



National Security Act 2023

2023 CHAPTER 32

PART 1

ESPIONAGE, SABOTAGE AND PERSONS ACTING FOR FOREIGN POWERS

Powers of investigation etc

23 Powers of search etc

[Schedule 2](#) confers powers of entry, search and seizure in relation to—

- (a) certain offences under [this Part](#) of this Act, and
- (b) acts or threats within section [33\(3\)\(b\)](#) or [\(c\)](#).

24 Disclosure orders

[Schedule 3](#) makes provision for disclosure orders.

25 Customer information orders

[Schedule 4](#) makes provision for customer information orders.

26 Account monitoring orders

[Schedule 5](#) makes provision for account monitoring orders.

27 Arrest without warrant

- (1) A constable may arrest without a warrant anyone who the constable reasonably suspects is, or has been, involved in foreign power threat activity.
- (2) [Schedule 6](#) makes provision about detention under [this section](#).

Status: This is the original version (as it was originally enacted).

- (3) Subject to [subsections \(5\) to \(8\)](#), a person detained under [this section](#) must be released (unless detained under any other power) not later than the end of the period of 48 hours beginning with—
- (a) the time of the person’s arrest under [this section](#), or
 - (b) if the person was being detained under a provision listed in [subsection \(4\)](#) when arrested under [this section](#), with the time when the person was detained under that provision.
- (4) 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) section 41 of, and Schedule 7 to, the Terrorism Act 2000;
 - (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.
- (5) A person arrested under [this section](#) must be released if, on a review of the person’s detention under [Part 5 of Schedule 6](#), the review officer does not authorise continued detention.
- [This subsection](#) does not apply if the person is detained in accordance with [subsection \(6\) or \(7\)](#) or under any other power.
- (6) Where a police officer intends to make an application for a warrant under [paragraph 37 of Schedule 6](#) (warrant of further detention) to extend the period of a person’s detention, the person may be detained pending the making of the application.
- (7) Where an application has been made—
- (a) under [paragraph 37 of Schedule 6](#) for a warrant to extend the period of a person’s detention, or
 - (b) under [paragraph 44](#) of that Schedule to further extend the period of a person’s detention,
- the person may be detained pending the conclusion of proceedings on the application.
- (8) Where an application under [paragraph 37 or 44 of Schedule 6](#) is granted in respect of a person’s detention, the person may be detained, subject to [paragraph 45](#) of that Schedule (conditions for detention), during the period specified in the warrant.
- (9) The refusal of an application in respect of a person’s detention under [paragraph 37 or 44 of Schedule 6](#) does not prevent the person’s continued detention in accordance with [this section](#).
- (10) [Subsection \(11\)](#) 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.
- (11) Where this subsection applies—
- (a) any time during which the person is being questioned in hospital or (where this subsection applies by virtue of [subsection \(10\)\(b\)](#)) 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 6 of Schedule 6](#), but

- (b) any other time when the person is in hospital or (where this subsection applies by virtue of [subsection \(10\)\(b\)](#)) on the way there or back is not to be included.
- (12) In [subsection \(11\)](#) “relevant evidence” means, in relation to the detained person, evidence which indicates that the detained person is, or has been, involved in foreign power threat activity.
- (13) 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.
- (14) In [this section](#) and [Schedule 6](#) references to involvement in foreign power threat activity do not include involvement in such activity occurring before [this section](#) comes into force.

28 Use of reasonable force

- (1) A power conferred on a constable by virtue of this Part—
 - (a) is additional to powers which the constable has at common law or by virtue of any other enactment, and
 - (b) is not to be taken as affecting those powers.
- (2) A constable may if necessary use reasonable force for the purpose of exercising a power conferred on the constable by virtue of this Part.

29 Border security

In paragraph 12(11) of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (definition of protected material)—

- (a) in paragraph (a)—
 - (i) at the end of sub-paragraph (i) insert “or”;
 - (ii) omit the “or” at the end of sub-paragraph (ii);
 - (iii) omit sub-paragraph (iii);
- (b) in paragraph (b)(ii) omit “or (iii)”;
- (c) in paragraph (c)—
 - (i) at the end of sub-paragraph (i) insert “or”;
 - (ii) omit the “or” at the end of sub-paragraph (ii);
 - (iii) omit sub-paragraph (iii).

30 Offences under Part 2 of the Serious Crime Act 2007

- (1) Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) is amended as follows.
- (2) After section 50 insert—

“50A Extra-territorial offences: defence for intelligence services and armed forces

- (1) This section applies where a person is charged with an offence under this Part by reason of a provision of Schedule 4 (extra-territorial jurisdiction).
- (2) It is a defence for the person to show that their act was necessary for—

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- (a) the proper exercise of a function of an intelligence service, or
 - (b) the proper exercise of a function of the armed forces relating to intelligence.
- (3) A person is taken to have shown that their act was so necessary if—
- (a) sufficient evidence of that fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (4) The head of each intelligence service must ensure that the service has in place arrangements designed to ensure that acts of a member of the service to which a provision of Schedule 4 applies are necessary for the proper exercise of a function of the service.
- (5) The Defence Council must ensure that the armed forces have in place arrangements designed to ensure that acts of—
- (a) a member of the armed forces, or
 - (b) a civilian subject to service discipline when working in support of a member of the armed forces,
- to which a provision of Schedule 4 applies are necessary for the proper exercise of a function of the armed forces relating to intelligence.
- (6) The arrangements which must be in place by virtue of subsection (4) or (5) must be arrangements which the Secretary of State considers to be satisfactory.
- (7) In this section—
- “armed forces” means His Majesty’s forces (within the meaning of the Armed Forces Act 2006);
 - “civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006;
 - “GCHQ” has the meaning given by section 3(3) of the Intelligence Services Act 1994;
 - “head” means—
 - (a) in relation to the Security Service, the Director General of the Security Service,
 - (b) in relation to the Secret Intelligence Service, the Chief of the Secret Intelligence Service, and
 - (c) in relation to GCHQ, the Director of GCHQ;
 - “intelligence service” means the Security Service, the Secret Intelligence Service or GCHQ.”
- (3) For the heading before section 50 substitute “Defences”.