



Northern Ireland (Emergency Provisions) Act 1991 (repealed 25.8.1996)

1991 CHAPTER 24

PART II

POWERS OF ARREST, SEARCH AND SEIZURE, ETC.

16 Entry and search of premises for purpose of arresting terrorists.

For the purpose of arresting a person under section 14(1)(b) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (arrest of persons suspected of being concerned in acts of terrorism) a constable may enter and search any premises or other place where that person is or where the constable has reasonable grounds for suspecting him to be.

17 Constables' general power of arrest and seizure.

- (1) Any constable may arrest without warrant any person who he has reasonable grounds to suspect is committing, has committed or is about to commit a scheduled offence or an offence under this Act which is not a scheduled offence.
- (2) For the purpose of arresting a person under this section a constable may enter and search any premises or other place where that person is or where the constable has reasonable grounds for suspecting him to be.
- (3) A constable may seize anything which he has reasonable grounds to suspect is being, has been or is intended to be used in the commission of a scheduled offence or an offence under this Act which is not a scheduled offence.

18 Powers of arrest and seizure by members of Her Majesty's forces.

- (1) Any member of Her Majesty's forces on duty may arrest without warrant, and detain for not more than four hours, a person who he has reasonable grounds to suspect is committing, has committed or is about to commit any offence.

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- (2) A person effecting an arrest under this section complies with any rule of law requiring him to state the ground of arrest if he states that he is effecting the arrest as a member of Her Majesty's forces.
- (3) For the purpose of arresting a person under this section a member of Her Majesty's forces may enter and search any premises or other place—
 - (a) where that person is, or
 - (b) if there are reasonable grounds for suspecting that that person is a terrorist or has committed an offence involving the use or possession of an explosive substance or firearm, where there are reasonable grounds for suspecting him to be.
- (4) Any member of Her Majesty's forces may seize, and detain for not more than four hours, anything which he has reasonable grounds to suspect is being, has been or is intended to be used in the commission of an offence under section 24 or 25 below.

19 Power to search for munitions, radio transmitters and scanning receivers.

- (1) Any member of Her Majesty's forces on duty or any constable may enter any premises or other place other than a dwelling-house for the purpose of ascertaining—
 - (a) whether there are any munitions unlawfully at that place; or
 - (b) whether there is a transmitter at that place;
 and may search the place for any munitions or transmitter with a view to exercising the powers conferred by subsection (7) below.
- (2) Any member of Her Majesty's forces on duty authorised by a commissioned officer of those forces or any constable authorised by an officer of the Royal Ulster Constabulary not below the rank of chief inspector may enter any dwelling-house in which there are reasonable grounds for suspecting that there are unlawfully any munitions or that there is a transmitter and may search it for any munitions or transmitter with a view to exercising the said powers.
- (3) If it is necessary for the purpose of effectively carrying out a search—
 - (a) a member of Her Majesty's forces or constable exercising the powers conferred by subsection (1) above may be accompanied by other persons; and
 - (b) any authority given under subsection (2) above may authorise other persons to accompany the member of Her Majesty's forces or constable to whom the authority is given.
- (4) If the member of Her Majesty's forces or constable carrying out a search under subsection (1) or (2) above reasonably believes that it is necessary to do so for the purpose of effectively carrying out the search or of preventing the frustration of its object he may—
 - (a) require any person who when the search begins is on, or during the search enters, the premises or other place where the search is carried out ("the place of search") to remain in, or in a specified part of, that place, to refrain from entering a specified part of it or to go from one specified part of it to another specified part;
 - (b) require any person who is not resident in the place of search to refrain from entering it; and
 - (c) use reasonable force to secure compliance with any such requirement.

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- (5) No requirement imposed under subsection (4) above shall have effect after the conclusion of the search in relation to which it was imposed; and no such requirement shall be imposed or have effect after the end of the period of four hours beginning with the time when that or any other requirement was first imposed under that subsection in relation to the search in question but an officer of the Royal Ulster Constabulary not below the rank of superintendent may extend that period by a further period of four hours if he reasonably believes that it is necessary to do so for the purpose mentioned in that subsection.
- (6) Any member of Her Majesty's forces on duty or any constable may—
- (a) stop any person in any public place and, with a view to exercising the powers conferred by subsection (7) below, search him for the purpose of ascertaining whether he has any munitions unlawfully with him or any transmitter with him; and
 - (b) with a view to exercising the said powers—
 - (i) search any person not in a public place who he has reasonable grounds to suspect has any munitions unlawfully with him or any transmitter with him; and
 - (ii) search any person entering or found in a dwelling-house entered under subsection (2) above.
- (7) Where a member of Her Majesty's forces or a constable is empowered by virtue of any provision of this Act to search any premises or other place or any person—
- (a) he may seize any munitions found in the course of the search (unless it appears to him that the munitions are being, have been and will be used only lawfully) and may retain and, if necessary, destroy them; and
 - (b) he may seize any transmitter found in the course of the search (unless it appears to him that the transmitter has been, is being and is likely to be used only lawfully) and may retain it.
- (8) Where a member of Her Majesty's forces or a constable carries out a search under subsection (1) or (2) above he shall, unless it is not practicable to do so, make a written record of the search which shall specify—
- (a) the address of the premises, or a description of the place, which is searched;
 - (b) the date and time of the search;
 - (c) any damage caused in the course of the search; and
 - (d) anything seized in the course of the search.
- (9) Such a record shall also include the name (if known) of any person appearing to the person making the record to be the occupier of the premises or other place searched; but—
- (a) a person may not be detained to find out his name; and
 - (b) if the person making the record does not know the name of a person appearing to him to be the occupier of the premises or other place searched, he shall include in the record a note otherwise describing him.
- (10) Such a record shall identify the person by whom the search is carried out—
- (a) in the case of a constable, by reference to his police number; and
 - (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.

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- (11) Where a record of a search is made under this section a copy of the record shall be supplied at once or, where that is not practicable, as soon as is practicable to any person appearing to the person making the record to be the occupier of the premises or other place searched.
- (12) A person who wilfully fails to comply with a requirement imposed under subsection (4) above or wilfully obstructs, or seeks to frustrate the object of, a search in relation to which such a requirement has been or could be imposed is guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (13) The preceding provisions of this section shall have effect in relation to scanning receivers as they have effect in relation to transmitters.
- (14) In this section—
- “munitions” means—
- (a) explosives, explosive substances, firearms and ammunition; and
 - (b) anything used or capable of being used in the manufacture of any explosive, explosive substance, firearm or ammunition;
- “scanning receiver” means—
- (a) any apparatus for wireless telegraphy designed or adapted for the purpose of automatically monitoring selected frequencies, or automatically scanning a selected range of frequencies, so as to enable transmissions on any of those frequencies to be detected or intercepted; or
 - (b) part of any such apparatus;
- “transmitter” means any apparatus for wireless telegraphy designed or adapted for emission, as opposed to reception, or part of any such apparatus;
- “wireless telegraphy” has the same meaning as in section 19(1) of the ^{M1}Wireless Telegraphy Act 1949.

Marginal Citations

M1 1949 c. 54.

20 Powers of explosives inspectors.

- (1) An inspector appointed under section 53 of the ^{M2}Explosives Act 1875 may, for the purpose of ascertaining whether there is unlawfully in any premises or other place other than a dwelling-house any explosive or explosive substance, enter that place and search it with a view to exercising the powers conferred by subsection (3) below.
- (2) Any such inspector may, with a view to exercising those powers, stop any person in a public place and search him for the purpose of ascertaining whether he has any explosive or explosive substance unlawfully with him.
- (3) Any such inspector may seize any explosive or explosive substance found in the course of a search under this section unless it appears to him that it is being, has been and will be used only for a lawful purpose and may retain and, if necessary, destroy it.

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Marginal Citations

M2 1875 c. 17.

21 Entry to search for persons unlawfully detained.

- (1) Where any person is believed to be unlawfully detained in such circumstances that his life is in danger, any member of Her Majesty's forces on duty or any constable may, subject to subsection (2) below, enter any premises or other place for the purpose of ascertaining whether that person is so detained there.
- (2) A dwelling-house may be entered in pursuance of subsection (1) above—
 - (a) by a member of Her Majesty's forces, only when authorised to do so by a commissioned officer of those forces; and
 - (b) by a constable, only when authorised to do so by an officer of the Royal Ulster Constabulary not below the rank of chief inspector.

22 Examination of documents.

- (1) Where a member of Her Majesty's forces or a constable is empowered by virtue of any provision of this Act to search any premises or other place or any person he may examine any document or record found in the course of the search so far as reasonably required for ascertaining whether it contains any such information as is mentioned in section 31(1)(a) or (b) below.
- (2) A document or record which cannot be conveniently or thoroughly examined at the place where it is found may be removed for examination to another place and retained there until the examination has been completed.
- (3) This section shall not be taken to authorise the examination, removal or retention of a document or record by a person at a time when he has reasonable cause for believing it to be an item subject to legal privilege (within the meaning of the ^{M3}Police and Criminal Evidence (Northern Ireland) Order 1989).
- (4) Where a document or record is examined under this section it shall not be photographed or copied.
- (5) Where a document or record is examined under this section the person who examines it shall make a written record of the examination at once or, where it is not practicable to make one at once, as soon as is practicable.
- (6) A record of an examination of a document or record which is made under this section shall specify—
 - (a) a description of the document or record;
 - (b) the object of the examination;
 - (c) the address of the premises, or a description of the place, where the document or record was found;
 - (d) where the document or record was found in the course of a search of a person, the name of that person;
 - (e) where the document or record was found in the course of a search of any premises or other place, the name of any person appearing to the person

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- making the record to be the occupier of the premises or other place or to have had custody or control of the document or record when it was found;
- (f) where the document or record was removed for examination from the place where it was found, the date and time when it was removed from that place; and
- (g) where the document or record was examined at the place where it was found, the date and time when it was examined.
- (7) Such a record shall identify the person by whom the examination was carried out—
- (a) in the case of a constable, by reference to his police number; and
- (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.
- (8) Where a record of an examination of a document or record is made under this section a copy of the record shall be supplied at once or, if that is not practicable, as soon as is practicable—
- (a) in a case where the document or record was found in the course of a search of a person, to that person; and
- (b) in a case where the document or record was found in the course of a search of any premises or other place, to any person appearing to the person making the record to be the occupier of the premises or other place or to have had custody or control of the document or record when it was found.
- (9) Subject to subsection (10) below, a document or record may not be retained by virtue of subsection (2) above for more than forty-eight hours.
- (10) An officer of the Royal Ulster Constabulary not below the rank of chief inspector may authorise the retention of a document or record by a constable for a further period or periods; but no such authorisation shall permit the retention of a document or record beyond the end of the period of ninety-six hours from the time when it was removed for examination from the place where it was found.
- (11) Any person who wilfully obstructs a member of Her Majesty's forces or a constable in the exercise of the powers conferred by this section is guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

Marginal Citations

M3 S.I. 1989/1341 (N.I. 12).

23 Power to stop and question.

- (1) Any member of Her Majesty's forces on duty or any constable may stop any person for so long as is necessary in order to question him for the purpose of ascertaining—
- (a) that person's identity and movements;
- (b) what he knows concerning any recent explosion or any other recent incident endangering life or concerning any person killed or injured in any such explosion or incident; or
- (c) any one or more of the matters referred to in paragraphs (a) and (b) above.

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- (2) Any person who—
- (a) fails to stop when required to do so under this section, or
 - (b) refuses to answer, or fails to answer to the best of his knowledge and ability, any question addressed to him under this section,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

24 General powers of entry and interference with rights of property and with highways.

- (1) Any member of Her Majesty's forces on duty or any constable may enter any premises or other place—
- (a) if he considers it necessary to do so in the course of operations for the preservation of the peace or the maintenance of order; or
 - (b) if authorised to do so by or on behalf of the Secretary of State.
- (2) Any member of Her Majesty's forces on duty, any constable or any person specifically authorised to do so by or on behalf of the Secretary of State may, if authorised to do so by or on behalf of the Secretary of State—
- (a) take possession of any land or other property;
 - (b) take steps to place buildings or other structures in a state of defence;
 - (c) detain any property or cause it to be destroyed or moved;
 - (d) do any other act interfering with any public right or with any private rights of property, including carrying out any works on any land of which possession has been taken under this subsection.
- (3) Any member of Her Majesty's forces on duty, any constable or any person specifically authorised to do so by or on behalf of the Secretary of State may, so far as he considers it immediately necessary for the preservation of the peace or the maintenance of order—
- (a) wholly or partly close a highway or divert or otherwise interfere with a highway or the use of a highway; or
 - (b) prohibit or restrict the exercise of any right of way or the use of any waterway.
- (4) Any person who, without lawful authority or reasonable excuse (the proof of which lies on him), interferes with works executed, or any apparatus, equipment or any other thing used, in or in connection with the exercise of powers conferred by this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.
- (5) Any authorisation to exercise any powers under any provision of this section may authorise the exercise of all those powers, or powers of any class or a particular power specified, either by all persons by whom they are capable of being exercised or by persons of any class or a particular person specified.

25 Power of Secretary of State to direct the closure, etc. of roads.

- (1) If the Secretary of State considers it necessary to do so for the preservation of the peace or the maintenance of order he may by order direct—
- (a) that any highway specified in the order shall either be wholly closed or be closed to such extent, or diverted in such manner, as may be so specified;

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- (b) that any highway specified in the order, being a highway which has already been wholly or partly closed or diverted—
- (i) under this section; or
 - (ii) in the exercise or purported exercise of any power conferred by or under a relevant enactment,
- shall continue to be so closed or diverted by virtue of the order.
- (2) A person is guilty of an offence if, without lawful authority or reasonable excuse (the proof of which lies on him), he interferes with—
- (a) works executed in connection with the closure or diversion of any highway specified in an order under this section (whether executed in pursuance of any such order or in pursuance of the exercise or purported exercise of any such power as is mentioned in subsection (1)(b)(ii) above); or
 - (b) apparatus, equipment or any other thing used in pursuance of any such order in connection with the closure or diversion of any such highway.
- (3) A person is guilty of an offence if—
- (a) within 200 yards of any road closure works—
 - (i) he executes any bypass works; or
 - (ii) without lawful authority or reasonable excuse (the proof of which lies on him) he has in his possession or under his control any materials or equipment suitable for executing bypass works; or
 - (b) he knowingly permits on land occupied by him the doing or occurrence of anything which is an offence under paragraph (a) above.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.
- (5) In this section—
- “bypass works” means works that would facilitate the bypassing by vehicles of the road closure works in question;
- “relevant enactment” means section 24(2) or (3) above, section 17(2) or (3) of the ^{M4}Northern Ireland (Emergency Provisions) Act 1973, section 19(2) or (3) of the ^{M5}Northern Ireland (Emergency Provisions) Act 1978 or the ^{M6}Civil Authorities (Special Powers) Act (Northern Ireland) 1922;
- “road closure works” means works which have been executed in connection with the closure of a highway specified in an order under this section or with the closure of a highway in pursuance of the exercise or purported exercise of any power conferred by or under a relevant enactment.
- (6) Nothing in this section prejudices the operation of section 24(2) or (3) above.

Marginal Citations

M4 1973 c. 53.

M5 1978 c. 5.

M6 1922 c. 5 (N.I.).

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26 Supplementary provisions.

- (1) Any power conferred by this Part of this Act—
 - (a) to enter any premises or other place includes power to enter any vessel, aircraft or vehicle;
 - (b) to search any premises or other place includes power to stop and search any vehicle or vessel or any aircraft which is not airborne and search any container;and in this Part of this Act references to any premises or place shall be construed accordingly.
- (2) Where a document or record examined under section 22 above was found in the course of a search of a vehicle, vessel or aircraft—
 - (a) the reference in subsection (6) of that section to the address of the premises, or a description of the place, where the document or record was found shall be construed as a reference to the location of the vehicle, vessel or aircraft where it was found together (in the case of a vehicle) with its registration number; and
 - (b) the references in that section to the occupier of the premises or place where it was found shall be construed as references to the person in charge of the vehicle, vessel or aircraft.
- (3) In this Part of this Act references to a dwelling-house include references to a vessel or vehicle which is habitually stationary and used as a dwelling.
- (4) Any power conferred by this Part of this Act to enter any place, vessel, aircraft or vehicle shall be exercisable, if need be, by force.
- (5) Any power conferred by virtue of this section to search a vehicle or vessel shall, in the case of a vehicle or vessel which cannot be conveniently or thoroughly searched at the place where it is, include power to take it or cause it to be taken to any place for the purpose of carrying out the search.
- (6) Where by virtue of this section a search under section 19(1) or (2) above is carried out in relation to a vessel, aircraft or vehicle, the person carrying out the search may, if he reasonably believes that it is necessary to do so for the purpose mentioned in subsection (4) of that section—
 - (a) require any person in or on the vessel, aircraft or vehicle to remain with it or, in the case of a vessel or vehicle which by virtue of subsection (5) above is removed for the purpose of the search, to go to and remain at the place to which it is removed; and
 - (b) use reasonable force to secure compliance with any such requirement;and subsections (5) and (12) of section 19 above shall apply to a requirement imposed under this subsection as they apply to a requirement imposed under subsection (4) of that section.
- (7) The requirement to make a record of a search under subsection (1) or (2) of section 19 above shall apply in the case of a vehicle, vessel or aircraft (other than one which is habitually stationary) searched by virtue of this section only where the search takes place after the vehicle, vessel or aircraft is removed for the purpose of the search by virtue of subsection (5) above; and in the case of such a search—
 - (a) the reference in subsection (8) of that section to the address of the premises, or a description of the place, which is searched shall be construed as a reference

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- to the location where the vehicle, vessel or aircraft is searched together (in the case of a vehicle) with its registration number; and
- (b) the references in that section to the occupier of the premises or place searched shall be construed as references to the person in charge of the vehicle, vessel or aircraft.
- (8) Any power conferred by virtue of this section to search any vessel, aircraft, vehicle or container includes power to examine it.
- (9) Any power conferred by this Part of this Act to stop any person includes power to stop a vessel or vehicle or an aircraft which is not airborne.
- (10) Any person who, when required by virtue of this section to stop a vessel or vehicle or any aircraft which is not airborne, fails to do so is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.
- (11) A member of Her Majesty's forces exercising any power conferred by this Part of this Act when he is not in uniform shall, if so requested by any person at or about the time of exercising that power, produce to that person documentary evidence that he is such a member.
- (12) The ^{M7}Documentary Evidence Act 1868 shall apply to any authorisation given in writing under this Part of this Act by or on behalf of the Secretary of State as it applies to any order made by him.

Marginal Citations

M7 1868 c. 37.

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