

SCHEDULES

SCHEDULE 6

Section 63

STOP AND SEARCH POWERS: NORTHERN IRELAND

- 1 (1) Paragraph 4 of Schedule 3 to the Justice and Security (Northern Ireland) Act 2007 (stopping and searching persons in relation to unlawful munitions and wireless apparatus) is amended as follows.
- (2) In sub-paragraph (1) (power to stop and search without reasonable suspicion) for “An officer” substitute “A member of Her Majesty’s forces who is on duty”.
- (3) In sub-paragraph (2)—
- (a) for “officer”, in the first place where it appears, substitute “member of Her Majesty’s forces who is on duty”, and
- (b) for “officer”, in the second place where it appears, substitute “member concerned”.
- (4) After sub-paragraph (3) insert—
- “(4) A constable may search a person (whether or not that person is in a public place) whom the constable reasonably suspects to have munitions unlawfully with him or to have wireless apparatus with him.”
- (5) In the italic cross-heading before paragraph 4, at the end, insert “: general”.

- 2 After paragraph 4 of that Schedule to that Act insert—

“Stopping and searching persons in specified locations

- 4A (1) A senior officer may give an authorisation under this paragraph in relation to a specified area or place if the officer—
- (a) reasonably suspects (whether in relation to a particular case, a description of case or generally) that the safety of any person might be endangered by the use of munitions or wireless apparatus, and
- (b) reasonably considers that—
- (i) the authorisation is necessary to prevent such danger,
- (ii) the specified area or place is no greater than is necessary to prevent such danger, and
- (iii) the duration of the authorisation is no longer than is necessary to prevent such danger.
- (2) An authorisation under this paragraph authorises any constable to stop a person in the specified area or place and to search that person.
- (3) A constable may exercise the power conferred by an authorisation under this paragraph only for the purpose of ascertaining whether the person

Status: This is the original version (as it was originally enacted).

has munitions unlawfully with that person or wireless apparatus with that person.

- (4) But the power conferred by such an authorisation may be exercised whether or not the constable reasonably suspects that there are such munitions or wireless apparatus.
- (5) A constable exercising the power conferred by an authorisation under this paragraph may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.
- (6) Where a constable proposes to search a person by virtue of an authorisation under this paragraph, the constable may detain the person for such time as is reasonably required to permit the search to be carried out at or near the place where the person is stopped.
- (7) A senior officer who gives an authorisation under this paragraph orally must confirm it in writing as soon as reasonably practicable.
- (8) In this paragraph and paragraphs 4B to 4I—
“senior officer” means an officer of the Police Service of Northern Ireland of at least the rank of assistant chief constable,
“specified” means specified in an authorisation.
- 4B (1) An authorisation under paragraph 4A has effect during the period—
(a) beginning at the time when the authorisation is given, and
(b) ending with the specified date or at the specified time.
- (2) This paragraph is subject as follows.
- 4C The specified date or time must not occur after the end of the period of 14 days beginning with the day on which the authorisation is given.
- 4D (1) The senior officer who gives an authorisation must inform the Secretary of State of it as soon as reasonably practicable.
- (2) An authorisation ceases to have effect at the end of the period of 48 hours beginning with the time when it is given unless it is confirmed by the Secretary of State before the end of that period.
- (3) An authorisation ceasing to have effect by virtue of sub-paragraph (2) does not affect the lawfulness of anything done in reliance on it before the end of the period concerned.
- (4) When confirming an authorisation, the Secretary of State may—
(a) substitute an earlier date or time for the specified date or time;
(b) substitute a more restricted area or place for the specified area or place.
- 4E The Secretary of State may cancel an authorisation with effect from a time identified by the Secretary of State.
- 4F (1) A senior officer may—
(a) cancel an authorisation with effect from a time identified by the officer concerned;
(b) substitute an earlier date or time for the specified date or time;

Status: This is the original version (as it was originally enacted).

- (c) substitute a more restricted area or place for the specified area or place.
- (2) Any such cancellation or substitution in relation to an authorisation confirmed by the Secretary of State under paragraph 4D does not require confirmation by the Secretary of State.
- 4G The existence, expiry or cancellation of an authorisation does not prevent the giving of a new authorisation.
- 4H (1) An authorisation under paragraph 4A given by a senior officer may specify—
 - (a) the whole or part of Northern Ireland,
 - (b) the internal waters or any part of them, or
 - (c) any combination of anything falling within paragraph (a) and anything falling within paragraph (b).
- (2) In sub-paragraph (1)(b) “internal waters” means waters in the United Kingdom which are adjacent to Northern Ireland.
- (3) Where an authorisation specifies more than one area or place—
 - (a) the power of a senior officer under paragraph 4B(1)(b) to specify a date or time includes a power to specify different dates or times for different areas or places (and the other references in this Schedule to the specified date or time are to be read accordingly), and
 - (b) the power of the Secretary of State under paragraph 4D(4)(b), and of a senior officer under paragraph 4F(1)(c), includes a power to remove areas or places from the authorisation.
- 4I (1) Sub-paragraph (2) applies if any decision of—
 - (a) a senior officer to give, vary or cancel an authorisation under paragraph 4A, or
 - (b) the Secretary of State to confirm, vary or cancel such an authorisation,is challenged on judicial review or in any other legal proceedings.
- (2) The Secretary of State may issue a certificate that—
 - (a) the interests of national security are relevant to the decision, and
 - (b) the decision was justified.
- (3) The Secretary of State must notify the person making the challenge (“the claimant”) if the Secretary of State intends to rely on a certificate under this paragraph.
- (4) Where the claimant is notified of the Secretary of State’s intention to rely on a certificate under this paragraph—
 - (a) the claimant may appeal against the certificate to the Tribunal established under section 91 of the Northern Ireland Act 1998, and
 - (b) sections 90(3) and (4), 91(2) to (9) and 92 of that Act (effect of appeal, procedure and further appeal) apply but subject to sub-paragraph (5).

Status: This is the original version (as it was originally enacted).

- (5) In its application by virtue of sub-paragraph (4)(b), section 90(3) of the Act of 1998 is to be read as if for the words from “subsection” to “that purpose,” there were substituted “paragraph 4I(4)(a) of Schedule 3 to the Justice and Security (Northern Ireland) Act 2007 the Tribunal determines that—
- “(a) the interests of national security are relevant to the decision to which the certificate relates, and
 - (b) the decision was justified,”.
- (6) Rules made under section 91 or 92 of the Act of 1998 which are in force immediately before this paragraph comes into force have effect in relation to a certificate under this paragraph—
- (a) with any necessary modifications, and
 - (b) subject to any later rules made by virtue of sub-paragraph (4)(b).”
- 3 In paragraph 9(1) of that Schedule to that Act (offence of failing to stop when required to do so) after “paragraph 4” insert “or by virtue of paragraph 4A”.