arrested him in Scotland, to take the person arrested either to the nearest convenient designated police station in England or in Northern Ireland or to a designated police station in a police area in England and Wales or in Northern Ireland in which the offence is being investigated;

(b) if he arrested him in England or Wales, to take the person arrested to the nearest convenient police station in Scotland or to a police station within a sheriffdom in which the offence is being investigated or to the nearest convenient designated police station in Northern Ireland or to a designated police station in Northern Ireland in which the offence is being investigated;

(c) if he detained him in England or Wales, to take the person detained to either such police station in Scotland as is mentioned in paragraph (b) above, or to the nearest convenient designated police station in England or Wales;

(d) if he arrested him in Northern Ireland, to take the person arrested either to the nearest convenient designated police station in England or Wales or to a designated police station in a police area in England and Wales in which the offence is being investigated or to the nearest convenient police station in Scotland or to a police station within a sheriffdom in which the offence is being investigated;

(e) if he detained him in Northern Ireland, to take the person detained to either such police station in Scotland as is mentioned in paragraph (b) above, or to the nearest convenient designated police station in Northern Ireland;

and to do so as soon as reasonably practicable.

(7A) The following provisions apply in relation to an arrest under this section by a constable under subsection (1) or (3)—

(a) where the arrest is under subsection (1) in Northern Ireland or under subsection (3) in England and Wales, the constable has the powers of entry and search conferred by section 137E;

(b) where the arrest is under subsection (1) or (3) in Scotland, 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 or attempted 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.

(8) A constable—

~~(a) arresting a person under subsection (1) or (3) above, may use reasonable force and shall have the powers of search conferred by section 139;~~

(b) arresting a person under subsection (2) above shall have the same powers and duties, and the person arrested the same rights, as they would have had if the arrest had been in Scotland, but subject to the modifications in subsections (1A) and (1B) of section 138 ; and
(c) detaining a person under subsection (2) above shall act in accordance with the provisions applied by subsection (2)(as modified by subsections (6) to (9) of section 138.

(9) In this section—

~~“arrestable offence” has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (“the 1989 Order”);~~

“designated police station” has the same meaning as in the Police and Criminal Evidence Act 1984 or, in relation to Northern Ireland, as in the 1989 Order; and

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

(10) This section shall not prejudice any power of arrest conferred apart from this section.

Section 138 of the Criminal Justice and Public Order Act 1994 as amended by paragraph 3 of Schedule 15

138: Powers of arrest etc.: supplementary provisions.

(1) The following provisions have effect to supplement section 137 (“the principal section”).

(1A) Where a person is arrested under subsection (2) of the principal section, section 15 of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) (right of persons arrested or detained to have intimation sent to another person) applies with the following modifications—

- (a) in subsections (1)(a) and (2), omit the reference to “other premises”;
- (b) the right under subsection (1)(a) arises when the person is arrested;
- (c) the reference in subsection (1)(a) to the place where the person is being held is to be read as a reference to the police station to which the person is to be taken;
- (d) subsection (2) is to be read as requiring that the person be informed of the right under subsection (1)(a) on being arrested; and
- (e) the rights and duties under subsection (4) arise when the person is arrested.

(1B) Where a person is arrested under subsection (2) of the principal section but not charged in connection with an offence, subsections (2) to (9) of section 15A of the 1995 Act (right of suspects to have access to a solicitor) apply with the following modifications—

- (a) omit the references to “other premises or place” in subsections (2) and (6);
- (b) the right under subsection (2) arises when the person is arrested;
- (c) the reference in subsection (2)(b) to the police station where the person is being detained is to be read as a reference to the police station to which the person is to be taken; and
- (d) subsection (6) is to be read as requiring that the person be informed of the rights under section 15A(2) and (3) on being arrested.

(2) Where a person is detained under subsection (2) of the principal section, the provisions of the 1995 Act listed in subsection (2A) below apply as they apply to detention under section 14(1) of that Act, but with the modifications mentioned in subsections (6) to (9) below.

(2A) Those provisions are—

- (a) section 14(2) to (10) (detention and questioning at police station);
- (b) sections 14A and 14B (extension of period of detention under section 14);
- (c) section 15(1), (2) and (4) to (6) (right of persons arrested or detained to have intimation sent to another person);
- (d) section 15A(2) to (9) (right of suspects to have access to a solicitor);
- (e) section 18 (prints, samples etc. in criminal investigations).

~~(3) The reasons referred to in subsection (6)(b) of the principal section are that—~~

- ~~(a) the name of the suspected person is unknown to, and cannot readily be ascertained by, the constable;~~
- ~~(b) the constable has reasonable grounds for doubting whether a name furnished by the suspected person as his name is his real name;~~
- ~~(c) either—
 - ~~(i) the suspected person has failed to furnish a satisfactory address for service; or~~
 - ~~(ii) the constable has reasonable grounds for doubting whether an address furnished by the suspected person is a satisfactory address for service;~~~~
- ~~(d) the constable has reasonable grounds for believing that arrest is necessary to prevent the suspected person—
 - ~~(i) causing physical injury to himself or any other person;~~
 - ~~(ii) suffering physical injury;~~
 - ~~(iii) causing loss of or damage to property;~~
 - ~~(iv) committing an offence against public decency; or~~
 - ~~(v) causing an unlawful obstruction of a highway or road; or~~~~
- ~~(e) the constable has reasonable grounds for believing that arrest is necessary to protect a child or other vulnerable person from the suspected person.~~

~~(4) For the purposes of subsection (3) above an address is a satisfactory address for service if it appears to the constable—~~

- ~~(a) that the suspected person will be at it for a sufficiently long period for it to be possible to serve him with process; or~~
- ~~(b) that some other person specified by the suspected person will accept service of process for the suspected person at it.~~

~~(5) Nothing in subsection (3)(d) above authorises the arrest of a person under sub-paragraph (iv) of that paragraph except where members of the public going about their normal business cannot reasonably be expected to avoid the person to be arrested.~~

(6) The modifications of the 1995 Act referred to in subsection (2) above are as follows.

(7) In section 14—

- (a) the reference in subsection (2) to detention being terminated not more than 12 hours after it begins is to be read as a reference to its being terminated not more than 12 hours after the person's arrival at the police station to which the person is taken under subsection (7)(c) or (e) of the principal section;
- (b) in subsections (6) and (9), omit the references to “other premises”.

(8) In section 15—

- (a) in subsection (1)(b), omit the references to “other premises or place”;
- (b) in subsection (2), omit the reference to “other premises”;

(c) where the police station to which the person is to be taken is in Scotland—

- (i) the right under subsection (1)(b) arises when the person is detained;
- (ii) the reference in subsection (1)(b) to the police station where the person is being detained is to be read as a reference to the police station to which the person is to be taken;
- (iii) subsection (2) is to be read as requiring that the person be informed of the right under subsection (1)(b) on being detained;
- and
- (iv) the rights and duties under subsection (4) arise when the person is detained.

(9) In section 15A—

(a) omit the references to “other premises or place” in subsections (2) and (6);

(b) where the police station to which the person is to be taken is in Scotland—

- (i) the right under subsection (2) arises when the person is detained;
- (ii) the reference in subsection (2)(b) to the police station where the person is being detained is to be read as a reference to the police station to which the person is to be taken; and
- (iii) subsection (6) is to be read as requiring that the person be informed of the rights under section 15A(2) and (3) on being detained.

Section 139 of the Criminal Justice and Public Order Act 1994 as amended by paragraph 4 of Schedule 15

139: Search powers available on arrests under ~~sections 136 and 137~~ sections 136, 137 and 137A.

~~(1) The following powers are available to a constable in relation to a person arrested under section 136(1), (2)(b) or (3)(a) or 137(1) or (3).~~

(1) The powers conferred by subsections (2) and (3) are available to a constable in relation to—

- (a) a person arrested under section 136(1), (2)(b) or (3)(a);*
- (b) a person arrested under section 137(1) or (3);*
- (c) a person arrested under section 137A in respect of a specified offence committed in England and Wales or Northern Ireland.*

(2) A constable to whom this section applies may search the person if the constable has reasonable grounds for believing that the person may present a danger to himself or others.

(3) Subject to subsections (4) to (6) below, a constable to whom this section applies may—

- (a) search the person for anything—
 - (i) which he might use to assist him to escape from lawful custody; or
 - (ii) which might be evidence relating to an offence; and
- ~~(b) enter and search any premises in which the person was when, or was immediately before, he was arrested for evidence relating to the offence for which he was arrested.~~

(3A) The powers conferred by subsection (3B) are available to a constable in relation to—

- (a) a person arrested under section 136(1) or (3)(a) in the execution of a warrant issued in England and Wales in respect of an offence that is an indictable offence in England and Wales;*
- (b) a person arrested under section 136(1) or (2)(b) in the execution of a warrant issued in Northern Ireland in respect of an offence that is an indictable offence in Northern Ireland;*
- (c) a person arrested under section 137(1) in respect of an offence that is an indictable offence in England and Wales;*
- (d) a person arrested under section 137(3) in respect of an offence that is an indictable offence in Northern Ireland;*
- (e) a person arrested under section 137A(2) or (4) in respect of a specified offence committed in England and Wales;*
- (f) a person arrested under section 137A(1) or (2) in respect of a specified offence committed in Northern Ireland.*

(3B) The constable may enter and search any premises in which the person was when arrested or immediately before he was arrested for evidence relating to the offence.

(4) The power to search conferred by subsection (3) or (3B) above is only a power to search to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence.

(5) The powers conferred by this section to search a person are not to be construed as authorising a constable to require a person to remove any of his clothing in public other than an outer coat, jacket, headgear, gloves or footwear but they do authorise a search of a person's mouth.

(6) A constable may not search a person in the exercise of the power conferred by subsection (3)(a) above unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything for which a search is permitted under that paragraph.

(7) A constable may not search premises in the exercise of the power conferred by ~~subsection (3)(b)~~ *subsection (3B)* above unless he has reasonable grounds for believing that there is evidence for which a search is permitted under ~~that paragraph~~ *that subsection*.

(8) In so far as the power of search conferred by ~~subsection (3)(b)~~ *subsection (3B)* above relates to premises consisting of two or more separate dwellings, it is limited to a power to search—

(a) any dwelling in which the arrest took place or in which the person arrested was immediately before his arrest; and

(b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.

(9) A constable searching a person in the exercise of the power conferred by subsection (2) above may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.

(10) A constable searching a person in the exercise of the power conferred by subsection (3)(a) above may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing—

(a) that he might use it to assist him to escape from lawful custody; or

(b) that it is evidence of an offence, or has been obtained in consequence of the commission of an offence.

(10A) Where a constable of a police force in England and Wales searches premises in the exercise of the power conferred by subsection (3B) or where a constable of the British Transport Police searches premises in England and Wales in the exercise of that power—

(a) the constable has the same powers as the constable would have under section 19 of the Police and Criminal Evidence Act 1984 if the search had taken place under section 32(2)(b) of that Act, and
(b) sections 21 and 22 of that Act apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.

(10B) Where a constable of a police force in Northern Ireland searches premises in the exercise of the power conferred by subsection (3B)—

(a) the constable has the same powers as the constable would have under article 21 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) if the search had taken place under article 34(2)(b) of that Order, and

(b) articles 23 and 24 of that Order apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.

(10C) Where a constable of a police force in Scotland searches premises in the exercise of the power conferred by subsection (3B), or where a constable of the British Transport Police searches premises in Scotland in the exercise of that power, the constable has the same powers of seizure and retention as the constable would have if the search had taken place in the exercise of a power of the constable (by virtue of any rule of law) in relation to a person arrested and charged with an offence by the constable in Scotland.

(11) Nothing in this section shall be taken to affect the power conferred by section 43 of the Terrorism Act 2000.

(12) In this section—

“item subject to legal privilege” has the meaning given to it—

(a) as respects anything in the possession of a person searched in England and Wales, by section 10 of the Police and Criminal Evidence Act 1984;

(b) as respects anything in the possession of a person searched in Scotland, by section 412 of the Proceeds of Crime Act 2002;

(c) as respects anything in the possession of a person searched in Northern Ireland, by Article 12 of the Police and Criminal Evidence (Northern Ireland) Order 1989;

“premises” includes any place and; in particular, includes—

(a) any vehicle, vessel, aircraft or hovercraft;

(b) any offshore installation;

(ba) any renewable energy installation; and

(c) any tent or movable structure; and

“offshore installation” has the meaning given to it by ~~section 1 of the Mineral Workings (Offshore Installations) Act 1971~~ *section 44 of the Petroleum Act 1998; and*

“renewable energy installation” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act).

Section 6ZA of the Police Act 1996 as amended by clause 21

6ZA: Power to confer particular functions on the Common Council

- (1) The Secretary of State may by order confer particular functions on the Common Council.
- (2) Without prejudice to the generality of subsection (1), an order under this section may contain provision requiring the Common Council –
- (a) to monitor the performance of the City of London police force in–
 - (i) complying with any duty imposed on the force by or under this Act, the Human Rights Act 1998 or any other enactment;
 - (ii) carrying out any plan issued by virtue of section 6ZB;
 - (b) to secure that arrangements are made for that force to co-operate with other police forces whenever necessary or expedient;
 - (c) to promote diversity within that force and within the Common Council.
- (3) Before making an order under this section the Secretary of State must consult–
- (a) the Common Council,
 - (aa) to hold the Commissioner of Police for the City of London to account for the exercise of the Commissioner's functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;*
 - (b) the Commissioner of Police for the City of London, and
 - (c) such other persons as he thinks fit.
- [Subsection (4) repealed]
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Section 22A of the Police Act 1996 as amended by clause 137

22A: Collaboration agreements

- (1) A collaboration agreement may be made by—
- (a) two or more policing bodies; or
 - (b) the chief officers of police of one or more police forces ~~and two or more policing bodies and~~ —
 - (i) one or more policing bodies together with one or more other persons, or*
 - (ii) if no other person is a party to the agreement, two or more policing bodies.*
- (2) A collaboration agreement is an agreement containing one or more of the following—
- (a) provision about the discharge of functions of members of a police force (“force collaboration provision”);
 - (b) provision about support by a policing body for another policing body (“policing body collaboration provision”);
 - (c) provision about support by a policing body for the police force which another policing body is responsible for maintaining (“policing body & force collaboration provision”).
- (3) A collaboration agreement may not contain force collaboration provision unless the parties to the agreement consist of, or include,—
- (a) the chief officer of police of each police force to which the provision relates, and
 - (b) the policing body that is responsible for maintaining each such police force.
- (4) A collaboration agreement may not contain policing body collaboration provision unless the parties to the agreement consist of, or include, each policing body to which the provision relates.
- (5) A collaboration agreement may not contain policing body & force collaboration provision unless the parties to the agreement consist of, or include—
- (a) the policing body, or each policing body, to which the provision relates;
 - (b) the chief officer of police of the police force, or each police force, to which the provision relates; and
 - (c) the policing body that is responsible for maintaining each such police force.
- (6) Subsection ~~(4)~~ (1)(a) does not prevent other persons from being parties to collaboration agreements.
- (7) Subsection (2) does not prevent a collaboration agreement from including other kinds of provision.

(8) For the purposes of subsections (3) and (5), the circumstances in which force collaboration provision, or policing body & force collaboration provision, is to be taken to relate to a police force include the cases where provision relates—

(a) to functions of a kind which are or may be exercisable by members of that police force, or

(b) to the police area for which that police force is established.

(9) For the purposes of subsections (4) and (5), the circumstances in which policing body collaboration provision, or policing body & force collaboration provision, is to be taken to relate to a policing body include the cases where provision relates—

(a) to functions of a kind which are or may be exercisable by that policing body or members of the staff of that body, or

(b) to the police area for which that policing body is established.

Section 23F of the Police Act 1996 as amended by clause 137

23F: Collaboration agreements: guidance

(1) The Secretary of State may give chief officers or policing bodies guidance about collaboration agreements or related matters.

(2) In discharging their functions, chief officers and policing bodies must have regard to the guidance.

(3) The Secretary of State may give other persons who exercise functions of a public nature guidance about collaboration agreements or related matters, and those persons must have regard to the guidance in exercising such functions.

Section 23G of the Police Act 1996 as amended by clause 137

23G: Collaboration agreements: directions

(1) The Secretary of State may give chief officers or policing bodies directions about collaboration agreements or related matters.

(2) A direction may be given to—
(a) one or more chief officers;
(b) one or more policing bodies.

(2A) The Secretary of State may give one or more other persons who exercise functions of a public nature directions about collaboration agreements or related matters.

(3) A person to whom a direction is given must comply with it.

(4) A direction may, in particular—
(a) require two or more persons to make, or prohibit them from making, a collaboration agreement;
(b) require two or more persons to vary, or prohibit them from varying, a collaboration agreement;
(c) require two or more persons to consider making a collaboration agreement of a specified description;
(d) specify terms to be included, or not to be included, in collaboration agreements.

(5) A direction may relate to—
(a) a particular agreement,
(b) agreements of a particular description, or
(c) agreements in general.

(6) Before giving a direction under this section the Secretary of State must consult the person or persons to whom it is to be given.

Section 50 of the Police Act 1996 as amended by clauses 28 and 47 and paragraph 64 of Schedule 9

50: Regulations for police forces.

(1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government, administration and conditions of service of police forces.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to—

- ~~(a) the ranks to be held by members of police forces;~~
- (b) the qualifications for appointment and promotion of members of police forces;
- (c) periods of service on probation;
- (d) voluntary retirement of members of police forces;
- (e) the conduct, efficiency and effectiveness of members of police forces and the maintenance of discipline;
- (f) the suspension of members of a police force from membership of that force and from their office as constable;
- (g) the maintenance of personal records of members of police forces;
- (h) the duties which are or are not to be performed by members of police forces;
- (i) the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 64;
- (j) the hours of duty, leave, pay and allowances of members of police forces; and
- (k) the issue, use and return of police clothing, personal equipment and accoutrements.

(2ZA) Regulations under this section may not make any provision which may be made under *section 50A (regulations as to police ranks)* or under section 1 of the Public Service Pensions Act 2013 in relation to members of police forces.

(2ZB) If the College of Policing submits to the Secretary of State draft regulations with respect to any of the matters mentioned in subsection (2)(a), (b), (c) or (g), the Secretary of State shall make regulations in terms of the draft unless the Secretary of State considers that—

- (a) doing so would impair the efficiency or effectiveness of the police, or
- (b) it would be unlawful to do so, or
- (c) it would for some other reason be wrong to do so.

(2ZC) The Secretary of State may not make regulations with respect to any of the matters mentioned in subsection (2)(a), (b), (c) or (g) unless the text of the regulations has been prepared or approved by the College of Policing.

(2A) Without prejudice to the generality of subsection (1) or (2), regulations under this section may make provision with respect to the procedures to be followed by police and crime commissioners, or the Mayor's Office for Policing and Crime, in exercising—

- (a) powers of suspension, or
- (b) powers of removal,

(whether, in the case of the Mayor's Office for Policing and Crime, on their own initiative or in compliance with a requirement imposed by the Secretary of State).

(2B) In subsection (2A)—

“power of removal” means—

- (a) the power conferred on police and crime commissioners by section 38(3) of the 2011 Act to require chief constables to retire or resign;
- (b) the power conferred on the Mayor's Office for Policing and Crime by section 48(3) of the 2011 Act to require the Commissioner or Deputy Commissioner of Police of the Metropolis to retire or resign;

“power of suspension” means—

- (a) the power conferred on police and crime commissioners by section 38(2) of the 2011 Act to suspend chief constables;
- (b) the power conferred on the Mayor's Office for Policing and Crime by section 48(1) of the 2011 Act to suspend the Commissioner or Deputy Commissioner of Police of the Metropolis;

and for this purpose “2011 Act” means the Police Reform and Social Responsibility Act 2011.

(3) Without prejudice to the powers conferred by this section, regulations under this section shall—

- (a) establish, or
- (b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct, efficiency and effectiveness of members of police forces, including procedures for cases in which such persons may be dealt with by dismissal.

(3A) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (3) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of a chief officer of police, a local policing body or the Director General of the Office for Police Conduct,*
- (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of a police force, and*
- (c) either—*

- (i) the person ceases to be a member of a police force after the allegation first comes to the attention of a person mentioned in paragraph (a) but before disciplinary proceedings in respect of*

the alleged misconduct, inefficiency or ineffectiveness are brought or, if brought, before they are concluded, or
(ii) the person had ceased to be a member of a police force before the allegation first came to the attention of a person mentioned in paragraph (a) but the period between the person having ceased to be a member of a police force and the allegation first coming to the attention of a person mentioned in paragraph (a) does not exceed the period specified in the regulations.

(4) In relation to any matter as to which provision may be made by regulations under this section, the regulations may —

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, [local policing bodies] ⁶, chief officers of police or other persons, or
- (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.

(5) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.

(6) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.

(6A) Without prejudice to the powers conferred by this section, regulations under this section may make provision with respect to—

- (a) steps to be taken in connection with the appointment of senior officers;
- (b) payments to senior officers who cease to hold office before the end of a fixed term appointment.

(6B) In subsection (6A) “senior officer” means—

- (a) a member of a police force holding a rank above that of chief superintendent;
- (b) the Commissioner of Police for the City of London.

(7) Regulations under this section may make different provision for different cases and circumstances.

(8) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Section 51 of the Police Act 1996 as amended by clause 28 and paragraph 64 of Schedule 9

51: Regulations for special constables.

(1) The Secretary of State may make regulations as to the government, administration and conditions of service of special constables.

(2) Without prejudice to the generality of subsection (1) regulations under this section may make provision with respect to—

- (a) the qualifications for appointment of special constables;
- (b) the retirement of special constables;
- (ba) the conduct [, efficiency and effectiveness] ² of special constables and the maintenance of discipline;
- (c) the suspension of special constables from their office as constable; and
- (d) the allowances payable to special constables.

(2ZA) Regulations under this section may not make any provision which may be made under section 1 of the Public Service Pensions Act 2013 in relation to special constables.

(2ZB) If the College of Policing submits to the Secretary of State draft regulations with respect to—

- (a) the ranks to be held by special constables,
- (b) the qualifications for appointment and promotion of special constables,
- (c) periods of service on probation, or
- (d) maintenance of personal records of special constables,

the Secretary of State shall make regulations in terms of the draft.

(2ZC) The duty in subsection (2ZB) does not apply if the Secretary of State considers that—

- (a) making regulations in terms of the draft would impair the efficiency or effectiveness of the police, or
- (b) it would be unlawful to make regulations in those terms, or
- (c) it would for some other reason be wrong to make regulations in those terms.

(2ZD) The Secretary of State may not make regulations with respect to the matters mentioned in subsection (2ZB) unless the text of the regulations has been prepared or approved by the College of Policing.

(2A) Without prejudice to the powers conferred by this section, regulations under this section shall—

- (a) establish, or
- (b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct, efficiency and effectiveness of special constables, including procedures for cases in which such persons may be dealt with by dismissal.

(2B) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (2A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

(a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of a chief officer of police, a local policing body or the Director General of the Office for Police Conduct,

(b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a special constable, and

(c) either—

(i) the person ceases to be a special constable after the allegation first comes to the attention of a person mentioned in paragraph (a) but before disciplinary proceedings in respect of the alleged misconduct, inefficiency or ineffectiveness are brought or, if brought, before they are concluded, or

(ii) the person had ceased to be a special constable before the allegation first came to the attention of a person mentioned in paragraph (a) but the period between the person having ceased to be a special constable and the allegation first coming to the attention of a person mentioned in paragraph (a) does not exceed the period specified in the regulations.

(3A) In relation to any matter as to which provision may be made by regulations under this section, the regulations may-

(a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, [local policing bodies]¹⁰, chief officers of police or other persons, or

(b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.

(4) Subsections (7) and (8) of section 50 shall apply to regulations under this section.

Section 54 of the Police Act 1996 as amended by clauses 36 and 42 and paragraph 64 of Schedule 9

54: Appointment and functions of inspectors of constabulary.

(1) Her Majesty may appoint such number of inspectors (to be known as “Her Majesty’s Inspectors of Constabulary”) as the Secretary of State may with the consent of the Treasury determine, and of the persons so appointed one may be appointed as chief inspector of constabulary.

(2) The inspectors of constabulary shall inspect, and report on the efficiency and effectiveness of, every police force maintained for a police area.

[(2A Repealed)]

(2B) The Secretary of State may at any time require the inspectors of constabulary to carry out an inspection under this section of a police force maintained for any police area; and a requirement under this subsection may include a requirement for the inspection to be confined to a particular part of the force in question, to particular matters or to particular activities of that force.

(2BA) The local policing body for a police area may at any time request the inspectors of constabulary to carry out an inspection under this section of a police force maintained for that police area; and a request under this subsection may include a request for the inspection to be confined to a particular part of the force in question, to particular matters or to particular activities of that force.

(2BB) Where a local policing body requests the inspectors to carry out an inspection under subsection (2BA), the body must pay to the inspectors such reasonable costs incurred or to be incurred in connection with the inspection as the inspectors may require.

(2D) It shall be the duty of the chief inspector of constabulary—

- (a) to enter into arrangements with the ~~Independent Police Complaints Commission~~ *Director General of the Office for Police Conduct* (“*the Director General*”) for the purpose of securing cooperation, in the carrying out of their respective functions, between the inspectors of constabulary and ~~that Commission~~ *the Director General*; and
- (b) to ensure that inspectors of constabulary provide ~~that Commission~~ *the Director General* with all such assistance and co-operation as may be required by those arrangements or as otherwise appears to the chief inspector to be appropriate for facilitating the carrying out by ~~that Commission~~ *the Director General* of ~~its~~ *his or her* functions.

(3) The inspectors of constabulary shall carry out such other duties for the purpose of furthering police efficiency and effectiveness as the Secretary of State may from time to time direct.

(4) The chief inspector of constabulary shall in each year submit to the Secretary of State a report on the carrying out of inspections under this section, and the chief inspector shall lay a copy of that report before Parliament.

(4A) A report under subsection (4) must include the chief inspector's assessment of the efficiency and effectiveness of policing in England and Wales for the year in respect of which the report is prepared.

(5) The inspectors of constabulary shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.

(6) Schedule 4A (which makes further provision about the inspectors of constabulary) has effect.

(7) *For the purposes of this section a police force includes –*

(a) staff appointed by the chief officer of the police force;

(aa) persons designated as community support volunteers or policing support volunteers under section 38 of the Police Reform Act 2002;

(b) staff appointed by a local policing body if, or to the extent that, they are employed to assist the police force;

(c) persons providing services, in pursuance of contractual arrangements (but without being employed by the chief officer of the police force or its local policing body), to assist the police force in relation to the discharge of its chief officer's functions.

Section 55 of the Police Act 1996 as amended by clause 36

55: Publication of reports.

(1) The inspectors of constabulary must arrange for any report prepared under section 54 to be published in such manner as appears to the inspectors to be appropriate.

(2) But the inspectors of constabulary must exclude from publication under subsection (1) anything that the inspectors consider—

- (a) would be against the interests of national security, or
- (b) might jeopardise the safety of any person.

(2A) The inspectors must disclose to the Secretary of State anything excluded from publication by virtue of subsection (2).

(3) The inspectors of constabulary must send a copy of the published report to—

- (a) the Secretary of State,
- (b) the local policing body maintaining the police force to which the report relates,
- (c) the chief officer of police of that police force, and
- (d) any police and crime panel established under section 28 of the Police Reform and Social Responsibility Act 2011 for the police area of that police force.

(4) The local policing body shall invite the chief officer of police to submit comments on the published report to the body before such date as it may specify.

(5) The local policing body shall prepare comments on the published report and shall arrange for—

- (a) its comments,
- (b) any comments submitted by the chief officer of police in accordance with subsection (4), and
- (c) any response which the body has to the comments submitted by the chief officer of police,

to be published in such manner as appears to the body to be appropriate.

(5A) The comments of the local policing body, together with any comments submitted by the chief officer of police and any response to those comments by the local policing body, must be published before the end of the period of 56 days beginning with the day on which the report is published.

(5B) If the published report includes a recommendation, the comments of the local policing body must include an explanation of—

- (a) the action the local policing body has taken or proposes to take in response to the recommendation, or*
- (b) why the local policing body has not taken, or does not propose to take, any action in response.*

(6) The local policing body (except where it is the Secretary of State) shall send a copy of any document published under subsection (5) ~~to the Secretary of State.~~ to –

- (a) the inspectors of constabulary, and*
- (b) the Secretary of State.*

Section 56 of the Police Act 1996 as amended by clause 36

56: Assistant inspectors and staff officers.

(1) The ~~Secretary of State~~ *chief inspector of constabulary* may appoint assistant inspectors of constabulary.

(2) Members of a police force may be appointed by the ~~Secretary of State~~ *chief inspector of constabulary* to be assistant inspectors of constabulary or to be staff officers to the inspectors of constabulary.

(3) Persons appointed under this section shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.

Section 59 of the Police Act 1996 as amended by clause 48

59: Police Federations.

(1) There shall continue to be a Police Federation for England and Wales and a Police Federation for Scotland for the purpose of representing members of the police forces in those countries respectively in all matters affecting their welfare and efficiency, except for—

- (a) questions of promotion affecting individuals, and
- (b) (subject to subsection (2)) questions of discipline affecting individuals.

(1A) In fulfilling that purpose, the Police Federation for England and Wales must –

- (a) protect the public interest,*
- (b) maintain high standards of conduct, and*
- (c) maintain high standards of transparency.*

(2) A Police Federation may represent a member of a police force at any proceedings brought under regulations made in accordance with section 50(3) above or under section 48 of the Police and Fire Reform (Scotland) Act 2012 in so far as relating to the matters described in section 52 of that Act, or on an appeal from any such proceedings.

(3) Except on an appeal to a police appeals tribunal or as provided in regulations made in accordance with section 84, a member of a police force may only be represented under subsection (2) by another member of a police force.

(4) The Police Federations shall act through local and central representative bodies.

(5) The Police Federations and every branch of a Federation shall be entirely independent of, and subject to subsection (6) unassociated with, any body or person outside the Police service, but may employ persons outside the police service in an administrative or advisory capacity.

(6) The Secretary of State—

- (a) may authorise a Police Federation or a branch of a Federation to be associated with a person or body outside the police service in such cases and manner, and subject to such conditions and restrictions, as he may specify, and
- (b) may vary or withdraw an authorisation previously given; and anything for the time being so authorised shall not be precluded by subsection (5).

(7) This section applies to police cadets as it applies to members of police forces, and references to the police service shall be construed accordingly.

Section 63 of the Police Act 1996 as amended by clauses 8(6) and 27(5) and paragraph 66 of Schedule 1

63: Police Advisory Board for England and Wales

(1) There shall continue to be a Police Advisory Board for England and Wales for the purpose of advising the Secretary of State on general questions affecting the police.

(2) The constitution and proceedings of [the Police Advisory Board for England and Wales shall be such as the Secretary of State may determine after consulting organisations representing the interests of local policing bodies, of police authorities and of members of police forces and police cadets.

(3) Before making—

(a) regulations or rules under section 50, 52, 84 or 85, other than regulations to which section 50(2ZC) applies or regulations of a kind referred to in section 52A(1), or

(b) regulations under Part 2 or 2B of the Police Reform Act 2002, or [(c) repealed]

(d) an order under section 97A, or

(e) an order under section 11A of the Police Pensions Act 1976 (power to amend kinds of service),

the Secretary of State shall supply the Police Advisory Board for England and Wales with a draft of the regulations, rules or order, and take into consideration any representations made by that Board.

(4) Section 41 of the Fire and Rescue Services Act 2004 and section 107EE of the Local Democracy, Economic Development and Construction Act 2009 also impose requirement on the Secretary of State to consult the Police Advisory Board for England and Wales.

Section 84 of the Police Act 1996 as amended by clause 28 and paragraph 64 of Schedule 9

84: Representation etc. at disciplinary and other proceedings

(1) The Secretary of State shall by regulations make provision for or in connection with—

- (a) enabling the officer concerned or a relevant authority to be represented in proceedings conducted under regulations made in pursuance of section 50(3) *or* (3A) or section 51(2A) *or* (2B);
- (b) enabling the panel conducting such proceedings to receive advice from a relevant lawyer or another person falling within any prescribed description of persons.

(2) Regulations under this section may in particular make provision—

- (a) specifying the circumstances in which the officer concerned or a relevant authority is entitled to be legally represented (by a relevant lawyer);
- (b) specifying the circumstances in which the officer concerned or a relevant authority is entitled to be represented by a person (other than a relevant lawyer) who falls within any prescribed description of persons;
- (c) for securing that—
 - (i) a relevant authority may be legally represented, and
 - (ii) the panel conducting the proceedings may receive advice from a relevant lawyer,whether or not the officer concerned is legally represented.

(3) Without prejudice to the powers conferred by this section, regulations under this section shall, in relation to cases where the officer concerned is entitled to legal or other representation, make provision—

- (a) for securing that the officer is notified of his right to such representation;
- (b) specifying when the officer is to be so notified;
- (c) for securing that proceedings at which the officer may be dismissed are not to take place unless the officer has been notified of his right to such representation.

(4) In this section—

“the officer concerned”, in relation to proceedings within subsection (1)(a), means the member of a police force or special constable *or, as the case may be, the former member of a police force or the former special constable* to whom the proceedings relate;

“the panel”, in relation to proceedings within subsection (1)(a), means the panel of persons, or the person, prescribed for the purpose of conducting the proceedings;

“prescribed” means prescribed by regulations under this section;

“relevant authority”, *in relation to proceedings conducted under regulations made in pursuance of section 50(3) or section 51(2A)*, means—

(a) where the officer concerned is a member of a police force (other than the chief officer of police), or a special constable, the chief officer of police of the police force of which the officer is a member, or for which the officer is appointed as a special constable;

(b) where the officer concerned is [the chief officer of police, the local policing body for the police force of which the officer is a member;

“relevant authority”, *in relation to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B)*, means—

(a) where the officer concerned is a former member of a police force (other than a former chief officer of police), or a former special constable, the chief officer of police of the police force of which the officer was last a member, or for which the officer was last appointed as a special constable;

(b) where the officer concerned is a former chief officer of police, the local policing body for the police force of which the officer was last a member;

“relevant lawyer” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act);

“senior officer” means a member of a police force holding a rank above that of chief superintendent.

(5) But in prescribed circumstances “relevant authority” also includes the ~~Independent Police Complaints Commission~~ *Office for Police Conduct*.

(6) Regulations under this section may make different provision for different cases and circumstances.

(7) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Subsection (7) does not apply to a statutory instrument containing (whether alone or with other provision) any regulations under this section coming into force at a time that is the earliest time at which any regulations under this section are to come into force since the commencement of paragraph 7 of Schedule 22 to the Criminal Justice and Immigration Act 2008.

(9) A statutory instrument within subsection (8) may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Section 85 of the Police Act 1996 as amended by clause 28 and 30

85: Appeals against dismissal etc.

(1) The Secretary of State shall by rules make provision specifying the cases in which a member of a police force or a special constable, *or a former member of a police force or a former special constable*, may appeal to a police appeals tribunal.

(1A) "Police appeals tribunal" means a tribunal constituted in accordance with rules made by the Secretary of State.

(1B) Rules made by virtue of subsection (1A) may, in particular, make provision for a person who under the rules is to appoint the members of a tribunal to be able to delegate that power of appointment.

(2) A police appeals tribunal may, on the determination of an appeal under this section, make an order dealing with the appellant in any way in which he could have been dealt with by the person who made the decision appealed against.

(3) The Secretary of State may make rules as to the procedure on appeals to police appeals tribunals under this section.

(4) Rules made under this section may, in particular, make provision—
(a) for enabling a police appeals tribunal, in such circumstances as are specified in the rules, to determine a case without a hearing;
(b) for the appellant or the respondent to be entitled, in a case where there is a hearing, to be represented—
(i) by a relevant lawyer within the meaning of section 84, or
(ii) by a person who falls within any description of persons prescribed by the rules;
(c) for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents,
and rules made in pursuance of paragraph (c) may apply subsections (2) and (3) of section 250 of the Local Government Act 1972 with such modifications as may be set out in the rules.

(4A) Rules under this section may make different provision for different cases and circumstances.

(5) A statutory instrument containing rules under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5A) Subsection (5) does not apply to a statutory instrument containing (whether alone or with other provision) the first rules made under this section after the commencement of paragraph 8 of Schedule 22 to the Criminal Justice and Immigration Act 2008: such an instrument may not be made

unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

(6) Schedule 6 shall have effect in relation to appeals under this section.

Section 87 of the Police Act 1996 as amended by clauses 31 and 40 and paragraph 64 of Schedule 9

87: Guidance concerning disciplinary proceedings etc.

~~(1) The Secretary of State may issue relevant guidance to—~~

- ~~(a) local policing bodies,~~
- ~~(b) chief officers of police,~~
- ~~(c) other members of police forces,~~
- ~~(d) special constables, and~~
- ~~(e) members of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011).~~

~~(1ZA) “Relevant guidance” is guidance as to the discharge of functions under regulations under section 50 or 51 in relation to the matters mentioned in section 50(2)(e) or 51(2)(ba).~~

~~(1A) The Secretary of State may also issue guidance to the Independent Police Complaints Commission concerning the discharge of its functions under any regulations under section 50 or 51 in relation to disciplinary proceedings.~~

(1) The Secretary of State may issue guidance as to the discharge of their disciplinary functions to—

- (a) local policing bodies,*
- (b) chief officers of police,*
- (c) other members of police forces,*
- (d) members of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011), and*
- (e) the Director General of the Office for Police Conduct.*

(1B) The College of Policing may, with the approval of the Secretary of State, issue guidance to the persons mentioned in subsection (1)(a) to (c) as to the discharge of their disciplinary functions in relation to members of police forces and special constables and former members of police forces and former special constables.

(2) Nothing in this section shall authorise the issuing of any guidance about a particular case.

(3) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in discharging the functions to which the guidance relates.

(4) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any

disciplinary proceedings or on any appeal from a decision taken in any such proceedings.

(4A) In this section “disciplinary functions” means—

(a) functions in relation to the conduct, efficiency and effectiveness of, and the maintenance of discipline of, the following persons (including functions in relation to disciplinary proceedings)—

(i) members of police forces;

(ii) special constables;

(iii) members of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011);

(iv) persons designated as community support volunteers or policing support volunteers under section 38 of the Police Reform Act 2002;

(b) functions in relation to disciplinary proceedings against persons who were, but have ceased to be, persons falling within paragraph (a).

~~(5) In this section ‘disciplinary proceedings’ means any proceedings under any regulations under section 50 or 51 that are identified as disciplinary proceedings by those regulations.~~

(5) In this section “disciplinary proceedings”—

(a) in relation to a member of a police force or a special constable, or a former member of a police force or a former special constable, means any proceedings under regulations under section 50 or 51 that are identified as disciplinary proceedings by those regulations;

(b) in relation to any other person, means any proceedings identified as disciplinary proceedings by regulations made by the Secretary of State for the purposes of this section.”

(6) A statutory instrument containing regulations under subsection (5)(b) is subject to annulment in pursuance of a resolution of either House of Parliament.

Schedule 4A to the Police Act 1996 as amended by clauses 35, 36 and 42

Schedule 4A: Further provision about Her Majesty's Inspectors of Constabulary

1 Delegation of functions

(1) An inspector of constabulary may delegate any of his functions (to such extent as he may determine) to another public authority.

(2) If an inspector of constabulary delegates the carrying out of an inspection under sub-paragraph (1) it is nevertheless to be regarded for the purposes of section 54 and this Schedule as carried out by the inspector.

(3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

2 Inspection programmes and inspection frameworks

(1) The chief inspector of constabulary shall from time to time prepare—

- (a) a document setting out what inspections ~~he proposes~~ *the inspectors of constabulary propose* to carry out (an “inspection programme”);
- (b) a document setting out the manner in which ~~he proposes to carry out his~~ *they propose to carry out their* functions of inspecting and reporting (an “inspection framework”).

(2) Before preparing an inspection programme or an inspection framework the chief inspector of constabulary shall consult the Secretary of State and (subject to sub-paragraph (3))—

- (a) Her Majesty's Chief Inspector of Prisons,
- (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
- (c) Her Majesty's Chief Inspector of Probation for England and Wales,
- [(d) Repealed]
- (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
- [(f) Repealed]
- (g) the Care Quality Commission,
- [(h) Repealed]
- (i) the Auditor General for Wales, and
- (j) any other person or body specified by an order made by the Secretary of State,

and he shall send to the Secretary of State a copy of each programme or framework once it is prepared.

(2A) The chief inspector of constabulary must—

- (a) lay before Parliament a copy of each inspection programme or inspection framework prepared under this paragraph,
- (b) arrange for each such programme or framework to be published in such manner as the chief inspector thinks appropriate, and
- (c) send a copy of each such programme or framework to each of the persons or bodies listed in sub-paragraph (2)(a) to (j).

(2B) But the chief inspector of constabulary must obtain the approval of the Secretary of State to the inspection programme or framework in question before acting under sub-paragraph (2A).

(3) The requirement in sub-paragraph (2) to consult, and under sub-paragraph (2A)(c) to send copies to, a person or body listed in paragraphs (a) to (j) of [sub-paragraph (2)] is subject to any agreement made between the chief inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.

(4A) The Secretary of State may by order specify matters to which the chief inspector of constabulary must have regard in preparing an inspection programme or an inspection framework.

(4B) Those matters may (in particular) include the need to secure, so far as possible, the following objectives—

- (a) that any requirements placed on police forces as a result of inspections carried out under section 54 are not unduly burdensome; and
- (b) that inspections under that section can be carried out promptly in response to matters that raise issues of national importance in relation to the police.

(4C) For the purposes of sub-paragraph (4B)(b), the Secretary of State may issue guidance as to the matters that raise issues of national importance in relation to the police; and the chief inspector of constabulary must have regard to any such guidance in preparing an inspection programme or an inspection framework.

(5) Nothing in any inspection programme or inspection framework is to be read as preventing the inspectors of constabulary from making visits without notice.

(6) The chief inspector of constabulary or, at the request of the chief inspector, any other inspector may carry out inspections that have not been set out in an inspection programme (and have not been required under section 54(2B) or requested under section 54(2BA)).

(7) Before deciding to carry out, or to request another inspector to carry out, an inspection that has not been set out in an inspection programme, the chief inspector of constabulary must consult —

- (a) the Secretary of State, and*

(b) the local policing body for the police force to which the inspection relates.

3 Inspections by other inspectors of organisations within remit of inspectors of constabulary

(1) If—

- (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and
- (b) the chief inspector of constabulary considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,

the chief inspector of constabulary shall, subject to sub-paragraph (7), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.

(2) The persons or bodies within this sub-paragraph are—

- (a) Her Majesty's Chief Inspector of Prisons;
- (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
- (c) Her Majesty's Inspectorate of Probation for England and Wales;
- (d) the Care Quality Commission.

(3) The Secretary of State may by order amend sub-paragraph (2).

(4) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by an order made by the Secretary of State.

(5) A person or body may be specified under sub-paragraph (4) only if it exercises functions in relation to any matter falling within the scope of the duties of the inspectors of constabulary under section 54 of this Act or any other enactment.

(6) A person or body may be specified under sub-paragraph (4) in relation to particular functions that it has. In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

(7) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.

(8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (9).

(9) The Secretary of State, if satisfied that the proposed inspection–

- (a) would not impose an unreasonable burden on the organisation in question, or
- (b) would not do so if carried out in a particular manner, may give consent to the inspection being carried out, or being carried out in that manner.

(10) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular–

- (a) provision about the form of notices;
- (b) provision prescribing the period within which notices are to be given;
- (c) provision prescribing circumstances in which notices are, or are not, to be made public;
- (d) provision for revising or withdrawing notices;
- (e) provision for setting aside notices not validly given.

4 Co-operation

The inspectors of constabulary shall co-operate with–

- (a) Her Majesty's Chief Inspector of Prisons,
- (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
- (c) [Her Majesty's Inspectorate of Probation for England and Wales] ² ,
- [(d) Repealed]
- (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
- [(f) Repealed]
- (g) the Care Quality Commission,
- [(h) Repealed]
- (i) the Auditor General for Wales, and
- (j) any other public authority specified by an order made by the Secretary of State,

where it is appropriate to do so for the efficient and effective discharge of the functions of the inspectors of constabulary.

5 Joint action

(1) The inspectors of constabulary may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of their functions.

(2) The chief inspector of constabulary, acting jointly with the chief inspectors within sub-paragraph (3), shall prepare a document (a “joint inspection programme”) setting out–

- (a) what inspections the inspectors of constabulary propose to carry out in the exercise of the power conferred by sub-paragraph (1), and

(b) what inspections the chief inspectors within paragraph (3) (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.

(3) The chief inspectors within this sub-paragraph are—

- (a) Her Majesty's Chief Inspector of Prisons;
- (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
- (c) Her Majesty's Chief Inspector of Probation for England and Wales.

(4) A joint inspection programme must be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.

(5) Sub-paragraphs (2), (3) and (5) of paragraph 2 apply to a joint inspection programme as they apply to a document prepared under that paragraph.

(6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

6 Assistance for other public authorities

(1) The chief inspector of constabulary may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.

(1A) The chief inspector of constabulary may do anything the chief inspector thinks appropriate to facilitate the carrying out of an inspection under section 10 of the Local Government Act 1999 (inspection of best value authorities).

(2) Anything done under this paragraph may be done on such terms (including terms as to payment) as the chief inspector of constabulary thinks fit.

~~6A Powers of inspectors regarding information etc~~

~~(1) The chief officer of police of a police force must—~~

- ~~(a) provide to an inspector such information and documents specified or described in a notification given by the inspector to that chief officer, and~~
- ~~(b) produce or deliver up to the inspector all such evidence and other things so specified or described,~~

~~as appear to the inspector to be required for the purposes of an inspection under section 54.~~

~~(2) A notification under sub-paragraph (1) requiring any information or documents to be provided may authorise or require that they be provided electronically.~~

~~(3) Anything that a chief officer is obliged to provide, produce or deliver up by virtue of a requirement imposed under sub-paragraph (1) must be provided, produced or delivered up in such form and manner, and within such period, as may be specified—~~

- ~~(a) in the notification imposing the requirement, or~~
- ~~(b) in any subsequent notification given by the inspector to the chief officer.~~

~~(4) Nothing in this paragraph requires a chief officer—~~

- ~~(a) to comply with an obligation imposed under sub-paragraph (1) before the earliest time at which it is practicable to do so, or~~
- ~~(b) to comply at all with any such obligation if it never becomes practicable to do so.~~

~~(5) In this paragraph—~~

~~“document” means anything in which information of any description is recorded, and~~

~~“inspector” means—~~

- ~~(a) an inspector of constabulary, or~~
- ~~(b) a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary.~~

6B Powers of inspectors regarding access to police premises

~~(1) Sub-paragraph (2) applies if—~~

- ~~(a) an inspector requires the chief officer of police of a police force to allow the inspector to have access to any premises occupied for the purposes of that force and to documents and other things on those premises, and~~
- ~~(b) the requirement is imposed for the purposes of an inspection under section 54.~~

~~(2) The chief officer must secure that the required access is allowed to the inspector.~~

~~(3) Where there are reasonable grounds for not allowing the inspector to have the required access at the time at which the inspector seeks to have it, the obligation under sub-paragraph (2) has effect as an obligation to secure that the required access is allowed to the inspector at the earliest practicable time specified by the inspector after there cease to be any such grounds.~~

~~(4) In this paragraph “document” and “inspector” have the same meanings as in paragraph 6A.~~

Powers of inspectors to obtain information etc

6A (1) An inspector may serve on a person a notice requiring the person—
(a) to provide the inspector with any information or documents that the inspector reasonably requires for the purposes of an inspection under section 54;
(b) to produce or deliver up to the inspector any evidence or other things that the inspector reasonably requires for those purposes.
This is subject to sub-paragraphs (6) to (9).

(2) A notice under this paragraph must—
(a) specify or describe the information, documents, evidence or other things that are required by the inspector;
(b) specify the period within which the information, documents, evidence or other things must be provided, produced or delivered up;
(c) where the notice is served on a person who has a right of appeal under paragraph 6D, give details of that right of appeal.

(3) In a case where a notice is served on a person who has a right of appeal under paragraph 6D, a period specified under sub-paragraph (2)(b) must not end before the end of the period within which the appeal could be brought.

(4) A notice under this paragraph may specify the form and manner in which any information, documents, evidence or other things are to be provided, produced or delivered up.

(5) An inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.

(6) A notice under this paragraph must not be used to obtain information, or any document or other thing, from—
(a) the Security Service,
(b) the Secret Intelligence Service,
(c) the Government Communications Headquarters,
(d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities,
(e) the Crown Prosecution Service,
(f) the Service Prosecuting Authority, or
(g) the Serious Fraud Office.

(7) A notice under this paragraph must also not be used to obtain information, or any document or other thing, from any person if—
(a) the information, or the document or other thing, was obtained by that person (directly or indirectly) from a body or other entity mentioned in sub-paragraph (6), or
(b) the information, or the document or other thing, relates to a body or other entity mentioned in that sub-paragraph.

(8) A notice under this paragraph must not require a person—
(a) to provide information that might incriminate the person;

(b) to provide an item subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
(c) to make a disclosure that would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016;
(d) to provide information that was provided to the person by, or by an agency of, the government of a country or territory outside the United Kingdom where that government does not consent to the disclosure of the information.

(9) A notice under this paragraph must not require a postal or telecommunications operator to provide communications data.

(10) In sub-paragraph (9), “communications data”, “postal operator” and “telecommunications operator” have the same meanings as in the Investigatory Powers Act 2016 (see sections 233 and 234 of that Act).

(11) In this paragraph—

“document” means anything in which information of any description is recorded;

“inspector” means—

- (a) an inspector of constabulary,
- (b) a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary, or
- (c) a person authorised by an inspector of constabulary to act on behalf of the inspector for the purposes of this paragraph.

Powers of inspectors to obtain access to police premises

6B (1) An inspector may serve on a person a notice requiring the person to allow the inspector access, which the inspector reasonably requires for the purposes of an inspection under section 54, to—

(a) premises that are occupied for the purposes of—

- (i) a police force,
- (ii) a local policing body, or
- (iii) a person providing services, in pursuance of contractual arrangements (but without being employed by a chief officer of police of the police force or its local policing body), to assist a police force in relation to the discharge of its chief officer’s functions, and

(b) documents and other things on those premises.

(2) A notice under this paragraph must—

- (a) specify or describe the premises to which the inspector requires access;
- (b) specify the time when access is required (which may be immediately after the service of the notice).

(3) Where there are reasonable grounds for not allowing the inspector to have access to the premises at the time specified under subparagraph (2)(b), the requirement under this paragraph has effect as a requirement to secure that access is allowed to the inspector at the earliest practicable time specified by the inspector after there cease to be such grounds.

(4) An inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.

(5) In this paragraph “document” and “inspector” have the same meanings as in paragraph 6A (and, for that purpose, the reference in paragraph (c) of the definition of “inspector” in paragraph 6A(11) to paragraph 6A is to be read as a reference to this paragraph).

Failure to comply with notice under paragraph 6A or 6B

6C (1) If a person who has received a notice under paragraph 6A or 6B—

(a) fails or refuses without reasonable excuse to do what is required by the notice, or

(b) (in the case of a notice under paragraph 6A) knowingly or recklessly provides information in response to the notice that is false in a material respect, the chief inspector of constabulary may certify in writing to the High Court that the person has failed to comply with the notice.

(2) The High Court may then inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person, and after hearing any statement offered in defence, deal with the person as if the person had committed a contempt of court.

Appeals against notices under paragraph 6A

6D (1) A person on whom a notice is served under paragraph 6A may appeal against the notice to the First-tier Tribunal on the ground that the notice is not in accordance with the law.

(2) The right of appeal conferred by sub-paragraph (1) does not apply where the notice is served on a person who is—

(a) a member of a police force;

(b) a special constable;

(c) a member of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011);

(ca) a person designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002;

(d) a local policing body or a person employed by a local policing body;

(e) a person providing services, in pursuance of contractual arrangements (but without being employed by a chief officer of police of a police force or its local policing body), to assist a police force in relation to the discharge of its chief officer’s functions;

(f) a person employed by a person providing services as mentioned in paragraph (e).

(3) If an appeal is brought, any requirement imposed by the notice is of no effect pending the determination or withdrawal of the appeal.

(4) If the Tribunal considers that the notice is not in accordance with the law—

- (a) *it must quash the notice, and*
- (b) *it may give directions regarding the service of a further notice under paragraph 6A.*

Sensitive information: restriction on further disclosure

6E (1) *Where an inspector receives information within sub-paragraph (2), the inspector must not disclose the information, or the fact that it has been received, unless the relevant authority consents to the disclosure.*

(2) *The information is—*

- (a) *intelligence service information;*
- (b) *protected information relating to a relevant warrant;*
- (c) *information obtained from a government department which, at the time it is provided to the inspector, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority—*
 - (i) *cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or*
 - (ii) *jeopardise the safety of any person.*

(3) *Where an inspector discloses to another person information within sub-paragraph (2), or the fact that the inspector has received it, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.*

(4) *A prohibition on disclosure in sub-paragraph (1) or (3) does not apply to disclosure by one inspector to another.*

(5) *In this paragraph—*

“government department” means a department of Her Majesty’s Government but does not include—

- (a) *the Security Service,*
- (b) *the Secret Intelligence Service, or*
- (c) *the Government Communications Headquarters (“GCHQ”);*

“inspector” means—

- (a) *an inspector of constabulary,*
- (b) *a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary, or*
- (c) *a person authorised by an inspector of constabulary to act on behalf of the inspector in receiving information (whether under paragraph 6A or otherwise);*

“intelligence service information” means information that was obtained (directly or indirectly) from or that relates to—

- (a) *the Security Service,*
- (b) *the Secret Intelligence Service,*
- (c) *GCHQ, or*
- (d) *any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities;*

“Minister of the Crown” includes the Treasury;

“protected information”, in relation to a relevant warrant, means information relating to any of the matters mentioned in section 54(4) of the Investigatory Powers Act 2016 in relation to the warrant;

“relevant authority” means—

- (a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;*
- (b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;*
- (c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;*
- (d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty’s forces or the Ministry of Defence, the Secretary of State;*
- (e) in the case of protected information relating to a relevant warrant, the person to whom the relevant warrant is or was addressed;*
- (f) in the case of information within sub-paragraph (2)(c)—*
 - (i) the Secretary of State, or*
 - (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State);*

“relevant warrant” means—

- (a) a warrant under Chapter 1 of Part 2 of the Investigatory Powers Act 2016, or*
- (b) a warrant under Chapter 1 of Part 6 of that Act.*

Provision of sensitive information to inspectors

6F (1) A person who provides information that is intelligence service information or protected information relating to a relevant warrant to an inspector (whether under a provision of this Schedule or otherwise) must—

- (a) make the inspector aware that the information is intelligence service information or (as the case may be) protected information relating to a relevant warrant, and*
- (b) provide the inspector with such additional information as will enable the inspector to identify the relevant authority in relation to the information.*

(2) In this paragraph, “inspector”, “intelligence service information”, “protected information relating to a relevant warrant” and “relevant authority” have the same meaning as in paragraph 6E.

7 Orders under this Schedule

A statutory instrument containing an order under this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.

8. Joint inspection of courts

(1) The inspectors of constabulary may inspect any aspect of the Crown Court or magistrates' courts in relation to their criminal jurisdiction which could have been inspected by Her Majesty's Inspectorate of Court Administration immediately before its abolition.

(2) Sub-paragraph (1) applies only if the inspection includes matters other than any aspect of the Crown Court or magistrates' courts.

(3) The power of the inspectors of constabulary under this paragraph is in addition to the power under paragraph 5 to act jointly with another public authority.

Schedule 6 to the Police Act 1996 as amended by clauses 28 and 30

Schedule 6: Appeals to Police Appeals Tribunals

Police appeal tribunals

1.—

~~(1) In the case of an appeal by a senior officer, the police appeals tribunal shall consist of three members appointed by the Secretary of State, of whom—~~

~~(a) one shall be a person chosen from a list of persons who satisfy the judicial appointment eligibility condition on a 5-year basis and have been nominated by the Lord Chancellor for the purposes of this Schedule.~~

~~(b) one shall be Her Majesty's Chief Inspector of Constabulary appointed under section 54(1) or one of Her Majesty's Inspectors of Constabulary nominated by the Chief Inspector, and~~

~~(c) one shall be the permanent secretary to the Home Office or a Home Office director nominated by the permanent secretary.~~

~~(2) The member of the police appeals tribunal to whom sub-paragraph (1)(a) applies shall be the chairman.~~

2.—

~~(1) In the case of an appeal by a member of a police force (other than a senior officer) or a special constable, the police appeals tribunal shall consist of three members appointed by the relevant local policing body, of whom—~~

~~(a) one shall be a person chosen from the list referred to in paragraph 1(1)(a),~~

~~(b) one shall be a senior officer, and~~

~~[(c) Repealed]~~

~~(d) one shall be a retired member of a police force who, at the time of his retirement, was a member of an appropriate staff association.~~

~~(2) The member of the police appeals tribunal to whom sub-paragraph (1)(a) applies shall be the chairman.~~

Notice of appeal

3.

An appeal shall be instituted by giving notice of appeal within the time prescribed by rules made under section 85.

Respondent

4.

On any appeal the respondent shall be such person as may be prescribed by rules made under section 85.

Casting vote

5.

(1) Where there is an equality of voting among the members of a police appeals tribunal, the chairman shall have a second or casting vote.

(2) *The chairman shall be such member of the tribunal as may be prescribed by rules made under section 85.*

[6. Repealed]

Effect of orders

7.—

(1) Where on the determination of an appeal the tribunal makes such an order as is mentioned in section 85(2), the order shall take effect—

- (a) by way of substitution for the decision appealed against, and
- (b) as from the date of that decision.

(2) Where the effect of the order made by the police appeals tribunal is to reinstate the appellant in the force or in his rank, he shall, for the purpose of reckoning service for pension and, to such extent (if any) as may be determined by the order, for the purpose of pay, be deemed to have served in the force or in his rank continuously from the date of the original decision to the date of his reinstatement.

(3) Where the effect of the order made by the police appeals tribunal is to reinstate the appellant in the force and he was suspended for a period immediately preceding the date of the original decision or any subsequent decision, the order shall deal with the suspension.

Remuneration and expenses

8.

Members of a police appeals tribunal shall be—

- (a) paid such remuneration, and
 - (b) reimbursed for such expenses,
- as the Secretary of State may determine.

Costs

9.

(1) An appellant shall pay the whole of his own costs unless the police appeals tribunal directs that the whole or any part of his costs are to be defrayed out of the police fund of the relevant local policing body.

(2) Subject to sub-paragraph (1), all the costs and expenses of an appeal under section 85, including the costs of the respondent and any remuneration or expenses paid by virtue of paragraph 8, shall be defrayed out of the police fund of the relevant local policing body.

Interpretation

10.

In this Schedule—

~~(a) “senior officer” means a member of a police force holding a rank above that of chief superintendent.~~

~~(b) “the relevant local policing body”, *except in relation to an appeal under section 85 that relates to proceedings conduct* means the local policing body which maintains—~~

~~(i) the police force of which the appellant is a member, or~~

~~(ii) the police force for the area for which the appellant is appointed as a special constable,~~

~~as the case may be.~~

~~(ba) “*the relevant local policing body*”, *in relation to an appeal under section 85 that relates to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B)*, means the local policing body which maintains—~~

~~(i) the police force of which the appellant was last a member, or~~

~~(ii) the police force for the area for which the appellant was last appointed as a special constable,~~

~~as the case may be.~~

~~(c) “appropriate staff association” means—~~

~~(i) where the appellant was, immediately before the proceedings from which the appeal is brought, of the rank of chief superintendent or superintendent, the Police Superintendents’ Association of England and Wales; and~~

~~(ii) in any other case, the Police Federation of England and Wales.~~

Section 38 of the Police Reform Act 2002 as amended by clause 8 and 37 and paragraph 72 of Schedule 1

38: Police powers for civilian staff *and volunteers*

~~(1) The chief officer of police of any police force may designate a relevant employee as an officer of one or more of the descriptions specified in subsection (2).~~

~~(2) The description of officers are as follows—~~

- ~~(a) community support officer;~~
- ~~(b) investigating officer;~~
- ~~(c) detention officer;~~
- ~~(d) escort officer.~~

(1) The chief officer of police of any police force may designate a relevant employee as either or both of the following—

- (a) a community support officer;*
- (b) a policing support officer.*

(1A) The chief officer of police of any police force may designate a police volunteer as either or both of the following—

- (a) a community support volunteer;*
- (b) a policing support volunteer.*

(3) [Repealed]

(4) A chief officer of police shall not designate a person under this section unless he is satisfied that that person—

- (a) is a suitable person to carry out the functions for the purposes of which he is designated;
- (b) is capable of effectively carrying out those functions; and
- (c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred or imposed on him by virtue of the designation.

(5) A person designated under this section shall have the powers and duties conferred or imposed on him by the designation.

~~(5A) A person designated under this section as a community support officer shall also have the standard powers and duties of a community support officer (see section 38A(2)).~~

~~(5B) The reference in subsection (4)(c) to the powers and duties to be conferred or imposed on a person by virtue of his designation, so far as it is a reference to the standard powers and duties of a community support officer, is a reference to the powers and duties that at the time of the person's designation are the standard powers and duties of a community support officer.~~

~~(6) Powers and duties may be conferred or imposed on a designated person by means only of the application to him by his designation of provisions of the applicable Part of Schedule 4 that are to apply to the designated person; and for this purpose the applicable Part of that Schedule is—~~

- ~~(a) in the case of a person designated as a community support officer, Part 1;~~
- ~~(b) in the case of a person designated as an investigating officer, Part 2;~~
- ~~(c) in the case of a person designated as a detention officer, Part 3; and~~
- ~~(d) in the case of a person designated as an escort officer, Part 4.~~

~~(6A) Subsection (6) has effect subject to subsections (5A) and (8).~~

(6B) The powers and duties that may be conferred or imposed on a person designated under this section are—

- (a) any power or duty of a constable, other than a power or duty specified in Part 1 of Schedule 3B (excluded powers and duties);*
- (b) where the person is designated as a community support officer or a community support volunteer, any power or duty that is described in Schedule 3C as a power or duty of a community support officer or community support volunteer.*

(6C) The Secretary of State may by regulations amend Part 1 of Schedule 3B so as to add to the list of powers and duties specified in it.

(6D) Part 2 of Schedule 3B makes provision about the application of legislation in relation to powers or duties of a constable that may be exercised or performed by a person designated under this section.

(6E) Any power or duty of a constable that is conferred or imposed on a person designated under this section by a chief officer of police of a police force may (subject to provision included in the designation under subsection (6F)) be exercised or performed by the person—

- (a) in the area of that police force, and*
- (b) in any cases or circumstances in which it could be exercised or performed by a constable who is a member of that force.*

(6F) A designation under this section may provide that any power or duty of a constable that is conferred or imposed by the designation may be exercised or performed by the person designated—

- (a) in such areas outside the area of the police force in question as are specified in the designation (as well as within the area of the police force);*
- (b) only in such parts of the area of that police force as are specified in the designation;*
- (c) only in cases or circumstances so specified.*

(7) A relevant employee authorised or required to do anything by virtue of a designation under this section—

(a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of that employment; and

(b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in his designation.

(7A) A police volunteer authorised or required to do anything by virtue of a designation under this section —

(a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than while acting as a police volunteer;

(b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in the designation.

(8) Where any power exercisable by any person in reliance on his designation under this section is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.

(9) Where any power exercisable by any person in reliance on his designation under this section includes power to use force to enter any premises, that power shall not be exercisable by that person except—

(a) in the company, and under the supervision, of a constable; or

(b) for the purpose of saving life or limb or preventing serious damage to property.

(9A) The chief officer of police of a police force must ensure that no person designated by the chief officer under this section is authorised to use a firearm, within the meaning given by section 57(1) of the Firearms Act 1968, in carrying out functions for the purposes of the designation.

(9B) However, subsection (9A) does not apply to—

(a) the use of a weapon, designed or adapted for the discharge of either of the following substances, for the purpose of discharging either of those substances—

(i) the substance, commonly known as “CS gas”, that is produced by the use of 2-chlorobenzalmalononitrile;

(ii) the substance, commonly known as PAVA spray, that is produced by the use of pelargonic acid vanillylamide;

(b) the use of a weapon for a purpose specified in regulations made by the Secretary of State;

(c) the use of a weapon of a description specified in regulations made by the Secretary of State, whether generally or for a purpose so specified.

(9C) A statutory instrument containing regulations under subsection (9B)(b) or (c) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

[Subsection (10) repealed]

(11) In this section “relevant employee” means—

(a) in the case of—

(i) a police force maintained for a police area in accordance with section 2 of the Police Act 1996, or

(ii) the police force maintained for the metropolitan police district in accordance with section 5A of that Act, a member of the civilian staff of that police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011);

(b) in the case of any other police force, a person who—

(i) is employed by the police authority maintaining that force, and
(ii) is under the direction and control of the chief officer making a designation under subsection (1).

(11A) In the case of a police force maintained for a police area in England in accordance with section 2 of the Police Act 1996, the following are also relevant employees for the purposes of this section—

(a) any member of staff transferred to the chief constable of the police force under a scheme made under section 4G(1) of the Fire and Rescue Services Act 2004 (transfer of property, rights and liabilities to chief constable to whom fire functions may be delegated);

(b) any member of staff appointed by that chief constable under section 4G(4) of that Act (appointment of staff by chief constable to whom fire functions may be delegated).

(c) any member of staff transferred to the chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009 (transfer of property, rights and liabilities to chief constable whom fire functions of combined authority may be delegated);

(d) any member of staff appointed by that chief constable under section 107EC(2) of that Act (appointment of staff by chief constable to whom fire functions of combined authority may be delegated).

(12) In this section, “police volunteer” means a person who is under the direction and control of the chief officer making a designation under subsection (1A) otherwise than because the person is a constable, a special constable or a relevant employee.

(13) For the purpose of subsection (12), a person is to be treated as a relevant employee only in relation to times when the person is acting in the course of the person’s employment.”

Section 51 of the Sexual Offences Act 2003 as amended by clause 144

51: Sections 48 to 50: interpretation

[(1) Repealed]

(2) For the purposes of sections 48 to 50, a person (B) is sexually exploited if—

- (a) on at least one occasion and whether or not compelled to do so, B offers or provides sexual services to another person in return for payment or a promise of payment to B or a third person, or
- (b) an indecent image of B is recorded *or streamed or otherwise transmitted*;

and “sexual exploitation” is to be interpreted accordingly.

(3) In subsection (2), “payment” means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

Section 10 of the Licensing Act 2003 as amended by clause 120

10: Sub-delegation of functions by licensing committee etc.

(1) A licensing committee may arrange for the discharge of any functions exercisable by it—

- (a) by a sub-committee established by it, or
- (b) subject to subsection (4), by an officer of the licensing authority.

(2) Where arrangements are made under subsection (1)(a), then, subject to subsections (4) and (5), the sub-committee may in turn arrange for the discharge of the function concerned by an officer of the licensing authority.

(3) Arrangements under subsection (1) or (2) may provide for more than one sub-committee or officer to discharge the same function concurrently.

(4) Arrangements may not be made under subsection (1) or (2) for the discharge by an officer of—

- (a) any function under—
 - (i) section 18(3) (determination of application for premises licence where representations have been made),
 - (ii) section 31(3) (determination of application for provisional statement where representations have been made),
 - (iii) section 35(3) (determination of application for variation of premises licence where representations have been made),
 - (iv) section 39(3) (determination of application to vary designated premises supervisor following police objection),
 - (v) section 44(5) (determination of application for transfer of premises licence following police objection),
 - (vi) section 48(3) (consideration of police objection made to interim authority notice),
 - (via) section 53A(2)(a) or 53B (determination of interim steps pending summary review),
 - (vii) section 72(3) (determination of application for club premises certificate where representations have been made),
 - (viii) section 85(3) (determination of application to vary club premises certificate where representations have been made),
 - (ix) section 105(2) (decision to give counter notice following police objection to temporary event notice),
 - (x) section 120(7) (determination of application for grant of personal licence following police objection),
 - [Paragraph (xi) repealed]
 - (xii) section 124(4) (revocation of licence where convictions come to light after grant etc.),
 - (xiii) *section 132A(8) and (12) (revocation or suspension of licence by local authority where it become aware of convictions or immigration penalties),*

(b) any function under section 52(2) or (3) (determination of application for review of premises licence) in a case where relevant representations (within the meaning of section 52(7)) have been made,
(ba) any function under section 53C (review following review notice), in a case where relevant representations (within the meaning of section 53C(7)) have been made,
(c) any function under section 88(2) or (3) (determination of application for review of club premises certificate) in a case where relevant representations (within the meaning of section 88(7)) have been made,
or
(d) any function under section 167(5) (review following closure order), in a case where relevant representations (within the meaning of section 167(9)) have been made.

(5) The power exercisable under subsection (2) by a sub-committee established by a licensing committee is also subject to any direction given by that committee to the sub-committee.

Section 53B of the Licensing Act 2003 as amended by clause 118

53B: Interim steps pending review

(1) This section applies to the consideration by a relevant licensing authority on an application under section 53A whether it is necessary to take interim steps pending the determination of the review applied for.

(2) The consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority.

(3) The interim steps the relevant licensing authority must consider taking are—

- (a) the modification of the conditions of the premises licence;
- (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
- (c) the removal of the designated premises supervisor from the licence;
- (d) the suspension of the licence.

(4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.

(5) Where on its consideration of whether to take interim steps the relevant licensing authority does take one or more such steps—

- (a) its decision takes effect immediately or as soon after that as that authority directs; but
- (b) it must give immediate notice of its decision and of its reasons for making it to—
 - (i) the holder of the premises licence; and
 - (ii) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).

(6) *Subject to subsection (9A)*, if the holder of the premises licence makes, and does not withdraw, representations against any interim steps taken by the relevant licensing authority, the authority must, within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.

(7) The relevant licensing authority must give advance notice of the hearing to—

- (a) the holder of the premises licence;
- (b) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).

(8) At the hearing, the relevant licensing authority must—

- (a) consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
- (b) determine whether to withdraw or modify the steps taken.

(9) In considering those matters the relevant licensing authority must have regard to—

- (a) the certificate that accompanied the application;
- (b) any representations made by the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated); and
- (c) any representations made by the holder of the premises licence.

(9A) Where the relevant licensing authority has determined under subsection (8) whether to withdraw or modify the interim steps taken, the holder of the premises licence may only make further representations under subsection (6) if there has been a material change in circumstances since the authority made its determination.

(10) In computing the period of 48 hours mentioned in subsection (6) time that is not on a working day is to be disregarded.

Section 53C of the Licensing Act 2003 as amended by clause 119

53C: Review of premises licence following review notice

- (1) This section applies to a review of a premises licence which a relevant licensing authority has to conduct on an application under section 53A.
- (2) The relevant licensing authority must—
- (a) hold a hearing to consider the application for the review and any relevant representations; *and*
 - (b) take such steps mentioned in subsection (3) (if any) as it considers appropriate for the promotion of the licensing objectives; ~~and~~
 - ~~(c) secure that, from the coming into effect of the decision made on the determination of the review, any interim steps having effect pending that determination cease to have effect (except so far as they are comprised in steps taken in accordance with paragraph (b)).~~
- (3) Those steps are—
- (a) the modification of the conditions of the premises licence,
 - (b) the exclusion of a licensable activity from the scope of the licence,
 - (c) the removal of the designated premises supervisor from the licence,
 - (d) the suspension of the licence for a period not exceeding three months, or
 - (e) the revocation of the licence.
- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
- (5) Subsection (2)(b) is subject to sections 19 to 21 (requirement to include certain conditions in premises licences).
- (6) Where the authority takes a step within subsection (3)(a) or (b), it may provide that the modification or exclusion is to have effect only for a specified period (not exceeding three months).
- (7) In this section ‘relevant representations’ means representations which—
- (a) are relevant to one or more of the licensing objectives, and
 - (b) meet the requirements of subsection (8).
- (8) The requirements are—
- (a) that the representations are made by the holder of the premises licence, a responsible authority or [any other person] 4 within the period prescribed under subsection 53A(3)(e),
 - (b) that they have not been withdrawn, and
 - (c) if they are made by [a person who is not a responsible authority] 5 , that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

(9) Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.

(10) Where a relevant licensing authority determines a review under this section it must notify the determination and its reasons for making it to—
(a) the holder of the premises licence,
(b) any person who made relevant representations, and
(c) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).

(11) A decision under this section does not have effect until—
(a) the end of the period given for appealing against the decision, or
(b) if the decision is appealed against, the time the appeal is disposed of.

(12) Section 53D makes provision about the application and review of any interim steps that have been taken under section 53B in relation to a premises licence before a decision under this section comes into effect in relation to the licence.

Section 182 of the Licensing Act 2003 as amended by clause 122

182: Guidance

(1) The Secretary of State must issue guidance (“the licensing guidance”) to licensing authorities on the discharge of their functions under this Act.

~~(2) But the Secretary of State may not issue the licensing guidance unless a draft of it has been laid before, and approved by resolution of, each House of Parliament.~~

(3) The Secretary of State may, from time to time, revise the licensing guidance.

~~(4) A revised version of the licensing guidance does not come into force until the Secretary of State lays it before Parliament.~~

~~(5) Where either House, before the end of the period of 40 days beginning with the day on which a revised version of the licensing guidance is laid before it, by resolution disapproves that version—~~

~~(a) the Secretary of State must, under subsection (3), make such further revisions to the licensing guidance as appear to him to be required in the circumstances, and~~

~~(b) before the end of the period of 40 days beginning with the date on which the resolution is made, lay a further revised version of the licensing guidance before Parliament.~~

~~(6) In reckoning any period of 40 days for the purposes of subsection (5), no account is to be taken of any time during which—~~

~~(a) Parliament is dissolved or prorogued, or~~

~~(b) both Houses are adjourned for more than four days.~~

(7) The Secretary of State must arrange for any guidance issued or revised under this section to be published in such manner as he considers appropriate.

Section 191 of the Licensing Act 2003 as amended by clause 117

191: Meaning of “alcohol”

(1) In this Act, “alcohol” means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor (*in any state*), but does not include—

- (a) alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply in question,
- (b) perfume,
- (c) flavouring essences recognised by the Commissioners of Customs and Excise as not being intended for consumption as or with dutiable alcoholic liquor,
- (d) the aromatic flavouring essence commonly known as Angostura bitters,
- (e) alcohol which is, or is included in, a medicinal product or a veterinary medicinal product,
- (f) denatured alcohol,
- (g) methyl alcohol,
- (h) naphtha, or
- (i) alcohol contained in liqueur confectionery.

(2) In this section—

“denatured alcohol” has the same meaning as in section 5 of the Finance Act 1995 (c. 4);

“dutiable alcoholic liquor” has the same meaning as in the Alcoholic Liquor Duties Act 1979 (c. 4);

“liqueur confectionery” means confectionery which—

- (a) contains alcohol in a proportion not greater than 0.2 litres of alcohol (of a strength not exceeding 57%) per kilogram of the confectionery, and
- (b) either consists of separate pieces weighing not more than 42g or is designed to be broken into such pieces for the purpose of consumption;

“medicinal product” has the same meaning as in section 130 of the Medicines Act 1968 (c. 67);

“strength” is to be construed in accordance with section 2 of the Alcoholic Liquor Duties Act 1979; and

“veterinary medicinal product” has the same meaning as in regulation 2 of the Veterinary Medicines Regulations 2006.

Paragraph 17 of Part 3 of Schedule 5 to the Licensing Act 2003 as amended by clause 120

17: Personal licences

(1) Where a licensing authority—

(a) rejects an application for the grant of a personal licence under section 120

[(b) repealed]

the applicant may appeal against that decision.

(2) Where a licensing authority grants an application for a personal licence under section 120(7), the chief officer of police who gave the objection notice (within the meaning of section 120(5)) may appeal against that decision.

[(3) repealed]

(4) Where a licensing authority revokes a personal licence under section 124(4), the holder of the licence may appeal against that decision.

(5) Where in a case to which section 124 (convictions coming to light after grant) applies—

(a) the chief officer of police for the licensing authority's area gives a notice under subsection (3) of that section (and does not later withdraw it), and

(b) the licensing authority decides not to revoke the licence,

the chief officer of police may appeal against the decision.

(5A) Where a licensing authority revokes or suspends a personal licence under section 132A(8) or (12) the holder of the licence may appeal against that decision.

(6) An appeal under this paragraph must be made to a magistrates' court.

(7) An appeal under this paragraph must be commenced by notice of appeal given by the appellant to the designated officer for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

(8) On an appeal under sub-paragraph (2), (3) or (5), the holder of the personal licence is to be the respondent in addition to the licensing authority.

Section 1 of the Fire and Rescue Services Act 2004 as amended by paragraph 3 of Schedule 1 and paragraph 111 of Schedule 2

1: Fire and rescue authorities

(1) The fire and rescue authority for an area is the authority determined under this section.

(2) In England—

- (a) a non-metropolitan county council is the fire and rescue authority for the county;
- (b) a non-metropolitan district council for an area for which there is no county council is the fire and rescue authority for the area;
- (c) the ~~London Fire and Emergency Planning Authority~~ *London Fire Commissioner* is the fire and rescue authority for Greater London;
- (d) a metropolitan county fire and rescue authority is the fire and rescue authority for the county;
- (e) the Council of the Isles of Scilly is the fire and rescue authority for the Isles of Scilly.

(3) In Wales—

- (a) a county council is the fire and rescue authority for the county;
- (b) a county borough council is the fire and rescue authority for the county borough.

(4) This section is subject to ~~sections 2 and 4 (schemes constituting combined fire and rescue authorities for particular areas)~~.

- (a) *sections 2 and 4 (schemes constituting combined fire and rescue authorities for particular areas), and*
- (b) *sections 4A and 4B (orders providing for police and crime commissioners to be fire and rescue authorities).*

Section 3 of the Fire and Rescue Services Act 2004 as amended by clause 7

3: Creation of combined fire and rescue authorities: supplementary

(1) A combined fire and rescue authority constituted under a scheme under section 2 must be constituted as a body corporate.

(2) A scheme under section 2 may, subject to this section, make any supplementary and incidental provision which the Secretary of State considers appropriate.

(3) In particular, a scheme under section 2 may make provision about—

- (a) the composition of the combined authority (including provision for the appointment of members by the existing authorities, *by the Secretary of State or by the combined authority or by the Secretary of State*);
- (b) the proceedings of the combined authority (including different provision in respect of the voting rights of different categories of member);
- (c) the financing of the combined authority (including provision for the payment of expenses out of a combined fire and rescue service fund maintained by the existing authorities);
- (d) the discharge of the functions of the combined authority (including provision for the discharge of functions by committees);
- (e) officers of the combined authority;
- (f) the acquisition, appropriation and disposal of land by the combined authority (including provision for the acquisition of land by agreement or compulsorily);
- (g) the transfer of staff, property, rights and liabilities to or from the combined authority;
- (h) the payment of compensation in respect of loss suffered by any person in consequence of the constitution of the combined authority.

(4) A scheme under section 2 may not make provision for the appointment by the Secretary of State of a number of members equal to, or exceeding, half the total number of members capable of being appointed.

(5) If a scheme under section 2 provides for members of a combined authority to be appointed by the Secretary of State, it must also provide that any decision of the authority to—

- (a) issue a precept under section 40 of the Local Government Finance Act 1992 (c. 14), or
- (b) make the calculations required by section 43 of that Act, must be approved by more than half of the members of the authority not appointed by the Secretary of State.

(6) The following provisions apply if a scheme under section 2 provides for members of a combined authority to be appointed by the authority.

(7) The scheme must provide that a relevant police and crime commissioner may only be appointed as a member of the authority in response to a request by the commissioner.

(8) The scheme must provide that if, such a request is made to the authority, the authority must—

- (a) consider the request,*
- (b) give reasons for its decision to agree to or refuse the request, and*
- (c) publish those reasons in such manner as it thinks appropriate.*

(9) In this section “relevant police and crime commissioner”, in relation to a combined authority, means a police and crime commissioner—

- (a) whose area is the same as, or contains all of, the area of the authority, or*
- (b) all or part of whose area falls within the area of the authority.*

Section 28 of the Fire and Rescue Services Act 2004 as amended by clause 11

28 Inspectors

(A1) Her Majesty may appoint such number of inspectors of fire and rescue authorities in England (the “English inspectors”) as the Secretary of State may determine.

(A2) Of the persons appointed under subsection (A1) one is to be appointed as the chief fire and rescue inspector for England.

(A3) The English inspectors must inspect, and report on the efficiency and effectiveness of, fire and rescue authorities in England.

(A4) The English inspectors must carry out such other duties for the purpose of furthering the efficiency and effectiveness of fire and rescue authorities in England as the Secretary of State may from time to time direct.

(A5) The chief fire and rescue inspector for England may appoint assistant inspectors and other officers for the purpose of assisting the English inspectors.

(A6) When carrying out an inspection under subsection (A3) of a fire and rescue authority created by an order under section 4A, an English inspector must not review or scrutinise decisions made, or other action taken, by the fire and rescue authority in connection with the discharge of an excluded function.

(A7) For the purposes of subsection (A6), the following are excluded functions in relation to a fire and rescue authority—

(a) the function of preparing a fire and rescue plan and a fire and rescue statement (within the meaning of Schedule A2);

(b) the functions that the authority has in its capacity as a major precepting authority for the purposes of Part 1 of the Local Government Finance Act 1992;

(c) the function of appointing a chief finance officer under section 4D(4);

(d) where functions of the authority have been delegated to a chief constable under an order under section 4H, the functions conferred on the authority by section 4J(4) and (5);

(e) functions specified, or of a description specified, in relation to that authority in an order made by the Secretary of State.

(A8) The power under subsection (A7)(e) may be exercised in relation to—

(a) all fire and rescue authorities created by an order under section 4A,

(b) a particular fire and rescue authority created by an order under section 4A, or

(c) a particular description of fire and rescue authorities created by an order under section 4A.

(A9) Schedule A3 makes further provision in relation to the English inspectors.

(1) Her Majesty may by Order in Council appoint inspectors, and the Secretary of State may appoint assistant inspectors and other officers, for the purpose of obtaining information as to—

- (a) the manner in which fire and rescue authorities *in Wales* are discharging their functions;
- (b) technical matters relating to those functions.

(2) The Secretary of State may pay to persons appointed under this section remuneration determined by him.

(3) A person appointed under section 24 of the Fire Services Act 1947 (c. 41) is to be taken to have been appointed under this section.

Section 1 of the Police Reform and Social Responsibility Act 2011 as amended by clause 21

1: Police and crime commissioners

(1) There is to be a police and crime commissioner for each police area listed in Schedule 1 to the Police Act 1996 (police areas outside London).

(2) A police and crime commissioner is a corporation sole.

(3) The name of the police and crime commissioner for a police area is “the Police and Crime Commissioner for” with the addition of the name of the police area.

(4) The police and crime commissioner for a police area is to be elected, and hold office, in accordance with Chapter 6.

(5) A police and crime commissioner has—
(a) the functions conferred by this section,
(b) the functions relating to community safety and crime prevention conferred by Chapter 3, and
(c) the other functions conferred by this Act and other enactments.

(6) The police and crime commissioner for a police area must—
(a) secure the maintenance of the police force for that area, and
(b) secure that the police force is efficient and effective.

(7) The police and crime commissioner for a police area must hold the relevant chief constable to account for the exercise of—
(a) the functions of the chief constable, and
(b) the functions of persons under the direction and control of the chief constable.

(8) The police and crime commissioner must, in particular, hold the chief constable to account for—
(a) the exercise of the duty under section 8(2) (duty to have regard to police and crime plan);
(b) the exercise of the duty under section 37A(2) of the Police Act 1996 (duty to have regard to strategic policing requirement);
(c) the exercise of the duty under section 39A(7) of the Police Act 1996 (duty to have regard to codes of practice issued by Secretary of State);
(ca) *the exercise of the chief constable’s functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;*
(d) the effectiveness and efficiency of the chief constable's arrangements for co-operating with other persons in the exercise of the chief constable's functions (whether under section 22A of the Police Act 1996 or otherwise);
(e) the effectiveness and efficiency of the chief constable's arrangements under section 34 (engagement with local people);

- (f) the extent to which the chief constable has complied with section 35 (value for money);
- (g) the exercise of duties relating to equality and diversity that are imposed on the chief constable by any enactment;
- (h) the exercise of duties in relation to the safeguarding of children and the promotion of child welfare that are imposed on the chief constable by sections 10 and 11 of the Children Act 2004.

(9) The police authorities established for police areas under section 3 of the Police Act 1996 are abolished.

(10) Schedule 1 (police and crime commissioners) has effect.

Section 5 of the Police Reform and Social Responsibility Act 2011 as amended by Paragraph 77 of Schedule 1

5: Police and crime commissioners to issue police and crime plans

(1) The police and crime commissioner for a police area must issue a police and crime plan within the financial year in which each ordinary election is held.

(2) A police and crime commissioner must comply with the duty under subsection (1) as soon as practicable after the commissioner takes office.

(3) A police and crime commissioner may, at any time, issue a police and crime plan.

(4) A police and crime commissioner may vary a police and crime plan.

(5) In issuing or varying a police and crime plan, a police and crime commissioner must have regard to the strategic policing requirement issued by the Secretary of State under section 37A of the Police Act 1996.

(5A) Subsection (5B) applies to a police and crime commissioner for a police area—

(a) which corresponds to the area of a fire and rescue authority created by an order under section 4A, or

(b) within which the area of such a fire and rescue authority falls.

(5B) In issuing or varying a police and crime plan, the police and crime commissioner must have regard to—

(a) the current Fire and Rescue National Framework prepared under section 21 of the Fire and Rescue Services Act 2004, and

(b) the last document prepared and published by the fire and rescue authority in accordance with that Framework which sets out the authority's priorities and objectives, for the period covered by the document, in connection with the discharge of the authority's functions.

(6) Before issuing or varying a police and crime plan, a police and crime commissioner must—

(a) prepare a draft of the plan or variation,

(b) consult the relevant chief constable in preparing the draft plan or variation,

(c) send the draft plan or variation to the relevant police and crime panel,

(d) have regard to any report or recommendations made by the panel in relation to the draft plan or variation (see section 28(3)),

(e) give the panel a response to any such report or recommendations, and

(f) publish any such response.

- (7) In complying with subsection (6)(c), the police and crime commissioner must ensure that the relevant police and crime panel has a reasonable amount of time to exercise its functions under section 28(3).
- (8) A police and crime commissioner must consult the relevant chief constable before issuing or varying a police and crime plan if, and to the extent that, the plan or variation is different from the draft prepared in accordance with subsection (6).
- (9) A police and crime commissioner must—
- (a) keep the police and crime plan under review, and
 - (b) in particular, review the police and crime plan in the light of—
 - (i) any report or recommendations made to the commissioner by the relevant police and crime panel under section 28(4), and
 - (ii) any changes in the strategic policing requirement issued by the Secretary of State under section 37A of the Police Act 1996; and exercise the powers under subsection (3) or (4) accordingly.
- (10) A police and crime commissioner who issues or varies a police and crime plan must—
- (a) send a copy of the issued plan, or the variation, to the relevant chief constable and to each of the other persons and bodies that are, for the purposes of section 5 of the Crime and Disorder Act 1998, responsible authorities in relation to local government areas that are wholly or partly within the relevant police area, and
 - (b) publish a copy of the issued plan, or the variation.
- (11) The duty under subsection (10) to send or publish a copy of the variation may instead be satisfied by sending or publishing a copy of the plan as varied.
- (12) It is for the commissioner to determine the manner in which—
- (a) a response to a report or recommendations is to be published in accordance with subsection (6)(f), and
 - (b) a copy of the plan or variation is to be published in accordance with subsection (10)(b).
- (13) In this section—
- “financial year” means the financial year of the police and crime commissioner;
 - “ordinary election”, in relation to the police and crime commissioner for a police area, means an election held under section 50 in relation to that area.

Section 18 of the Police Reform and Social Responsibility Act 2011 as amended by clause 22

18: Delegation of functions by police and crime commissioners

- (1) The police and crime commissioner for a police area may—
- (a) appoint a person as the deputy police and crime commissioner for that police area, and
 - (b) arrange for the deputy police and crime commissioner to exercise any function of the police and crime commissioner.
- (2) A police and crime commissioner may arrange for any person (who is not the deputy police and crime commissioner) to exercise any function of the commissioner.
- (3) But a police and crime commissioner may not—
- (a) appoint a person listed in subsection (6) as the deputy police and crime commissioner;
 - (aa) *arrange, under subsection (1)(b) or (2), for the deputy police and crime commissioner or any other person to exercise a function that the police and crime commissioner has under or by virtue of Part 2 of the Police Reform Act 2002 (see instead section 23(2)(pa) of that Act and regulations made under that provision);*
 - (b) arrange for the deputy police and crime commissioner to exercise a function listed in subsection (7)(a), (e) or (f);
 - (c) arrange, under subsection (2), for a person listed in subsection (6) to exercise any function; or
 - (d) arrange, under subsection (2), for any person to exercise a function listed in subsection (7).
- (4) A deputy police and crime commissioner may arrange for any other person to exercise any function of the police and crime commissioner which is, in accordance with subsection (1)(b), exercisable by the deputy police and crime commissioner.
- (5) But the deputy police and crime commissioner may not arrange for a person to exercise a function if—
- (a) the person is listed in subsection (6), or
 - (b) the function is listed in subsection (7).
- (6) The persons referred to in subsections (3)(a) and (c) and (5) are—
- (a) a constable (whether or not in England and Wales);
 - (b) a police and crime commissioner;
 - (c) the Mayor's Office for Policing and Crime;
 - (d) the Deputy Mayor for Policing and Crime appointed by the Mayor's Office for Policing and Crime;
 - (e) the Mayor of London;
 - (f) the Common Council of the City of London;
 - (g) any other person or body which maintains a police force;

(h) a member of the staff of a person falling within any of paragraphs (a) to (g).

(7) The functions referred to in subsection (3) are—

- (a) issuing a police and crime plan (see section 5);
- (b) determining police and crime objectives (see section 7);
- (c) attendance at a meeting of a police and crime panel in compliance with a requirement by the panel to do so (see section 29);
- (d) preparing an annual report to a policing and crime panel (see section 12);
- (e) appointing the chief constable, suspending the chief constable, or calling upon the chief constable to retire or resign (see section 38);
- (f) calculating a council tax requirement or a] 1 budget requirement (see section 42A or 43 of the Local Government Finance Act 1992).
- (g) appointing a local auditor under section 7 of the Local Audit and Accountability Act 2014;
- (h) deciding whether to enter into a liability limitation agreement under section 14 of that Act.

(8) If a function of a police and crime commissioner is exercisable by any other person in accordance with this section, any property or rights vested in the commissioner may be dealt with by the other person in exercising the function, as if vested in that person.

(9) Subsection (2) applies whether or not there is a deputy police and crime commissioner.

(10) The deputy police and crime commissioner is a member of the police and crime commissioner's staff.

(11) For further provision about the appointment of a deputy police and crime commissioner, see paragraphs 8 to 12 of Schedule 1.

Section 65 of the Police Reform and Social Responsibility Act 2011 as amended by clause 109 and paragraph 72 of Schedule 9

65: Disqualification from election or holding office as police and crime commissioner: police grounds

(1) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—

- (a) is disqualified from being a member of the House of Commons under section 1(1)(d) of the House of Commons Disqualification Act 1975 (members of police forces for police areas in the United Kingdom);
- (b) is a member of—
 - (i) the British Transport Police Force;
 - (ii) the Civil Nuclear Constabulary;
- (c) is a special constable appointed—
 - (i) under section 27 of the Police Act 1996 for a police area or the City of London police area;
 - (ii) under section 25 of the Railways and Transport Safety Act 2003 (British Transport Police Force);
- (d) is a member of staff of the chief officer of police of any police force maintained for a police area;
- (e) is a member of staff of—
 - (i) a police and crime commissioner;
 - (ii) the Mayor's Office for Policing and Crime;
- (f) is the Mayor of London;
- (g) is a member of the Common Council of the City of London or a member of staff of that Council in its capacity as a police authority;
- (h) is a member (including a member who is chairman or chief executive), or member of staff, of—
 - (i) the British Transport Police Authority;
 - (ii) the Civil Nuclear Police Authority;
 - (iii) the ~~Independent Police Complaints Commission~~ *Office for Police Conduct*;
 - (iv) the Serious Organised Crime Agency;
- (i) holds any employment in an entity which is under the control of—
 - (i) a local policing body;
 - (ii) any body mentioned in paragraph (h);
 - (iii) the chief officer of police for any police force maintained for a police area or the City of London police area;
 - (iv) the chief officer of police for any police force mentioned in paragraph (b).

(1A) Subsection (1)(e)(i) does not prevent a deputy police and crime commissioner—

- (a) from being elected as police and crime commissioner at an ordinary election of police and crime commissioners;*
- (b) from being elected at an election held under section 51 to fill a vacancy in the office of police and crime commissioner if, on the day on*

which the person is nominated as a candidate at the election and at all times between that day and the declaration of the result of the election, the deputy is acting as police and crime commissioner under section 62.

(2) In this section, “member of staff”, in relation to any person (“A”), includes a person (“B”) who works for A—

- (a) under a contract of employment,
- (b) under a contract for services, or
- (c) in accordance with arrangements made between B's employer and A; and for this purpose B works for A if B provides services for A under the direction and control of A.

(3) In subsection (1)(i), the reference to an entity under the control of a local policing body or other body or a chief officer of police is to be construed in accordance with regulations made by the Secretary of State [or the Chancellor of the Duchy of Lancaster] 2 .

(4) In its application in relation to the first election of a police and crime commissioner to be held for a police area, this section applies as if—

- (a) for paragraphs (d) to (g) of subsection (1) there were substituted—
“(d) any member, or member of staff, of a police authority within the meaning of the Police Act 1996 (see section 101 of that Act);”
, and
- (b) for paragraph (i)(i) of that subsection there were substituted—
“(i) a police authority within the meaning of the Police Act 1996.”

Section 66 of the Police Reform and Social Responsibility Act 2011 as amended by paragraph 78 of Schedule 1 and paragraph 120 of Schedule 2

66: Disqualification from election or holding office as police and crime commissioner: other grounds

(1) A person is disqualified from being elected as, or being, a police and crime commissioner unless the person satisfies the citizenship condition (see section 68).

(2) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—

- (a) is disqualified from being a member of the House of Commons under section 1(1)(a) to (c) of the House of Commons Disqualification Act 1975 (judges, civil servants, members of the armed forces), or
- (b) is a member of the legislature of any country or territory outside the United Kingdom.

(3) A person is disqualified from being elected as, or being, a police and crime commissioner if—

- (a) the person is the subject of—
 - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986;
 - (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule;
 - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act;
 - (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule;
- (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act;
- (c) the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence); or
- (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).

(4) For the purpose of subsection (3)(c)—

- (a) “imprisonable offence” means an offence—
 - (i) for which a person who has attained the age of 18 years may be sentenced to a term of imprisonment, or
 - (ii) for which, in the case of such a person, the sentence is fixed by law as life imprisonment;
- (b) a person is to be treated as having been convicted—
 - (i) on the expiry of the ordinary period allowed for an appeal or application in respect of the conviction, or

(ii) if an appeal or application is made in respect of the conviction, when the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution.

(5) A person is disqualified from being elected as, or being, police and crime commissioner for a police area if the person—

- (a) is a member of staff of a relevant council, or
- (b) holds any employment in an entity which is under the control of a relevant council within subsection (7)(a), (b), (c) or (f).

(6) For this purpose—

“member of staff” has the same meaning as in section 65;
“relevant council”, in relation to a police area, means a council within subsection (7) for an area which, or any part of which, lies within the police area.

(7) Those councils are—

- (a) a county council;
- (b) a county borough council;
- (c) a district council;
- (d) a parish council;
- (e) a community council;
- (f) the Council of the Isles of Scilly.

(8) In subsection (5)(b), the reference to an entity under the control of a relevant council is to be construed in accordance with regulations made by the Secretary of State or the Chancellor of the Duchy of Lancaster .

(9) Nothing in subsection (5) is to be taken to disqualify a person by virtue of being a teacher, or otherwise employed, in a school or other educational institution maintained or assisted by a relevant council.

(10) Subsection (11) applies to the police and crime commissioner for a police area if, by virtue of an order under section 4A of the Fire and Rescue Services Act 2004, the person who is for the time being the commissioner for that area is also the fire rescue authority for an area which corresponds to or falls within the police area.

(11) A person is disqualified from being elected as, or being, that police and crime commissioner if the person is employed by—

- (a) a fire and rescue authority within section 1(2) or (3) of the Fire and Rescue Services Act 2004,*
- (b) a fire and rescue authority constituted by a scheme under section 2 of that Act or a scheme to which section 4 of that Act relates, or*
- (c) a fire and rescue authority created by an order under section 4A of that Act.*

(12) A person is disqualified from being elected as, or being, police and crime commissioner if the person—

- (a) is the London Fire Commissioner, or*
- (b) is a member of the staff of the London Fire Commissioner.*

Paragraphs 2 and 8 of Schedule 8 to the Police Reform and Social Responsibility Act 2011 as amended by paragraph 81 of Schedule 1

2: No appointment until end of confirmation process

(1) A police and crime commissioner must not appoint a person to be chief constable unless—

- (a) that person is eligible for appointment, and
- (b) the end of the confirmation process has been reached.

(1A) ~~A person~~ *Subject to sub-paragraph (1AA), a person* is eligible for appointment if the person is or has been—

- (a) a constable in any part of the United Kingdom, or
- (b) a police officer in an approved overseas police force, of at least the approved rank.

(1AA) Where, under an order under section 4F of the Fire and Rescue Services Act 2004 or section 107EA(2) of the Local Democracy, Economic Development and Construction Act 2009, functions of a fire and rescue authority are delegated to the chief constable of the police force for a police area, a person is eligible for appointment as that chief constable if the person—

- (a) has experience at a senior level in the provision of services provided under the Fire and Rescue Services Act 2004, and*
- (b) has undertaken training in relation to policing matters of a kind that is specified by the College of Policing for the purposes of this paragraph.*

(1B) An “approved overseas police force” is a police force which—

- (a) is in a country or territory outside the United Kingdom designated by regulations made by the Secretary of State, and
- (b) is designated in relation to that country or territory by the regulations.

(1C) The “approved rank” for an approved overseas police force is the rank which is designated as the approved rank for that police force by the regulations.

(1D) The College of Policing must recommend to the Secretary of State matters to be designated under this paragraph.

(1E) The Secretary of State may make regulations under this paragraph only if they give effect to a recommendation under sub-paragraph (1D).

(2) The end of the confirmation process is reached—

- (a) in a case where paragraph 7 applies, when the first of the events mentioned in sub-paragraphs (3) and (4) occurs; or
- (b) in a case where paragraph 8 applies, when the first of the events mentioned in sub-paragraphs (3) and (5) occurs.

(3) The first event mentioned in sub-paragraphs (2)(a) and (2)(b) is the period of three weeks mentioned in paragraph 4(6) ending without the relevant police and crime panel having given the police and crime commissioner any report on the proposed appointment.

(4) The second event mentioned in sub-paragraph (2)(a) is the police and crime commissioner notifying the panel under paragraph 7(3) of the decision whether or not to accept the panel's recommendation in relation to the appointment.

(5) The second event mentioned in sub-paragraph (2)(b) is the end of the confirmation process being reached in accordance with regulations under paragraph 10.

8: The deputy police and crime commissioner

(1) This paragraph applies to a person appointed under section 18 by a police and crime commissioner to be the deputy police and crime commissioner.

(2) None of the following may be appointed as the deputy police and crime commissioner—

- (a) a person who has not attained the age of 18 on the day of the appointment;
- (b) a person who is subject to a relevant disqualification;
- (c) a Member of the House of Commons;
- (d) a member of the European Parliament;
- (e) a member of the National Assembly for Wales;
- (f) a member of the Scottish Parliament;
- (g) a member of the Northern Ireland Assembly.

~~(3) The terms and conditions of a person who is appointed as the deputy police and crime commissioner must provide for the appointment to end not later than the day when the current term of office of the appointing police and crime commissioner ends.~~

(3) The terms and conditions of a person appointed as the deputy police and crime commissioner must ensure that the term of office ends no later than the sixth day after the day of the poll at the next ordinary election of police and crime commissioners (that is, the day on which the term of office of the appointing police and crime commissioner would, if there were no vacancy in the office before then, end in accordance with section 50(7)(b)).

(3A) The terms and conditions must also provide for the deputy police and crime commissioner's appointment to end when, following an election held under section 51 to fill a vacancy in the office of the appointing police and crime commissioner, the person elected makes and delivers a declaration of acceptance of office under section 70(1).

(3B) Subject to sub-paragraphs (3) and (3A), the terms and conditions

may make such provision about termination as the appointing police and crime commissioner thinks appropriate.

(4) Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the deputy police and crime commissioner.

~~(5) In this paragraph “current term of office”, in relation to the appointment of a deputy police and crime commissioner by a police and crime commissioner, means the commissioner's term of office which is running at the time the appointment is made.~~

(6) For the purposes of this paragraph, a person is subject to a relevant disqualification if the person is disqualified from being elected as, or being, a police and crime commissioner under—

(a) section 65(1) (police officers, police-related employment etc), other than paragraph (e)(ii); or

(b) section 66(1), (3)(a)(iii) or (iv), (3)(c) or (3)(d) (citizenship, bankruptcy, criminal convictions & corrupt or illegal election practices).

Paragraphs 4 and 22 of Schedule 6 to the Police Reform and Social Responsibility Act 2011 as amended by paragraph 80 of Schedule 1

4: Membership and status

(1) A police and crime panel for a police area is to consist of the following members—

- (a) the relevant number of persons properly appointed as members of the panel; and
- (b) the appropriate number of members co-opted by the panel.

(2) For the purposes of sub-paragraph (1)(a), the “relevant number” is—

- (a) ten (if the police area covers ten or fewer local authorities); or
- (b) the number that is equal to the number of local authorities which the police area covers (if the police area covers eleven or more local authorities).

(3) For the purposes of sub-paragraph (1)(b), the “appropriate number” is—

- (a) two, or
- (b) if a resolution of the panel under sub-paragraph (4) is in force, the number of co-opted members specified in that resolution.

(4) A police and crime panel may resolve that the panel is to have the number of co-opted members specified in the resolution; but no such resolution may be passed unless—

- (a) that number of co-opted members is greater than two;
- (b) the Secretary of State agrees that the panel should have that number of co-opted members; and
- (c) the total membership of the panel, including that number of co-opted members, would not exceed 20.

(5) A police and crime panel is—

- (a) a committee of the relevant local authority (if it is the panel for a single-authority police area), or
- (b) a joint committee of the relevant local authorities (if it is the panel for a multi-authority police area).

(6) A police and crime panel may not exercise any functions other than those conferred by this Act *or by, or by virtue of, the Fire and Rescue Services Act 2004*.

22: Co-opted members of police and crime panels

(1) A person may not be a co-opted member of the police and crime panel for a police area if the person is any of the following—

- (a) a member of the staff of the police and crime commissioner for that police area;
- (b) a member of the civilian staff of the police force for that police area;
- (c) a Member of Parliament;

- (d) a member of the National Assembly for Wales;
- (e) a member of the Scottish Parliament;
- (f) a member of the European Parliament.

(2) Sub-paragraph (3) applies (as well as sub-paragraph (1)) in relation to a police and crime panel for a police area which, under or by virtue of the Fire and Rescue Services Act 2004, exercises functions in relation to a fire and rescue authority.

- (3) A person may not be a co-opted member of the panel if the person is—*
- (a) a member of staff of the fire and rescue authority, or*
 - (b) if an order under section 4F of that Act is in force in relation to that authority, a member of staff of the chief constable of the police force for the police area who has been—*
 - (i) transferred to the chief constable under a scheme made under subsection 4G(1) of that Act, or*
 - (ii) appointed by the chief constable under section 4G(4) of that Act.*

Section 9 of the Crime and Courts Act 2013 as amended by clause 138

9: Director General: customs powers of Commissioners & operational powers

(1) The Director General has, in relation to any customs matter, the same powers as the Commissioners for Her Majesty's Revenue and Customs would have.

(2) The Secretary of State may designate the Director General as a person having one or more of the following—

- (a) the powers and privileges of a constable;
- (b) the powers of an officer of Revenue and Customs;
- (ba) the powers of a general customs official;*
- (c) the powers of an immigration officer.

(3) The Secretary of State may modify or withdraw a designation of the Director General by giving notice of the modification or withdrawal to the Director General.

(4) Schedule 5 (police, customs and immigration powers) has effect.

(5) If, in accordance with paragraph 4 of Schedule 5, recommendations are made to the Secretary of State as to the operational powers which the Director General should have, the Secretary of State must exercise the powers of designation to give effect to those recommendations (unless the recommendations are already given effect to by a previous exercise of the powers of designation).

(6) The Secretary of State may not exercise the powers of designation unless—

- (a) required to do so by subsection (5); or
- (b) required or otherwise authorised to do so by regulations under paragraph 5 of Schedule 5.

(7) In this section “powers of designation” means the powers conferred by subsections (2) and (3).

(8) In this Part—

“customs matter” means any matter other than—

- (a) a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 applies (former Inland Revenue matters), or
- (b) any tax or duty not mentioned in Schedule 1 to that Act (which lists such matters);

“operational power” means any of the following—

- (a) a power or privilege of a constable;
- (b) a power of an officer of Revenue and Customs;
- (ba) a power of a general customs official;*

(c) a power of an immigration officer.

Section 10 of the Crime and Courts Act 2013 as amended by clause 138

10: Operational powers of other NCA officers

(1) The Director General may designate any other NCA officer as a person having one or more of the following—

- (a) the powers and privileges of a constable;
- (b) the powers of an officer of Revenue and Customs;
- (ba) the powers of a general customs official;*
- (c) the powers of an immigration officer.

(2) The Director General may not designate an NCA officer under this section as having particular operational powers unless the Director General is satisfied that the officer—

- (a) is capable of effectively exercising those powers;
- (b) has received adequate training in respect of the exercise of those powers; and
- (c) is otherwise a suitable person to exercise those powers.

(3) The Director General may modify or withdraw a designation of an NCA officer by giving notice of the modification or withdrawal to the officer.

(4) For further provision about designations under this section, see Schedule 5.

Paragraph 4 of Schedule 6 to the Crime and Courts Act 2013 as amended by clause 36

4: NCA response

- (1) The Director General must—
- (a) prepare comments on each HMIC report as published by the Secretary of State; and
 - (b) arrange for those comments to be published in such manner as the Director General considers appropriate.

(1A) The comments must be published before the end of the period of 56 days beginning with the day on which the HMIC report is published by the Secretary of State.

- (1B) If the HMIC report includes a recommendation, the comments must include an explanation of—*
- (a) the action the Director General has taken or proposes to take in response to the recommendation, or*
 - (b) why the Director General has not taken, or does not propose to take, any action in response.*

- (2) The Director General must send a copy of any document published under sub-paragraph (1)(b)—
- (a) to the Secretary of State; and
 - (b) if the inspection was carried out wholly or partly in Scotland, to the Scottish Ministers; and
 - (c) if the inspection was carried out wholly or partly in Northern Ireland, to the Department of Justice in Northern Ireland.

Schedule 8 to the Anti-social Behaviour, Crime and Policing Act 2014 as amended by clause 142

Interpretation

1

- (1) In this Schedule “examining officer” means—
- (a) a constable,
 - (b) a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971, or
 - (c) a general customs official designated under section 3(1) of the Borders, Citizenship and Immigration Act 2009.
- (2) In this Schedule “travel document” means anything that is, or appears to be, a passport or other document which—
- (a) has been issued by or for Her Majesty's Government, or the government of another state, and
 - (b) enables or facilitates travel from one state to another.
- (3) For the purposes of this Schedule a travel document is “invalid” if—
- (a) it has been cancelled,
 - (b) it has expired,
 - (c) it was not issued by the government or authority by which it purports to have been issued, or
 - (d) it has undergone an unauthorised alteration.
- (4) In this Schedule “port” means—
- (a) an airport,
 - (b) a sea port,
 - (c) a hoverport,
 - (d) a heliport,
 - (e) a railway station where passenger trains depart for, or arrive from, places outside the United Kingdom, or
 - (f) any other place at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with entering or leaving Great Britain or Northern Ireland.

Powers of search and seizure etc: ports

2

- (1) An examining officer may exercise any of the powers under this paragraph in the case of a person at a port whom the officer believes to be there in connection with—
- (a) entering or leaving Great Britain or Northern Ireland, or
 - (b) travelling by air within Great Britain or within Northern Ireland.
- (2) The powers are—
- (a) to require the person to hand over all travel documents in his or her possession for inspection by the examining officer;
 - (b) to search for travel documents and to take possession of any that the officer finds;

- (c) to inspect any travel document taken from the person and to retain it while its validity is checked;
- (d) (subject to paragraph 4) to retain any travel document taken from the person that the examining officer believes to be invalid.

- (3) The power under sub-paragraph (2)(b) is a power to search—
 - (a) the person;
 - (b) anything that the person has with him or her;
 - (c) any vehicle in which the examining officer believes the person to have been travelling or to be about to travel.
- (4) An examining officer—
 - (a) may stop a person or vehicle for the purposes of exercising a power under this paragraph;
 - (b) may if necessary use reasonable force for the purpose of exercising a power under this paragraph;
 - (c) may authorise a person to carry out on the officer's behalf a search under this paragraph.

~~Powers of search and seizure etc: constables~~ Powers of search and seizure etc: places other than ports

3

~~(1) A constable may exercise any of the powers under this paragraph, at a place that is not a port, in the case of a person whom the constable reasonably believes to be in possession of a passport to which this paragraph applies.~~

(1) An examining officer who is a constable or a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971 may exercise any of the powers under this paragraph, at a place that is not a port, if the examining officer reasonably believes that a person is in possession of a cancelled UK passport or an invalid non-UK travel document.

~~(2) This paragraph applies to a passport~~ *A passport is a “cancelled UK passport” if—*

- (a) the passport was issued by or for Her Majesty's Government, *and*
- (b) the Secretary of State has cancelled the passport on the basis that the person to whom it was issued has or may have been, or will or may become, involved in activities so undesirable that it is contrary to the public interest for the person to have access to passport facilities. *and*
- ~~(c) the passport is specified in an authorisation issued by the Secretary of State for the use of the powers under this paragraph.~~

(2A) An invalid travel document is “an invalid non-UK travel document” if it is, or appears to be, a passport or other document which has been issued by or for the government of a state other than the United Kingdom.

- (3) The powers are—
 - (a) to require the person to hand over all travel documents in his or her possession for inspection by ~~the constable~~ *the examining officer*;

- (b) to search for travel documents and to take possession of any that ~~the constable~~ *the examining officer* finds;
- (c) to inspect any travel document taken from the person and to retain it while its validity is checked;
- (d) (subject to paragraph 4) to retain any travel document taken from the person that ~~the constable~~ *believes the examining officer reasonably believes* to be invalid.

(4) The power under sub-paragraph (3)(b) is a power to search—

- (a) the person;
- (b) anything that the person has with him or her;
- (c) any vehicle in which ~~the constable~~ *believes the examining officer reasonably believes* the person to have been travelling or to be about to travel;
- (d) any premises on which ~~the constable~~ *the examining officer* is lawfully present.

(5) ~~A constable~~ *An examining officer*—

- (a) may if necessary use reasonable force for the purpose of exercising a power under this paragraph;
- (b) may authorise a person to carry out on ~~the constable's behalf~~ *the examining officer's behalf* a search under this paragraph.

Powers of entry, search and seizure etc: constables

3A (1) A constable may exercise any of the powers under this paragraph in relation to any premises, other than premises forming part of a port, if the constable reasonably believes that a cancelled UK passport or an invalid non-UK travel document is on the premises (whether or not in the possession of a person who is also on the premises).

“A cancelled UK passport” and “an invalid non-UK travel document” have the same meaning in this paragraph as they have in paragraph 3 (see paragraph 3(2) and (2A)).

(2) *The powers are—*

- (a) to enter the premises;*
- (b) to search the premises for travel documents and to take possession of any that the constable finds;*
- (c) to inspect any travel document taken and to retain it while its validity is checked;*
- (d) (subject to paragraph 4) to retain any travel document taken that the constable reasonably believes to be invalid.*

(3) *A constable—*

- (a) may if necessary use reasonable force for the purpose of exercising a power under this paragraph;*
- (b) may authorise a person to carry out on the constable's behalf a search under this paragraph.*

(4) This paragraph does not affect any power of a constable under paragraph 3(3), (4)(a) to (c) or (5) in relation to a person on any premises entered under sub-paragraph (2)(a).

Retention or return of documents seized

4

(1) If a travel document is retained under paragraph ~~2(2)(c) or 3(3)(c)~~ 2(2)(c), 3(3)(c) or 3A(2)(c) while its validity is checked, the checking must be carried out as soon as possible.

(2) If it is established that a travel document taken from a person under paragraph 2 or 3—

(a) is valid, or

(b) is invalid only because it has expired,

it must be returned to the person straight away.

(2A) If it is established that a travel document taken from any premises under paragraph 3A—

(a) is valid, or

(b) is invalid only because it has expired,

it must be returned to the person whom it belongs straight away.

(3) A travel document taken from a person under paragraph 2 or 3 must be returned to the person before the end of the period of 7 days beginning with the day on which it was taken, unless during that period it is established that the document is invalid for some reason other than expiry.

(3A) A travel document taken from premises under paragraph 3A must be returned to the person to whom it belongs before the end of the period of 7 days beginning with the day on which it was taken, unless during that period it is established that the document is invalid for some reason other than expiry.

(4) A requirement under sub-paragraph ~~(2)(b) or (3)~~ (2)(b), (3) or (3A) to return an expired travel document does not apply where the officer concerned reasonably believes that the person from whom he or she took the document *or (as the case may be) to whom it was issued*, or some other person, intends to use it for purposes for which it is no longer valid.

(5) A requirement under sub-paragraph ~~(2) or (3)~~ (2), (2A), (3) or (3A) to return a travel document has effect subject to any provision not in this Schedule under which the document may be lawfully retained.

Offences

5

(1) A person who is required under paragraph 2(2)(a) or 3(3)(a) to hand over all travel documents in the person's possession commits an offence if he or she fails without reasonable excuse to do so.

(2) A person who intentionally obstructs, or seeks to frustrate, ~~a search under paragraph 2 or 3~~ *the exercise of a power of search under paragraph 2,*

3 or 3A, or the exercise of a power of entry under paragraph 3A, commits an offence.

(3) A person guilty of an offence under this paragraph is liable on summary conviction—

(a) to imprisonment for a term not exceeding 6 months, or

(b) to a fine, which in Scotland or Northern Ireland may not exceed £5,000,

or to both.

6

An examining officer, other than a constable, exercising a power under paragraph 2 or 3 has the same powers of arrest without warrant as a constable in relation to an offence under—

(a) paragraph 5, or

(b) section 4 or 6 of the Identity Documents Act 2010.