



Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

PART X

CROSS-BORDER ENFORCEMENT

139 Search powers available on arrests under sections 136 and 137.

- (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).
- (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.
- (4) The power to search conferred by subsection (3) 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

Status: Point in time view as at 28/05/2013. This version of this provision has been superseded.

Changes to legislation: Criminal Justice and Public Order Act 1994, Section 139 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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) above unless he has reasonable grounds for believing that there is evidence for which a search is permitted under that paragraph.
- (8) In so far as the power of search conferred by subsection (3)(b) 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.
- (11) Nothing in this section shall be taken to affect the power conferred by [^{F1}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 ^{M1}Police and Criminal Evidence Act 1984;
 - (b) as respects anything in the possession of a person searched in Scotland, by [^{F2}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 ^{M2}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; and
 - (c) any tent or movable structure; and
- “offshore installation” has the meaning given to it by section 1 of the ^{M3}Mineral Workings (Offshore Installations) Act 1971.

Textual Amendments

- F1** Words in s. 139(11) substituted (19.2.2001) by 2000 c. 11, ss. 125, 128, **Sch. 15 para. 9**: S.I. 2001/421, **art. 2(a)**

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F2 S. 139(12): words in para. (b) in definition of “items subject to legal privilege” substituted (*prosp.*) by 2002 c. 29, ss. 456, 458(1), **Sch. 11 para. 24**

Modifications etc. (not altering text)

C1 S. 139 applied (with modifications) (19.7.2007) by Finance Act 2007 (c. 11), s. **87(2)-(5)**

C2 S. 139(10): power of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, 138(2), Sch. 1 Pt. 2 para. 81; S.I. 2003/708, **art. 2(j)**

Marginal Citations

M1 1984 c. 60.

M2 S.I. 1989/1341 (N.I. 12).

M3 1971 c. 61.

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