

## SCHEDULE 1

Article 5

### Cross-border enforcement by constables of territorial police forces

#### **Modification of Part 10 of the Criminal Justice and Public Order Act 1994**

1. The Criminal Justice and Public Order Act 1994 is amended as follows.
2. In section 136 (execution of warrants)—
  - (a) before subsection (5) insert—

“(4B) Where, under subsection (2)(a) or (3)(b), a constable executes a warrant issued in Scotland, any enactment or rule of law which concerns—

    - (a) the powers and duties of a constable who executes such a warrant;
    - (b) the rights of a person arrested under such a warrant;
    - (c) the procedures to be followed after an arrest under such a warrant,

applies in relation to the arrest (subject to the modifications set out in section 137ZA) as though the warrant had been executed in Scotland and, if the constable who executed it is not a constable of a police force in Scotland, as though the constable were(1).”;
  - (b) in subsection (5), paragraph (b) is repealed.
3. In section 137 (cross-border powers of arrest etc.)—
  - (a) in subsection (2), the words “or detention” are repealed;
  - (b) in subsection (7)—
    - (i) the words “or, as the case may be detained,” are repealed;
    - (ii) for paragraph (b) substitute—
      - (ba) if he arrested him in England or Wales under subsection (2) above and has charged him with an offence, 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;
      - (bb) if he arrested him in England or Wales under subsection (2) above and has not charged him with an offence, to take the person arrested either to a police station in Scotland mentioned in paragraph (ba) above, or to the nearest convenient designated police station in England or Wales;
      - (bc) if he arrested him in England or Wales under subsection (3) above, to take the person arrested 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.”;
    - (iii) paragraph (c) is repealed;
    - (iv) in paragraph (d)—
      - (aa) after the word “Ireland” insert “under subsection (1) above”;
      - (bb) the words from “or to the nearest” to the end of the paragraph are repealed;
    - (v) after paragraph (d) insert—
      - (da) if he arrested him in Northern Ireland under subsection (2) above and has charged him with an offence, to take the person arrested to such police station in Scotland as is mentioned in paragraph (ba) above;

(1) A new subsection (4A) is to be inserted into section 136 (on a date to be appointed) by the Policing and Crime Act 2017 (c.3), Schedule 17, paragraph 7.

- (db) if he arrested him in Northern Ireland under subsection (2) above and has not charged him with an offence, to take the person arrested either to such police station in Scotland as is mentioned in paragraph (ba) above, or to the nearest convenient designated police station in Northern Ireland;”;
  - (vi) paragraph (e) is repealed;
  - (c) before subsection (8) insert—
    - “(7B) Where a constable arrests a person under a power exercised by virtue of subsection (2) above, any enactment or rule of law which concerns—
      - (a) the powers and duties of a constable who effects an arrest under the power;
      - (b) the rights of a person arrested under the power;
      - (c) the procedures to be followed after an arrest under the power,applies in relation to the arrest (subject to the modifications set out in section 137ZA) as though the arrest had been effected in Scotland and, if the constable who executed it is not a constable of a police force in Scotland, as though the constable were(2).”;
  - (d) in subsection (8), paragraphs (b) and (c) are repealed.
4. After section 137 insert—

**“137ZA. Arrest under section 136 or 137 in connection with offence in Scotland**

- (1) This section makes provision about the application of Part 1 of the Criminal Justice (Scotland) Act 2016 (“the 2016 Act”) in relation to a person who is arrested by a constable—
  - (a) in execution of a warrant under section 136(2)(a) or (3)(b); or
  - (b) under section 137(2).
- (2) If, following the arrest, the arrested person is to be taken directly to a place in Scotland to be held in custody, at the same time as being informed in accordance with section 3 of the 2016 Act of the matters mentioned in that section, the person must also be informed of the person’s right to have intimation sent under section 38 of the 2016 Act.
- (3) Section 4 of the 2016 Act applies subject to the following modifications—
  - (a) subsection (1) does not apply;
  - (b) in subsection (2), as it applies in relation to a person arrested under section 137(2) of this Act, the reference to subsection (1) and the words “this section” in paragraph (b) are to be read as references to section 137(7) of this Act;
  - (c) in subsection (3), the reference to subsection (1) and the words “this section” are to be read as references to section 136(4) or (as the case may be) section 137(7) of this Act.
- (4) In each of sections 5(1)(b), 7(2)(b), 15(3) and 37(4)(b) of the 2016 Act, the reference to section 4 of that Act is to be read as a reference to section 136(4) or (as the case may be) section 137(7) of this Act.
- (5) References in Part 1 of the 2016 Act to a police station are to be read as including police stations in England, Wales and Northern Ireland.
- (6) If the arrested person is in a police station in England, Wales or Northern Ireland, sections 33(6)(b)(ii) and 42(5)(b)(ii) of the 2016 Act are to be read as though they referred to any person who performs at that police station a function which is equivalent to a

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(2) A new subsection (7A) is to be inserted into section 137 (on a date to be appointed) by the Policing and Crime Act 2017, Schedule 17, paragraph 8.

function performed at police stations in Scotland by members of police staff appointed under section 26(1) of the Police and Fire Reform (Scotland) Act 2012.”

5. In section 138 (powers of arrest: supplementary provisions)—
  - (a) subsections (1A) to (2A)(3) are repealed; and
  - (b) subsections (6) to (9)(4) are repealed.
6. In section 140(4), for the words from “the arrested” to the end, substitute—

“any enactment or rule of law which concerns—

  - (a) the powers and duties of a constable who effects an arrest under a power which a constable of the Police Service of Scotland could have exercised to effect the arrest;
  - (b) the rights of a person arrested under that power of arrest;
  - (c) the procedures to be followed after an arrest under that power,

applies in relation to the arrest as though the constable who effected the arrest were a constable of a police force in Scotland.”

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(3) Section 138(1A) and (1B) were inserted and sections 138(2) and (2A) were substituted for section 138(2) by [S.I. 2011/1739](#).

(4) Section 138(6) to (9) were substituted for section 138(6) by [S.I. 2011/1739](#).