

SCHEDULES

SCHEDULE 2

ENFORCEMENT POWERS IN RELATION TO SHIPS

PART 1

ENGLAND AND WALES

Introductory

- 1 (1) This Part of this Schedule sets out the powers exercisable by English and Welsh constables and enforcement officers under sections 35 and 38(1).
- (2) In this Part of this Schedule—
 - “items subject to legal privilege” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
 - “the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised.

Power to stop, board, divert and detain

- 2 (1) This paragraph applies if an English and Welsh constable or an enforcement officer has reasonable grounds to suspect that—
 - (a) an offence under section 1 or 2 is being, or has been, committed on the ship, or
 - (b) the ship is otherwise being used in connection with the commission of an offence under either of those sections.
- (2) The constable or enforcement officer may—
 - (a) stop the ship;
 - (b) board the ship;
 - (c) require the ship to be taken to a port (in England and Wales or elsewhere) and detained there.
- (3) Except as provided by sub-paragraph (5), authority of the Secretary of State is required before a constable or an enforcement officer may exercise the power conferred by sub-paragraph (2)(c) to require the ship to be taken to a port outside the United Kingdom.
- (4) Authority for the purposes of sub-paragraph (3) may be given only if the State or relevant territory in which the port is located is willing to receive the ship.
- (5) If the constable or enforcement officer is acting under authority given for the purposes of section 35(5), the constable or enforcement officer may require the ship to be taken to—

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- (a) a port in the home state or relevant territory in question, or
 - (b) if the home state or relevant territory requests, any other State or relevant territory willing to receive the ship.
- (6) The constable or enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of sub-paragraph (2) or (5).
- (7) A constable or an enforcement officer must give notice in writing to the master of any ship detained under this paragraph.
- (8) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a constable or an enforcement officer.

Power to search and obtain information

- 3 (1) This paragraph applies if an English and Welsh constable or an enforcement officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating—
- (a) to an offence under section 1 or 2, or
 - (b) to an offence that is connected with an offence under either of those sections.
- (2) The constable or enforcement officer may search—
- (a) the ship;
 - (b) anyone on the ship;
 - (c) anything on the ship (including cargo).
- (3) The constable or enforcement officer may require a person on the ship to give information about himself or herself or about anything on the ship.
- (4) The power to search conferred by sub-paragraph (2)—
- (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and
 - (b) in the case of a search of a person, does not authorise a constable or an enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.
- (5) In exercising a power conferred by sub-paragraph (2) or (3) a constable or an enforcement officer may—
- (a) open any containers;
 - (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the constable or enforcement officer has reasonable grounds to believe to be an item subject to legal privilege);
 - (c) make photographs or copies of anything the production of which the constable or enforcement officer has power to require.
- (6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.

- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3).

Power of arrest and seizure

- 4
- (1) This paragraph applies if an English and Welsh constable or an enforcement officer has reasonable grounds to suspect that an offence under section 1 or 2 has been, or is being, committed on the ship.
 - (2) The constable or enforcement officer may arrest without warrant anyone whom the constable or officer has reasonable grounds for suspecting to be guilty of the offence.
 - (3) The constable or enforcement officer may seize and detain anything found on the ship which appears to the constable or officer to be evidence of the offence (but not including anything that the constable or officer has reasonable grounds to believe to be an item subject to legal privilege).

Code of practice

- 5
- (1) The Secretary of State must prepare and issue a code in respect of the practice to be followed by English and Welsh constables and enforcement officers when arresting a person under the power conferred by paragraph 4.
 - (2) The code must in particular provide guidance as to the information to be given to the person at the time of arrest (whether about procedural rights or other matters).
 - (3) A failure of a constable or an enforcement officer to comply with any provision of the code does not of itself render the constable or officer liable to any criminal or civil proceedings.
 - (4) The code—
 - (a) is admissible in evidence in criminal and civil proceedings, and
 - (b) may be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
 - (5) The Secretary of State may at any time revise the whole or any part of the code.
 - (6) The code, or any revision of the code, does not come into operation until the Secretary of State so provides in regulations.
 - (7) Regulations under this paragraph are to be made by statutory instrument.
 - (8) An instrument containing regulations under this paragraph that bring the code into operation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
 - (9) An instrument containing regulations under this paragraph that bring a revision of the code into operation must be laid before Parliament (if the regulations are made without a draft having been laid and approved as mentioned in sub-paragraph (8)).
 - (10) Where an instrument, or a draft of an instrument, is laid, the code or revision of the code to which it relates must also be laid.

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Assistants

- 6 (1) An English and Welsh constable or an enforcement officer may—
- (a) be accompanied by other persons, and
 - (b) take equipment or materials,
- to assist the constable or officer in the exercise of powers under this Part of this Schedule.
- (2) A person accompanying a constable or an enforcement officer under subparagraph (1) may perform any of the constable's or officer's functions under this Part of this Schedule, but only under the constable's or officer's supervision.

Reasonable force

- 7 An English and Welsh constable or an enforcement officer may use reasonable force, if necessary, in the performance of functions under this Part of this Schedule.

Evidence of authority

- 8 An English and Welsh constable or an enforcement officer must produce evidence of the constable's or officer's authority if asked to do so.

Protection of constables and enforcement officers

- 9 An English and Welsh constable or an enforcement officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Part of this Schedule if the court is satisfied that—
- (a) the act was done in good faith, and
 - (b) there were reasonable grounds for doing it.

Offences

- 10 (1) A person commits an offence under the law of England and Wales if the person—
- (a) intentionally obstructs a constable or an enforcement officer in the performance of functions under this Part of this Schedule, or
 - (b) fails without reasonable excuse to comply with a requirement made by a constable or an enforcement officer in the performance of those functions.
- (2) A person who provides information in response to a requirement made by a constable or an enforcement officer in the performance of functions under this Part of this Schedule commits an offence under the law of England and Wales if—
- (a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or
 - (b) the person intentionally fails to disclose any material particular.
- (3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine.