

SCHEDULES

SCHEDULE 3

BORDER SECURITY

PART 1

POWERS

Retention of property

- 14 (1) This paragraph applies where—
- (a) an article is retained by virtue of paragraph 11(2)(d) or (e), and
 - (b) the examining officer who retained the article considers that the urgency condition is met in relation to the article.
- (2) The urgency condition is met in relation to an article if—
- (a) there is an urgent need for the article to be examined or otherwise used for the purpose of preventing—
 - (i) the carrying out of a hostile act, or
 - (ii) death or significant injury,or for the purpose of mitigating the risk of any such act, death or injury occurring, and
 - (b) the time it would take for the requirements of paragraphs 12 and 13 to be complied with in relation to the article would not enable such use to take place with sufficient urgency.
- (3) The examining officer may apply to a senior officer for authorisation to continue to retain and use the article.
- (4) An application under sub-paragraph (3) in relation to an article may be made only to a senior officer who has not been directly involved in the exercise of any power under this Part of this Schedule to take the article or to question a person from whom the article was taken.
- (5) A senior officer may grant an authorisation under this paragraph for the retention and use of the article if satisfied—
- (a) that there are reasonable grounds for considering that the urgency condition is met in relation to the article, and
 - (b) in the case of an article that consists of or includes confidential material, that—
 - (i) arrangements are in place that are sufficient for ensuring that the material is retained securely, and
 - (ii) the material will be used only so far as necessary and proportionate for a purpose mentioned in sub-paragraph (2)(a).

Status: This is the original version (as it was originally enacted).

- (6) An authorisation under this paragraph—
- (a) must be recorded in writing;
 - (b) may be granted subject to whatever conditions the senior officer thinks appropriate.
- (7) Paragraphs 15 and 16 contain further provision about authorisations granted under this paragraph.
- (8) In this paragraph—
- “confidential material” has the meaning given by paragraph 12(10) and (11);
 - “senior officer” means—
- (a) where the examining officer is a constable, another constable of at least the rank of superintendent,
 - (b) where the examining officer is an immigration officer, an immigration officer of a higher grade than the examining officer, and
 - (c) where the examining officer is a customs officer, a customs officer of a higher grade than the examining officer.