



# Terrorism Act 2000

## 2000 CHAPTER 11

### PART V

#### COUNTER-TERRORIST POWERS

##### *Suspected terrorists <sup>F1</sup> etc.]*

#### Textual Amendments

- F1** Word in s. 40 cross-heading inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 24](#) (with s. 97); S.I. 2012/1205, art. 4(k)

#### **40 Terrorist: interpretation.**

- (1) In this Part “terrorist” means a person who—
- (a) has committed an offence under any of sections 11, 12, 15 to 18, 54 and 56 to 63, or
  - (b) is or has been concerned in the commission, preparation or instigation of acts of terrorism.
- (2) The reference in subsection (1)(b) to a person who has been concerned in the commission, preparation or instigation of acts of terrorism includes a reference to a person who has been, whether before or after the passing of this Act, concerned in the commission, preparation or instigation of acts of terrorism within the meaning given by section 1.

#### **41 Arrest without warrant.**

- (1) A constable may arrest without a warrant a person whom he reasonably suspects to be a terrorist.
- (2) Where a person is arrested under this section the provisions of Schedule 8 (detention: treatment, review and extension) shall apply.

*Status: Point in time view as at 20/12/2023.*

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- (3) Subject to subsections (4) to (7), a person detained under this section shall (unless detained under any other power) be released not later than the end of the period of 48 hours beginning—
- (a) with the time of his arrest under this section, or
  - (b) if he was being detained under [<sup>F2</sup>a provision listed in subsection (3A)] when he was arrested under this section, with the time when his [<sup>F3</sup>detention under that provision] began.

[<sup>F4</sup>(3A) Those provisions are—

- (a) section 24 of the Police and Criminal Evidence Act 1984;
  - (b) Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
  - (c) Schedule 7;
  - (d) section 1 of the [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#);
  - (e) Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019;
  - (f) section 27 of the National Security Act 2023.]
- (4) If on a review of a person's detention under Part II of Schedule 8 the review officer does not authorise continued detention, the person shall (unless detained in accordance with subsection (5) or (6) or under any other power) be released.
- (5) Where a police officer intends to make an application for a warrant under paragraph 29 of Schedule 8 extending a person's detention, the person may be detained pending the making of the application.
- (6) Where an application has been made under paragraph 29 or 36 of Schedule 8 in respect of a person's detention, he may be detained pending the conclusion of proceedings on the application.
- (7) Where an application under paragraph 29 or 36 of Schedule 8 is granted in respect of a person's detention, he may be detained, subject to paragraph 37 of that Schedule, during the period specified in the warrant.
- (8) The refusal of an application in respect of a person's detention under paragraph 29 or 36 of Schedule 8 shall not prevent his continued detention in accordance with this section.

[<sup>F5</sup>(8ZA) Subsection (8A) applies where—

- (a) a person is detained under this section in hospital, or
- (b) a person detained under this section is removed to hospital because the person needs medical treatment.]

[<sup>F6</sup>(8A) [<sup>F7</sup>Where this subsection applies]—

- (a) any time during which the person is being questioned in hospital or [<sup>F8</sup>(where this subsection applies by virtue of subsection (8ZA)(b))] on the way there or back for the purpose of obtaining relevant evidence is to be included in calculating any period which falls to be calculated for the purposes of this section or Part 3 of Schedule 8, but
- (b) any other time when the person is in hospital or [<sup>F9</sup>(where this subsection applies by virtue of subsection (8ZA)(b))] on the way there or back is not to be included.

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- (8B) In subsection (8A), “relevant evidence” means, in relation to the detained person, evidence which—
- (a) relates to the person's commission of an offence under any of the provisions mentioned in section 40(1)(a), or
  - (b) indicates that the person is a person falling within section 40(1)(b).]
- (9) A person who has the powers of a constable in one Part of the United Kingdom may exercise the power under subsection (1) in any Part of the United Kingdom.

#### Textual Amendments

- F2** Words in s. 41(3)(b) substituted (20.12.2023) by [National Security Act 2023 \(c. 32\), s. 100\(1\), Sch. 17 para. 1\(2\)\(a\)](#) (with s. 97); [S.I. 2023/1272, reg. 2\(d\)](#)
- F3** Words in s. 41(3)(b) substituted (20.12.2023) by [National Security Act 2023 \(c. 32\), s. 100\(1\), Sch. 17 para. 1\(2\)\(b\)](#) (with s. 97); [S.I. 2023/1272, reg. 2\(d\)](#)
- F4** S. 41(3A) inserted (20.12.2023) by [National Security Act 2023 \(c. 32\), s. 100\(1\), Sch. 17 para. 1\(3\)](#) (with s. 97); [S.I. 2023/1272, reg. 2\(d\)](#)
- F5** S. 41(8ZA) inserted (20.12.2023) by [National Security Act 2023 \(c. 32\), s. 100\(1\), Sch. 17 para. 1\(4\)](#) (with s. 97); [S.I. 2023/1272, reg. 2\(d\)](#)
- F6** S. 41(8A)(8B) inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\), ss. 18\(2\), 27\(2\)\(a\)](#); [S.I. 2020/792, reg. 2\(c\)](#)
- F7** Words in s. 41(8A) substituted (20.12.2023) by [National Security Act 2023 \(c. 32\), s. 100\(1\), Sch. 17 para. 1\(5\)\(a\)](#) (with s. 97); [S.I. 2023/1272, reg. 2\(d\)](#)
- F8** Words in s. 41(8A)(a) inserted (20.12.2023) by [National Security Act 2023 \(c. 32\), s. 100\(1\), Sch. 17 para. 1\(5\)\(b\)](#) (with s. 97); [S.I. 2023/1272, reg. 2\(d\)](#)
- F9** Words in s. 41(8A)(b) inserted (20.12.2023) by [National Security Act 2023 \(c. 32\), s. 100\(1\), Sch. 17 para. 1\(5\)\(c\)](#) (with s. 97); [S.I. 2023/1272, reg. 2\(d\)](#)

#### 42 Search of premises.

- (1) A justice of the peace may on the application of a constable issue a warrant in relation to specified premises if he is satisfied that there are reasonable grounds for suspecting that a person whom the constable reasonably suspects to be a person falling within section 40(1)(b) is to be found there.
- (2) A warrant under this section shall authorise any constable to enter and search the specified premises for the purpose of arresting the person referred to in subsection (1) under section 41.
- (3) In the application of subsection (1) to Scotland—
- (a) “justice of the peace” includes the sheriff, and
  - (b) the justice of the peace or sheriff can be satisfied as mentioned in that subsection only by having heard evidence on oath.

#### 43 Search of persons.

- (1) A constable may stop and search a person whom he reasonably suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.
- (2) A constable may search a person arrested under section 41 to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

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<sup>F10</sup>(3) .....

(4) A constable may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which he reasonably suspects may constitute evidence that the person is a terrorist.

[<sup>F11</sup>(4A) Subsection (4B) applies if a constable, in exercising the power under subsection (1) to stop a person whom the constable reasonably suspects to be a terrorist, stops a vehicle (see section 116(2)).

(4B) The constable—

- (a) may search the vehicle and anything in or on it to discover whether there is anything which may constitute evidence that the person concerned is a terrorist, and
- (b) may seize and retain anything which the constable—
  - (i) discovers in the course of such a search, and
  - (ii) reasonably suspects may constitute evidence that the person is a terrorist.

(4C) Nothing in subsection (4B) confers a power to search any person but the power to search in that subsection is in addition to the power in subsection (1) to search a person whom the constable reasonably suspects to be a terrorist.]

(5) A person who has the powers of a constable in one Part of the United Kingdom may exercise a power under this section in any Part of the United Kingdom.

#### Textual Amendments

**F10** S. 43(3) repealed (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 60(1), 120, [Sch. 10 Pt. 4](#) (with s. 97); [S.I. 2012/1205](#), art. 4(d)(l)

**F11** S. 43(4A)-(4C) inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 60(2), 120 (with s. 97); [S.I. 2012/1205](#), art. 4(d)

#### Modifications etc. (not altering text)

**C1** S. 43(4): power(s) of seizure extended (1.4.2003) by [2001 c. 16](#), ss. 51-54, 68, [Sch. 1 Pt. 2 para. 82](#); [S.I. 2003/708](#), art. 2

### [<sup>F12</sup>43A Search of vehicles

(1) Subsection (2) applies if a constable reasonably suspects that a vehicle is being used for the purposes of terrorism.

(2) The constable may stop and search—

- (a) the vehicle;
- (b) the driver of the vehicle;
- (c) a passenger in the vehicle;
- (d) anything in or on the vehicle or carried by the driver or a passenger;

to discover whether there is anything which may constitute evidence that the vehicle is being used for the purposes of terrorism.

(3) A constable may seize and retain anything which the constable—

- (a) discovers in the course of a search under this section, and

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- (b) reasonably suspects may constitute evidence that the vehicle is being used for the purposes of terrorism.
- (4) A person who has the powers of a constable in one Part of the United Kingdom may exercise a power under this section in any Part of the United Kingdom.
- (5) In this section “driver”, in relation to an aircraft, hovercraft or vessel, means the captain, pilot or other person with control of the aircraft, hovercraft or vessel or any member of its crew and, in relation to a train, includes any member of its crew.]

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**Textual Amendments**

**F12** S. 43A inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 60(3)**, 120 (with s. 97); S.I. 2012/1205, art. 4(d)

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