

Status: Point in time view as at 31/03/1996. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Prevention of Terrorism (Temporary Provisions) Act 1989 (repealed), SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 16(1), (3) and (4).

PORT AND BORDER CONTROL

Modifications etc. (not altering text)

C1 Sch. 5 modified (2.8.1993) by S.I. 1993/1813, art. 7(1), Sch. 4 para. 3 (Foreign Office Library)

Examining officers

- 1 (1) The following shall be examining officers for the purposes of this Act—
- (a) constables;
 - (b) immigration officers appointed for the purposes of the ^{M1}Immigration Act 1971 under paragraph 1 of Schedule 2 to that Act; and
 - (c) officers of customs and excise who are the subject of arrangements for their employment as immigration officers made under that paragraph by the Secretary of State.
- (2) In Northern Ireland members of Her Majesty's Forces may perform such functions conferred on examining officers as the Secretary of State may by order specify.
- (3) The power to make orders under sub-paragraph (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Examining officers shall exercise their functions under this Act in accordance with such instructions as may from time to time be given to them by the Secretary of State.

Marginal Citations

M1 1971 c. 77.

Examination on arrival or departure

- 2 (1) Any person who has arrived in, or is seeking to leave, Great Britain or Northern Ireland by ship or aircraft ^{F1}. . . may be examined by an examining officer for the purpose of determining—
- (a) whether that person appears to be a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism to which this paragraph applies; or

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- (b) whether any such person is subject to an exclusion order [^{F2}or has been served with a notice under paragraph 2(1) of Schedule 2 to this Act]; or
 - (c) whether there are grounds for suspecting that any such person has committed an offence under section 8 of this Act.
- (2) This paragraph applies to—
- (a) acts of terrorism connected with the affairs of Northern Ireland; and
 - (b) acts of terrorism of any other description except acts connected solely with the affairs of the United Kingdom or any part of the United Kingdom other than Northern Ireland.
- (3) An examining officer may—
- (a) examine any person who is entering or seeking to enter or leave Northern Ireland by land from, or to go to, the Republic of Ireland for the purpose of determining whether that person is such a person as is mentioned in any of paragraphs (a) to (c) of sub-paragraph (1) above;
 - (b) examine any person found in Northern Ireland within a distance of one mile from the border with the Republic of Ireland for the purpose of ascertaining whether he is in the course of entering or leaving Northern Ireland by land;
 - (c) examine any person entering Northern Ireland by train when he arrives at the first place where the train is scheduled to stop for the purpose of allowing passengers to alight.
- (4) The period of a person's examination under this paragraph shall not exceed twenty-four hours unless he is detained under paragraph 6 below, and may only exceed twelve hours if an examining officer—
- (a) has reasonable grounds for suspecting that the person examined is or has been concerned in the commission, preparation or instigation of acts of terrorism to which this paragraph applies; and
 - (b) gives him a notice in writing requiring him to submit to further examination.
- (5) In sub-paragraph (1) above the reference to arrival by ship or aircraft includes a reference to arrival as a transit passenger, member of the crew or other person not seeking to enter Great Britain or Northern Ireland.

Textual Amendments

- F1** Words inserted in Sch. 5 para. 2(1) by S.I. 1990/2227, art. 4, Sch. 2, para. 2 repealed (2.8.1993) by S.I. 1993/1813, art. 9(1), Sch. 6 Pt. I (Foreign Office Library)
- F2** Words in Sch. 5 para. 2(1)(b) inserted (25.3.1996) by S.I. 1996/892, regs. 1, 3(4)(a)

Modifications etc. (not altering text)

- C2** Sch. 5 para. 2 amended (2.8.1993) by S.I. 1993/1813, art. 7(1), Sch. 4 para. 3(b) (as amended (1.12.1997) by S.I. 1994/1405, art. 8, Sch. 4 para. 11 Table)

Production of information and documents

- 3 (1) It shall be the duty of any person examined under paragraph 2 above to furnish to the person carrying out the examination all such information in his possession as that person may require for the purpose of his functions under that paragraph.

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- (2) A person on his examination under paragraph 2 above by an examining officer shall, if so required by the examining officer—
- (a) produce either a valid passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship; and
 - (b) declare whether or not he is carrying or conveying documents of any relevant description specified by the examining officer, and produce any documents of that description which he is carrying or conveying.
- (3) In sub-paragraph (2)(b) above “relevant description” means any description appearing to the examining officer to be relevant for the purposes of the examination.

Powers of search, etc.

- 4
- (1) An examining officer may, for the purpose of satisfying himself whether there are persons he may wish to examine under paragraph 2 above, search any ship, [^{F3}or aircraft]and anything on board it or anything taken off or about to be taken aboard a ship, [^{F3}or aircraft].
 - (2) An examining officer who examines any person under paragraph 2 above may, for the purpose of determining whether he is such a person as is mentioned in any of paragraphs (a) to (c) of sub-paragraph (1) of that paragraph, search that person and any baggage belonging to him or any ship [^{F3}or aircraft]and anything on board it or anything taken off or about to be taken aboard a ship [^{F3}or aircraft].
 - (3) Without prejudice to sub-paragraphs (1) and (2) above, an examining officer who examines any person in Northern Ireland under paragraph 2 above may, for the purpose mentioned in sub-paragraph (2) above, search any vehicle and anything in or on it or anything taken out of or off it or about to be placed in or on it.
 - (4) An examining officer may detain for the purpose of examining it anything produced pursuant to paragraph 3(2)(b) above or found on a search under this paragraph for a period not exceeding seven days; and if on examination of anything so produced or found the examining officer is of the opinion that it may be needed—
 - (a) in connection with the taking of a decision by the Secretary of State as to whether or not to make an exclusion order or a deportation order under the ^{M2}Immigration Act 1971; or
 - (b) for use as evidence in criminal proceedings,he may detain it until he is satisfied that it will not be so needed.
 - (5) A search of a person under this paragraph may only be carried out by a person of the same sex.
 - (6) An examining officer may board any ship or aircraft or enter any vehicle for the purpose of exercising any of his functions under this Act.
 - (7) Where an examining officer has power to search under this paragraph, he may, instead, authorise the search to be carried out on his behalf by a person who is not an examining officer.
 - (8) Where a person who is not an examining officer carries out a search in accordance with sub-paragraph (7) above, he may—
 - (a) for that purpose, board any ship or aircraft or enter any vehicle; and

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(b) exercise the power of detaining articles conferred by sub-paragraph (4) above;

and he may, if necessary, use reasonable force for the purpose of carrying out his functions under this paragraph.

(9) In Scotland any person employed by a police authority for the assistance of constables under section 9 of the ^{M3}Police (Scotland) Act 1967 may perform any functions conferred on examining officers by this paragraph, and may, if necessary, use reasonable force for the purpose of performing those functions.

Textual Amendments

F3 Words in Sch. 5 para. 4(1)(2) substituted by S.I. 1990/2227, art. 4, Sch. 2, para. 3 substituted (2.8.1993) by S.I. 1993/1813, art. 8(1), Sch. 5, para.3 (Foreign Office Library)

Marginal Citations

M2 1971 c. 77.

M3 1967 c. 77.

VALID FROM 03/04/1996

[^{F4} Powers to search goods]

Textual Amendments

F4 Cross-heading inserted (3.4.1996) by 1996 c. 7, s. 3(1)

- [^{F5}4A (1) For the purpose of determining whether they are or have been involved in the commission, preparation or instigation of acts of terrorism to which paragraph 2 above applies, an examining officer may search any goods which have arrived in or are about to leave Great Britain or Northern Ireland on any ship, aircraft or vehicle.
- (2) An examining officer may board any ship or aircraft or enter any vehicle for the purpose of determining whether there are goods on the ship, aircraft or vehicle in respect of which he may wish to exercise his power of search.
- (3) Where an examining officer has power to search under this paragraph, he may, instead, authorise a search to be carried out on his behalf by a person who is not an examining officer.
- (4) Where a person who is not an examining officer is authorised to carry out a search in accordance with sub-paragraph (3) above he may—
- (a) board any ship or aircraft or enter any vehicle for the purpose of determining whether there are goods on the ship, aircraft or vehicle in respect of which he may wish to exercise his power of search; and
 - (b) if necessary, use reasonable force for the purpose of carrying out his functions under this paragraph.

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- (5) In Scotland any person employed by a police authority for the assistance of constables under section 9 of the ^{M4}Police (Scotland) Act 1967 may perform any functions conferred on examining officers by this paragraph, and may, if necessary, use reasonable force for the purpose of performing those functions.
- (6) Any person carrying out a search under this paragraph may, for the purpose of examining it, detain for a period not exceeding seven days anything found on the search.
- (7) If, on examining anything so found, the person examining it is of the opinion that it may be needed for use as evidence in criminal proceedings he may detain it until he is satisfied that it will not be so needed.
- (8) In this paragraph “goods” includes—
- (a) stores,
 - (b) baggage,
 - (c) substances, whether natural or manufactured, and whether or not incorporated in or mixed with other goods, and
 - (d) in relation to Scotland, also all corporeal moveables,
- and any transport container or other container in which goods may be placed.]

Textual Amendments

F5 Sch. 5 para. 4A inserted (3.4.1996) by 1996 c. 7, s. 3(1)

Marginal Citations

M4 1967 c. 77.

Landing, embarkation, entry and departure cards

- 5 (1) Subject to sub-paragraph (2) below, any person who disembarks from, or embarks on—
- (a) a ship or aircraft in Great Britain which has come from, or is going to, the Republic of Ireland, Northern Ireland or any of the Islands; or
 - (b) a ship or aircraft in Northern Ireland which has come from, or is going to Great Britain, the Republic of Ireland or any of the Islands,
- shall, if so required by an examining officer, complete and produce to that officer a landing or, as the case may be, an embarkation card in such form as the Secretary of State may direct, which, where the ship or aircraft is employed to carry passengers for reward, shall be supplied for the purpose to that person by the owners or agents of that ship or aircraft.
- (2) Sub-paragraph (1) above shall not apply to a person disembarking from a ship or aircraft coming from the Republic of Ireland if that person is required to produce a landing card under any order for the time being in force under paragraph 5 of Schedule 2 to the ^{M5}Immigration Act 1971.

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- (3) Any person who may be examined under paragraph 2(3)(a) or (c) above shall, if so required by an examining officer, complete and produce to that officer an entry or, as the case may be, a departure card in such form as the Secretary of State may direct.

<p>Marginal Citations</p> <p>M5 1971 c. 77.</p>
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Detention pending examination etc.

- 6 (1) A person who is examined under this Schedule may be detained under the authority of an examining officer—
 - (a) pending conclusion of his examination;
 - ^{F6}(b)
 - (c) pending a decision by the Director of Public Prosecutions or Attorney General or, as the case may be, the Lord Advocate or the Director of Public Prosecutions or Attorney General for Northern Ireland whether proceedings for an offence should be instituted against him.
- (2) Subject to sub-paragraph (3) below, a person shall not be detained under sub-paragraph (1) above for more than forty-eight hours from the time when he is first examined.
- (3) The Secretary of State may, in any particular case, extend the period of forty-eight hours mentioned in sub-paragraph (2) above by a period or periods specified by him, but any such further period or periods shall not exceed five days in all and if an application for such an extension is made the person detained shall as soon as practicable be given written notice of that fact and of the time when the application was made.
- (4) A person liable to be detained under this paragraph may be arrested without warrant by an examining officer.
- (5) A person on board a ship or aircraft may, under the authority of an examining officer, be removed from the ship or aircraft for detention under this paragraph; but if an examining officer so requires, the captain of the ship or aircraft shall prevent from disembarking in the relevant territory any person who has arrived in the ship or aircraft if the examining officer notifies him either that that person is the subject of an exclusion order or that consideration is being given by the Secretary of State to the making of an exclusion order against that person.
- (6) Where under sub-paragraph (5) above the captain of a ship or aircraft is required to prevent a person from disembarking he may for that purpose detain him in custody on board the ship or aircraft.
- (7) A person may be removed from a vehicle for detention under this paragraph.
- (8) In sub-paragraph (5) above “the relevant territory” has the same meaning as in paragraph 6 of Schedule 2 to this Act.

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Textual Amendments

F6 Sch. 5 para. 6(1)(b) omitted (25.3.1996) by virtue of S.I. 1996/892, **regs. 1, 3(4)(b)**

Modifications etc. (not altering text)

C3 Sch. 5 para. 6(1) applied (2.8.1993) by S.I. 1993/1813, **art. 6, Sch. 3 para. 3(4)**; and Sch. 5 para. 6(1) applied by the said S.I. 1993/1813, **Sch. 3 para. 3(4)** as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, **art. 6, Sch. 3 para. 4(d)**

C4 Sch. 5 para. 6(4) amended (2.8.1993) by S.I. 1993/1813, **art. 6, Sch. 3 para. 2(2)(b)**; and Sch. 5 para. 6(4) amended by the said S.I. 1993/1813, **Sch. 3 para. 2** as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, **art. 6, Sch. 3 para. 3**

Detention: supplementary provisions

- 7
- (1) If a justice of the peace is satisfied that there are reasonable grounds for suspecting that a person liable to be arrested under paragraph 6(4) above is to be found on any premises he may grant a search warrant authorising any constable to enter those premises for the purpose of searching for and arresting that person.
 - (2) In Scotland the power to issue a warrant under sub-paragraph (1) above shall be exercised by a sheriff or a justice of the peace, an application for such a warrant shall be supported by evidence on oath and a warrant shall not authorise a constable to enter any premises unless he is a constable for the police area in which they are situated.
 - (3) In Northern Ireland an application for a warrant under sub-paragraph (1) above shall be made by a complaint on oath.
 - (4) A person detained under this Schedule shall be deemed to be in legal custody at any time when he is so detained and, if detained otherwise than on board a ship or aircraft, may be detained in such a place as the Secretary of State may from time to time direct.
 - (5) Where a person is detained under this Schedule, any examining officer, constable or prison officer, or any other person authorised by the Secretary of State, may take all such steps as may be reasonably necessary for photographing, measuring or otherwise identifying him.
 - (6) Section 61(1) to (8) of the ^{M6}Police and Criminal Evidence Act 1984 (fingerprinting) shall apply to the taking of a person's fingerprints by a constable under sub-paragraph (5) above as if for subsection (4) there were substituted—
 - “(4) An officer may only give an authorisation under subsection (3)(a) above for the taking of a person's fingerprints if he is satisfied that it is necessary to do so in order to assist in determining—
 - (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which paragraph 2 of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989 applies;
 - (b) whether he is subject to an exclusion order under that Act; or
 - (c) whether there are grounds for suspecting that he has committed an offence under section 8 of that Act.”

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- [^{F7}(6A) Section 62(1) to (11) of the Police and Criminal Evidence Act 1984 (regulation of taking of intimate samples) shall apply to the taking of an intimate sample from a person under sub-paragraph (5) above as if—
- (a) for subsection (2) there were substituted—
- (“ An officer may only give an authorisation under subsection (1) or (1A) above for the taking of an intimate sample if he is satisfied that it is necessary to do so in order to assist in determining—
- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which paragraph 2 of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989 applies; or
 - (b) whether he is subject to an exclusion order under that Act; or
 - (c) whether there are grounds for suspecting that he has committed an offence under section 8 of that Act"; and
 - (b) in subsection (6), after the word “includes”, there were inserted the words “where relevant”.
- (6B) In this paragraph, “intimate sample” has the same meaning as in section 65 of the Police and Criminal Evidence Act 1984.
- (6C) Section 63 (1) to (9) of the Police and Criminal Evidence Act 1984 (regulation of taking of non-intimate samples) shall apply to the taking of a non-intimate sample from a person by a constable under sub-paragraph (5) above as if—
- (a) for subsection (4) there were substituted—
- (“ An officer may only give an authorisation under subsection (3) above for the taking of a non-intimate sample if he is satisfied that it is necessary to do so in order to assist in determining—
- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which paragraph 2 of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989 applies;
 - (b) whether he is subject to an exclusion order under that Act; or
 - (c) whether there are grounds for suspecting that he has committed an offence under section 8 of that Act"; and
 - (b) in subsection (7), after the word “includes”, there were inserted the words “where relevant”.
- (6D) In this paragraph, “non-intimate sample” has the same meaning as in section 65 of the Police and Criminal Evidence Act 1984.]
- (7) Any person detained under this Schedule may be taken in the custody of an examining officer, or of any person acting under the authority of such an officer, to and from any place where his attendance is required for the purpose of establishing his nationality or citizenship or for making arrangements for his admission to a country or territory outside the United Kingdom or where he is required to be for any other purpose connected with the operation of this Act.

Textual Amendments

- F7** Sch. 5 para. 7(6A)-(6D) inserted (E.W.) (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 62(3)**; S.I. 1995/721, art. 2, **Sch.** Appendix A

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Marginal Citations

M6 1984 c. 60.

Designated ports

- 8
- (1) The owners or agents of a ship or aircraft employed to carry passengers for reward and coming to Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands or going from Great Britain to any other of those places shall not, without the approval of an examining officer, arrange for the ship or aircraft to call at a port in Great Britain other than a designated port for the purpose of disembarking or embarking passengers.
 - (2) The captain of an aircraft not employed to carry passengers for reward and coming to Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands or going from Great Britain to any other of those places shall not, without the approval of an examining officer, permit the aircraft to call at or leave a port in Great Britain other than a designated port.
 - (3) The owners or agents of a ship or aircraft employed to carry passengers for reward and coming to Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands or going from Northern Ireland to any other of those places shall not, without the approval of an examining officer, arrange for the ship or aircraft to call at a port in Northern Ireland other than a designated port for the purpose of disembarking or embarking passengers.
 - (4) The captain of an aircraft not employed to carry passengers for reward and coming to Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands or going from Northern Ireland to any other of those places shall not, without the approval of an examining officer, permit the aircraft to call at or leave a port in Northern Ireland other than a designated port.

Control areas

- 9
- (1) The Secretary of State may from time to time give written notice to the owners or agents of any ships or aircraft designating control areas for the disembarkation or embarkation of passengers in any port in the United Kingdom and specifying the conditions and restrictions (if any) to be observed in any control area; and where by notice given to any owners or agents a control area is for the time being so designated at any port, the owners or agents shall take all reasonable steps to ensure that, in the case of their ships or aircraft, passengers do not disembark or, as the case may be, embark at the port outside the control area and that any conditions or restrictions notified to them are observed.
 - (2) The Secretary of State may also from time to time give to any persons concerned with the management of a port in the United Kingdom written notice designating control areas in the port and specifying facilities to be provided and conditions and restrictions to be observed in any control area; and any such person shall take all reasonable steps to secure that any facilities, conditions or restrictions notified to him are provided or observed.

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^{F8}(3)

Textual Amendments

F8 Sch. 5 para. 9(3) added by S.I. 1990/2227, art. 4, **Sch. 2 para. 4**, repealed (2.8.1993) by S.I. 1993/1813, art. 9(1), **Sch. 6 Pt.I** (Foreign Office Library)

Modifications etc. (not altering text)

C5 Sch. 5 para. 9 amended (2.8.1993) by S.I. 1993/1813, art. 7(1), **Sch. 4 para. 3(I)** (as amended (1.12.1997) by S.I. 1994/1405, art. 8, **Sch. 4 para. 11** Table)

Requirements with respect to embarkation and disembarkation of passengers and crew

- 10 (1) The captain of a ship or aircraft employed to carry passengers for reward arriving in Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands or arriving in Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands—
- (a) shall, except so far as he may be otherwise required to do so under paragraph 27(1) of Schedule 2 to the ^{M7}Immigration Act 1971, take such steps as may be necessary to secure that passengers on board and members of the crew do not disembark there unless either they have been examined by an examining officer or they disembark in accordance with arrangements approved by an examining officer; and
 - (b) where any examination of persons on board is to be carried out on the ship or aircraft, shall take such steps as may be necessary to secure that those to be examined are presented for the purpose in an orderly manner.
- (2) The captain of a ship or aircraft employed to carry passengers for reward going from Great Britain to the Republic of Ireland, Northern Ireland or any of the Islands or going from Northern Ireland to Great Britain, the Republic of Ireland or any of the Islands shall take such steps as may be necessary to secure that—
- (a) passengers and members of the crew do not embark except in accordance with arrangements approved by an examining officer; and
 - (b) if persons embarking are to be examined on board the ship or aircraft, they are presented for the purpose in an orderly manner.
- (3) Sub-paragraphs (1) and (2) above apply also to aircraft not employed to carry passengers for reward.
- (4) The captain of a ship or aircraft arriving in Great Britain from the Republic of Ireland, Northern Ireland or any of the Islands or arriving in Northern Ireland from Great Britain, the Republic of Ireland or any of the Islands shall, unless he is subject to the requirements of an order under paragraph 27(2) of Schedule 2 to the Immigration Act 1971 and subject to sub-paragraph (6) below, comply with the requirements of sub-paragraph (5) below with respect to the furnishing to the examining officer of the particulars of the passengers on and crew of the ship or aircraft.
- (5) The requirements referred to in sub-paragraph (4) above are—
- (a) in the case of a ship employed to carry passengers for reward or an aircraft, to furnish to the examining officer, as soon as reasonably practicable after

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the arrival of the ship or aircraft, a list of the names and of the dates and places of birth of all passengers and members of the crew arriving on the ship or aircraft; and

- (b) in the case of a ship not employed to carry passengers for reward, to furnish to the examining officer, within twelve hours of the arrival of the ship, a list of the names, the dates and places of birth and the addresses of the destinations in Great Britain or Northern Ireland of all passengers and members of the crew arriving on the ship.
- (6) An examining officer may dispense with all, or any, of the requirements of sub-paragraph (5) above either generally or in respect of such classes of persons as he may specify.
- (7) Any passenger on a ship or aircraft shall furnish to the captain of the ship or aircraft, as the case may be, any information required by him for the purpose of complying with the provisions of sub-paragraph (5) above.

Marginal Citations

M7 1971 c. 77.

Offences

- 11 A person who knowingly contravenes any prohibition or fails to comply with any duty or requirement imposed by or under this Schedule is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale or both.

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