

**Changes to legislation:** There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019, Cross Heading: Power to stop, question and detain. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

#### BORDER SECURITY

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

- C1** Sch. 3 modified (30.9.2020 immediately after the amendments by S.I. 2020/915, art. 5 come into force) by [The Channel Tunnel \(Arrangements with the Kingdom of the Netherlands\) Order 2020 \(S.I. 2020/916\)](#), arts. 1(3), **6**
- C1** Sch. 3 modified by [S.I. 1994/1405](#), **art. 7** (as amended (coming into force in accordance with art. 1(3) of the amending S.I.) by [The Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2020 \(S.I. 2020/915\)](#), arts. 1(3), **11**)
- C1** [Sch. 3](#) modified by [S.I. 1993/1813](#), **Sch. 4 para. 7** (as inserted (12.2.2019 for specified purposes; 13.8.2020 in so far as not already in force) by [Counter Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(1)(g), [Sch. 3 para. 63\(1\)](#) (with s. 25(9), **Sch. 3 para. 63(2)**); [S.I. 2020/792](#), **reg. 2(g)**)

#### PART 1

#### POWERS

##### *Power to stop, question and detain*

- 1 (1) An examining officer may question a person for the purpose of determining whether the person appears to be a person who is, or has been, engaged in hostile activity if condition 1 or condition 2 is met.
- (2) Condition 1 is met if—
  - (a) the person is at a port or in the border area, and
  - (b) the examining officer believes that the person's presence at the port or in the border area is connected with the person's—
    - (i) entry into, or departure from, Great Britain or Northern Ireland, or
    - (ii) travel by air within Great Britain or Northern Ireland.
- (3) Condition 2 is met if the person is on a ship or aircraft which has arrived at any place in Great Britain or Northern Ireland (whether from within or outside Great Britain or Northern Ireland).
- (4) An examining officer may exercise the powers under this paragraph whether or not there are grounds for suspecting that a person is or has been engaged in hostile activity.
- (5) A person is or has been engaged in hostile activity for the purposes of this Schedule if the person is or has been concerned in the commission, preparation or instigation of a hostile act that is or may be—

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- (a) carried out for, or on behalf of, a State other than the United Kingdom, or
  - (b) otherwise in the interests of a State other than the United Kingdom.
- (6) An act is a “hostile act” if it—
- (a) threatens national security,
  - (b) threatens the economic well-being of the United Kingdom in a way relevant to the interests of national security, or
  - (c) is an act of serious crime.
- (7) For the purposes of this paragraph—
- (a) it is immaterial—
    - (i) whether a person is aware that activity in which they are or have been engaged is hostile activity, or
    - (ii) whether a State for or on behalf of which, or in the interests of which, a hostile act is carried out has instigated, sanctioned, or is otherwise aware of, the carrying out of the act;
  - (b) “State” includes the government of a State and any organ of its government;
  - (c) references to a State other than the United Kingdom include references to any territory outside the United Kingdom;
  - (d) the reference to serious crime is to crime where—
    - (i) the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 3 years or more, or
    - (ii) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

#### Commencement Information

- I1** Sch. 3 para. 1 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
- I2** Sch. 3 para. 1 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 2 An examining officer may question a person who is in the border area for the purpose of determining whether the person's presence in the area is connected with the person's entry into, or departure from, Northern Ireland.

#### Commencement Information

- I3** Sch. 3 para. 2 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
- I4** Sch. 3 para. 2 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 3 A person (“P”) questioned under paragraph 1 or 2 must—
- (a) give the examining officer any information in P's possession that the officer requests;
  - (b) give the examining officer on request either a valid passport which includes a photograph or another document which establishes P's identity;
  - (c) declare whether any documents of a kind specified by the examining officer are in P's possession;

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- (d) give the examining officer on request any such document.

**Commencement Information**

- I5** Sch. 3 para. 3 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)  
**I6** Sch. 3 para. 3 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 4 (1) For the purposes of exercising a power under paragraph 1 or 2 an examining officer may—
- (a) stop a person or vehicle;
  - (b) detain a person.
- (2) For the purpose of detaining a person under this paragraph, an examining officer may authorise the person's removal from a ship, aircraft or vehicle.
- (3) Where a person is detained under this paragraph the provisions of Parts 2 and 3 of this Schedule (detention and review of detention) apply.
- (4) The power conferred by sub-paragraph (1)(a) to stop a vehicle does not include a power to stop an aircraft that is airborne.

**Commencement Information**

- I7** Sch. 3 para. 4 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)  
**I8** Sch. 3 para. 4 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

- 5 (1) This paragraph applies where a person is questioned under paragraph 1 or 2.
- (2) At the end of the 1 hour period, the person may not be questioned under either of those paragraphs unless the person is detained under paragraph 4.
- (3) If the person is detained under paragraph 4, the person must be released not later than the end of the 6 hour period (unless detained under another power).
- (4) In this paragraph—
- “the 1 hour period” is the period of 1 hour beginning with the time the person is first questioned under paragraph 1 or 2;
  - “the 6 hour period” is the period of 6 hours beginning with that time.
- (5) If a person detained under paragraph 4 is removed to hospital because the person needs medical treatment—
- (a) any time during which the person is being questioned under paragraph 1 or 2 in hospital or on the way there or back is to be included in calculating the 6 hour period, but
  - (b) any other time when the person is in hospital or on the way there or back is not to be included.

**Commencement Information**

- I9** Sch. 3 para. 5 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)  
**I10** Sch. 3 para. 5 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

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- 6 (1) An answer or information given orally by a person in response to a question asked under paragraph 1 or 2 may not be used in evidence in criminal proceedings.
- (2) Sub-paragraph (1) does not apply—
- (a) in the case of proceedings under paragraph 23,
  - (b) on a prosecution for perjury, or
  - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the answer or information mentioned in sub-paragraph (1).
- (3) A statement may not be used by virtue of sub-paragraph (2)(c) unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.
- (4) In sub-paragraph (2)(b) the reference to a prosecution for perjury is—
- (a) in the case of England and Wales, a reference to a prosecution for an offence under section 5 of the Perjury Act 1911;
  - (b) in the case of Northern Ireland, a reference to a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)).

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#### **Commencement Information**

- I11** Sch. 3 para. 6 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
- I12** Sch. 3 para. 6 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), [reg. 2\(g\)](#)

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