
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply certain provisions of the Police and Criminal Evidence Act 1984 (“PACE”) to investigations undertaken by labour abuse prevention officers (“LAPOs”) into labour market offences. LAPOs are officers of the Gangmasters and Labour Abuse Authority who are authorised by the Secretary of State and who are acting for the purposes of the Employment Agencies Act 1973, the National Minimum Wage Act 1998, the Gangmasters (Licensing) Act 2004 as an enforcement officer or Part 1 or 2 of the Modern Slavery Act 2015, or are acting for any other purpose prescribed in regulations made by the Secretary of State.

Regulation 2 applies the provisions of PACE set out in regulation 3 to LAPOs, subject to the modifications specified in the Schedule. Paragraphs 2 to 10 of the Schedule make general modifications to the provisions of PACE so that they operate effectively in respect of LAPOs, whereas paragraphs 11 to 23 make specific modifications to the provisions of PACE for the same purpose.

Regulation 3(a) to (c) applies, and paragraphs 11 to 13 of the Schedule modify, sections 1 to 3 of PACE so that when a LAPO searches premises in reliance on a search warrant, a LAPO may search persons found on the premises only if the LAPO has reasonable grounds for suspecting that the person may have concealed on him material which might be evidence in relation to a labour market offence. Safeguards on this power include requirements to inform the person of the grounds for the search and to make and keep records.

Regulation 3(d) to (g) applies sections 8(1) to (5), 9(1), 15 and 16 of, and Schedule 1 to, PACE, which enable applications to a court for search warrants and production orders and the execution of warrants. Paragraph 14 of the Schedule modifies section 16 of PACE.

Regulation 3(h) and (i) applies sections 17(1)(a)(i), (1)(b), (2) and (4) and 18 of PACE, enabling LAPOs to enter and search property for the purpose of executing an arrest warrant or arresting a person for an indictable offence and to enter and search the property of an arrested person for evidence. Paragraphs 15 and 16 of the Schedule modify those sections.

Regulation 3(j) to (m) applies sections 19 to 21 and 22(1), (2)(a), (3), (4) and (7) of PACE, enabling the seizure and retention of material by LAPOs. Paragraph 17 of the Schedule modifies section 21 of PACE, including by providing that access and copying of material may be refused if it would prejudice the investigation of any offence, not only a labour market offence. Paragraph 18 of the Schedule modifies section 22 of PACE. The modifications provide that material seized or taken away by a LAPO, or seized or taken away by another person such as a police officer and passed to a LAPO, may be retained by a LAPO so long as is necessary in all the circumstances. Items that a LAPO has seized from a person on arrest on the grounds that, for example, it may be used to cause physical injury to another person must be passed to the police once the arrested person is handed over to a constable.

Regulation 3(n) to (r) applies sections 24(1)(b) and (d), (2) to (4), (5)(a), (b), (c)(i) to (iii), (d), (e) and (f), 28, 29, 30(1)(a), (1A), (7) to (11) and 32(1) to (9) of PACE, in relation to arrest of suspects by LAPOs. Paragraphs 19 and 20 of the Schedule modify sections 29 and 30 of PACE. In particular, paragraph 20 modifies section 30 so that a LAPO who arrests a person elsewhere than at a police station is under a duty to deliver the person into the custody of a constable as soon as practicable after the arrest. Once a constable has taken a person into custody, the constable will then be under a duty to take the person to a police station as soon as practicable.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 3(s) and (t) applies sections 43 and 44 of PACE, to enable LAPOs to make an application for the further detention of a person by the police in relation to a labour market offence. Paragraph 21 of the Schedule modifies section 43 of PACE. The modifications provide that a court must consider whether it would have been reasonable for either the police or a LAPO to make the application earlier and that a court must consider what inquiries relating to the offence have been made either by the police or by a LAPO.

Regulation 3(u) applies, and paragraph 22 of the Schedule modifies, section 77(3) of PACE, so that when a jury is considering the confession of a mentally handicapped person, a LAPO is not considered to be an “independent person” who is present in relation to that confession.

Regulation 3(v) applies section 117 of PACE, enabling LAPOs to use reasonable force, if necessary, in the exercise of powers conferred by PACE. Paragraph 23 of the Schedule modifies section 117 of PACE to reflect that none of the powers conferred on LAPOs are exercisable only with the consent of a person other than another LAPO.

Regulation 3(w) applies interpretation provisions in PACE, to the extent that they are relevant to the other provisions of PACE which have been applied to investigations by LAPOs.

Regulation 4 makes transitional provision for the period until relevant provisions of the Policing and Crime Act 2017 come into force.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.