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POLICE POWERS AND PROCEDURES ACT 1998

The text of this Act is shown “as amended” by amendments found within the Justice Reform Act 2021, and any additional amendments set out within the Justice Reform (Amendment) Bill 2025 (JRAB) once these take effect.

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POLICE POWERS AND PROCEDURES ACT 1998

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POLICE POWERS AND PROCEDURES ACT 1998

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<i>Commenced:</i>	<i>See endnotes</i>

AN ACT to make provision in relation to the powers and duties of the police; persons in police detention; evidence in criminal proceedings; and for connected purposes.

GENERAL NOTE: See SD352/09 Rules of the High Court of Justice 2009 Sch 15.1 para 3 reproduced below:

- “3. In any statutory provision a reference to a petition of doloance shall be construed as an application to the court in accordance with —
- (a) Chapter 9 of Part 13 (review of detention),
 - (b) rule 14.16 (appeal by way of case stated), or
 - (c) Chapter 2 of Part 14 (review of lawfulness of decision etc.),
- as the case may require.”

PART I – POWERS TO STOP AND SEARCH

1 **Power of constable to stop and search persons, vehicles etc**

[P1984/60/1]

- (1) A constable may exercise any power conferred by this section —
- (a) in any place to which at the time when he proposes to exercise the power the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; or
 - (b) in any other place to which people have ready access at the time when he proposes to exercise the power but which is not a dwelling.

- (2) Subject to subsections (3) to (5), a constable —
- (a) may search —
 - (i) any person or vehicle;
 - (ii) anything which is in or on a vehicle, for stolen or prohibited articles; and
 - (b) may detain a person or vehicle for the purpose of such a search.
- (3) This section does not give a constable power to search a person or vehicle or anything in or on a vehicle unless he has reasonable grounds for suspecting that he will find stolen or prohibited articles.
- (4) If a person is in a garden or yard occupied with and used for the purposes of a dwelling or on other land so occupied and used, a constable may not search him in the exercise of the power conferred by this section unless the constable has reasonable grounds for believing —
- (a) that he does not reside in the dwelling; and
 - (b) that he is not in the place in question with the express or implied permission of a person who resides in the dwelling.
- (5) If a vehicle is in a garden or yard occupied with and used for the purposes of a dwelling or on other land so occupied and used, a constable may not search the vehicle or anything in or on it in the exercise of the power conferred by this section unless he has reasonable grounds for believing —
- (a) that the person in charge of the vehicle does not reside in the dwelling; and
 - (b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.
- (6) If in the course of such a search a constable discovers an article which he has reasonable grounds for suspecting to be a stolen or prohibited article, he may seize it.
- (7) An article is prohibited for the purposes of this Part if it is —
- (a) an offensive weapon;
 - (aa) an explosive substance;¹
 - (b) an article —
 - (i) made or adapted for use in the course of or in connection with an offence to which this sub-paragraph applies; or
 - (ii) intended by the person having it with him for such use by him or by some other person; or
 - (c) an article in relation to which a person has committed, or is committing or is going to commit an offence under section 3 of the *Criminal Damage Act 1981*.
- (8) The offences to which subsection (7)(b)(i) applies are —

- (a) burglary;
 - (b) theft;
 - (c) offences under section 12 of the *Theft Act 1981* (taking motor vehicle or other conveyance without authority); and
 - (d) fraud (contrary to section 3 of the *Fraud Act 2017*).²
- (9) In this Part “**offensive weapon**” means —
- (a) any article —
 - (i) made or adapted for use for causing injury to persons; or
 - (ii) intended by the person having it with him for such use by him or by some other person; or
 - (b) any article in relation to which a person has committed, or is committing or is going to commit an offence under section 27A of the *Criminal Justice Act 1991*.
- (10) This section applies to vessels, aircraft and hovercraft as it applies to vehicles.

2 Provisions relating to search under section 1 and other powers

[P1984/60/2]

- (1) A constable who detains a person or vehicle in the exercise —
- (a) of the power conferred by section 1; or
 - (b) of any other power —
 - (i) to search a person without first arresting him; or
 - (ii) to search a vehicle without making an arrest,
- need not conduct a search if it appears to him subsequently that no search is required or that a search is impracticable.
- (2) If a constable contemplates a search, other than a search of an unattended vehicle, in the exercise —
- (a) of the power conferred by section 1; or
 - (b) of any other power, except the power conferred by section 11 —
 - (i) to search a person without first arresting him; or
 - (ii) to search a vehicle without making an arrest,
- it shall be his duty, subject to subsection (4), to take reasonable steps before he commences the search to bring to the attention of the appropriate person —
- (i) if the constable is not in uniform, documentary evidence that he is a constable; and
 - (ii) whether he is in uniform or not, the matters specified in subsection (3);

and the constable shall not commence the search until he has performed that duty.

- (3) The matters referred to in subsection (2)(ii) are —
 - (a) the constable's name and the name of the police station to which he is attached;
 - (b) the object of the proposed search;
 - (c) the constable's grounds for proposing to make it; and
 - (d) the effect of section 7(7) or (8), as may be appropriate.
- (4) A constable need not bring the effect of section 7(7) or (8) to the attention of the appropriate person if it appears to the constable that it will not be practicable to make the record in section 7(1).
- (5) In this section "the appropriate person" means —
 - (a) if the constable proposes to search a person, that person; and
 - (b) if he proposes to search a vehicle, or anything in or on a vehicle, the person in charge of the vehicle.
- (6) On completing a search of an unattended vehicle or anything in or on such a vehicle in the exercise of any such power as is mentioned in subsection (2) a constable shall leave a notice —
 - (a) stating that he has searched it;
 - (b) giving the name of the police station to which he is attached;
 - (c) stating that an application for compensation for any damage caused by the search may be made to that police station; and
 - (d) stating the effect of section 7(8).
- (7) The constable shall leave the notice inside the vehicle unless it is not reasonably practicable to do so without damaging the vehicle.
- (8) The time for which a person or vehicle may be detained for the purposes of such a search is such time as is reasonably required to permit a search to be carried out either at the place where the person or vehicle was first detained or nearby.
- (9) Neither the power conferred by section 1 nor any other power to detain and search a person without first arresting him or to detain and search a vehicle without making an arrest is to be construed —
 - (a) as authorising a constable to require a person to remove any of his clothing in public other than an outer coat, jacket, headgear or gloves; or
 - (b) as authorising a constable not in uniform to stop a vehicle.
- (10) This section applies to vessels, aircraft and hovercraft as it applies to vehicles.

3 Powers to stop and search in anticipation of violence

- (1) If a police officer of or above the rank of inspector reasonably believes —
- (a) that incidents involving serious violence may take place in any locality, and that it is expedient to give an authorisation under this section to prevent their occurrence, or
 - (b) that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason,
- he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.³
- (2) [Repealed]⁴
- (3) If it appears to a chief inspector that it is expedient to do so, having regard to offences which have, or are reasonably suspected to have, been committed in connection with any activity falling within the authorisation, he may direct that the authorisation shall continue in being for a further 24 hours.⁵
- (3A) If an inspector gives an authorisation under subsection (1) he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.⁶
- (4) This section confers on any constable in uniform power —
- (a) to stop any pedestrian and search him or anything carried by him for offensive weapons or dangerous instruments;
 - (b) to stop any vehicle and search the vehicle, its driver and any passenger for offensive weapons or dangerous instruments.
- (5) A constable may, in the exercise of any of the powers referred to in subsection (4), stop any person or vehicle and make any search he thinks fit whether or not he has any grounds for suspecting that the person or vehicle is carrying weapons or articles of that kind.
- (6) If in the course of a search under this section a constable discovers a dangerous instrument or an article which he has reasonable grounds for suspecting to be an offensive weapon, he may seize it.
- (7) This section applies (with the necessary modifications) to vessels, aircraft and hovercraft as it applies to vehicles.
- (8) A person who fails to stop or (as the case may be) to stop the vehicle when required to do so by a constable in the exercise of his powers under this section shall be liable on summary conviction to custody for a term not exceeding 1 month or to a fine not exceeding level 3 on the standard scale or both.⁷

- (9) Any authorisation under this section shall be in writing signed by the officer giving it and shall specify the grounds on which it is given and the locality in which and the period during which the powers conferred by this section are exercisable and a direction under subsection (3) shall also be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.⁸
- (10) In this section, “dangerous instruments” means instruments which have a blade or are sharply pointed.
- (11) A person who is searched by a constable under this section shall be entitled to obtain a written statement that he was searched under the powers conferred by this section if he applies for such a statement not later than the end of the period of twelve months from the day on which he was searched.⁹
- (12) For the purposes of this section, a person carries a dangerous instrument or an offensive weapon if he has it in his possession.¹⁰

4 Port checks (outward) in exceptional cases

- (1) Subject to section 6, the powers conferred by this section may be exercised only if a police officer of the rank of inspector or above authorises their exercise in writing.
- (2) The officer may only authorise the exercise of the powers conferred by this section if he has reasonable grounds —
 - (a) for believing that a person who is unlawfully at large will attempt to leave the Island; or
 - (b) for believing that a serious offence has been committed in the Island and —
 - (i) that the person who committed the offence will attempt to leave the Island; or
 - (ii) that an attempt will be made to remove from the Island property which was obtained as a result of or in connection with the commission of the offence; or
 - (iii) that an attempt will be made to remove from the Island articles which were used for the purpose of committing, or facilitating the commission of the offence,and for believing that the circumstances are sufficiently serious to justify the use of the exceptional powers conferred by this section.¹¹
- (3) Where an authorisation has been given under this section, a constable in uniform may, in or in the immediate vicinity of a harbour or aerodrome, —
 - (a) stop and search any vehicle which is in or is entering the harbour or aerodrome and anything which is in or on such a vehicle for the

purpose of ascertaining whether that vehicle is carrying any person referred to in subsection (2)(a) or (b)(i);

- (b) stop and search any vehicle which is in or is entering the harbour or aerodrome and anything which is in or on such a vehicle for the purpose of ascertaining whether it is carrying any property or article referred to in subsection (2)(b)(ii) or (iii);
- (c) search any container which is in or is being taken into the harbour or aerodrome and anything which is in such a container for the purpose of ascertaining whether any person referred to in subsection (2)(a) or (b)(i) is in it or any property or article referred to in subsection (2)(b)(ii) or (iii) is in it; and
- (d) stop any pedestrian who is in or is entering the harbour or aerodrome and search him or anything carried by him for any article referred to in subsection (2)(b)(ii) or (iii).

5 Port checks (inward) in exceptional cases

- (1) Subject to section 6, the powers conferred by this section may be exercised only if a police officer of the rank of inspector or above authorises their exercise in writing.
- (2) The officer may only authorise the exercise of the powers conferred by this section if —
 - (a) he has reasonable grounds for believing that a person who is unlawfully at large in the British Islands will attempt to enter the Island; or
 - (b) he has received information in writing from an officer of equivalent rank in a police force in another part of the British Islands that there are reasonable grounds for believing that an offence, which if committed in the Island would be a serious offence, has been committed there, and —
 - (i) that the person who committed the offence will attempt to enter the Island; or
 - (ii) that an attempt will be made to bring into the Island property which was obtained as a result of or in connection with the commission of the offence; or
 - (iii) that an attempt will be made to bring into the Island articles which were used for the purpose of committing, or facilitating the commission of the offence,

and he has reasonable grounds for believing that the circumstances are sufficiently serious to justify the use of the exceptional powers conferred by this section.¹²

- (3) Where an authorisation has been given under this section, a constable in uniform may, in or in the immediate vicinity of a harbour or aerodrome, —
- (a) stop and search any vehicle which is in or is leaving the harbour or aerodrome and anything which is in or on such a vehicle for the purpose of ascertaining whether that vehicle is carrying any person referred to in subsection (2)(a) or (b)(i);
 - (b) stop and search any vehicle which is in or is leaving the harbour or aerodrome and anything which is in or on such a vehicle for the purpose of ascertaining whether it is carrying any property or article referred to in subsection (2)(b)(ii) or (iii);
 - (c) search any container which is in or being removed from the harbour or aerodrome and anything which is in such a container for the purpose of ascertaining whether any person referred to in subsection (2)(a) or (b)(i) is in it or any property or article referred to in subsection (2)(b)(ii) and (iii) is in it; and
 - (d) stop any pedestrian who is in or is leaving the harbour or aerodrome and search him or anything carried by him for any property or article referred to in subsection (2)(b)(ii) or (iii).

6 Sections 4 and 5: supplementary

- (1) A constable may detain a person, container or vehicle for the purpose of a search under section 4 or 5, and the time for which a person, container or vehicle may be detained for the purposes of the search is such time as is reasonably required to permit a search to be carried out either at the place where the person, container or vehicle was first detained or nearby.
- (2) If in the course of a search under sections 4 and 5 a constable discovers any property or article referred to in section 4(2)(b)(ii) or (iii) or section 5(2)(b)(ii) or (iii), he may seize it.
- (3) A person who fails to stop or (as the case may be) to stop a vehicle when required to do so by a constable in the exercise of his powers under section 4 or 5 shall be liable on summary conviction to custody for a term not exceeding 1 month or to a fine not exceeding level 3 on the standard scale or both.¹³
- (4) An officer giving an authorisation under section 4 or 5 shall specify the port in which and the area in the immediate vicinity of which vehicles and pedestrians may be stopped.
- (5) An officer giving an authorisation under section 4 or 5 —
 - (a) shall specify a period, not exceeding 3 days, during which the powers conferred by section 4 or, as the case may be, 5 may continue to be exercised; and
 - (b) may direct that the exercise of the powers shall be continuous or shall be conducted at specified times, during that period.

- (6) If it appears to an officer of the rank of chief inspector or above that the powers conferred by section 4 or 5 ought to continue to be exercised beyond the period for which they have been authorised he may in writing specify a further period, not exceeding 3 days, during which the powers may be exercised.
- (7) If it appears to an officer of the rank of chief inspector or above that the powers conferred by section 4 or 5 ought to continue to be exercised beyond the period authorised under subsection (6) he may, with the consent in writing of the High Bailiff, specify in writing further periods, each not exceeding 3 days, during which the powers may be exercised.
- (8) Every written authorisation shall specify —
- (a) the name of the officer giving it,
 - (b) the purpose of the exercise of the powers;
 - (c) where appropriate, the relevant serious offence;¹⁴
 - (d) where appropriate, the identity of the person unlawfully at large; and
 - (e) the harbour or aerodrome in which and in the immediate vicinity of which pedestrians and vehicles may be stopped and searched.
- (9) Where a vehicle, container or pedestrian is stopped and searched under section 4 or 5, the person in charge of the vehicle or container at the time when it is stopped or the pedestrian, as the case may be, shall be entitled to obtain a written statement of the purpose of the stop and search if he applies for such a statement not later than the end of the period of 12 months from the day on which the vehicle, container or pedestrian was stopped and searched.
- (10) Nothing in this section nor in sections 4 and 5 —
- (a) gives a right of entry onto any land in the ownership of the Department of Infrastructure;¹⁵
 - (b) affects the operation of section 49 of the *Post Office Act 1993* (inviolability of mails);
 - (c) affects the exercise by a constable of any power to stop and search vehicles or persons for purposes other than those specified in those sections.
- (11) In this section and in sections 4 and 5, “**harbour**” means the area within the limits of any harbour (within the meaning of the *Harbours Act 2010*).¹⁶

7 Duty to make records concerning searches

[P1984/60/3]

- (1) Where a constable has carried out a search in the exercise of any such power as is mentioned in section 2(1), he shall make a record of it in writing unless it is not practicable to do so.
- (2) If —
 - (a) a constable is required by subsection (1) to make a record of a search; but
 - (b) it is not practicable to make the record on the spot,he shall make it as soon as practicable after the completion of the search.
- (3) The record of a search of a person shall include a note of his name, if the constable knows it, but a constable may not detain a person to find out his name.
- (4) If a constable does not know the name of the person whom he has searched, the record of the search shall include a note otherwise describing that person.
- (5) The record of a search of a vehicle shall include a note describing the vehicle.
- (6) The record of a search of a person or a vehicle —
 - (a) shall state —
 - (i) the object of the search;
 - (ii) the grounds for making it;
 - (iii) the date and time when it was made;
 - (iv) the place where it was made;
 - (v) whether anything, and if so what, was found;
 - (vi) whether any, and if so what, injury to a person or damage to property appears to the constable to have resulted from the search; and
 - (b) shall identify the constable making it.
- (7) If a constable who conducted a search of a person made a record of it, the person who was searched shall be entitled to a copy of the record if he asks for one before the end of the period specified in subsection (9).
- (8) If —
 - (a) the owner of a vehicle which has been searched or the person who was in charge of the vehicle at the time when it was searched asks for a copy of the record of the search before the end of the period specified in subsection (9); and
 - (b) the constable who conducted the search made a record of it,

the person who made the request shall be entitled to a copy.

- (9) The period mentioned in subsections (7) and (8) is the period of ~~12 months~~ **3 months** beginning with the date on which the search was made.
- (10) The requirements imposed by this section with regard to records of searches of vehicles shall apply also to records of searches of vessels, aircraft and hovercraft.

8 Road checks

[P1984/60/4]

- (1) This section shall have effect in relation to the conduct of road checks by police officers for the purpose of ascertaining whether a vehicle is carrying —
 - (a) a person who has committed an offence other than a road traffic offence or an offence under the *Licensing and Registration of Vehicles Act 1985*;
 - (b) a person who is a witness to such an offence;
 - (c) a person intending to commit such an offence; or
 - (d) a person who is unlawfully at large.
- (2) For the purposes of this section a road check consists of the exercise in a locality of the power conferred by section 40(a) or (b) of the *Road Traffic Act 1985* in such a way as to stop during the period for which its exercise in that way in that locality continues all vehicles or vehicles selected by any criterion.
- (3) Subject to subsection (5), there may only be such a road check if a police officer of the rank of inspector or above authorises it in writing.
- (4) An officer may only authorise a road check under subsection (3) —
 - (a) for the purpose specified in subsection (1)(a), if he has reasonable grounds —
 - (i) for believing that the offence is a serious offence; and¹⁷
 - (ii) for suspecting that the person is, or is about to be, in the locality in which vehicles would be stopped if the road check were authorised;
 - (b) for the purpose specified in subsection (1)(b), if he has reasonable grounds for believing that the offence is a serious offence;¹⁸
 - (c) for the purpose specified in subsection (1)(c), if he has reasonable grounds —
 - (i) for believing that the offence would be a serious offence; and¹⁹

- (ii) for suspecting that the person is, or is about to be, in the locality in which vehicles would be stopped if the road check were authorised;
- (d) for the purpose specified in subsection (1)(d), if he has reasonable grounds for suspecting that the person is, or is about to be, in that locality.
- (5) An officer below the rank of inspector may authorise such a road check if it appears to him that it is required as a matter of urgency for one of the purposes specified in subsection (1).
- (6) If an authorisation is given under subsection (5), it shall be the duty of the officer who gives it —
 - (a) to make a written record of the time at which he gives it; and
 - (b) to cause an officer of the rank of inspector or above to be informed that it has been given.
- (7) The duties imposed by subsection (6) shall be performed as soon as it is practicable to do so.
- (8) An officer to whom a report is made under subsection (6) may, in writing, authorise the road check to continue.
- (9) If such an officer considers that the road check should not continue, he shall record in writing —
 - (a) the fact that it took place;
 - (b) the purpose for which it took place; and
 - (c) the relevant serious offence.²⁰
- (10) An officer giving an authorisation under this section shall specify the locality in which vehicles are to be stopped.
- (11) An officer giving an authorisation under this section, other than an authorisation under subsection (5) —
 - (a) shall specify a period, not exceeding 3 days, during which the road check may continue; and
 - (b) may direct that the road check —
 - (i) shall be continuous; or
 - (ii) shall be conducted at specified times,during that period.
- (12) If it appears to an officer of the rank of chief inspector or above that a road check ought to continue beyond the period for which it has been authorised he may, from time to time, in writing specify a further period, not exceeding 3 days, during which it may continue.
- (13) Every written authorisation shall specify —

- (a) the name of the officer giving it;
 - (b) the purpose of the road check;
 - (c) the relevant serious offence; and²¹
 - (d) the locality in which vehicles are to be stopped.
- (14) Where a vehicle is stopped in a road check, the person in charge of the vehicle at the time when it is stopped shall be entitled to obtain a written statement of the purpose of the road check if he applies for such a statement not later than the end of the period of 12 months from the day on which the vehicle was stopped.
- (15) Nothing in this section affects the exercise by police officers of any power to stop vehicles for purposes other than those specified in subsection (1).

9 Reports of recorded searches and of road checks

[P1984/60/5]

- (1) Every annual report under section 4 of the *Police Act 1993* shall contain information —
- (i) about searches recorded under section 7 which have been carried out during the period to which the report relates; and
 - (ii) about road checks authorised during that period under section 8.
- (2) The information about searches shall not include information about specific searches but shall include —
- (a) the total numbers of searches in each month during the period to which the report relates —
 - (i) for stolen articles;
 - (ii) for offensive weapons; and
 - (iii) for other prohibited articles;
 - (b) the total number of persons arrested in each such month in consequence of searches of each of the descriptions specified in paragraph (a)(i) to (iii).
- (3) The information about road checks shall include information —
- (a) about the reason for authorising each road check; and
 - (b) about the result of each of them.

10 Part I: supplementary

In this Part —

“**prohibited article**” has the meaning given by section 1(7);

“offensive weapon” has the meaning given by section 1(9).

PART II – POWERS OF ENTRY, SEARCH AND SEIZURE

Search warrants

11 Power of justice of the peace to authorise entry and search of premises

[P1984/60/8]

(1) If on an application made by a constable a justice of the peace is satisfied that there are reasonable grounds for believing —

(a) that —

(i) a serious offence has been committed and there is material on premises mentioned in subsection (1A) which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence; or²²

(ii) a person has in his possession or on any premises any property on or in respect of which an offence under the *Criminal Code 1872* has been committed; and

(b) that the material or, as the case may be, the property referred to in paragraph (a)(ii) is likely to be relevant evidence; and

(c) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material; and

(d) that any of the conditions specified in subsection (3) applies in relation to each set of premises specified in the application,²³

he may issue a warrant authorising a constable to enter and search the premises.

(1A) The premises mentioned in subsection (1)(a)(i) are —

(a) one or more sets of premises occupied or controlled by a person specified in the application (in which case the application is for a “**specific premises warrant**”); or

(b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “**all premises warrant**”).²⁴

(1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied —

(a) that, because of the particulars of the offence mentioned in subsection (1)(a)(i), there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question and that are not specified in the application in order to find the material mentioned in subsection (1)(a)(i); and

- (b) that it is not reasonably practicable to specify in the application all the premises that the person in question occupies or controls and that might need to be searched.²⁵
- (1C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the warrant is issued.²⁶
- (1D) If it authorises multiple entries, the number of entries authorised may be unlimited or limited to a maximum.²⁷
- (2) A constable may seize and retain anything for which a search has been authorised under subsection (1).
- (3) The conditions mentioned in subsection (1)(d) are —
 - (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
 - (c) that entry to the premises will not be granted unless a warrant is produced;
 - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (4) In this Act “**relevant evidence**”, in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.
- (5) The power to issue a warrant conferred by this section is in addition to any such power otherwise conferred.

11A Warrants: persons who may accompany constables

- (1) This section applies if, under any enactment, a Judge or a justice of the peace has the power to issue a warrant or order authorising a constable to enter and search any land and inspect, examine, operate, test, retain, seize or take possession of any thing found there.
- (2) Such a warrant may name any suitable person who may accompany and assist the constable in the execution of the warrant.
- (3) If a suitable person is accompanying and assisting a constable under subsection (2), the warrant authorises the person to do such things under the warrant as the constable is authorised to do.
- (4) This section is in addition to but does not limit enactments that make express provision —

- (a) for a warrant to name other persons who may accompany a constable when executing a warrant; or
 - (b) for a constable to be accompanied by other persons when executing a warrant.
- (5) In this section, “suitable person” means a person possessing such scientific or other technical expertise as the constable believes will advance the investigation.²⁸

12 Special provisions as to access

[P1984/60/9]

- (1) A constable may obtain access to excluded material or special procedure material for the purposes of a criminal investigation by making an application under Schedule 1 and in accordance with that Schedule.
- (2) Any Act passed before this Act under which a search of premises for the purposes of a criminal investigation could be authorised by the issue of a warrant to a constable shall cease to have effect so far as it relates to the authorisation of searches —
 - (a) for items subject to legal privilege; or
 - (b) for excluded material; or
 - (c) for special procedure material consisting of documents, or records other than documents.

13 Meaning of “items subject to legal privilege”

[P1984/60/10]

- (1) Subject to subsection (2), in this Act “items subject to legal privilege” means —
 - (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
 - (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and
 - (c) items enclosed with or referred to in such communications and made —
 - (i) in connection with the giving of legal advice; or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

- (2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

14 Meaning of “excluded material”

[P1984/60/11]

- (1) Subject to the following provisions of this section, in this Act “**excluded material**” means —
 - (a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence;
 - (b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence;
 - (c) journalistic material which a person holds in confidence and which consists —
 - (i) of documents; or
 - (ii) of records other than documents.
- (2) A person holds material other than journalistic material in confidence for the purposes of this section if he holds it subject —
 - (a) to an express or implied undertaking to hold it in confidence; or
 - (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment contained in an Act passed after this Act.
- (3) A person holds journalistic material in confidence for the purposes of this section if —
 - (a) he holds it subject to such an undertaking, restriction or obligation; and
 - (b) it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

15 Meaning of “personal records”

[P1984/60/12]

In this Part, “**personal records**” means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating —

- (a) to his physical or mental health;
- (b) to spiritual counselling or assistance given or to be given to him; or

- (c) to counselling or assistance given or to be given to him, for the purposes of his personal welfare, by any voluntary organisation or by any individual who —
 - (i) by reason of his office or occupation has responsibilities for his personal welfare; or
 - (ii) by reason of an order of a court has responsibilities for his supervision.

16 Meaning of “journalistic material”

[P1984/60/13]

- (1) Subject to subsection (2), in this Act “**journalistic material**” means material acquired or created for the purposes of journalism.
- (2) Material is only journalistic material for the purposes of this Act if it is in the possession of a person who acquired or created it for the purposes of journalism.
- (3) A person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

17 Meaning of “special procedure material”

[P1984/60/14]

- (1) In this Act “**special procedure material**” means —
 - (a) material to which subsection (2) applies; and
 - (b) journalistic material, other than excluded material.
- (2) Subject to the following provisions of this section, this subsection applies to material, other than items subject to legal privilege and excluded material, in the possession of a person who —
 - (a) acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office; and
 - (b) holds it subject —
 - (i) to an express or implied undertaking to hold it in confidence; or
 - (ii) to a restriction or obligation such as is mentioned in section 14(2)(b).
- (3) Where material is acquired —
 - (a) by an employee from his employer and in the course of his employment; or
 - (b) by a company from an associated company,

it is only special procedure material if it was special procedure material immediately before the acquisition.

- (4) Where material is created by an employee in the course of his employment, it is only special procedure material if it would have been special procedure material had his employer created it.
- (5) Where material is created by a company on behalf of an associated company, it is only special procedure material if it would have been special procedure material had the associated company created it.
- (6) For the purposes of this section, a company is to be treated as another's "associated company" at a given time if, at that time or at any other time within one year previously, one of the two has control of the other, or both are under the control (within the meaning of section 119A of the *Income Tax Act 1970*) of the same person or persons.

18 Search warrants - safeguards

[P1984/60/15]

- (1) This section and section 19 have effect in relation to the issue to constables under any enactment, including an enactment contained in an Act passed after this Act, of warrants to enter and search premises; and an entry on or search of premises under a warrant is unlawful unless it complies with this section and section 19.
- (2) Where a constable applies for any such warrant, it shall be his duty —
 - (a) to state —
 - (i) the ground on which he makes the application;
 - (ii) the enactment under which the warrant would be issued; and
 - (iii) if the application is for a warrant authorising entry and search on more than one occasion, the ground on which he or she applies for such a warrant, and whether he or she seeks a warrant authorising an unlimited number of entries, or (if not) the maximum number of entries desired;²⁹
 - (b) to specify the matters set out in subsection (2A); and³⁰
 - (c) to identify, so far as is practicable, the articles or persons to be sought.
- (2A) The matters that must be specified pursuant to subsection (2)(b) are —
 - (a) if the application is for a specific premises warrant made by virtue of section 11(1A)(a) or paragraph 12 of Schedule 1, each set of premises that it is desired to enter and search;
 - (b) if the application is for an all premises warrant made by virtue of section 11(1A)(b) or paragraph 12 of Schedule 1 —

- (i) as many sets of premises that it is desired to enter and search as it is reasonably practicable to specify;
 - (ii) the person who is in occupation or control of those premises and any others that it is desired to enter and search;
 - (iii) why it is necessary to search more premises than those specified under sub-paragraph (i); and
 - (iv) why it is not reasonably practicable to specify all the premises that it is desired to enter and search.³¹
- (3) An application for such a warrant shall be made ex parte and supported by information in writing.
- (4) The constable shall answer on oath any question that the justice of the peace or Judge hearing the application asks him.³²
- (5) A warrant shall authorise an entry on one occasion only unless it specifies that it authorises multiple entries.³³
- (5A) If a warrant specifies that it authorises multiple entries, it must also specify whether the number of entries authorised is unlimited or limited to a specified maximum.³⁴
- (6) A warrant —
 - (a) shall specify —
 - (i) the name of the person who applies for it;
 - (ii) the date on which it is issued;
 - (iii) the enactment under which it is issued; and
 - (iv) each set of premises to be searched, or (in the case of an all premises warrant) the person who is in occupation or control of premises to be searched, together with any premises under that person's occupation or control that can be specified and that are to be searched; and³⁵
 - (b) shall identify, so far as is practicable, the articles or persons to be sought.
- (7) Two copies must be made of a specific premises warrant (see section 11(1A)(a)) that specifies only one set of premises and does not authorise multiple entries; and as many copies as are reasonably required may be made of any other kind of warrant.³⁶
- (8) Each copy shall be clearly certified as a copy.³⁷

19 Execution of warrants

[P1984/60/16]

- (1) A warrant to enter and search premises may be executed by any constable.

- (2) Such a warrant may authorise persons to accompany any constable who is executing it.
- (3) Entry and search under a warrant must be within 3 months from the date of its issue.³⁸
- (3A) If the warrant is an all premises warrant, no premises that are not specified in it may be entered or searched unless a police officer of at least the rank of inspector has authorised the entry in writing.³⁹
- (3B) No premises may be entered or searched for the second or any subsequent time under a warrant that authorises multiple entries unless a police officer of at least the rank of inspector has authorised the further entry in writing.⁴⁰
- (4) Entry and search under a warrant must be at a reasonable hour unless it appears to the constable executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.
- (5) Where the occupier of premises which are to be entered and searched is present at the time when a constable seeks to execute a warrant to enter and search them, the constable —
 - (a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a constable;
 - (b) shall produce the warrant to him; and
 - (c) shall supply him with a copy of it.
- (6) Where —
 - (a) the occupier of such premises is not present at the time when a constable seeks to execute such a warrant; but
 - (b) some other person who appears to the constable to be in charge of the premises is present,subsection (5) shall have effect as if any reference to the occupier were a reference to that other person.
- (7) If there is no person present who appears to the constable to be in charge of the premises, he shall leave a copy of the warrant in a prominent place on the premises.
- (8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.
- (9) A constable executing a warrant shall make an endorsement on it stating —
 - (a) whether the articles or persons sought were found; and
 - (b) whether any articles were seized, other than articles which were sought;

and, unless the warrant is a specific premises warrant specifying one set of premises only, he or she must do so separately in respect of each set of premises entered and searched, which he or she must in each case state in the endorsement.⁴¹

Entry and search without search warrant

20 Entry for purpose of arrest etc

[P1984/60/17]

- (1) Subject to the following provisions of this section, and without prejudice to any other enactment, a constable may enter and search any premises for the purpose —
- (a) of executing —
 - (i) a warrant of arrest issued in connection with or arising out of criminal proceedings; or
 - (ii) a warrant of commitment issued under section 95 of the *Summary Jurisdiction Act 1989*;
 - (b) of arresting a person for an offence triable on information;⁴²
 - (ba) of arresting a person who is subject to a duty to surrender to custody (whether at a court or a police station) and whom he reasonably believes has failed to do so;⁴³
 - (bb) of arresting a person who has failed to attend at a police station at the time appointed for him to do so;⁴⁴
 - (bc) of arresting a person who has been granted bail subject to conditions if the constable reasonably suspects that he has failed to comply with the conditions;⁴⁵
 - (c) of recapturing a person who is unlawfully at large and whom he is pursuing; or
 - (d) of saving life or limb or preventing serious damage to property.
- (2) Except for the purpose specified in subsection (1)(d), the powers of entry and search conferred by this section —
- (a) are only exercisable if the constable has reasonable grounds for believing that the person whom he is seeking is on the premises; and
 - (b) are limited, in relation to premises consisting of 2 or more separate dwellings, to powers to enter and search —
 - (i) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling; and

- (ii) any such dwelling in which the constable has reasonable grounds for believing that the person whom he is seeking may be.
- (3) The power of search conferred by this section is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.
- (4) Subject to subsection (5), all the rules of common law under which a constable has power to enter premises without a warrant are abolished.
- (5) Nothing in subsection (4) affects any power of entry to deal with or prevent a breach of the peace.

21 Entry and search after arrest

[P1984/60/18]

- (1) Subject to the following provisions of this section, a constable may enter and search any premises occupied or controlled by a person who is under arrest for an offence triable on information, if he has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates —
 - (a) to that offence; or
 - (b) to some other offence triable on information which is connected with or similar to that offence.^{46 47}
- (2) A constable may seize and retain anything for which he may search under subsection (1).
- (3) The power to search conferred by subsection (1) is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence.
- (4) Subject to subsection (5), the powers conferred by this section may not be exercised unless an officer of the rank of inspector or above or a sergeant who is in charge of a station has authorised them in writing.
- (5) A constable may conduct a search under subsection (1) —
 - (a) before taking the person to a police station; and
 - (b) without obtaining an authorisation under subsection (4),if the presence of that person at a place other than a police station is necessary for the effective investigation of the offence.
- (6) If a constable conducts a search by virtue of subsection (5), he shall inform an officer of the rank of inspector or above or a sergeant who is in charge of a station that he has made the search as soon as practicable after he has made it.
- (7) An officer who —

- (a) authorises a search; or
 - (b) is informed of a search under subsection (6),
- shall make a record in writing —
- (i) of the grounds for the search; and
 - (ii) of the nature of the evidence that was sought.
- (8) If the person who was in occupation or control of the premises at the time of the search is in police detention at the time the record is to be made, the officer shall make the record as part of his custody record.

Seizure etc.

22 General power of seizure etc

[P1984/60/19]

- (1) The powers conferred by subsections (2), (3) and (4) are exercisable by a constable who is lawfully on any premises.
- (2) The constable may seize anything which is on the premises if he has reasonable grounds for believing —
 - (a) that it has been obtained in consequence of the commission of an offence; and
 - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (3) The constable may seize anything which is on the premises if he has reasonable grounds for believing —
 - (a) that it is evidence in relation to an offence which he is investigating or any other offence; and
 - (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.
- (4) The constable may require any information which is stored in any electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form if he has reasonable grounds for believing —
 - (a) that —
 - (i) it is evidence in relation to an offence which he is investigating or any other offence; or
 - (ii) it has been obtained in consequence of the commission of an offence; and
 - (b) that it is necessary to do so in order to prevent it being concealed, lost, tampered with or destroyed.⁴⁸

- (5) The powers conferred by this section are in addition to any power otherwise conferred.
- (6) No power of seizure conferred on a constable under any enactment (including an enactment contained in an Act passed after this Act) is to be taken to authorise the seizure of an item which the constable exercising the power has reasonable grounds for believing to be subject to legal privilege.

23 Extension of powers of seizure to computerised information

[P1984/60/20]

- (1) Every power of seizure which is conferred by an enactment to which this section applies on a constable who has entered premises in the exercise of a power conferred by an enactment shall be construed as including a power to require any information stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form.⁴⁹
- (2) This section applies —
 - (a) to any enactment contained in an Act passed before this Act;
 - (b) to sections 11 and 21;
 - (c) to paragraph 13 of Schedule 1; and
 - (d) to an enactment contained in an Act passed after this Act.

24 Access and copying

[P1984/60/21]

- (1) A constable who seizes anything in the exercise of a power conferred by any enactment, including an enactment contained in an Act passed after this Act, shall, if so requested by a person showing himself —
 - (a) to be the occupier of premises on which it was seized; or
 - (b) to have had custody or control of it immediately before the seizure, provide that person with a record of what he seized.
- (2) The officer shall provide the record within a reasonable time from the making of the request for it.
- (3) Subject to subsection (8), if a request for permission to be granted access to anything which —
 - (a) has been seized by a constable; and
 - (b) is retained by the police for the purpose of investigating an offence, is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized, or by someone acting on behalf of such a person, the officer shall allow the

person who made the request access to it under the supervision of a constable.

- (4) Subject to subsection (8), if a request for a photograph or copy of any such thing is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized, or by someone acting on behalf of such a person, the officer shall —
 - (a) allow the person who made the request access to it under the supervision of a constable for the purpose of photographing or copying it; or
 - (b) photograph or copy it, or cause it to be photographed or copied.
- (5) A constable may also photograph or copy, or have photographed or copied, anything which he has power to seize, without a request being made under subsection (4).
- (6) Where anything is photographed or copied under subsection (4)(b), the photograph or copy shall be supplied to the person who made the request.
- (7) The photograph or copy shall be so supplied within a reasonable time from the making of the request.
- (8) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in charge of the investigation for the purposes of which it was seized has reasonable grounds for believing that to do so would prejudice —
 - (a) that investigation;
 - (b) the investigation of an offence other than the offence for the purposes of investigating which the thing was seized; or
 - (c) any criminal proceedings which may be brought as a result of —
 - (i) the investigation of which he is in charge; or
 - (ii) any such investigation as is mentioned in paragraph (b).

25 Retention

[P1984/60/22]

- (1) Subject to subsection (4), anything which has been seized by a constable or taken away by a constable following a requirement made under section 22 or 23 may be retained so long as is necessary in all the circumstances.
- (2) Without prejudice to the generality of subsection (1) —
 - (a) anything seized for the purposes of a criminal investigation may be retained, except as provided by subsection (4) —
 - (i) for use as evidence at a trial for an offence; or
 - (ii) for forensic examination or for investigation in connection with an offence; and

- (b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.
- (3) Nothing seized on the ground that it may be used —
 - (a) to cause physical injury to any person;
 - (b) to damage property;
 - (c) to interfere with evidence; or
 - (d) to assist in escape from police detention or lawful custody,may be retained when the person from whom it was seized is no longer in police detention or the custody of a court or is in the custody of a court but has been released on bail.
- (4) Nothing may be retained for either of the purposes mentioned in subsection (2)(a) if a photograph or copy would be sufficient for that purpose.
- (5) Nothing in this section affects any power of a court to make an order under section 34 of the *Summary Jurisdiction Act 1989* (disposal of property in possession of police).

Supplementary

26 Part II: supplementary

[P1990/5/7(1)]

This Part and Schedule 1 shall have effect as if references to serious offences in section 11 and Schedule 1 included conduct which is an offence under the law of a country or territory outside the Island and would constitute a serious offence if it had occurred in the Island.⁵⁰

PART IIA — ADDITIONAL POWERS OF SEIZURE⁵¹

26A Additional powers of seizure from premises

- (1) If —
 - (a) a person who is lawfully on any premises finds anything on those premises that the person has reasonable grounds for believing may be or may contain something for which that person is authorised to search on those premises;
 - (b) a power of seizure to which this section applies or the power conferred by subsection (2) would entitle that person, if that person found it, to seize whatever it is that the person has grounds for believing that thing to be or to contain; and

- (c) in all the circumstances, it is not reasonably practicable for it to be determined, on those premises —
 - (i) whether what has been found is something that the person is entitled to seize; or
 - (ii) the extent to which what has been found contains something that the person is entitled to seize,

that person's powers of seizure include power to seize so much of what the person has found as it is necessary to remove from the premises to enable that to be determined.

(2) If —

- (a) a person who is lawfully on any premises finds anything on those premises (the "seizable property") which that person would be entitled to seize but for its being comprised in something else that the person has (apart from this subsection) no power to seize;
- (b) the power under which that person would have power to seize the seizable property is a power to which this section applies; and
- (c) in all the circumstances it is not reasonably practicable for the seizable property to be separated, on those premises, from that in which it is comprised,

that person's powers of seizure include power to seize both the seizable property and that from which it is not reasonably practicable to separate it.

(3) The factors to be taken into account in considering, for the purposes of this section, whether or not it is reasonably practicable on particular premises for something to be determined, or for something to be separated from something else, are confined to the following —

- (a) how long it would take to carry out the determination or separation on those premises;
- (b) the number of persons that would be required to carry out that determination or separation on those premises within a reasonable period;
- (c) whether the determination or separation would (or would if carried out on those premises) involve damage to property;
- (d) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation; and
- (e) in the case of separation, whether the separation —
 - (i) would be likely; or
 - (ii) if carried out by the only means that are reasonably practicable on those premises, would be likely,

to prejudice the use of some or all of the separated seizable property for a purpose for which something seized under the power in question is capable of being used.

- (4) Section 22(6) (powers of seizure not to include power to seize anything that a constable has reasonable grounds for believing is legally privileged) does not apply to the power of seizure conferred by subsection (2).
- (5) This section applies to each of the powers of seizure specified in Part 1 of Schedule 1A.
- (6) The Department may by order amend Schedule 1A by adding entries to, or removing entries from, any Part of that Schedule.
- (7) An order under subsection (6) only comes into operation if it is approved by Tynwald.⁵²

26B Additional powers of seizure from the person

- (1) If —
 - (a) a person carrying out a lawful search of any person finds something that the person has reasonable grounds for believing may be or may contain something for which that person is authorised to search;
 - (b) a power of seizure to which this section applies or the power conferred by subsection (2) would entitle the person, if that person found it, to seize whatever it is that the person has grounds for believing that thing to be or to contain; and
 - (c) in all the circumstances it is not reasonably practicable for it to be determined, at the time and place of the search —
 - (i) whether what was found is something that the person is entitled to seize; or
 - (ii) the extent to which what was found contains something that the person is entitled to seize,

that person's powers of seizure include power to seize so much of what that person has found as it is necessary to remove from that place to enable that to be determined.
- (2) If —
 - (a) a person ("A") carrying out a lawful search of any person finds something (the "seizable property") which A would be entitled to seize but for its being comprised in something else that A has (apart from this subsection) no power to seize;
 - (b) the power under which that person would have power to seize the seizable property is a power to which this section applies; and

- (c) in all the circumstances it is not reasonably practicable for the seizable property to be separated, at the time and place of the search, from that in which it is comprised,

A's powers of seizure include power to seize both the seizable property and that from which it is not reasonably practicable to separate it.

- (3) The factors to be taken into account in considering, for the purposes of this section, whether or not it is reasonably practicable, at the time and place of a search, for something to be determined, or for something to be separated from something else, are confined to the following —
 - (a) how long it would take to carry out the determination or separation at that time and place;
 - (b) the number of persons that would be required to carry out that determination or separation at that time and place within a reasonable period;
 - (c) whether the determination or separation would (or would if carried out at that time and place) involve damage to property;
 - (d) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation; and
 - (e) in the case of separation, whether the separation —
 - (i) would be likely; or
 - (ii) if carried out by the only means that are reasonably practicable at that time and place, would be likely,to prejudice the use of some or all of the separated seizable property for a purpose for which something seized under the power in question is capable of being used.
- (4) Section 22(6) (powers of seizure not to include power to seize anything that a constable has reasonable grounds for believing is legally privileged) does not apply to the power of seizure conferred by subsection (2).
- (5) This section applies to each of the powers of seizure specified in Part 2 of Schedule 1A.⁵³

26C Notice of exercise of power under section 26A or 26B

- (1) If a person exercises a power of seizure conferred by section 26A, the person must on doing so (subject to subsections (2) and (3)) notify the occupier of the premises in writing —
 - (a) specifying what has been seized in reliance on the powers conferred by that section;
 - (b) specifying the grounds on which those powers have been exercised;

- (c) setting out the effect of sections 26J to 26L;
 - (d) specifying the name and address of the person to whom notice of an application under section 26J(2) to a Judge in respect of any of the seized property must be given; and
 - (e) specifying the name and address of the person to whom an application may be made to be allowed to attend the initial examination required by any arrangements made for the purposes of section 26D(2).
- (2) If it appears to the person exercising on any premises a power of seizure conferred by section 26A —
 - (a) that the occupier of the premises is not present on the premises at the time of the exercise of the power; but
 - (b) that there is some other person present on the premises who is in charge of the premises,subsection (1) applies as if it required the notice under that subsection to be given to that other person.
- (3) If it appears to the person exercising a power of seizure conferred by section 26A that there is no one present on the premises to whom notice may be given for the purposes of complying with subsection (1), that person must, before leaving the premises, instead of complying with that subsection, attach a notice such as is mentioned in that subsection in a prominent place to the premises.
- (4) If a person exercises a power of seizure conferred by section 26B the person must notify the person from whom the seizure is made in writing —
 - (a) specifying what has been seized in reliance on the powers conferred by that section;
 - (b) specifying the grounds on which those powers have been exercised;
 - (c) setting out the effect of sections 26J to 26L;
 - (d) specifying the name and address of the person to whom notice of any application under section 26J(2) to a Judge in respect of any of the seized property must be given; and
 - (e) specifying the name and address of the person to whom an application may be made to be allowed to attend the initial examination required by any arrangements made for the purposes of section 26D(2).
- (5) The Department may by regulations provide that a person who exercises a power of seizure conferred by section 26A must, in accordance with subsection (1), notify any person, or send it to any place, described in the regulations.

- (6) Regulations under subsection (5) must be laid before Tynwald.⁵⁴

Return or retention of seized property

26D Examination and return of property seized under section 26A or 26B

- (1) This section applies if anything has been seized under a power conferred by section 26A or 26B.
- (2) The person for the time being in possession of the seized property in consequence of the exercise of that power must secure that there are arrangements in force that (subject to section 26L), ensure —
- (a) that an initial examination of the property is carried out as soon as reasonably practicable after the seizure;
 - (b) that that examination is confined to whatever is necessary for determining how much of the property falls within subsection (3);
 - (c) that anything found, on that examination, not to fall within subsection (3) is separated from the rest of the seized property and is returned as soon as reasonably practicable after the examination of all the seized property has been completed; and
 - (d) that, until the initial examination of all the seized property has been completed and anything that does not fall within subsection (3) has been returned, the seized property is kept separate from anything seized under any other power.
- (3) The seized property falls within this subsection to the extent only —
- (a) that it is property for which the person seizing it had power to search when that person made the seizure but is not property the return of which is required by section 26E;
 - (b) that it is property the retention of which is authorised by section 26G; or
 - (c) that it is something that, in all the circumstances, it will not be reasonably practicable, following the examination, to separate from property falling within paragraph (a) or (b).
- (4) In determining for the purposes of this section the earliest practicable time for the carrying out of an initial examination of the seized property, due regard must be had to the desirability of allowing the person from whom it was seized, or a person with an interest in that property, an opportunity of being present or (if such a person chooses) of being represented at the examination.
- (5) In this section, references to whether or not it is reasonably practicable to separate part of the seized property from the rest of it are references to whether or not it is reasonably practicable to do so without prejudicing the use of the rest of that property, or a part of it, for purposes for which

(disregarding the part to be separated) the use of the whole or of a part of the rest of the property, if retained, would be lawful.⁵⁵

26E Obligation to return items subject to legal privilege

- (1) If, at any time after a seizure of anything has been made in exercise of a power of seizure to which this section applies —
 - (a) it appears to the person for the time being in possession of the seized property in consequence of the seizure that the property —
 - (i) is an item subject to legal privilege; or
 - (ii) has such an item comprised in it; and
 - (b) in a case where the item is comprised in something else which has been lawfully seized, it is not comprised in property falling within subsection (3),

the person must secure that the item is returned as soon as reasonably practicable after the seizure but no later than 42 days after the seizure.

- (2) However, the person mentioned in subsection (1) may make an application to a Judge for permission to retain the seized property for a period in excess of 42 days if the circumstances are such that it is not reasonably practicable to secure that the item is returned in accordance with that subsection.
- (3) Property in which an item subject to legal privilege is comprised falls within this subsection if —
 - (a) the whole or a part of the rest of the property is property falling within subsection (4) or property the retention of which is authorised by section 26G; and
 - (b) in all the circumstances, it is not reasonably practicable for that item to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that item) its use, if retained, would be lawful.
- (4) Property falls within this subsection to the extent that it is property for which the person seizing it had power to search when that person made the seizure, but is not property that is required to be returned under this section or section 26F.
- (5) This section applies —
 - (a) to the powers of seizure conferred by sections 26A and 26B;
 - (b) to each of the powers of seizure specified in Parts 1 and 2 of Schedule 1A; and

- (c) to any power of seizure (not falling within paragraph (a) or (b)) conferred on a constable by or under any enactment, including an enactment passed after this section comes into operation.⁵⁶

26F Obligation to return excluded and special procedure material

- (1) If, at any time after a seizure of anything has been made in exercise of a power to which this section applies —
 - (a) it appears to the person for the time being in possession of the seized property in consequence of the seizure that the property —
 - (i) is excluded material or special procedure material; or
 - (ii) has any excluded material or any special procedure material comprised in it,
 - (b) its retention is not authorised by section 26G; and
 - (c) in a case where the material is comprised in something else that has been lawfully seized, it is not comprised in property falling within subsection (3) or (4),

the person must secure that the item is returned as soon as reasonably practicable after the seizure but no later than 42 days after the seizure.

- (2) However, the person mentioned in subsection (1) may make an application to a Judge for permission to retain the seized property for a period in excess of 42 days if the circumstances are such that it is not reasonably practicable to secure that the item is returned in accordance with that subsection.
- (3) Property in which any excluded material or special procedure material is comprised falls within this subsection if —
 - (a) the whole or a part of the rest of the property is property for which the person seizing it had power to search when that person made the seizure but is not property the return of which is required by this section or section 26E; and
 - (b) in all the circumstances, it is not reasonably practicable for that material to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that material) its use, if retained, would be lawful.
- (4) Property in which any excluded material or special procedure material is comprised falls within this subsection if —
 - (a) the whole or a part of the rest of the property is property the retention of which is authorised by section 26G; and
 - (b) in all the circumstances, it is not reasonably practicable for that material to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the

rest of that property, or that part of it, for purposes for which (disregarding that material) its use, if retained, would be lawful.

- (5) This section applies (subject to subsection (6)) to each of the powers of seizure specified in Part 3 of Schedule 1A.
- (6) In its application to the powers of seizure conferred by section 169(4) of the *Proceeds of Crime Act 2008* this section applies with the omission of every reference to special procedure material.
- (7) In this section, except in its application to —
 - (a) the power of seizure conferred by section 11(2);
 - (b) either of the powers of seizure conferred by the provisions of paragraphs 1 and 3 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003*; and
 - (c) the power of seizure conferred by paragraph 14 of Schedule 5 to that Act of 2003, so far only as the power in question is conferred by reference to paragraph 1 of that Schedule,

“special procedure material” means special procedure material consisting of documents or records other than documents.⁵⁷

26G Property seized by constables

- (1) The retention of —
 - (a) property seized on any premises by a constable who was lawfully on the premises; and
 - (b) property seized by a constable carrying out a lawful search of any person,is authorised by this section if the property falls within subsection (2) or (3).
- (2) Property falls within this subsection to the extent that there are reasonable grounds for believing —
 - (a) that it is property obtained in consequence of the commission of an offence; and
 - (b) that it is necessary for it to be retained in order to prevent its being concealed, lost, damaged, altered or destroyed.
- (3) Property falls within this subsection to the extent that there are reasonable grounds for believing —
 - (a) that it is evidence in relation to any offence; and
 - (b) that it is necessary for it to be retained in order to prevent its being concealed, lost, altered or destroyed.

- (4) Nothing in this section authorises the retention (except in pursuance of section 26E(3)) of anything at any time when its return is required by section 26E.⁵⁸

26H Retention of seized items

- (1) This section applies in relation to the provisions of enactments specified in an order made by the Department that are about the retention of items that have been seized and are referred to in this section as “the relevant provisions”.
- (2) The relevant provisions apply in relation to any property seized in exercise of a power conferred by section 26A or 26B as if the property had been seized under the power of seizure by reference to which the power under that section was exercised in relation to that property.
- (3) Nothing in any of sections 26D to 26G authorises the retention of any property at any time when its retention would not (apart from the provisions of this Part) be authorised by the relevant provisions.
- (4) Nothing in any of the relevant provisions authorises the retention of anything after an obligation to return it has arisen under this Part.
- (5) An order under this section must be laid before Tynwald.⁵⁹

26I Person to whom seized property is to be returned

- (1) If —
- (a) anything has been seized in exercise of any power of seizure; and
 - (b) there is an obligation under this Part for the whole or any part of the seized property to be returned,
- the obligation to return it is (subject to the following provisions of this section) an obligation to return it to the person from whom it was seized.
- (2) If —
- (a) any person is obliged under this Part to return anything that has been seized to the person from whom it was seized; and
 - (b) the person under that obligation is satisfied that some other person has a better right to that thing than the person from whom it was seized,
- the obligation to return it is, instead, an obligation to return it to that other person or, as the case may be, to the person appearing to the person under that obligation to have the best right to the thing in question.
- (3) If different persons claim to be entitled to the return of anything that is required to be returned under this Part, that thing may be retained for as long as is reasonably necessary for the determination in accordance with subsection (2) of the person to whom it must be returned.

- (4) References in this Part to the person from whom something has been seized, in relation to a case in which the power of seizure was exercisable by reason of that thing having been found on any premises, are references to the occupier of the premises at the time of the seizure.
- (5) References in this section to the occupier of any premises at the time of a seizure, in relation to a case in which —
 - (a) a notice in connection with the entry or search of the premises in question, or with the seizure, was given to a person appearing in the occupier's absence to be in charge of the premises; and
 - (b) it is practicable, for the purpose of returning something that has been seized, to identify that person but not to identify the occupier of the premises,are references to that person.⁶⁰

Remedies and safeguards

26J Application to Judge

- (1) This section applies if anything has been seized in exercise, or purported exercise, of a relevant power of seizure.
- (2) Any person with a relevant interest in the seized property may apply to a Judge, on one or more of the grounds mentioned in subsection (3), for the return of the whole or a part of the seized property.
- (3) Those grounds are —
 - (a) that there was no power to make the seizure;
 - (b) that the seized property is or contains an item subject to legal privilege that is not comprised in property falling within section 26E(3);
 - (c) that the seized property is or contains any excluded material or special procedure material which —
 - (i) has been seized under a power to which section 26F applies;
 - (ii) is not comprised in property falling within section 26F(3) or (4); and
 - (iii) is not property the retention of which is authorised by section 26G; and
 - (d) that the seized property is or contains something seized under section 26A or 26B that does not fall within section 26D(3),and sections 26F(6) and (7) apply for the purposes of paragraph (c) as they apply for the purposes of that section.
- (4) Subject to subsection (6), a Judge, on an application under subsection (2), must —

- (a) if satisfied as to any of the matters mentioned in subsection (3), order the return of so much of the seized property as is property in relation to which the Judge is so satisfied; and
 - (b) to the extent that the Judge is not so satisfied, dismiss the application.
- (5) The Judge —
 - (a) on an application under subsection (2);
 - (b) on an application made by the person for the time being in possession of anything in consequence of its seizure under a relevant power of seizure; or
 - (c) on an application made —
 - (i) by a person with a relevant interest in anything seized under section 26A or 26B; and
 - (ii) on the grounds that the requirements of section 26D(2) have not been or are not being complied with,

may give such directions as the Judge thinks fit as to the examination, retention, separation or return of the whole or any part of the seized property.
- (6) On any application under this section, the Judge may authorise the retention of any property that —
 - (a) has been seized in exercise, or purported exercise, of a relevant power of seizure; and
 - (b) would otherwise fall to be returned,

if that Judge is satisfied that the retention of the property is justified on grounds falling within subsection (7).
- (7) Those grounds are that (if the property were returned) it would immediately become appropriate —
 - (a) to issue, on the application of the person who is in possession of the property at the time of the application under this section, a warrant in pursuance of which, or of the exercise of which, it would be lawful to seize the property; or
 - (b) to make an order under —
 - (i) paragraph 4 of Schedule 1;
 - (ii) section 105H or 105I of the *Income Tax Act 1970*; or
 - (iii) paragraph 5 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003*,

under which the property would fall to be delivered up or produced to the person mentioned in paragraph (a).

- (8) If any property which has been seized in exercise, or purported exercise, of a relevant power of seizure has parts ("part A" and "part B") comprised in it such that —
- (a) it would be inappropriate, if the property were returned, to take any action such as is mentioned in subsection (7) in relation to part A;
 - (b) it would (or would but for the facts mentioned in paragraph (a)) be appropriate, if the property were returned, to take such action in relation to part B; and
 - (c) in all the circumstances, it is not reasonably practicable to separate part A from part B without prejudicing the use of part B for purposes for which it is lawful to use property seized under the power in question,
- the facts mentioned in paragraph (a) must not be taken into account by the Judge in deciding whether the retention of the property is justified on grounds falling within subsection (7).
- (9) If a person fails to comply with any order or direction made or given by a Judge in exercise of any jurisdiction under this section —
- (a) the Judge may deal with that person as if that person had committed a contempt of the High Court; and
 - (b) any enactment relating to contempt of the High Court applies in relation to the failure as if it were such a contempt.
- (10) The relevant powers of seizure for the purposes of this section are —
- (a) the powers of seizure conferred by sections 26A and 26B;
 - (b) each of the powers of seizure specified in Parts 1 and 2 of Schedule 1A; and
 - (c) any power of seizure (not falling within paragraph (a) or (b)) conferred on a constable by or under any enactment, including an enactment passed after this section comes into operation.
- (11) References in this section to a person with a relevant interest in seized property are references to —
- (a) the person from whom it was seized;
 - (b) any person with an interest in the property; or
 - (c) any person, not falling within paragraph (a) or (b), who had custody or control of the property immediately before the seizure.
- (12) For the purposes of subsection (11)(b), the persons who have an interest in seized property, in the case of property that is or contains an item subject to legal privilege, include the person in whose favour that privilege is conferred.⁶¹

26K Cases where obligation to secure arises

- (1) If property has been seized in exercise, or purported exercise, of any power of seizure conferred by section 26A or 26B, an obligation to secure arises under section 26L in relation to the seized property if —
 - (a) a person entitled to do so makes an application under section 26J for the return of the property;
 - (b) at least one of the conditions set out in subsections (2) and (3) is satisfied; and
 - (c) notice of the application is given to a relevant person.
- (2) The first condition is that the application is made on the grounds that the seized property is or contains an item subject to legal privilege that is not comprised in property falling within section 26E(3).
- (3) The second condition is that —
 - (a) the seized property was seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers specified in subsection (6); and
 - (b) the application —
 - (i) is made on the ground that the seized property is or contains something that does not fall within section 26D(3); and
 - (ii) states that the seized property is or contains special procedure material or excluded material.
- (4) In relation to property seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers of seizure conferred by section 169(4) of the *Proceeds of Crime Act 2008*, the second condition is satisfied only if the application states that the seized property is or contains excluded material.
- (5) In relation to property seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers of seizure specified in Part 3 of Schedule 1A but not by virtue of —
 - (a) the power of seizure conferred by section 11(2);
 - (b) either of the powers of seizure conferred by paragraphs 1 and 3 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003*; or
 - (c) the power of seizure conferred by paragraph 14 of Schedule 5 to that Act of 2003 so far as they are conferred by reference to paragraph 1 of that Schedule,the second condition is satisfied only if the application states that the seized property is or contains excluded material or special procedure material consisting of documents or records other than documents.
- (6) The powers mentioned in subsection (3) are —

- (a) the powers of seizure specified in Part 3 of Schedule 1A;
 - (b) the power of seizure conferred by the provisions of Parts II and III (except section 11(2));
 - (c) the power of seizure conferred by the provisions of paragraph 10 of Schedule 5 to the Act of 2003; and
 - (d) the power of seizure conferred by the provisions of paragraph 14 of that Schedule so far as they are conferred by reference to paragraph 10 of that Schedule.
- (7) In this section “relevant person” means any one of the following —
- (a) the person who made the seizure;
 - (b) the person for the time being in possession, in consequence of the seizure, of the seized property; or
 - (c) the person named for the purposes of section 26C(1)(d) or (4)(d) in any notice given under that section with respect to the seizure.⁶²

26L The obligation to secure

- (1) The person for the time being in possession of the seized property in consequence of the seizure must ensure that arrangements are in force that secure that the seized property (without being returned) is not, at any time after the giving of the notice of the application under section 26K(1), either —
- (a) examined or copied; or
 - (b) put to any use to which its seizure would, apart from this subsection, entitle it to be put,
- except with the consent of the applicant or in accordance with the directions of the Judge.
- (2) Subsection (1) does not apply in relation to any time after the withdrawal of the application to which the notice relates.
- (3) Section 26J(9) does not apply in relation to any jurisdiction conferred on the Judge by this section as it applies in relation to the jurisdiction conferred by that section.⁶³

26M Use of inextricably linked property

- (1) This section applies to property, other than property that is for the time being required to be secured in pursuance of section 26L, if —
- (a) it has been seized under any power conferred by section 26A or 26B or specified in Part 1 or 2 of Schedule 1A; and
 - (b) it is inextricably linked property.

- (2) Subject to subsection (3), the person for the time being in possession, in consequence of the seizure, of the inextricably linked property must ensure that arrangements are in force that secure that that property (without being returned) is not at any time, except with the consent of the person from whom it was seized, either —
- (a) examined or copied; or
 - (b) put to any other use.
- (3) Subsection (2) does not require arrangements under that subsection to prevent inextricably linked property from being put to any use falling within subsection (4).
- (4) A use falls within this subsection to the extent that it is use that is necessary for facilitating the use, in any investigation or proceedings, of property in which the inextricably linked property is comprised.
- (5) Property is inextricably linked property for the purposes of this section if it falls within any of subsections (6) to (8).
- (6) Property falls within this subsection if —
- (a) it has been seized under a power conferred by section 26A or 26B; and
 - (b) but for section 26D(3)(c), arrangements under section 26D(2) in relation to the property would be required to ensure the return of the property as mentioned in section 26D(2)(c).
- (7) Property falls within this subsection if —
- (a) it has been seized under a power to which section 26E applies; and
 - (b) but for section 26E(1)(b), the person for the time being in possession of the property would be under an obligation to secure its return as mentioned in that subsection.
- (8) Property falls within this subsection if —
- (a) it has been seized under a power of seizure to which section 26F applies; and
 - (b) but for section 26F(1)(c), the person for the time being in possession of the property would be under an obligation to secure its return as mentioned in that subsection.⁶⁴

Construction of Part IIA

26N Copies

- (1) Subject to subsection (2) —
- (a) in this Part, “**seize**” includes take a copy of;

- (b) this Part applies as if any copy taken under any power to which any provision of this Part applies were the original of that of which it is a copy; and
 - (c) for the purposes of this Part, except sections 26A and 26B, the powers to obtain hard copies of information that is stored in electronic form must be treated as powers of seizure, and references to seizure and to seized property must be construed accordingly.
- (2) Subsection (1) does not apply to section 26H.⁶⁵

26O General interpretation of Part IIA

- (1) In this Part —
- “**documents**” includes information recorded in any form;
- “**item subject to legal privilege**” has the meaning given in section 13;
- “**premises**” includes any vehicle, stall or moveable structure (including an offshore installation) and any other place whatever, whether or not occupied as land;
- “**return**”, in relation to seized property, means returned in accordance with section 26I;
- “**seize**” has the meaning given in section 26N(1);
- “**seized property**”, in relation to any exercise of a power of seizure, means anything seized in exercise of that power;
- “**vehicle**” includes any vessel, aircraft or hovercraft.
- (2) In this Part references, in relation to a time when seized property is in any person’s possession in consequence of a seizure (the “**relevant time**”), to something for which the person making the seizure had power to search is to be construed —
- (a) if the seizure was made on the occasion of a search carried out on the authority of a warrant, as including anything of the description of things the presence or suspected presence of which provided grounds for the issue of the warrant;
 - (b) if the property was seized in the course of a search on the occasion of which it would have been lawful for the person carrying out the search to seize anything that on that occasion was believed by that person to be, or to appear to be, of a particular description, as including —
 - (i) anything which at the relevant time is believed by the person in possession of the seized property, or (as the case may be) appears to that person, to be of that description; and
 - (ii) anything which is in fact of that description;

- (c) if the property was seized in the course of a search on the occasion of which it would have been lawful for the person carrying out the search to seize anything that there were on that occasion reasonable grounds for believing was of a particular description, as including —
 - (i) anything that there are at the relevant time reasonable grounds for believing is of that description; and
 - (ii) anything that is in fact of that description; and
 - (d) if the property was seized in the course of a search to which neither paragraph (b) nor paragraph (c) applies, as including anything that is of a description of things that, on the occasion of the search, it would have been lawful for the person carrying it out to seize otherwise than under section 26A and 26B.
- (3) References in subsection (2) to a search include references to any search authorised by virtue of any enactment.
 - (4) In this Part —
 - (a) references to excluded material are to be construed in accordance with section 14 (meaning of “excluded material”); and
 - (b) references to special procedure material are to be construed in accordance with section 17 (meaning of “special procedure material”).
 - (5) Nothing in this Part affects the power to dispose of property in the possession of the police in accordance with section 34 of the *Summary Jurisdiction Act 1989*.⁶⁶

Supplemental provisions of Part IIA

26P Consequential applications and amendments of enactments

- (1) Schedule 1B (which applies enactments in relation to provision made by this Part) has effect.
- (2) The Department may by order amend Schedule 1B by adding entries to, or removing entries from, that Schedule.
- (3) An order under this section may amend any other enactment if it is necessary as a consequence of the addition or removal of an entry in Schedule 1B.
- (4) An order under this section only comes into operation if it is approved by Tynwald.⁶⁷

PART III – ARREST

27 Arrest without warrant: constables

- (1) A constable may arrest without a warrant —
 - (a) anyone who is about to commit an offence;
 - (b) anyone who is in the act of committing an offence;
 - (c) anyone whom the constable has reasonable grounds for suspecting to be about to commit an offence; or
 - (d) anyone whom the constable has reasonable grounds for suspecting to be committing an offence.
- (2) If a constable has reasonable grounds for suspecting that an offence has been committed, the constable may arrest without a warrant anyone whom the constable has reasonable grounds to suspect of being guilty of that offence.
- (3) If an offence has been committed, a constable may arrest without a warrant —
 - (a) anyone who is guilty of the offence; or
 - (b) anyone whom the constable has reasonable grounds for suspecting to be guilty of it.
- (4) The power of summary arrest conferred by subsection (1), (2) or (3) is exercisable only if the constable has reasonable grounds for believing that for any of the reasons mentioned in subsection (5) it is necessary to arrest the person in question.
- (5) The reasons are —
 - (a) to enable the name of the person in question to be ascertained (in the case where the constable does not know, and cannot readily ascertain, the person's name, or has reasonable grounds for doubting whether a name given by the person is that person's real name);
 - (b) that —
 - (i) the person in question has failed to give a satisfactory address for service; or
 - (ii) the constable has reasonable grounds for doubting whether an address given by the person in question is a satisfactory address for service;
 - (c) to prevent the person in question —
 - (i) causing physical injury to himself or herself or any other person;
 - (ii) suffering physical injury;

- (iii) causing loss of or damage to property;
 - (iv) committing an offence against public decency (subject to subsection (6)); or
 - (v) causing an unlawful obstruction of the highway;
- (d) to protect a child or other vulnerable person from the person in question;
- (e) to allow the prompt and effective investigation of the offence or of the conduct of the person in question; and
- (f) to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.
- (6) Subsection (5)(c)(iv) applies only if members of the public going about their normal business cannot reasonably be expected to avoid the person in question.
- (7) For the purposes of subsection (5)(b), an address is a satisfactory address for service if it appears to the constable —
 - (a) that the person in question will be at that address for a sufficiently long period for it to be possible to serve a summons on him or her; or
 - (b) that some other person specified by the person in question will accept service of a summons for the person in question at it.
- (8) This section has effect in relation to any offence whenever committed.⁶⁸

28 Arrest without warrant: other persons

- (1) A person other than a constable may arrest without a warrant —
 - (a) anyone who is in the act of committing an offence; or
 - (b) anyone whom the person has reasonable grounds for suspecting to be committing an offence.
- (2) If an offence has been committed, a person other than a constable may arrest without a warrant —
 - (a) anyone who is guilty of the offence; or
 - (b) anyone whom the person has reasonable grounds for suspecting to be guilty of it.
- (3) The power of summary arrest conferred by subsection (1) or (2) is exercisable only if —
 - (a) the person making the arrest has reasonable grounds for believing that for any of the reasons mentioned in subsection (4) it is necessary to arrest the person in question; and
 - (b) it appears to the person making the arrest that it is not reasonably practicable for a constable to make it instead.

- (4) The reasons are to prevent the person in question ("A") —
 - (a) causing physical injury to A or to any other person;
 - (b) suffering physical injury;
 - (c) causing loss of or damage to property; or
 - (d) making off before a constable can assume responsibility for A.
- (5) This section has effect in relation to any offence whenever committed.⁶⁹

28A Sections 27 and 28: supplementary

- (1) The Department may by order make any provision repealing or amending any provision of an enactment that is inconsistent with, or is unnecessary or requires modification in consequence of, section 27 or 28, as those provisions were substituted by section 30 of the *Criminal Justice, Police Powers and Other Amendments Act 2014*.
- (2) An order under subsection (1) only comes into operation if it is approved by Tynwald.⁷⁰

29 Repeal of statutory powers of arrest without warrant or order

[P1984/60/26]

- (1) Subject to subsection (2), so much of any Act passed before this Act as enables a constable —
 - (a) to arrest a person for an offence without a warrant; or
 - (b) to arrest a person otherwise than for an offence without a warrant or an order of a court,shall cease to have effect.
- (2) Nothing in subsection (1) affects the enactments specified in Schedule 2.

30 Fingerprinting of certain offenders

[P1984/60/27]

- (1) If a person —
 - (a) has been convicted of any offence which is specified in regulations under subsection (4);
 - (b) has not at any time been in police detention for the offence; and
 - (c) has not had his fingerprints taken —
 - (i) in the course of the investigation of the offence by the police; or
 - (ii) since the conviction,

any constable may at any time not later than one month after the date of the conviction require him to attend a police station in order that his fingerprints may be taken.

- (2) A requirement under subsection (1) —
 - (a) shall give the person a period of at least 7 days within which he must so attend; and
 - (b) may direct him to so attend at a specified time of day or between specified times of day.
- (3) Any constable may arrest without warrant a person who has failed to comply with a requirement under subsection (1).
- (4) The Department may by regulations make provision for recording in police records convictions for such offences as are specified in the regulations and in this Act such offences are referred to as “**recordable offences**”.
- (5) Regulations under this section shall not come into operation unless they are approved by Tynwald.

31 Information to be given on arrest

[P1984/60/28]

- (1) Subject to subsection (5), where a person is arrested, otherwise than by being informed that he is under arrest, the arrest is not lawful unless the person arrested is informed that he is under arrest as soon as is practicable after his arrest.
- (2) Where a person is arrested by a constable, subsection (1) applies regardless of whether the fact of the arrest is obvious.
- (3) Subject to subsection (5), no arrest is lawful unless the person arrested is informed of the ground for the arrest at the time of, or as soon as is practicable after, the arrest.
- (4) Where a person is arrested by a constable, subsection (3) applies regardless of whether the ground for the arrest is obvious.
- (5) Nothing in this section is to be taken to require a person to be informed —
 - (a) that he is under arrest; or
 - (b) of the ground for the arrest,if it was not reasonably practicable for him to be so informed by reason of his having escaped from arrest before the information could be given.

32 Voluntary attendance at police station etc

[P1984/60/29]

Where for the purpose of assisting with an investigation a person attends voluntarily at a police station or at any other place where a constable is present

or accompanies a constable to a police station or any such other place without having been arrested —

- (a) he shall be entitled to leave at will unless he is placed under arrest;
- (b) he shall be informed at once that he is under arrest if a decision is taken by a constable to prevent him from leaving at will.

33 Arrest elsewhere than at police station

[P1984/60/30]

- (1) Subject to the following provisions of this section, where a person —
 - (a) is arrested by a constable for an offence; or
 - (b) is taken into custody by a constable after being arrested for an offence by a person other than a constable,at any place other than a police station, he shall (subject to subsections (2) and (3)) be taken to a designated police station by a constable as soon as practicable after the arrest.
- (2) A constable who is working in a locality covered by a police station which is not a designated police station may take an arrested person to any police station unless it appears to the constable that it may be necessary to keep the arrested person in police detention for more than 6 hours.
- (3) A constable may take an arrested person to any police station if —
 - (a) either —
 - (i) the constable has arrested him without the assistance of any other constable and no other constable is available to assist him; or
 - (ii) the constable has taken him into custody from a person other than a constable without the assistance of any other constable and no other constable is available to assist him; and
 - (b) it appears to the constable that he will be unable to take the arrested person to a designated police station without the arrested person injuring himself, the constable or some other person.
- (4) If the first police station to which an arrested person is taken after his arrest is not a designated police station, he shall be taken to a designated police station not more than 6 hours after his arrival at the first police station unless he is released previously.
- (5) A person arrested by a constable at a place other than a police station shall be released if a constable is satisfied, before the person arrested reaches a police station, that there are no grounds for keeping him under arrest.
- (6) A constable who releases a person under subsection (5) shall, as soon as practicable after the release, record the fact that he has done so.

- (7) Nothing in subsection (1) shall prevent a constable delaying taking a person who has been arrested to a police station if the presence of that person elsewhere is necessary in order to carry out such investigations as it is reasonable to carry out immediately.
- (8) Where there is delay in taking a person who has been arrested to a police station after his arrest, the reasons for the delay shall be recorded when he first arrives at a police station.
- (9) Nothing in subsection (1) shall be taken to affect —
 - (a) paragraphs 16(3) or 18(1) of Schedule 2 to the *Immigration Act 1971* (an Act of Parliament);
 - (b) any provision of the *Anti-Terrorism and Crime Act 2003*.⁷¹
- (10) Nothing in subsection (7) shall be taken to affect paragraph 18(3) of Schedule 2 to the *Immigration Act 1971* (an Act of Parliament).

34 Arrest for further offence

[P1984/60/31]

Where

- (a) a person —
 - (i) has been arrested for an offence; and
 - (ii) is at a police station in consequence of that arrest; and
- (b) it appears to a constable that, if he were released from that arrest, he would be liable to arrest for some other offence,

he shall be arrested for that other offence.

35 Search upon arrest

[P1984/60/32]

- (1) A constable may search an arrested person, in any case where the person to be searched has been arrested at a place other than a police station, if the constable has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (2) Subject to subsections (3) to (5), a constable shall also have power in any such case —
 - (a) to search the arrested person for anything —
 - (i) which he might use to assist him to escape from lawful custody; or
 - (ii) which might be evidence relating to an offence; and
 - (b) to enter and search any premises in which he was when arrested or immediately before he was arrested for evidence relating to the offence for which he has been arrested.

- (3) The power to search conferred by subsection (2) is only a power to search to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence.
- (4) The powers conferred by this section to search a person are not to be construed as authorising a constable to require a person to remove any of his clothing in public other than an outer coat, jacket, headgear or gloves but they do authorise a search of a person's mouth.
- (5) A constable may not search a person in the exercise of the power conferred by subsection (2)(a) unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything for which a search is permitted under that subsection.
- (6) A constable may not search premises in the exercise of the power conferred by subsection (2)(b) unless he has reasonable grounds for believing that there is evidence for which a search is permitted under that subsection on the premises.
- (7) In so far as the power of search conferred by subsection (2)(b) relates to premises consisting of two or more separate dwellings, it is limited to a power to search —
 - (a) any dwelling in which the arrest took place or in which the person arrested was immediately before his arrest; and
 - (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.
- (8) A constable searching a person in the exercise of the power conferred by subsection (1) may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.
- (9) A constable searching a person in the exercise of the power conferred by subsection (2)(a) may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing —
 - (a) that he might use it to assist him to escape from lawful custody; or
 - (b) that it is evidence of an offence or has been obtained in consequence of the commission of an offence.
- (10) Nothing in this section shall be taken to affect the power conferred by section 32 of the *Anti-Terrorism and Crime Act 2003*.⁷²

36 Warrants under the *Summary Jurisdiction Act 1989*

- (1) [Amends section 4 of the *Summary Jurisdiction Act 1989*, by inserting subsection (1A).]

- (2) [Amends section 82 of the *Summary Jurisdiction Act 1989*, as follows:- paragraph (a) substitutes in subsection (3) the words “which this subsection applies” for the words “arrest a person charged with an offence”; and paragraph (b) inserts subsection (3A).]

PART IV – DETENTION

Detention- conditions and duration

37 Limitations on police detention

[P1984/60/34]

- (1) A person arrested for an offence shall not be kept in police detention except in accordance with the provisions of this Part.
- (2) Subject to subsection (3), if at any time a custody officer —
- (a) becomes aware in relation to any person in police detention, that the grounds for the detention of that person have ceased to apply; and
 - (b) is not aware of any other grounds on which the continued detention of that person could be justified under the provisions of this Part,
- it shall be the duty of the custody officer to release that person from custody immediately.
- (3) No person in police detention shall be released except on the authority of a custody officer at the police station where his detention was authorised or, if it was authorised at more than one station, a custody officer at the station where it was last authorised.
- (4) A person who appears to that officer to have been unlawfully at large when he was arrested is not to be released under subsection (2).
- (5) A person who is released under subsection (2) shall be released without bail unless it appears to that officer —
- (a) that there is need for further investigation of any matter in connection with which he was detained at any time during the period of his detention; or
 - (b) that proceedings may be taken against him in respect of any such matter,
- and, if it so appears, he shall be released on bail.
- (6) For the purposes of this Part, a person who returns to a police station to answer to bail shall be treated as arrested for an offence and the offence in connection with which he was granted bail shall be deemed to be that offence.

This subsection is subject to section 50(5) (which provides for the calculation of certain periods, where a person has been granted bail under this Part, by reference to time when the person is in police detention only).⁷³

38 Designated police stations

[P1984/60/35]

The Chief Constable shall, with the approval of the Department, designate the police stations in the Island which, subject to section 33(2) and (3), are to be the stations used for the purpose of detaining arrested persons, and in this Act, “**designated police station**” shall be construed accordingly.

39 Custody officers at police stations

[P1984/60/36]

- (1) One or more custody officers shall be appointed for each designated police station.
- (2) Custody officers shall be appointed —
 - (a) by the Chief Constable; or
 - (b) by such other police officer as the Chief Constable may direct.
- (3) Nothing in this Act shall be taken as preventing an officer who is appointed as custody officer from performing duties other than those assigned to a custody officer under this Act.
- (4) An officer of any rank may perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.
- (5) Subject to the following provisions of this section and to section 42(2), none of the functions of a custody officer in relation to a person shall be performed by an officer who at the time when the function falls to be performed is involved in the investigation of an offence for which that person is in police detention at that time.
- (6) Nothing in subsection (5) is to be taken to prevent a custody officer —
 - (a) performing any function assigned to custody officers —
 - (i) by this Act; or
 - (ii) by a code of practice issued under this Act;
 - (b) carrying out the duty imposed on custody officers by section 42;
 - (c) doing anything in connection with the identification of a suspect; or
 - (d) doing anything under section 7 of the *Road Traffic Act 1985*.
- (7) Where an arrested person is taken to a police station which is not a designated police station, the functions in relation to him which at a

designated police station would be the functions of a custody officer shall be performed —

- (a) by an officer who is not involved in the investigation of an offence for which he is in police detention, if such an officer is readily available; and
 - (b) if no such officer is readily available, by the officer who took him to the station or any other officer.
- (8) References to a custody officer in the following provisions of this Act include references to an officer other than a custody officer who is performing the functions of a custody officer under subsection (4) or (7).
- (9) Where under subsection (7) an officer who took an arrested person to a police station is to perform the functions of a custody officer in relation to him, the officer shall inform an officer who —
- (a) is attached to a designated police station and is of at least the rank of inspector; or
 - (b) is the officer in charge of a designated police station and is of at least the rank of sergeant,
- that he is to do so.
- (10) The duty imposed by subsection (9) shall be performed as soon as it is practicable to perform it.

40 Duties of custody officer before charge

[P1984/60/37]

- (1) Where a person is arrested for an offence —
- (a) without a warrant; or
 - (b) under a warrant not endorsed for bail,
- the custody officer at each police station where he is detained after his arrest shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such period as is necessary to enable him to do so.
- (2) If the custody officer determines that he does not have such evidence before him, the person arrested shall be released either on bail or without bail, unless the custody officer has reasonable grounds for believing that the detention of the person without being charged is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him.
- (3) If the custody officer has reasonable grounds for so believing, he may authorise the person arrested to be kept in police detention and the

custody officer shall as soon as is practicable, make a written record of the grounds for the detention.

- (4) Subject to subsection (5), the written record shall be made in the presence of the person arrested who shall at that time be informed by the custody officer of the grounds for his detention.
- (5) Subsection (4) shall not apply where a person arrested is, at the time when the written record is made —
 - (a) incapable of understanding what is said to him;
 - (b) violent or likely to become violent; or
 - (c) in urgent need of medical attention.
- (6) Subject to section 44(5), if the custody officer determines that he has before him sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested —
 - (a) shall be charged; or
 - (b) shall be released without charge, either on bail or without bail.
- (7) Where —
 - (a) a person is released under subsection (6)(b); and
 - (b) at the time of his release a decision whether he should be prosecuted for the offence for which he was arrested has not been taken,it shall be the duty of the custody officer so to inform him.
- (8) If the person arrested is not in a fit state to be dealt with under subsection (6), he may be kept in police detention until he is.
- (9) The duty imposed on the custody officer under subsection (1) shall be carried out by him as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.
- (10) It shall be the duty of the custody officer —
 - (a) to take such steps as are practicable to ascertain the identity of a person responsible for the welfare of an arrested juvenile; and
 - (b) if he ascertains the identity of any such person;as soon as it is practicable to do so, inform that person of the arrest and the nature of any offences which it is alleged that the arrested juvenile has committed.
- (11) For the purposes of subsection (10) the persons who may be responsible for the welfare of an arrested juvenile are —
 - (a) his parent or guardian; and
 - (b) any other person who has for the time being assumed responsibility for his welfare.

(12) If it appears to the custody officer that a supervision order under any provision of the *Children and Young Persons Act 2001* is in force in respect of the arrested juvenile, the custody officer shall also give the information to the person responsible for the arrested juvenile's supervision, as soon as it is practicable to do so.⁷⁴

(13) In this Part —

"arrested juvenile" means a person arrested with or without a warrant who appears to be under the age of 18 ~~and is not excluded from this Part by section 55;~~⁷⁵

"endorsed for bail" means endorsed with a direction for bail in accordance with section 83 of the *Summary Jurisdiction Act 1989*.

41 Duties of custody officer after charge

[P1984/60/38]

(1) Where a person arrested for an offence otherwise than under a warrant endorsed for bail is charged with an offence, the custody officer shall order his release from police detention, either on bail or without bail, unless —

(a) if the person arrested is not an arrested juvenile —

(i) his name or address cannot be ascertained or the custody officer has reasonable grounds for doubting whether a name or address furnished by him as his name or address is his real name or address;

(ii) the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection or to prevent him from causing physical injury to any other person or from causing loss of or damage to property;

(iii) the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from committing an offence;

(iv) the custody officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer to bail or that his detention is necessary to prevent him from interfering with the administration of justice or with the investigation of offences or of a particular offence; or

(v) in the case of a serious offence, the custody officer has reasonable grounds for believing that when the person arrested is first brought before a court of summary jurisdiction, an application will be made by or on behalf of the police for the person to be remanded in custody;⁷⁶

(b) if he is an arrested juvenile —

- (i) any of the requirements of paragraph (a) is satisfied; or
 - (ii) the custody officer has reasonable grounds for believing that he ought to be detained in his own interests.
- (2) If the release of a person arrested is not required by subsection (1), the custody officer may authorise him to be kept in police detention.
- (3) Where a custody officer authorises a person who has been charged to be kept in police detention, he shall, as soon as practicable, make a written record of the grounds for the detention.
- (4) Subject to subsection (5), the written record shall be made in the presence of the person charged who shall at that time be informed by the custody officer of the grounds for his detention.
- (5) Subsection (4) shall not apply where the person charged is, at the time when the written record is made —
 - (a) incapable of understanding what is said to him;
 - (b) violent or likely to become violent; or
 - (c) in urgent need of medical attention.
- (6) Where a custody officer authorises an arrested juvenile to be kept in police detention under subsection (1), the custody officer shall, unless he certifies in writing that it is impracticable to do so, make arrangements for the arrested juvenile to be moved to accommodation provided by the Department of Health and Social Care under Part 3 of the *Children and Young Persons Act 2001* and detained by that Department; and it shall be lawful to detain him in pursuance of the arrangements.⁷⁷
- (7) A certificate made under subsection (6) in respect of an arrested juvenile shall be produced to the court before which he is first brought thereafter.

42 Responsibilities in relation to persons detained

[P1984/60/39]

- (1) Subject to subsections (2) and (4), it shall be the duty of the custody officer at a police station to ensure —
 - (a) that all persons in police detention at that station are treated in accordance with this Act and any code of practice issued under it and relating to the treatment of persons in police detention; and
 - (b) that all matters relating to such persons which are required by this Act or by such codes of practice to be recorded are recorded in the custody records relating to such persons.
- (2) If the custody officer, in accordance with any code of practice issued under this Act, transfers or permits the transfer of a person in police detention —
 - (a) to the custody of a police officer investigating an offence for which that person is in police detention; or

- (b) to the custody of an officer who has charge of that person outside the police station,

the custody officer shall cease in relation to that person to be subject to the duty imposed on him by subsection (1)(a); and it shall be the duty of the officer to whom the transfer is made to ensure that he is treated in accordance with the provisions of this Act and of any such codes of practice as are mentioned in subsection (1).

- (3) If the person detained is subsequently returned to the custody of the custody officer, it shall be the duty of the officer investigating the offence to report to the custody officer as to the manner in which this section and the codes of practice have been complied with while that person was in his custody.
- (4) If an arrested juvenile is moved to accommodation provided by the Department of Health and Social Care in pursuance of arrangements made under section 41(6), the custody officer shall cease in relation to that person to be subject to the duty imposed on him by subsection (1).⁷⁸
- (5) It shall be the duty of the Department of Health and Social Care to make available to an arrested juvenile who is in accommodation provided by that Department in pursuance of such arrangements such advice and assistance as may be appropriate in the circumstances.⁷⁹
- (6) Where —
 - (a) an officer of higher rank than the custody officer gives directions relating to a person in police detention; and
 - (b) the directions are at variance —
 - (i) with any decision made or action taken by the custody officer in the performance of a duty imposed on him under this Part; or
 - (ii) with any decision or action which would but for the directions have been made or taken by him in the performance of such a duty,

the custody officer shall refer the matter at once to an officer of the rank of chief inspector or above.

43 Review of police detention

[P1984/60/40]

- (1) Reviews of the detention of each person in police detention in connection with the investigation of an offence shall be carried out periodically in accordance with the following provisions of this section —
 - (a) in the case of a person who has been arrested and charged, by the custody officer; and

- (b) in the case of a person who has been arrested but not charged, by an officer of at least the rank of inspector who has not been directly involved in the investigation.
- (2) The officer to whom it falls to carry out a review is referred to in this section as a “review officer”.
- (3) Subject to subsection (4) —
 - (a) the first review shall be —
 - (i) in the case of a person who has been arrested but not charged, not later than 12 hours after the detention was first authorised;
 - (ii) in the case of a person who has been arrested and charged, not later than 8 hours after the custody officer has authorised him to be kept in police detention under section 41;
 - (b) the second review shall be —
 - (i) in the case of a person who has been arrested but not charged, not later than 12 hours after the first;
 - (ii) in the case of a person who has been kept in police detention following charge, not later than 8 hours after the first;
 - (c) subsequent reviews shall be —
 - (i) in the case of a person who has been arrested but not charged, at intervals of not more than 12 hours;
 - (ii) in the case of a person who has been kept in police detention following charge, at intervals of not more than 8 hours.
- (4) A review may be postponed —
 - (a) if, having regard to all the circumstances prevailing at the latest time for it specified in subsection (3), it is not practicable to carry out the review at that time;
 - (b) without prejudice to the generality of paragraph (a) —
 - (i) if at that time the person in detention is being questioned by a police officer and the review officer is satisfied that an interruption of the questioning for the purpose of carrying out the review would prejudice the investigation in connection with which he is being questioned; or
 - (ii) if at that time no review officer is readily available.
- (5) If a review is postponed under subsection (4) it shall be carried out as soon as practicable after the latest time specified for it in subsection (3).
- (6) If a review is carried out after postponement under subsection (4), the fact that it was so carried out shall not affect any requirement of this section as to the time at which any subsequent review is to be carried out.

- (7) The review officer shall record the reasons for any postponement of a review in the custody record.
- (8) Subject to subsection (9), where the person whose detention is under review has not been charged before the time of the review, section 40(1) to (5) shall have effect in relation to him, but with the substitution —
- (a) of references to the person whose detention is under review for references to the person arrested; and
 - (b) of references to the review officer for references to the custody officer.
- (9) Where a person has been kept in police detention under section 40(8), section 40(1) to (5) shall not have effect in relation to him but it shall be the duty of the review officer to determine whether he is yet in a fit state.
- (10) Where the person whose detention is under review has been charged before the time of the review, section 41(1) to (6) shall have effect in relation to him, with the substitution of references to the person whose detention is under review for references to the person arrested.
- (11) Where —
- (a) an officer of higher rank than the review officer gives directions relating to a person in police detention; and
 - (b) the directions are at variance —
 - (i) with any decision made or action taken by the review officer in the performance of a duty imposed on him under this Part; or
 - (ii) with any decision or action which would but for the directions have been made or taken by him in the performance of such a duty,
- the review officer shall refer the matter at once to an officer of the rank of chief inspector or above.
- (12) Before determining whether to authorise a person's continued detention the review officer shall give —
- (a) that person (unless he is asleep); or
 - (b) any advocate representing him who is available at the time of the review,
- an opportunity to make representations to him about the detention.
- (13) Subject to subsection (14), the person whose detention is under review or his advocate may make representations under subsection (12) either orally or in writing.
- (14) The review officer may refuse to hear oral representations from the person whose detention is under review if he considers that he is unfit to make such representations by reason of his condition or behaviour.

44 Limits on period of detention without charge

[P1984/60/41]

- (1) Subject to the provisions of this section and to sections 45 and 46, a person shall not be kept in police detention for more than 24 hours without being charged.
- (2) The time from which the period of detention of a person is to be calculated (in this Act referred to as “**the relevant time**”) —
 - (a) in the case of a person arrested outside the Island, shall be —
 - (i) the time at which that person arrives at the first police station to which he is taken in the Island; or
 - (ii) the time 24 hours after the time of that person’s entry into the Island,whichever is the earlier;
 - (b) in the case of a person who —
 - (i) attends voluntarily at a police station; or
 - (ii) accompanies a constable to a police station without having been arrested,and is arrested at the police station, the time of his arrest;
 - (c) in any other case, shall be the time at which the person arrested arrives at the first police station to which he is taken after his arrest.
- (3) Subsection (2) shall have effect in relation to a person arrested under section 34 as if every reference in that section to his arrest or his being arrested were a reference to his arrest or his being arrested for the offence for which he was originally arrested.
- (4) When a person who is in police detention is removed to hospital because he is in need of medical treatment, any time during which he is being questioned in hospital or on the way there or back by a police officer for the purpose of obtaining evidence relating to an offence shall be included in any period which falls to be calculated for the purposes of this Part, but any other time while he is in hospital or on his way there or back shall not be so included.
- (5) Subject to subsection (6), a person who at the expiry of 24 hours after the relevant time is in police detention and has not been charged shall be released at that time either on bail or without bail.
- (6) Subsection (5) does not apply to a person whose detention for more than 24 hours after the relevant time has been authorised or is otherwise permitted in accordance with section 45 or 46.
- (7) A person released under subsection (5) shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new

evidence justifying a further arrest has come to light since his release but this subsection does not prevent an arrest under section 52.

45 Authorisation of continued detention

[P1984/60/42]

- (1) Where a police officer of the rank of chief inspector or above, or of the rank of inspector who is authorised for the purposes of this section by the Chief Constable, has reasonable grounds for believing that —
 - (a) the detention of that person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
 - (b) an offence for which he is under arrest is a serious offence; and⁸⁰
 - (c) the investigation is being conducted diligently and expeditiously,he may authorise the keeping of that person in police detention for a period expiring at or before 48 hours after the relevant time.
- (2) Where an officer such as is mentioned in subsection (1) has authorised the keeping of a person in police detention for a period expiring less than 48 hours after the relevant time, such an officer may authorise the keeping of that person in police detention for a further period expiring not more than 48 hours after the relevant time if the conditions specified in subsection (1) are still satisfied when he gives the authorisation.
- (3) No authorisation under subsection (1) shall be given in respect of any person —
 - (a) more than 24 hours after the relevant time; or
 - (b) before the second review of his detention under section 43 has been carried out.
- (4) Where an officer authorises the keeping of a person in police detention under subsection (1), it shall be his duty —
 - (a) to inform that person of the grounds for his continued detention; and
 - (b) to record the grounds in that person's custody record.
- (5) Before determining whether to authorise the keeping of a person in detention under subsection (1) or (2), an officer shall give —
 - (a) that person; or
 - (b) any advocate representing him who is available at the time when it falls to the officer to determine whether to give the authorisation,an opportunity to make representations to him about the detention.
- (6) Subject to subsection (7), the person in detention or his advocate may make representations under subsection (5) either orally or in writing.

- (7) The officer to whom it falls to determine whether to give the authorisation may refuse to hear oral representations from the person in detention if he considers that he is unfit to make such representations by reason of his condition or behaviour.
- (8) Where —
 - (a) an officer authorises the keeping of a person in detention under subsection (1); and
 - (b) at the time of the authorisation he has not yet exercised a right conferred on him by section 59 or 61,
 - the officer —
 - (i) shall inform him of that right;
 - (ii) shall decide whether he should be permitted to exercise it;
 - (iii) shall record the decision in his custody record; and
 - (iv) if the decision is to refuse to permit the exercise of the right, shall also record the grounds for the decision in that record.
- (9) Where an officer has authorised the keeping of a person who has not been charged in detention under subsection (1) or (2), he shall be released from detention, either on bail or without bail, not later than 48 hours after the relevant time, unless —
 - (a) he has been charged with an offence; or
 - (b) his continued detention is authorised or otherwise permitted in accordance with section 46.
- (10) A person released under subsection (9) shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release but this subsection does not prevent an arrest under section 52.

46 Warrants of further detention

[P1984/60/43]

- (1) Where, on an application on oath made by a constable and supported by information in writing, the High Bailiff is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, he may issue a warrant of further detention authorising the keeping of that person in police detention.
- (2) The High Bailiff may not hear an application for a warrant of further detention unless the person to whom the application relates —
 - (a) has been furnished with a copy of the information; and
 - (b) has been brought before the High Bailiff for the hearing.

- (3) The person to whom the application relates shall be entitled to be legally represented at the hearing and, if he is not so represented but wishes to be so represented —
- (a) the High Bailiff shall adjourn the hearing to enable him to obtain representation; and
 - (b) he may be kept in police detention during the adjournment.
- (4) A person's further detention is only justified for the purposes of this section or section 47 if —
- (a) his detention without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
 - (b) an offence for which he is under arrest is a serious offence; and⁸¹
 - (c) the investigation is being conducted diligently and expeditiously.
- (5) Subject to subsection (7), an application for a warrant of further detention may be made —
- (a) at any time before the expiry of 48 hours after the relevant time; or
 - (b) in a case where —
 - (i) it is not practicable for the High Bailiff to sit at the expiry of 48 hours after the relevant time; but
 - (ii) the High Bailiff will sit during the 6 hours following the end of that period,at any time before the expiry of the said 6 hours.
- (6) In a case to which subsection (5)(b) applies —
- (a) the person to whom the application relates may be kept in police detention until the application is heard; and
 - (b) the custody officer shall make a note in that person's custody record —
 - (i) of the fact that he was kept in police detention for more than 48 hours after the relevant time; and
 - (ii) of the reason why he was so kept.
- (7) If —
- (a) an application for a warrant of further detention is made after the expiry of 48 hours after the relevant time; and
 - (b) it appears to the High Bailiff that it would have been reasonable for the police to make it before the expiry of that period,
- the application shall be dismissed.
- (8) Where on an application such as is mentioned in subsection (1) the High Bailiff is not satisfied that there are reasonable grounds for believing that

the further detention of the person to whom the application relates is justified, it shall be his duty —

- (a) to refuse the application; or
 - (b) to adjourn the hearing of it until a time not later than 48 hours after the relevant time.
- (9) The person to whom the application relates may be kept in police detention during the adjournment.
- (10) A warrant of further detention shall —
- (a) state the time at which it is issued;
 - (b) authorise the keeping in police detention of the person to whom it relates for the period stated in it.
- (11) Subject to subsection (12), the period stated in a warrant of further detention shall be such period as the High Bailiff thinks fit, having regard to the evidence before him.
- (12) The period shall not be longer than 36 hours.
- (13) Any information submitted in support of an application under this section shall state —
- (a) the nature of the offence for which the person to whom the application relates has been arrested;
 - (b) the general nature of the evidence on which that person was arrested;
 - (c) what inquiries relating to the offence have been made by the police and what further inquiries are proposed by them;
 - (d) the reasons for believing the continued detention of that person to be necessary for the purposes of such further inquiries.
- (14) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or, subject to subsection (15), released, either on bail or without bail.
- (15) A person need not be released under subsection (14) —
- (a) before the expiry of 24 hours after the relevant time; or
 - (b) before the expiry of any longer period for which his continued detention is or has been authorised under section 45.
- (16) Where an application under this section is refused, no further application shall be made under this section in respect of the person to whom the refusal relates, unless supported by evidence which has come to light since the refusal.
- (17) Where a warrant of further detention is issued, the person to whom it relates shall be released from police detention, either on bail or without bail, upon or before the expiry of the warrant unless he is charged.

- (18) A person released under subsection (17) shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release but this subsection does not prevent an arrest under section 52.

47 Extension of warrants of further detention

[P1984/60/44]

- (1) On an application on oath made by a constable the High Bailiff may extend a warrant of further detention issued under section 46 if he is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified.
- (2) Subject to subsection (3), the period for which a warrant of further detention may be extended shall be such period as the High Bailiff thinks fit, having regard to the evidence before him.
- (3) The period shall not —
- (a) be longer than 36 hours; or
 - (b) end later than 96 hours after the relevant time.
- (4) Where a warrant of further detention has been extended under subsection (1), or further extended under this subsection, for a period ending before 96 hours after the relevant time, on an application such as is mentioned in that subsection the High Bailiff may further extend the warrant if he is satisfied as there mentioned; and subsections (2) and (3) apply to such further extensions as they apply to extensions under subsection (1).
- (5) A warrant of further detention shall, if extended or further extended under this section, be endorsed with a note of the period of the extension.
- (6) Section 46(2), (3), and (13) shall apply to an application made under this section as they apply to an application made under that section.
- (7) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or, subject to subsection (8), released, either on bail or without bail.
- (8) A person need not be released under subsection (7) before the expiry of any period for which a warrant of further detention issued in relation to him has been extended or further extended on an earlier application made under this section.

48 Detention before charge- supplementary

[P1984/60/45]

- (1) An application under section 46 or 47 shall be dealt with by the High Bailiff sitting otherwise than in open court.

- (2) Any reference in this Part to a period of time or a time of day is to be treated as approximate only.

Detention- miscellaneous

49 Detention after charge

[P1984/60/46]

- (1) Where a person —
- (a) is charged with an offence; and
 - (b) after being charged —
 - (i) is kept in police detention; or
 - (ii) is detained by the Department of Health and Social Care in pursuance of arrangements made under section 41(6),⁸²

he shall be brought before a court of summary jurisdiction in accordance with the provisions of this section.

- (2) Such a person shall be brought before such a court as soon as is practicable and in any event not later than the first sitting of a court of summary jurisdiction after he is charged with the offence.
- (3) If no court of summary jurisdiction is due to sit either on the day on which he is charged or on the next day, the custody officer at the police station at which he was charged shall inform the clerk.
- (4) Subject to subsection (6), where the clerk has been informed under subsection (3) that there is a person to whom subsection (2) applies the clerk shall arrange for a court of summary jurisdiction to sit not later than the day next following the relevant day.
- (5) In this section “the relevant day”, means the day on which he was charged.
- (6) Where the day next following the relevant day is Christmas Day, Good Friday, Tynwald Day or a Sunday, the duty of the clerk under subsection (4) is a duty to arrange for a court of summary jurisdiction to sit not later than the first day after the relevant day which is not one of those days.
- (7) Nothing in this section requires a person who is in hospital to be brought before a court if he is not well enough.

49A Remand of suspected drug offenders to detention

- (1) If —
- (a) a person is brought before a court of summary jurisdiction charged with —

- (i) an offence against section 5(2) of the *Misuse of Drugs Act 1976* (possession of controlled drug); or
 - (ii) a drug trafficking offence; and
- (b) the court has power to remand the person,
the court may, if it considers it appropriate to do so, commit the person to the custody of a constable to be detained for a period not exceeding 192 hours.
- (2) This section does not apply if a charge is brought against a person under the age of 18.
- (3) In this section “drug trafficking offence” means any of the following offences (including one committed by aiding, abetting, counselling or procuring) —
 - (a) an offence under section 4(2) or (3) of the *Misuse of Drugs Act 1976* (production and supply of controlled drugs);
 - (b) an offence under section 20 of that Act (assisting in or inducing commission outside the Island of an offence punishable under a corresponding law);
 - (c) any such other offence under that Act as may be designated by order under subsection (4);
 - (d) an offence under —
 - (i) section 47(2) or (3) of the *Customs and Excise Management Act 1986* (improper importation);
 - (ii) section 69(2) of that Act (exportation); or
 - (iii) section 178 of that Act (fraudulent evasion),
in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the *Misuse of Drugs Act 1976*;
 - (e) an offence under section 330 of the *Criminal Code 1872* of conspiracy to commit any of the offences in paragraphs (a) to (d);
 - (f) an offence under section 9 of the *Criminal Law Act 1981* of attempting to commit any of those offences; and
 - (g) an offence under section 19 of the *Misuse of Drugs Act 1976* of attempting or inciting another person to commit an offence under that Act.
- (4) The Department of Home Affairs may by order designate offences under the *Misuse of Drugs Act 1976* for the purposes of subsection (3)(c).
- (5) An order under subsection (4) only comes into operation if it is approved by Tynwald.
- (6) An order under subsection (4) may provide, in relation to any offence designated by such an order, that it is to be treated as so designated only —

- (a) for such purposes; and
 - (b) in cases where it was committed in such manner or in such circumstances,
- as may be described in the order.
- (7) In calculating a period for the purposes of subsection (1), the following periods of 24 hours are excluded —
 - (a) a Saturday;
 - (b) a Sunday;
 - (c) Christmas Day or Good Friday;
 - (d) a day that is a bank holiday under the *Bank Holidays Act 1989*; or
 - (e) another day declared to be or proclaimed as a public holiday.⁸³

50 Bail after arrest

[P1984/60/47]

- (1) Subject to subsection (2), a release on bail of a person under this Part shall be a release on bail granted with or without sureties.
- (2) Nothing shall prevent the re-arrest without warrant of a person released on bail subject to a duty to attend at a police station if new evidence justifying a further arrest has come to light since his release.
- (3) Subject to subsection (4) in this Part references to “bail” are references to bail subject to a duty —
 - (a) to appear before a court of summary jurisdiction at such time and such place; or
 - (b) to attend at such police station at such time,as the custody officer may appoint.
- (4) Where a custody officer has granted bail to a person subject to a duty to appear at a police station, the custody officer may give notice in writing to that person that his attendance at the police station is not required.
- (5) Where a person who has been granted bail and either has attended at the police station in accordance with the grant of bail or has been arrested under section 52 is detained at a police station any time during which he was in police detention prior to being granted bail shall be included as part of any period which falls to be calculated under this Part and any time during which the person was on bail shall not be so included.⁸⁴
- (6) Where a person who was released on bail subject to a duty to attend at a police station is re-arrested, the provisions of this Part shall apply to him as they apply to a person arrested for the first time but this subsection does not apply to a person who is arrested under section 52 or has attended a

police station in accordance with the grant of bail (and who is deemed by section 37(6) or 52(2) to have been arrested for an offence).

- (7) Section 50A makes further provision about bail granted by a custody officer.⁸⁵

50A Bail with conditions

- (1) This section applies if it appears to the custody officer to be necessary that bail granted under section 50 should be subject to conditions.
- (2) Conditions may be imposed under this section only —
- (a) for the purpose of securing that the accused, —
 - (i) surrenders to custody,
 - (ii) does not offend while on bail, or
 - (iii) does not interfere with witnesses or otherwise obstruct the course of justice (whether in relation to the accused or any other person); or
 - (b) for the accused's own protection or, in the case of an accused person who is under the age of 18, the accused's own welfare.
- (3) If it appears to the custody officer that a person (P) who is to be released on bail is unlikely to remain in the Island until the time appointed for P's surrender to custody, the custody officer may require P, before release on bail, to give security for P's surrender to custody.
- (4) A grant of bail with conditions under this section must require the person to whom bail is granted to appear before a court of summary jurisdiction, or surrender to custody at a police station, in accordance with the grant.
- (5) A defendant may —
- (a) request a senior officer to review the conditions attached to bail and such an officer may confirm, revoke, add to or vary those conditions, and
 - (b) if dissatisfied with the decision of a senior officer referred to in paragraph (a), apply in writing to a justice of the peace for a review of such conditions, and the justice of the peace is to decide the matter after seeking the written views of the prosecution on the application.
- (6) The decision of the justice of the peace on an application under subsection (5) is final.⁸⁶

51 Amendments consequential on section 50

- (1) (a) [Repeals section 11 of the *Bail Act 1952*.]
(b) [Substitutes section 12 of the *Bail Act 1952*.]

- (2) [Amends section 83 of the *Summary Jurisdiction Act 1989*, by substituting subsection (2).]

52 Power of arrest for failure to answer to police bail

[P1984/60/46A]

- (1) A constable may arrest without warrant any person who, having been released on bail under this Part subject to a duty to attend at a police station, fails to attend at that police station at the time appointed for that person to do so.⁸⁷
- (1A) A person who has been released on bail under this Part may be arrested without warrant by a constable if the constable has reasonable grounds for suspecting that the person has broken any of the conditions of his bail.⁸⁸
- (2) For the purposes of sections 33 and 34 and of this Part, an arrest under this section shall be treated as an arrest for an offence and the offence in connection with which the person was granted bail shall be deemed to be that offence.

53 Records of detention

[P1984/60/50]

- (1) The Chief Constable shall cause written records to be kept showing on an annual basis —
- (a) the number of persons kept in police detention for more than 24 hours and subsequently released without charge;
 - (b) the number of applications for warrants of further detention and the results of the applications; and
 - (c) in relation to each warrant of further detention —
 - (i) the period of further detention authorised by it;
 - (ii) the period which the person named in it spent in police detention on its authority; and
 - (iii) whether he was charged or released without charge.
- (2) Every annual report under section 4 of the *Police Act 1993* shall contain information about the matters mentioned in subsection (1) in respect of the period to which the report relates.

54 Savings

[P1984/60/51]

Nothing in this Part shall affect —

- (a) the powers conferred on immigration officers by section 4 of and Schedule 2 to the *Immigration Act 1971* (an Act of Parliament) (administrative provisions as to control on entry etc.);

- (b) the powers conferred by virtue of section 30 of, or Schedules 7 and 8 to, the *Anti-Terrorism and Crime Act 2003*;⁸⁹
- (c) any duty of a police officer under —
 - (i) section 129, 190 or 202 of the *Army Act 1955* (an Act of Parliament) (duties of governors of prisons and others to receive prisoners, deserters, absentees and persons under escort);
 - (ii) section 129, 190 or 202 of the *Air Force Act 1955* (an Act of Parliament) (duties of governors of prisons and others to receive prisoners, deserters, absentees and persons under escort);
 - (iii) section 107 of the *Naval Discipline Act 1957* (an Act of Parliament) (duties of governors of civil prisons etc.); or
 - (iv) paragraph 5 of Schedule 5 to the *Reserve Forces Act 1980* (an Act of Parliament) (duties of governors of civil prisons); or
- (d) any right of a person in police detention to apply to the High Court by petition of dolence for any remedy.⁹⁰

55 — ~~Children: serious offences~~

~~This Part does not apply to a person who —~~

- ~~(a) — is arrested without a warrant otherwise than for —~~
 - ~~(i) — an offence that leads, or is intended or likely to lead, to a person's death or to physical injury to a person, or an offence that is required to be charged as arson; or~~
 - ~~(ii) — an offence under Part 2 of the *Sexual Offences and Obscene Publications Act 2021* (except for Divisions 12 and 13); and⁹¹~~
- ~~(b) — is, in the opinion of the constable who arrested the person, aged 10 years or over, but under 14 years.⁹²~~

PART V – QUESTIONING AND TREATMENT OF PERSONS BY POLICE

56 Abolition of certain powers of constables to search persons

[P1984/60/53]

- (1) Subject to subsection (2), there shall cease to have effect any enactment passed before this Act in so far as it authorises —
 - (a) any search by a constable of a person in police detention at a police station; or

- (b) an intimate search of a person by a constable;
- and any rule of common law which authorises a search such as is mentioned in paragraph (a) or (b) is abolished.
- (2) Nothing in subsection (1)(a) shall affect —
 - (a) [Repealed]⁹³
 - (b) section 171 of the *Customs and Excise Management Act 1986*.

57 Searches of detained persons

[P1984/60/54]

- (1) The custody officer at a police station shall ascertain and record or cause to be recorded everything which a person has with him when he is —
 - (a) brought to the station after being arrested elsewhere or after being committed to custody by an order or sentence of a court; or
 - (b) arrested at the station.
- (2) In the case of an arrested person the record shall be made as part of his custody record.
- (3) Subject to subsection (4), the custody officer may seize and retain any such thing or cause any such thing to be seized and retained.
- (4) Clothes and personal effects may only be seized if the custody officer —
 - (a) believes that the person from whom they are seized may use them —
 - (i) to cause physical injury to himself or any other person;
 - (ii) to damage property;
 - (iii) to interfere with evidence; or
 - (iv) to assist him to escape; or
 - (b) has reasonable grounds for believing that they may be evidence relating to an offence.
- (5) Where anything is seized, the person from whom it is seized shall be told the reason for the seizure unless he is —
 - (a) violent or likely to become violent; or
 - (b) incapable of understanding what is said to him.
- (6) Subject to subsection (7), a person may be searched if the custody officer considers it necessary to enable him to carry out his duty under subsection (1) and to the extent that the custody officer considers necessary for that purpose.
- (7) A person who is in custody at a police station or is in police detention otherwise than at a police station may at any time be searched in order to

ascertain whether he has with him anything which he could use for the purposes specified in subsection (4)(a).

- (8) Subject to subsection (9) a constable may seize and retain, or cause to be seized and retained, anything found on such a search.
- (9) A constable may only seize clothes and personal effects in the circumstances specified in subsection (4).
- (10) An intimate search may not be conducted under this section.
- (11) A search under this section shall be carried out by a constable.
- (12) The constable carrying out the search shall be of the same sex as the person searched.

57A Searches and examination to ascertain identity

- (1) If an officer of at least the rank of inspector authorises it, a person who is detained in a police station may be searched or examined, or both —
 - (a) for the purpose of ascertaining whether he has any mark that would tend to identify him as a person involved in the commission of an offence; or
 - (b) for the purpose of facilitating the ascertainment of his identity.
- (2) An officer may only give an authorisation under subsection (1) for the purpose mentioned in paragraph (a) of that subsection if —
 - (a) the appropriate consent to an examination that would show whether the mark in question exists has been withheld; or
 - (b) it is not practicable to obtain such consent.
- (3) An officer may only give an authorisation under subsection (1) in a case in which subsection (2) does not apply if —
 - (a) the person in question has refused to identify himself; or
 - (b) the officer has reasonable grounds for suspecting that that person is not who he claims to be.
- (4) An officer may give an authorisation under subsection (1) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (5) Any identifying mark found on a search or examination under this section may be photographed —
 - (a) with the appropriate consent; or
 - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.
- (6) Where a search or examination may be carried out under this section, or a photograph may be taken under this section, the only persons entitled to carry out the search or examination, or to take the photograph, are —

- (a) constables; and
- (b) persons who (without being constables) are designated for the purposes of this section by the Chief Constable;

and section 80 (use of force) applies to the exercise by a person falling within paragraph (b) of the powers conferred by the preceding provisions of this section as it applies to the exercise of those powers by a constable.

- (7) A person may not under this section carry out a search or examination of a person of the opposite sex or take a photograph of any part of the body of a person of the opposite sex.
- (8) An intimate search may not be carried out under this section.
- (9) A photograph taken under this section —
 - (a) may be used by, or disclosed to, any person for any purpose related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution; and
 - (b) after being so used or disclosed, may be retained but may not be used or disclosed except for a purpose so related.
- (10) In subsection (9) —
 - (a) the reference to crime includes a reference to any conduct which —
 - (i) constitutes one or more criminal offences (whether under the law of the Island or of a country or territory outside the United Kingdom); or
 - (ii) is, or corresponds to, any conduct which, if it all took place in the Island would constitute one or more criminal offences; and
 - (b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the Island of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the Island.
- (11) In this section —
 - (a) references to ascertaining a person's identity include references to showing that he is not a particular person; and
 - (b) references to taking a photograph include references to using any process by means of which a visual image may be produced, and references to photographing a person shall be construed accordingly.
- (12) In this section, "mark" includes features and injuries; and a mark is an identifying mark for the purposes of this section if its existence in any person's case facilitates the ascertainment of his identity or his identification as a person involved in the commission of an offence.⁹⁴

58 Intimate searches

[P1984/60/55]

- (1) Subject to the following provisions of this section, if an officer of at least the rank of inspector has reasonable grounds for believing that a person who has been arrested and is in police detention —
- (a) may have concealed on him anything which —
 - (i) he could use to cause physical injury to himself or others; and
 - (ii) he might so use while he is in police detention or in the custody of a court; or
 - (b) may have a controlled drug concealed on him and was in possession of it with the appropriate criminal intent before his arrest,
- he may authorise an intimate search of that person.⁹⁵
- (2) An officer may not authorise an intimate search of a person for anything unless —
- (a) he has reasonable grounds for believing that it cannot be found without that person being intimately searched; and
 - (b) he is satisfied that the person has been informed —
 - (i) that he has the right to consult an advocate and has been given the opportunity to do so; and
 - (ii) that he has the right to have an advocate present when the search is carried out and that arrangements have been made to enable an advocate to be so present if the person requires.
- (3) An officer may give an authorisation under subsection (1) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (3A) A drug offence search shall not be carried out unless the appropriate consent has been given in writing.⁹⁶
- (3B) Where it is proposed that a drug offence search be carried out, a constable shall inform the person who is to be subject to it —
- (a) of the giving of the authorisation for it;
 - (b) of the grounds for giving the authorisation;
 - (c) that the person may withhold consent under subsection (3A) and the effect of refusing such consent without good cause.⁹⁷
- (4) An intimate search shall be by way of examination by —
- (a) a registered medical practitioner; or
 - (b) where there are reasonable grounds to believe that there is an immediate danger that physical injury may be caused to the

arrested person or others if a search is not undertaken, a police officer (of the same sex) or a registered nurse.

- (5) The person conducting an examination may use such reasonable force as is necessary and, when required by that person, a constable may use such reasonable force as is necessary to enable the examination to be carried out.
- (6) No intimate search may be carried out except —
 - (a) at a hospital;
 - (b) at a registered medical practitioner's surgery;
 - (c) in a medical room at a police station which is designated for such purpose by an order made by the Department; or
 - (d) where the search is being carried out by a person in pursuance of subsection (4)(b), at a police station.
- (7) Subject to this section, no intimate search of a juvenile may be carried out except in the presence of a person responsible for the welfare of the juvenile.
- (8) Where —
 - (a) it is not practicable to ascertain the identity of a person responsible for the welfare of a juvenile; or
 - (b) it is not practicable to inform that person as required by section 73(2) of the *Children and Young Persons Act 2001*; or⁹⁸
 - (c) it is not practicable for that person to be present when the intimate search is carried out; or
 - (d) that person refuses to be present,an application may be made to the High Bailiff for authority to carry out the intimate search in the absence of that person.
- (9) If, on an application under subsection (8), the High Bailiff is satisfied that any of paragraphs (a) to (d) of that subsection apply, he may authorise an intimate search of the juvenile to be carried out in the absence of the person responsible for the welfare of the juvenile.
- (10) When an intimate search is being carried out, no person of the opposite sex to the person being searched (other than a registered medical practitioner, a registered nurse, an advocate or, in the case of a juvenile, the person responsible for the welfare of the juvenile) may be present.
- (11) If an intimate search of a person is carried out, the custody record relating to him shall state —
 - (a) which parts of the body were searched;
 - (b) why they were searched;
 - (c) whether or not the person is a juvenile; and

- (d) all persons who were present when the search was carried out.
- (11A) If the intimate search is a drug offence search, the custody record relating to that person shall also state —
 - (a) the authorisation by virtue of which the search was carried out;
 - (b) the grounds for giving the authorisation; and
 - (c) the fact that the appropriate consent was given.⁹⁹
- (12) The information required to be recorded by subsections (11) and (11A) shall be recorded as soon as practicable after the completion of the search.¹⁰⁰
- (13) The custody officer at a police station may seize and retain anything which is found on an intimate search of a person, or cause any such thing to be seized and retained —
 - (a) if he believes that the person from whom it is seized may use it —
 - (i) to cause physical injury to himself or any other person;
 - (ii) to damage property;
 - (iii) to interfere with evidence; or
 - (iv) to assist him to escape; or
 - (b) if he has reasonable grounds for believing that it may be evidence relating to an offence.
- (14) Where anything is seized under this section, the person from whom it is seized shall be told the reason for the seizure unless he is —
 - (a) violent or likely to become violent; or
 - (b) incapable of understanding what is said to him.
- (14A) Where the appropriate consent to a drug offence search of any person was refused without good cause, in any proceedings against that person for an offence —
 - (a) the court, in determining whether there is a case to answer;
 - (b) a Judge, in deciding whether to grant an application made by the accused for the charge or any of the charges in the case to be dismissed; and¹⁰¹
 - (c) the court or jury, in determining whether that person is guilty of the offence charged,may draw such inferences from the refusal as appear proper.¹⁰²
- (15) Every annual report of the Chief Constable under section 4 of the *Police Act 1993* shall contain information about searches under this section which have been carried out during the period to which the report relates.
- (16) The information about such searches shall include —
 - (a) the total number of searches;

- (b) the total number of searches authorised under subsection (1)(b);
- (c) the number of searches of juveniles; and
- (d) the result of the searches carried out in each of those cases.

(17) In this section —

“the appropriate criminal intent” means an intent to commit an offence under —

- (a) section 5(3) of the *Misuse of Drugs Act 1976* (possession of controlled drug with intent to supply to another); or
- (b) section 69(2) of the *Customs and Excise Management Act 1986* (exportation etc. with intent to evade a prohibition or restriction);

“controlled drug” has the meaning given by section 2 of the *Misuse of Drugs Act 1976*;

“juvenile” means a person who, in the opinion of the officer mentioned in subsection (1), is under the age of 18 years.¹⁰³

58A X-rays and ultrasound scans

(1) If an officer of at least the rank of inspector has reasonable grounds for believing that a person who has been arrested for an offence and is in police detention —

- (a) may have —
 - (i) swallowed a Class A drug; or
 - (ii) concealed a Class A drug in his or her anus or her vagina; and
- (b) was in possession of it with the appropriate criminal intent before his or her arrest,

the officer may authorise that an x-ray is taken of the person or an ultrasound scan is carried out on the person (or both).

(2) An x-ray must not be taken of a person and an ultrasound scan must not be carried out on him or her unless the appropriate consent has been given in writing.

(3) If it is proposed that an x-ray is taken or an ultrasound scan is carried out, a constable must inform the person who is to be subject to it —

- (a) of the giving of the authorisation for it; and
- (b) of the grounds for giving the authorisation.

(4) An x-ray may be taken or an ultrasound scan carried out only by a suitably qualified person and only at —

- (a) a hospital;
- (b) a registered medical practitioner’s surgery; or
- (c) some other place used for medical purposes.

- (5) The custody record of the person must also state —
- (a) the authorisation by virtue of which the x-ray was taken or the ultrasound scan was carried out;
 - (b) the grounds for giving the authorisation; and
 - (c) the fact that the appropriate consent was given.
- (6) The information required to be recorded by subsection (5) must be recorded as soon as practicable after the x-ray has been taken or ultrasound scan carried out.
- (7) Every annual report under section 4A of the Police Act 1993 must contain information about x-rays that have been taken and ultrasound scans that have been carried out under this section in the area to which the report relates during the period to which it relates.
- (8) The information about such x-rays and ultrasound scans must be presented separately and must include —
- (a) the total number of x-rays;
 - (b) the total number of ultrasound scans;
 - (c) the results of the x-rays; and
 - (d) the results of the ultrasound scans.
- (9) If the appropriate consent to an x-ray or ultrasound scan of any person is refused without good cause, in any proceedings against that person for an offence —
- (a) the court, in determining whether there is a case to answer;
 - (b) a Judge, in deciding whether to grant an application made by the accused for the charge or any of the charges in the case to be dismissed; and
 - (c) the court or jury, in determining whether that person is guilty of the offence charged,
- may draw such inferences from the refusal as appear proper.

- (10) In this section —

“the appropriate criminal intent” has the same meaning as in section 58;

“Class A drug” has the same meaning as in section 2 of the *Misuse of Drugs Act 1976*;

“suitably qualified person” means —

- (a) a registered medical practitioner; or
- (b) a registered nurse.¹⁰⁴

59 Right to have someone informed when arrested

[P1984/60/56]

- (1) Where a person has been arrested and is being held in custody in a police station or other premises, he shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable except to the extent that delay is permitted by this section, that he has been arrested and is being detained there.
- (2) Subject to subsections (3) and (4), delay is only permitted —
 - (a) in the case of a person who is in police detention for a serious offence; and¹⁰⁵
 - (b) if an officer of at least the rank of inspector authorises it.
- (3) Where an officer gives an authorisation under subsection (2), the authorisation must be confirmed in writing by an officer of at least the rank of chief inspector as soon as possible after the authorisation and in any event within 8 hours of the authorisation.
- (4) A person in custody must be permitted to exercise the right conferred by subsection (1) —
 - (a) within 36 hours from the relevant time, as defined in section 44(2); or
 - (b) where the authorisation under subsection (2) has not been confirmed as required by subsection (3), immediately on the expiry of 8 hours following the authorisation.
- (5) An officer may give an authorisation under subsection (2) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (6) Subject to subsection (7), an officer may only authorise delay where he has reasonable grounds for believing that telling the named person of the arrest —
 - (a) will lead to interference with or harm to evidence connected with a serious offence or interference with or physical injury to other persons; or¹⁰⁶
 - (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
 - (c) will hinder the recovery of any property obtained as a result of such an offence.
- (7) An officer may also authorise delay where the officer has reasonable grounds for believing that —
 - (a) the person detained for the serious offence has benefited from that person's criminal conduct; and¹⁰⁷

- (b) the recovery of the value of the property constituting the benefit will be hindered by telling the named person of the arrest.¹⁰⁸
- (7A) For the purposes of subsection (7)(a) the question whether a person has benefited from that person's criminal conduct is to be decided in accordance with Part 2 of the *Proceeds of Crime Act 2008*.¹⁰⁹
- (8) If a delay is authorised —
 - (a) the detained person shall be told the reason for it; and
 - (b) the reason shall be noted on his custody record.
- (9) The duties imposed by subsection (8) shall be performed as soon as is practicable.
- (10) The rights conferred by this section on a person detained at a police station or other premises are exercisable whenever he is transferred from one place to another; and this section applies to each subsequent occasion on which they are exercisable as it applies to the first such occasion.
- (11) There shall be no further delay in permitting the exercise of the right conferred by subsection (1) once the reason for authorising delay ceases to subsist.
- (12) Nothing in this section applies to a person arrested or detained under the terrorism provisions.¹¹⁰
- (13) [Repealed]¹¹¹

60 [Repealed]¹¹²

61 Access to legal advice

[P1984/60/58]

- (1) A person arrested and held in custody in a police station or other premises shall be entitled, if he so requests, to consult an advocate privately at any time.
- (2) Subject to subsection (3), a request under subsection (1) and the time at which it was made shall be recorded in the custody record.
- (3) Such a request need not be recorded in the custody record of a person who makes it at a time while he is at a court after being charged with an offence.
- (4) If a person makes such a request, he must be permitted to consult an advocate as soon as is practicable except to the extent that delay is permitted by this section.
- (5) Subject to subsections (6) and (7), delay in compliance with a request is only permitted —
 - (a) in the case of a person who is in police detention for a serious offence; and¹¹³

- (b) if an officer of at least the rank of inspector authorises it.
- (6) Where an officer gives an authorisation under subsection (5), the authorisation must be confirmed in writing by an officer of at least the rank of chief inspector as soon as possible after the authorisation and in any event within 8 hours of the authorisation.
- (7) A person in custody must be permitted to consult an advocate —
 - (a) within 36 hours from the relevant time, as defined in section 44(2); or
 - (b) where the authorisation under subsection (5) has not been confirmed as required by subsection (6), immediately on the expiry of 8 hours following the authorisation.
- (8) An officer may give an authorisation under subsection (5) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (9) Subject to subsection (10), an officer may only authorise delay where he has reasonable grounds for believing that the exercise of the right conferred by subsection (1) at the time when the person detained desires to exercise it —
 - (a) will lead to interference with or harm to evidence connected with a serious offence or interference with or physical injury to other persons; or¹¹⁴
 - (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
 - (c) will hinder the recovery of any property obtained as a result of such an offence.
- (10) An officer may also authorise delay where the officer has reasonable grounds for believing that —
 - (a) the person detained for the serious offence has benefited from that person's criminal conduct; and¹¹⁵
 - (b) the recovery of the value of the property constituting the benefit will be hindered by the exercise of the right conferred by subsection (1).¹¹⁶
- (10A) For the purposes of subsection (10)(a) the question whether a person has benefited from that person's criminal conduct is to be decided in accordance with Part 2 of the *Proceeds of Crime Act 2008*.¹¹⁷
- (11) If delay is authorised —
 - (a) the detained person shall be told the reason for it; and
 - (b) the reason shall be noted on his custody record.
- (12) The duties imposed by subsection (11) shall be performed as soon as is practicable.

- (13) There may be no further delay in permitting the exercise of the right conferred by subsection (1) once the reason for authorising delay ceases to subsist.
- (14) Nothing in this section applies to a person arrested or detained under the terrorism provisions.¹¹⁸
- (15) to (20) [Repealed]¹¹⁹

62 Duty advocates

[Amends section 21 of the Legal Aid Act 1986, as follows:- paragraph (a) inserts subsections (1A) and (1B); and paragraph (b) inserts in subsection (2) the words “or advice and assistance” after the word “representation”.]

63 Audio and visual recording of interviews

- (1) The Department must by order —
 - (a) issue a code of practice about the audio recording of interviews to which this section applies; and
 - (b) require the audio recording of interviews to which this section applies to be in accordance with any relevant code of practice under paragraph (a).
- (2) An interview to which this section applies may only be recorded visually if the Department makes an order permitting the visual recording of interviews.
- (3) An order under subsection (2) —
 - (a) must contain a code of practice about the visual recording of interviews to which the order applies; and
 - (b) must require the interviews to be visually recorded in accordance with any relevant code of practice under paragraph (a).
- (4) This section applies to any interview held by a police officer at a police station.
- (5) In this section —
 - (a) references to any interview are references to an interview of a person suspected of a criminal offence; and
 - (b) references to a visual recording include references to a visual recording in which an audio recording is comprised.¹²⁰

~~64 Fingerprinting~~

~~[P1984/60/61]~~

- ~~(1) Except as provided by this section no person's fingerprints may be taken without the appropriate consent.~~

- ~~(2) — Consent to the taking of a person's fingerprints must be in writing if it is given at a time when he is at a police station.~~
- ~~(2A) — The fingerprints of a person who is not in police detention may be taken at a place other than a police station —~~
- ~~(a) — if a police officer of at least the rank of inspector authorises it to be taken; and~~
- ~~(b) — if the appropriate consent is given.¹²¹~~
- ~~(3) — The fingerprints of a person detained at a police station may be taken without the appropriate consent —~~
- ~~(a) — if an officer of at least the rank of inspector authorises them to be taken; or~~
- ~~(b) — if —~~
- ~~(i) — he has been charged with a recordable offence or informed that he will be reported for such an offence; and~~
- ~~(ii) — he has not had his fingerprints taken in the course of the investigation of the offence by the police.~~
- ~~(4) — An officer may only give an authorisation under subsection (3)(a) if he has reasonable grounds —~~
- ~~(a) — for suspecting the involvement of the person whose fingerprints are to be taken in a criminal offence; and~~
- ~~(b) — for believing that his fingerprints will tend to confirm or disprove his involvement or will facilitate the ascertainment of his identity, or both,¹²²~~
- ~~but an authorisation shall not be given for the purpose of facilitating the ascertainment (within the meaning of section 57A) of that person's identity except where he has refused to identify himself or the officer has reasonable grounds for suspecting that he is not who he claims to be.¹²³~~
- ~~(5) — An officer may give an authorisation under subsection (3)(a) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.~~
- ~~(6) — The fingerprints of a person detained at a police station may also be taken without the appropriate consent if the person has been —~~
- ~~(a) — convicted of a recordable offence; or~~
- ~~(b) — given a caution in respect of a recordable offence that, at the time of caution, he or she has admitted.¹²⁴~~
- ~~(6) — The fingerprints of a person detained at a police station may also be taken without the appropriate consent if the person has been convicted of a recordable offence.~~

- ~~(6A) — The fingerprints of a person who is at a police station (with or without being detained there) may also be taken without the appropriate consent if the person has been given a caution in respect of a recordable offence.~~
- ~~(7) — In a case where by virtue of subsection (3) or (6) subsection (3), (6) or (6A) a person's fingerprints are taken without the appropriate consent —~~
- ~~(a) — he shall be told the reason before his fingerprints are taken; and~~
- ~~(b) — the reason shall be recorded as soon as is practicable after the fingerprints are taken.~~
- ~~(8) — If he is detained at a police station when the fingerprints are taken, the reason for taking them shall be recorded on his custody record.~~
- ~~(9) — Nothing in this section —~~
- ~~(a) — affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (an Act of Parliament); or~~
- ~~(b) — applies to a person arrested or detained under the terrorism provisions.¹²⁵~~
- ~~(10) — and (11) [Repealed]¹²⁶~~

64 Fingerprinting

- (1) Except as provided by this section no person's fingerprints may be taken without the appropriate consent.
- (2) Consent to the taking of a person's fingerprints must be in writing if it is given at a time when the person is at a police station.
- (3) The fingerprints of a person detained at a police station may be taken without the appropriate consent if –
- (a) the person is detained in consequence of his arrest for a recordable offence; and
- (b) the person has not had his or her fingerprints taken in the course of the investigation of the offence by the police.
- (4) The fingerprints of a person detained at a police station may be taken without the appropriate consent if –
- (a) the person has been charged with a recordable offence or informed that he or she will be reported for such an offence; and
- (b) the person has not had his or her fingerprints taken in the course of the investigation of the offence by the police.
- (5) Where a person mentioned in subsection (3)(a) or (4)(a) has already had his or her fingerprints taken in the course of the investigation of the offence by the police, that fact shall be disregarded for the purposes of that subsection if –

- (a) the fingerprints taken on the previous occasion do not constitute a complete set of his fingerprints; or
 - (b) some or all of the fingerprints taken on the previous occasion are not of sufficient quality to allow satisfactory analysis, comparison or matching (whether in the case in question or generally).
- (6) The fingerprints of a person who has answered to bail at a court or police station may be taken without the appropriate consent at the court or station if –
 - (a) the court, or
 - (b) an officer of at least the rank of inspector, authorises them to be taken.
- (7) A court or officer may only give an authorisation under subsection (6) if –
 - (a) the person who has answered to bail has answered to it for a person whose fingerprints were taken on a previous occasion and there are reasonable grounds for believing that he or she is not the same person; or
 - (b) the person who has answered to bail claims to be a different person from a person whose fingerprints were taken on a previous occasion.
- (8) An officer may give an authorisation under subsection (6) orally or in writing but, if the officer gives it orally, he or she shall confirm it in writing as soon as is practicable.
- (9) The fingerprints of a person may be taken without the appropriate consent if (before or after the coming into force of this subsection) the person has been arrested for a recordable offence and released and –
 - (a) the person has not had his or her fingerprints taken in the course of the investigation of the offence by the police; or
 - (b) the person has had his or her fingerprints taken in the course of that investigation but –
 - (i) subsection (5)(a) or (b) applies, or
 - (ii) subsection (11) applies.
- (10) The fingerprints of a person not detained at a police station may be taken without the appropriate consent if (before or after the coming into force of this subsection) the person has been charged with a recordable offence or informed that he or she will be reported for such an offence and –
 - (a) the person has not had his or her fingerprints taken in the course of the investigation of the offence by the police; or
 - (b) the person has had his or her fingerprints taken in the course of that investigation but –
 - (i) subsection (5)(a) or (b) applies, or

- (ii) subsection (11) applies.
- (11) This subsection applies where –
 - (a) the investigation was discontinued but subsequently resumed; and
 - (b) before the resumption of the investigation the fingerprints were destroyed pursuant to section 68.
- (12) Subject to this section, the fingerprints of a person may be taken without the appropriate consent if (before or after the coming into force of this subsection) –
 - (a) the person has been convicted of a recordable offence, or
 - (b) the person has been given a caution in respect of a recordable offence which, at the time of the caution, he or she has admitted, andeither of the conditions mentioned in subsection (13) is met.
- (13) The conditions referred to in subsection (12) are –
 - (a) the person has not had his fingerprints taken since he or she was convicted or cautioned;
 - (b) the person has had his or her fingerprints taken since then but subsection (5)(a) or (b) applies.
- (14) Fingerprints may only be taken as specified in subsection (12) with the authorisation of an officer of at least the rank of inspector.
- (15) An officer may only give an authorisation under subsection (14) if the officer is satisfied that taking the fingerprints is necessary to assist in the prevention or detection of crime.
- (16) A constable may take a person's fingerprints without the appropriate consent if –
 - (a) the constable reasonably suspects that the person is committing or attempting to commit an offence, or has committed or attempted to commit an offence; and
 - (b) either of the two conditions mentioned in subsection (17) is met.
- (17) The conditions are that –
 - (a) the name of the person is unknown to, and cannot be readily ascertained by, the constable;
 - (b) the constable has reasonable grounds for doubting whether a name furnished by the person as his name is his or her real name.
- (18) The taking of fingerprints by virtue of subsection (16) does not count for any of the purposes of this Act as taking them in the course of the investigation of an offence by the police.
- (19) Subject to this section, the fingerprints of a person may be taken without the appropriate consent if –

- (a) under the law in force in a country or territory outside the Island the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not the person has been punished for it);
 - (b) the act constituting the offence would constitute a qualifying offence if done in the Island (whether or not it constituted such an offence when the person was convicted); and
 - (c) either of the conditions mentioned in subsection (20) is met.
- (20) The conditions referred to in subsection (19)(c) are –
 - (a) the person has not had his or her fingerprints taken on a previous occasion under subsection (19);
 - (b) the person has had his or her fingerprints taken on a previous occasion under that subsection but subsection (5)(a) or (b) applies.
- (21) Fingerprints may only be taken as specified in subsection (19) with the authorisation of an officer of at least the rank of inspector.
- (22) An officer may only give an authorisation under subsection (21) if the officer is satisfied that taking the fingerprints is necessary to assist in the prevention or detection of crime.
- (23) Where a person's fingerprints are taken without the appropriate consent by virtue of any power conferred by this section –
 - (a) before the fingerprints are taken, the person shall be informed of –
 - (i) the reason for taking the fingerprints;
 - (ii) the power by virtue of which they are taken; and
 - (iii) in a case where the authorisation of the court of an officer is required for the exercise of the power, the fact that the authorisation has been given; and
 - (b) those matters shall be recorded as soon as practicable after the fingerprints are taken.
- (24) If a person's fingerprints are taken at a police station or, by virtue of subsection (6) or (16), at a place other than a police station, whether with or without the appropriate consent –
 - (a) before the fingerprints are taken, an officer (or, where by virtue of subsection (6) or (16), the fingerprints are taken at a place other than a police station, the constable taking the fingerprints) shall inform him or her that they may be the subject of a speculative search; and
 - (b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the fingerprints have been taken.
- (25) If the person is detained at a police station when the fingerprints are taken, the matters referred to in subsection (23)(a)(i) to (iii) and, in the case falling

- within subsection (24), the fact referred to in paragraph (b) of that subsection shall be recorded on his or her custody record.
- (26) Any power under this section to take the fingerprints of a person without the appropriate consent, if not otherwise specified to be exercisable by a constable, shall be exercisable by a constable.
- (27) Nothing in this section –
- (a) affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (an Act of Parliament); or
 - (b) applies to a person arrested or detained under the terrorism provisions or detained under section 30 of, or Schedule 7 to, the *Anti-Terrorism and Crime Act 2003*.
- (28) Nothing in this section applies to a person arrested under an extradition arrest power.

65 Intimate samples

[P1984/60/62]

- (1) An intimate sample may be taken from a person in police detention only –
- (a) if a police officer of at least the rank of inspector authorises it to be taken; and¹²⁷
 - (b) if the appropriate consent is given.
- (2) An intimate sample may be taken from a person who is not in police detention but from whom, in the course of the investigation of an offence, 2 or more non-intimate samples suitable for the same means of analysis have been taken which have proved insufficient –
- (a) if a police officer of at least the rank of inspector authorises it to be taken; and¹²⁸
 - (b) if the appropriate consent is given.
- (2A) An intimate sample may be taken at a place other than a police station from a person who is not in police detention –
- (a) if a police officer of at least the rank of inspector authorises it to be taken; and
 - (b) if the appropriate consent is given.¹²⁹
- (2B) Subsection (2A) is in addition to subsection (2).¹³⁰
- (3) An officer may only give an authorisation under subsection (1), (2) or (2A) if he has reasonable grounds –
- (a) for suspecting the involvement of the person from whom the sample is to be taken in a recordable offence; and

- (b) for believing that the sample will tend to confirm or disprove his involvement.¹³¹
- (4) An officer may give an authorisation under subsection (1), (2) or (2A) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.¹³²
- (5) The appropriate consent must be given in writing.
- (6) Where —
 - (a) an authorisation has been given; and
 - (b) it is proposed that an intimate sample shall be taken in pursuance of the authorisation,an officer shall inform the person from whom the sample is to be taken —
 - (i) of the giving of the authorisation; and
 - (ii) of the grounds for giving it.
- (7) The duty imposed by subsection (6)(ii) includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.
- (8) If an intimate sample is taken from a person —
 - (a) the authorisation by virtue of which it was taken;
 - (b) the grounds for giving the authorisation; and
 - (c) the fact that the appropriate consent was given,shall be recorded as soon as is practicable after the sample is taken.
- (9) If an intimate sample is taken from a person who is not in police detention —
 - (a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and
 - (b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.¹³³
- (10) If an intimate sample is taken from a person detained at a police station, the matters required to be recorded by subsection (8) or (9) shall be recorded in his custody record.
- (11) An intimate sample, other than a sample of urine or a dental impression, may only be taken from a person by a registered medical practitioner and a dental impression may only be taken by a registered dentist.
- (12) Where the appropriate consent to the taking of an intimate sample from a person was refused without good cause, in any proceedings against that person for an offence —
 - (a) the court, in determining —

- (i) whether to commit that person for trial; or
- (ii) whether there is a case to answer; and
- (b) the court or jury, in determining whether that person is guilty of the offence charged,

may draw such inferences from the refusal as appear proper.

- (13) Nothing in this section affects sections 5 to 7 of the *Road Traffic Act 1985*.
- (14) Nothing in this section applies to a person arrested or detained under the terrorism provisions; and subsection (2) shall not apply where the non-intimate samples mentioned in that subsection were taken under paragraph 10 of Schedule 8 to the *Anti-Terrorism and Crime Act 2003*.¹³⁴

66 Other samples

[P1984/60/63; P2001/16/80]

- (1) Except as provided by this section, a non-intimate sample may not be taken from a person without the appropriate consent.
- (2) Consent to the taking of a non-intimate sample must be given in writing.
- (2A) A non-intimate sample may be taken at a place other than a police station from a person who is not in police detention —
 - (a) if a police officer of at least the rank of inspector authorises it to be taken; and
 - (b) if the appropriate consent is given.¹³⁵
- (3) A non-intimate sample may be taken from a person without the appropriate consent if —
 - (a) he is in police detention or is being held in custody by the police on the authority of a court; and
 - (b) an officer of at least the rank of inspector authorises it to be taken without the appropriate consent.
- (4) A non-intimate sample may be taken from a person (whether or not he falls within subsection (3)(a)) without the appropriate consent if —
 - (a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
 - (b) either he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police or he has had a non-intimate sample taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.
- (5) A non-intimate sample may be taken from a person without the appropriate consent ~~if he has been convicted of a recordable offence — if -~~
 - (a) the person has been convicted of a recordable offence; or

- (b) the person been given a caution for a recordable offence.
- (6) An officer may only give an authorisation under subsection (2A) or (3) if he has reasonable grounds —
- (a) for suspecting the involvement of the person from whom the sample is to be taken in a recordable offence; and
 - (b) for believing that the sample will tend to confirm or disprove his involvement.¹³⁶
- (7) An officer may give an authorisation under subsection (2A) or (3) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.¹³⁷
- (7A) An officer shall not give an authorisation under subsection (2A) or (3) for the taking from any person of a non-intimate sample consisting of a skin impression if —
- (a) a skin impression of the same part of the body has already been taken from that person in the course of the investigation of the offence; and
 - (b) the impression previously taken is not one that has proved insufficient.¹³⁸
- (8) Where —
- (a) an authorisation has been given; and
 - (b) it is proposed that a non-intimate sample shall be taken in pursuance of the authorisation,
- an officer shall inform the person from whom the sample is to be taken —
- (i) of the giving of the authorisation; and
 - (ii) of the grounds for giving it.
- (9) The duty imposed by subsection (8)(ii) includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.
- (10) If a non-intimate sample is taken from a person by virtue of subsection (2A) or (3) —
- (a) the authorisation by virtue of which it was taken; and
 - (b) the grounds for giving the authorisation,
- shall be recorded as soon as is practicable after the sample is taken.¹³⁹
- (11) In a case where by virtue of subsection (4) or (5) a sample is taken from a person without the appropriate consent —
- (a) he shall be told the reason before the sample is taken; and
 - (b) the reason shall be recorded as soon as practicable after the sample is taken.

- (12) If a non-intimate sample is taken from a person who is not in police detention, whether with or without the appropriate consent —
 - (a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and
 - (b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.¹⁴⁰
- (13) If a non-intimate sample is taken from a person detained at a police station, the matters required to be recorded by subsection (10), (11) or (12) shall be recorded in his custody record.
- (14) Nothing in this section applies to a person arrested or detained under the terrorism provisions.¹⁴¹

67 Fingerprints and samples: supplementary provisions

[P1984/60/63A]

- (A1) This section applies if a person, —
 - (a) has been arrested on suspicion of being involved in a recordable offence;
 - (b) has been charged with such an offence;
 - (c) has been informed that he or she will be reported for such an offence; or
 - (d) has been given a caution for such an offence.
- (1) ~~Where a person has been arrested on suspicion of being involved in a recordable offence or has been charged with such an offence or has been informed that he or she will be reported for such an offence,~~ If this section applies, fingerprints, impressions of footwear or samples or the information derived from samples taken under any power conferred by this Part from the person may be checked against —
 - (a) other fingerprints, impressions of footwear or samples to which the person seeking to check has access and that are held by or on behalf of any one or more relevant law-enforcement authorities or that are held in connection with, or as a result of, an investigation of an offence; and
 - (b) information derived from other samples, if the information is contained in records to which the person seeking to check has access and that are held as mentioned in paragraph (a).¹⁴²
- (1A) In subsection (1) “relevant law-enforcement authority” means —
 - (a) a police force;
 - ~~(b) the body corporate established under section 1 of the Serious Organised Crime and Police Act 2005 (of Parliament);~~

- (b) the National Crime Agency formed under section 1 of the Crime and Courts Act 2013 (of Parliament);
 - (c) a public authority (not falling within paragraphs (a) or (b)) with functions in any part of the British Islands that consist of, or include the investigation of, crimes or the charging of offenders;
 - (d) any person with functions in any country or territory outside the Island that —
 - (i) correspond to those of a police force; or
 - (ii) otherwise consist of or include the investigation of conduct contrary to the law of that country or territory, or the apprehension of persons guilty of such conduct;
 - (e) any person with functions under any international agreement that consist of or include the investigation of conduct that is —
 - (i) unlawful under the law of one or more places;
 - (ii) prohibited by such an agreement; or
 - (iii) contrary to international law, or the apprehension of persons guilty of such conduct; or
 - (f) a person or body specified in an order under subsection (1B).¹⁴³
- (1B) The Department may, by order, specify a person or body (including an international organisation) for the purposes of subsection (1A)(f).¹⁴⁴
- (1C) An order under subsection (1B) only comes into operation if it is approved by Tynwald.¹⁴⁵
- (1D) The reference in subsection (1A) to a police force is a reference to any of the following —
- (a) the Isle of Man Constabulary;
 - (b) any police force maintained under section 2 of the Police Act 1996 (of Parliament) (police forces in England and Wales outside London);
 - (c) the metropolitan police force;
 - (d) the City of London police force;
 - (e) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (of Parliament);
 - (f) the Police Service of Northern Ireland;
 - (g) the Police Service of Northern Ireland Reserve;
 - (h) the Ministry of Defence Police;
 - (i) the Royal Navy Police;
 - (j) the Royal Military Police;
 - (k) the Royal Air Force Police;

- (l) the British Transport Police;
 - (m) the States of Jersey Police Force; or
 - (n) the salaried police force of the Island of Guernsey.¹⁴⁶
- (1E) Where —
- (a) fingerprints, impressions of footwear or samples have been taken from any person in connection with the investigation of an offence ~~but otherwise than in circumstances to which subsection (1) applies;~~ **in circumstances not falling within any paragraph of subsection (A1);** and
 - (b) the person has given his or her consent in writing to the use in a speculative search of the fingerprints, of the impressions of footwear or of the samples and of information derived from them, the fingerprints or impressions of footwear or, as the case may be, those samples and that information may be checked against any of the fingerprints, impressions of footwear, samples or information mentioned in that subsection.¹⁴⁷
- (1F) A consent given for the purposes of subsection (1E) is not capable of being withdrawn.¹⁴⁸
- (1G) Where fingerprints or samples have been taken from any person under section 64(6) **or (6A)** or 66(5), the fingerprints or samples, or information derived from the samples may be checked against any of the fingerprints, samples or information mentioned in subsection (1)(a) or (b).¹⁴⁹
- (2) Where a sample of hair other than pubic hair is to be taken the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
- (3) Where any power to take a sample is exercisable in relation to a person the sample may be taken in an institution designated under Part 2 of the *Custody Act 1995*.
- (4) Any constable may, within the allowed period, require a person who is neither in police detention nor held in custody by the police on the authority of a court, to attend a police station in order to have a sample taken where —
- (a) the person has been charged with a recordable offence or informed that he will be reported for such an offence and either he has not had a sample taken from him in the course of the investigation of the offence by the police or he has had a sample so taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient; ~~or~~
 - (b) the person has been convicted of a recordable offence and either he has not had a sample taken from him since the conviction or he has

had a sample taken from him (before or after his conviction) but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient; or

- (c) the person has been given a caution for a recordable offence and either he has not had a sample taken from him since the time when he was cautioned, or he has had such a sample taken from him (before or after the time when he was cautioned) but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.
- (5) The period allowed for requiring a person to attend a police station for the purpose specified in subsection (4) is —
- (a) in the case of a person falling within paragraph (a), one month beginning with the date of the charge or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be;
 - (b) in the case of a person falling within paragraph (b), one month beginning with the date of the conviction or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be;
 - (c) in the case of a person falling within paragraph (c), one month beginning with the date of the caution or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be.
- (6) A requirement under subsection (4) —
- (a) shall give the person at least 7 days within which he must so attend; and
 - (b) may direct him to attend at a specified time of day or between specified times of day.
- (7) Any constable may arrest without a warrant a person who has failed to comply with a requirement under subsection (4).
- (8) In this section “the appropriate officer” is —
- (a) in the case of a person falling within subsection (4)(a), the officer investigating the offence with which that person has been charged or as to which he was informed that he would be reported;
 - (b) in the case of a person falling within subsection (4)(b), the officer in charge of the police station from which the investigation of the offence of which he was convicted was conducted;

- (c) in the case of a person falling within subsection (4)(c), the officer in charge of the police station from which the investigation of the offence for which he was given the caution was conducted.

68 Destruction of fingerprints and samples

[P1984/60/64]

- (1) If —
- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
 - (b) he is cleared of that offence,
- they must, except as provided in subsection (4), be destroyed as soon as is practicable after the conclusion of the proceedings.
- (2) If —
- (a) fingerprints or samples are taken from a person in connection with such an investigation; and
 - (b) it is decided that he shall not be prosecuted for the offence ~~and he has not admitted it and been dealt with by way of being cautioned by a constable~~ and that person has not been cautioned for the offence,
- they must, except as provided in subsection (4), be destroyed as soon as is practicable after that decision is taken.
- (3) If —
- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
 - (b) that person is not suspected of having committed the offence,
- they must, except as provided in subsection (4), be destroyed as soon as they have fulfilled the purpose for which they were taken.
- (4) Samples which are required to be destroyed under subsection (1), (2) or (3) need not be destroyed if they were taken for the purpose of the same investigation of an offence of which a person from whom one was taken has been convicted, but the information derived from the sample of any person entitled (apart from this subsection) to its destruction under subsection (1), (2) or (3) shall not be used —
- (a) in evidence against the person so entitled; or
 - (b) for the purposes of any investigation of an offence.
- (5) Where samples are required to be destroyed under subsection (1), (2) or (3), and subsection (4) does not apply, information derived from the sample of any person entitled to its destruction under subsection (1), (2) or (3) shall not be used —
- (a) in evidence against the person so entitled; or

- (b) for the purposes of any investigation of an offence.
- (6) Proceedings which are discontinued are to be treated as concluded for the purposes of this section.
- (7) If fingerprints are destroyed —
 - (a) any copies of the fingerprints shall also be destroyed; and
 - (b) the Chief Constable shall cause access to computer data relating to the fingerprints to be made impossible, as soon as it is practicable to do so.
- (8) A person who asks to be allowed to witness the destruction of his fingerprints or copies of them shall have a right to witness it.
- (9) If —
 - (a) subsection (7)(b) falls to be complied with; and
 - (b) the person to whose fingerprints the data relates asks for a certificate that it has been complied with,such a certificate shall be issued to him, not later than the end of the period of one month beginning with the day on which he asks for it, by the Chief Constable or a person authorised by him or on his behalf for the purposes of this section.
- (10) Nothing in this section —
 - (a) affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (an Act of Parliament); or
 - (b) applies to a person arrested or detained under the terrorism provisions.

68A Photographing of suspects etc.

- (1) A person who is detained at a police station may be photographed —
 - (a) with the appropriate consent; or
 - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.
- (1A) A person falling within subsection (1B) may, on the occasion of the relevant event mentioned in subsection (1B), be photographed elsewhere than at a police station —
 - (a) with the appropriate consent; or
 - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.¹⁵⁰
- (1B) A person falls within this subsection if he or she has been —
 - (a) arrested by a constable for an offence; or

- (b) taken into custody by a constable after being arrested for an offence by a person other than a constable.¹⁵¹
- (2) A person proposing to take a photograph of any person under this section —
 - (a) may, for the purpose of doing so, require the removal of any item or substance worn on or over the whole or any part of the head or face of the person to be photographed; and
 - (b) if the requirement is not complied with, may remove the item or substance himself.
- (3) Where a photograph may be taken under this section, the only persons entitled to take the photograph are —
 - (a) constables; and
 - (b) persons who (without being constables) are designated for the purposes of this section by the Chief Constable;and section 80 (use of force) applies to the exercise by a person falling within paragraph (b) of the powers conferred by the preceding provisions of this section as it applies to the exercise of those powers by a constable.
- (4) A photograph taken under this section —
 - (a) may be used by, or disclosed to, any person for any purpose related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution or to the enforcement of a sentence; and¹⁵²
 - (b) after being so used or disclosed, may be retained but may not be used or disclosed except for a purpose so related.
- (5) In subsection (4) —
 - (a) the reference to crime includes a reference to any conduct which —
 - (i) constitutes one or more criminal offences (whether under the law of the Island or of a country or territory outside the United Kingdom); or
 - (ii) is, or corresponds to, any conduct which, if it all took place in the Island would constitute one or more criminal offences; and
 - (b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the Island of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the Island; and
 - (c) “sentence” includes any order made by a court in the Island when dealing with an offender in respect of his or her offence.¹⁵³

- (6) References in this section to taking a photograph include references to using any process by means of which a visual image may be produced, and references to photographing a person shall be construed accordingly.
- (7) In this section, “photograph” includes a moving image.^{154 155}

69 Part V - supplementary

[P1984/60/65]

- (1) In this Part —

“**analysis**”, in relation to a skin impression, includes comparison and matching;¹⁵⁶

“**appropriate consent**” means —

- (a) in relation to a person who has attained the age of 18 years, the consent of that person;¹⁵⁷
- (b) in relation to a person who has not attained that age but has attained the age of 14 years, the consent of that person and his parent or guardian; and
- (c) in relation to a person who has not attained the age of 14 years, the consent of his parent or guardian;

“**caution**” is to be construed in accordance with Part 6 of the *Justice Reform Act 2021* (and “**cautioned**” is to be construed accordingly);

“**drug trafficking**” and “**drug trafficking offence**” [Repealed]¹⁵⁸

“**fingerprints**” includes palm prints;

“**intimate sample**” means —

- (a) a sample of blood, semen or any other tissue fluid, urine or pubic hair;
- (b) a dental impression;
- (c) a swab taken from a person’s body orifice other than the mouth;

“**intimate search**” means a search which consists of the physical examination of a person’s body orifices other than the mouth;

“**non-intimate sample**” means —

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part of a person’s body including the mouth but not any other body orifice;
- (d) saliva;
- (e) a skin impression;¹⁵⁹

“**registered dentist**” has the same meaning as in the *Dental Act 1985*;

“skin impression”, in relation to any person, means any record (other than a fingerprint) which is a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of the whole or any part of that person’s foot or of any other part of that person’s body;¹⁶⁰

“speculative search”, in relation to a person’s fingerprints or samples, means such a check against other fingerprints or samples or against information derived from other samples as is referred to in section 67;

“sufficient” and **“insufficient”**, in relation to a sample, means sufficient or insufficient (in point of quantity or quality) for the purpose of enabling information to be produced by the means of analysis used or to be used in relation to the sample;

“the terrorism provisions” means section 30 of the *Anti-Terrorism and Crime Act 2003*, and any provision of Schedule 7 to that Act conferring a power of detention; and¹⁶¹

“terrorism” has the meaning given in section 1 of that Act;¹⁶²

“proceeds of drug trafficking” [Repealed]^{163 164}

(2) References in this Part to a sample proving insufficient include references to where, as a consequence of —

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or part of the sample; or
- (c) the use of the whole or part of the sample for an analysis which produced no results or which produced results some or all of which must be regarded, in the circumstances, as unreliable,

the sample has become unavailable or insufficient for the purpose of enabling information, or information of a particular description, to be obtained by means of analysis of the sample.¹⁶⁵

PART VI – INFERENCES FROM ACCUSED’S SILENCE

70 Effect of accused’s failure to mention facts when questioned or charged [P1994/33/34]

- (1) Where, in any proceedings against a person for an offence, evidence is given that the accused —
 - (a) at any time before he was charged with the offence, on being questioned under caution by a constable trying to discover whether or by whom the offence had been committed, failed to mention any fact relied on in his defence in those proceedings; or

- (b) on being charged with the offence or officially informed that he might be prosecuted for it, failed to mention any such fact; or
- (c) at any time after being charged with the offence, on being questioned under section 41A of the *Anti-Terrorism and Crime Act 2003* (post-charge questioning), failed to mention any such fact,¹⁶⁶

being a fact which in the circumstances existing at the time the accused could reasonably have been expected to mention when so questioned, charged or informed, as the case may be, subsection (2) applies.

- (2) Where this subsection applies —
 - (a) ~~a court of summary jurisdiction, in deciding whether to commit the accused for trial under section 6 of the *Summary Jurisdiction Act 1989* (committal proceedings);~~
 - (b) the court, in determining whether there is a case to answer; and
 - (c) the court or jury, in determining whether the accused is guilty of the offence charged,
 may draw such inferences from the failure as appear proper.
- (3) Subject to any directions by the court, evidence tending to establish the failure may be given before or after evidence tending to establish the fact which the accused is alleged to have failed to mention.
- (4) This section applies in relation to questioning by persons (other than constables) charged with the duty of investigating offences or charging offenders as it applies in relation to questioning by constables; and in subsection (1) “officially informed” means informed by a constable or any such person.
- (5) This section does not —
 - (a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from this section; or
 - (b) preclude the drawing of any inference from any such silence or other reaction of the accused which could properly be drawn apart from this section.
- (6) This section does not apply in relation to a failure to mention a fact if the failure occurred before the commencement of this section.

71 Effect of accused’s silence at trial

[P1994/33/35]

- (1) At the trial of any person who has attained the age of 14 years for an offence, subsections (2) and (3) apply unless —

- (a) the accused's guilt is not in issue; or
- (b) it appears to the court that the physical or mental condition of the accused makes it undesirable for him to give evidence,

but subsection (2) does not apply if, at the conclusion of the evidence for the prosecution, his advocate informs the court that the accused will give evidence or, where he is unrepresented, the court ascertains from him that he will give evidence.

- (2) Where this subsection applies, the court shall, at the conclusion of the evidence for the prosecution, satisfy itself (in the case of proceedings on information, in the presence of the jury) that the accused is aware that the stage has been reached at which evidence can be given for the defence and that he can, if he wishes, give evidence and that, if he chooses not to give evidence, or having been sworn, without good cause refuses to answer any question, it will be permissible for the court or jury to draw such inferences as appear proper from his failure to give evidence or his refusal, without good cause, to answer any question.
- (3) Where this subsection applies, the court or jury, in determining whether the accused is guilty of the offence charged, may draw such inferences as appear proper from the failure of the accused to give evidence or his refusal, without good cause, to answer any question.
- (4) This section does not render the accused compellable to give evidence on his own behalf, and he shall accordingly not be guilty of contempt of court by reason of a failure to do so.
- (5) For the purposes of this section a person who, having been sworn, refuses to answer any question shall be taken to do so without good cause unless —
 - (a) he is entitled to refuse to answer the question by virtue of any enactment, whenever passed or made, or on the ground of privilege; or
 - (b) the court in exercise of its general discretion excuses him from answering it.
- (6) Where the age of any person is material for the purposes of subsection (1), his age shall for those purposes be taken to be that which appears to the court to be his age.
- (7) This section applies —
 - (a) in relation to proceedings on information for an offence, only if the person charged with the offence is arraigned on or after the commencement of this section;
 - (b) in relation to proceedings in a court of summary jurisdiction, only if the time when the court begins to receive evidence in the proceedings falls after the commencement of this section.

72 Effect of accused's failure or refusal to account for objects, substances or marks

[P1994/33/36]

- (1) Where —
- (a) a person is arrested by a constable, and there is —
 - (i) on his person; or
 - (ii) in or on his clothing or footwear; or
 - (iii) otherwise in his possession; or
 - (iv) in any place in which he is at the time of his arrest,any object, substance or mark, or there is any mark on any such object; and
 - (b) that or another constable investigating the case reasonably believes that the presence of the object, substance or mark may be attributable to the participation of the person arrested in the commission of an offence specified by the constable; and
 - (c) the constable informs the person arrested that he so believes, and requests him to account for the presence of the object, substance or mark; and
 - (d) the person fails or refuses to do so,
- then if, in any proceedings against the person for the offence so specified, evidence of those matters is given, subsection (2) applies.
- (2) Where this subsection applies —
- (a) ~~a court of summary jurisdiction, in deciding whether to commit the accused for trial under section 6 of the Summary Jurisdiction Act 1989 (committal proceedings);~~
 - (b) the court, in determining whether there is a case to answer; and
 - (c) the court or jury, in determining whether the accused is guilty of the offence charged,
- may draw such inferences from the failure or refusal as appear proper.
- (3) Subsections (1) and (2) apply to the condition of clothing or footwear as they apply to a substance or mark thereon.
- (4) Subsections (1) and (2) do not apply unless the accused was told in ordinary language by the constable when making the request mentioned in subsection (1)(c) what the effect of this section would be if he failed or refused to comply with the request.
- (5) This section applies in relation to officers of customs and excise as it applies in relation to constables.
- (6) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for the presence of an object, substance

or mark or from the condition of clothing or footwear which could properly be drawn apart from this section.

- (7) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.

73 Effect of accused's failure or refusal to account for presence at a particular place

[P1994/33/37]

- (1) Where —

- (a) a person arrested by a constable was found by him at a place at or about the time the offence for which he was arrested is alleged to have been committed; and
- (b) that or another constable investigating the offence reasonably believes that the presence of the person at that place and at that time may be attributable to his participation in the commission of the offence; and
- (c) the constable informs the person that he so believes, and requests him to account for that presence; and
- (d) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence, evidence of those matters is given, subsection (2) applies.

- (2) Where this subsection applies —

- ~~(a) a court of summary jurisdiction, in deciding whether to commit the accused for trial under section 6 of the *Summary Jurisdiction Act 1989* (committal proceedings);~~
- (b) the court, in determining whether there is a case to answer; and
- (c) the court or jury, in determining whether the accused is guilty of the offence charged,

may draw such inferences from the failure or refusal as appear proper.

- (3) Subsections (1) and (2) do not apply unless the accused was told in ordinary language by the constable when making the request mentioned in subsection (1)(c) what the effect of this section would be if he failed or refused to comply with the request.
- (4) This section applies in relation to officers of customs and excise as it applies in relation to constables.
- (5) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for his presence at a place which could properly be drawn apart from this section.
- (6) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.

74 Interpretation and savings for this Part

[P1994/33/38]

- (1) In this Part, “**place**” includes any building or part of a building, any vehicle, vessel, aircraft or hovercraft and any other place whatsoever.
- (2) In sections 70(2), 71(3), 72(2) and 73(2), references to an offence charged include references to any other offence of which the accused could lawfully be convicted on that charge.
- (3) A person shall not be committed for trial, have a case to answer or be convicted of an offence solely on an inference drawn from such a failure or refusal as is mentioned in section 70(2), 71(3), 72(2) or 73(2).
- (4) Nothing in sections 70 to 73 prejudices the operation of a provision of any enactment which provides (in whatever words) that any answer or evidence given by a person in specified circumstances shall not be admissible in evidence against him or some other person in any proceedings or class of proceedings (however described, and whether civil or criminal).
- (5) In subsection (4), the reference to giving evidence is a reference to giving evidence in any manner, whether by furnishing information, making discovery, producing documents or otherwise.
- (6) Nothing in sections 70 to 73 prejudices any power of a court, in any proceedings, to exclude evidence (whether by preventing questions being put or otherwise) at its discretion.

PART VII – CODES OF PRACTICE - GENERAL**75 Codes of practice**

- (1) The Department must by order provide for codes of practice in connection with —
 - (a) the exercise by police officers of statutory powers —
 - (i) to search a person without first arresting him or her;
 - (ii) to search a vehicle or vessel without making an arrest; or
 - (iii) to arrest a person;
 - (b) the detention, treatment, questioning and identification of persons by police officers;
 - (c) searches of premises by police officers;
 - (d) the seizure and treatment of property found by police officers on persons, premises, vehicles or vessels; and
 - (e) the exercise by police officers of any other statutory or common law powers.¹⁶⁷

- (2) An order under subsection (1) may make provision in relation to the matters in that subsection by applying, adopting or incorporating, with or without modification, the provisions of any document as in operation at a particular time, or as in operation from time to time.
- (3) Subsection (2) applies even if the document mentioned in that subsection makes provision for a matter by applying, adopting or incorporating, with or without modification, another document as in operation at a particular time, or from time to time.¹⁶⁸

76 Codes of practice - supplementary

[P1984/60/67]

- (1) When the Department proposes to make an order to which this section applies, it shall prepare and publish a draft of that order, shall consider any representations made to it about the draft and may modify the draft accordingly.
- (2) This section applies to an order or a code under section 63 or 75.
- (3) An order to which this section applies shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting fails to approve it, the order shall cease to have effect.
- (3A) An order bringing a code, or a revision of a code, into operation may include transitional or saving provisions.¹⁶⁹
- (4) A police officer shall be liable to disciplinary proceedings for a failure to comply with any provision of a code to which this section applies.
- (5) Persons other than police officers who are charged with the duty of investigating offences or charging offenders shall in the discharge of that duty have regard to any relevant provision of a code to which this section applies.
- (6) A failure on the part —
 - (a) of a police officer to comply with any provision of such a code; or
 - (b) of any person other than a police officer who is charged with the duty of investigating offences or charging offenders to have regard to any relevant provision of such a code in the discharge of that duty,shall not of itself render him liable to any criminal or civil proceedings.
- (7) In all criminal and civil proceedings any such code shall be admissible in evidence; and if any provision of such a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

PART VIII - MISCELLANEOUS AND SUPPLEMENTARY

A77 Footwear impressions, etc

- (1) Where any footwear has been seized in accordance with section 22 or 57 on the grounds that they are evidence relating to an offence, a constable may make an image of the seized footwear.
- (2) If an image of footwear is made under this section, in connection with the investigation of an offence and the person concerned is cleared of the offence, the image must be destroyed as soon as practicable after the conclusion of the proceedings.
- (3) If an image of footwear is made under this section in connection with such an investigation, and it is decided that the person concerned shall not be prosecuted for the offence ~~and that person has not admitted it and been dealt with by way of being cautioned by a constable~~ **and that person has not been cautioned for the offence**, the image must be destroyed as soon as is practicable after that decision is taken.
- (4) If an image of footwear is made under this section, in connection with such an investigation and the person concerned is not suspected of having committed the offence, the image must be destroyed as soon as they have fulfilled the purpose for which they were taken.
- (5) Where images are required to be destroyed under subsection (2), (3) or (4), the image and information derived from the image shall not be used —
 - (a) in evidence against the person concerned; or
 - (b) for the purposes of any investigation of an offence.
- (6) Proceedings which are discontinued are to be treated as concluded for the purposes of this section.
- (7) If an image is required to be destroyed under this section —
 - (a) any copies or records of the image shall also be destroyed; and
 - (b) the Chief Constable shall cause any access to computer data relating to the images to be made impossible, as soon as it is practicable to do so.
- (8) In this section —

“footwear” means the whole of the footwear or any part of it;

“image” means an impression, copy, photograph, digital image or other record, made or taken by any means
- (9) The powers conferred by this section are in addition to any power otherwise conferred.¹⁷⁰

77 Application of Act to customs and excise

[P1984/60/114]

- (1) "Arrested", "arresting", "arrest" and "to arrest" shall respectively be substituted for "detained", "detaining", "detention" and "to detain" wherever in the customs and excise Acts, as defined in section 184(1) of the *Customs and Excise Management Act 1986*, those words are used in relation to persons.
- (2) The Treasury may by order direct —
 - (a) that any provision of this Act which relates to investigations of offences conducted by police officers or to persons detained by the police shall apply, subject to such modifications as the order may specify, to investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, as defined in section 184(1) of the *Customs and Excise Management Act 1986*, or to persons detained by officers of Customs and Excise; and
 - (b) that, in relation to investigations of offences conducted by officers of Customs and Excise —
 - (i) this Act shall have effect as if the following sections were inserted after section 17 —

«17A Exception for customs and excise

Material in the possession of a person who acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office and which relates to an assigned matter, as defined in section 184(1) of the *Customs and Excise Management Act 1986*, is neither excluded material nor special procedure material for the purposes of any enactment such as is mentioned in section 12(2).

17B Customs and Excise restriction on powers to apply for production of documents

- (1) An officer of Customs and Excise may make an application for the delivery of, or access to, documents under paragraph 13 of Schedule 12 to the *Value Added Tax Act 1996* only if the condition in subsection (2) is satisfied.
- (2) The condition is that the officer thinks that an application under Schedule 1 would not succeed because the material required does not consist of or include special procedure material.»¹⁷¹
 - (ii) section 58 shall have effect as if it related only to things such as are mentioned in subsection (1)(a) of that section;
- (c) that, where an officer of Customs and Excise searches premises in reliance on a warrant under section 11 of, or paragraph 12 of

Schedule 1 to, this Act, as applied by an order under this subsection, the officer shall have the power to search persons found on the premises —

- (i) in such cases and circumstances as are specified in the order; and
 - (ii) subject to any conditions specified in the order.¹⁷²
- (3) An order under subsection (2) —
 - (a) may make provision that applies generally or only in specified cases or circumstances;
 - (b) may make different provision for different cases or circumstances;
 - (c) may, in modifying a provision, in particular impose conditions on the exercise of a function; and
 - (d) shall not be taken to limit a power under section 171 of the *Customs and Excise Management Act 1986*.¹⁷³
- (4) In this section “officers of Customs and Excise” has the same meaning as in the *Customs and Excise Management Act 1986*.
- (5) An order under this section shall not come into operation unless it is approved by Tynwald.

77A Customs officers: powers of constables

- (1) Subsection (2) applies in respect of officers of Customs and Excise who —
 - (a) are seconded to the Financial Crime Unit of the Isle of Man Constabulary; and
 - (b) are authorised for the purposes of this section by the Attorney General.
- (2) An officer of Customs and Excise to whom this subsection applies has the powers, duties and obligations conferred on a constable by any other statutory provision or by the common law.
- (3) Subject to subsections (4), (5) and (6), a reference in any statutory provision to a constable includes an officer of Customs and Excise to whom subsection (2) applies.
- (4) Subsections (2) and (3) are subject to any express modification under section 77.
- (5) An officer of Customs and Excise to whom subsection (2) applies is not a member of the police force but the provisions of the *Police Act 1993* specified in subsection (9) apply, with the necessary modifications, to, or in respect of, such an officer as if that officer were a member of the police force.

- (6) Subsections (2) and (3) do not prejudice the operation of any other enactment —
 - (a) that construes “constable” as including an officer of Customs and Excise; or
 - (b) that confers the powers of a constable on an officer of Customs and Excise.
- (7) An officer of Customs and Excise proposing to exercise any power conferred by this section must, if so required, produce some duly authenticated document showing the officer’s authority under subsection (1).
- (8) In this section, “officer of Customs and Excise” means an “officer” within the meaning of section 184(1) of the *Customs and Excise Management Act 1986*.
- (9) The provisions mentioned in subsection (5) are —
 - (a) section 7 (status);
 - (b) section 9 and Schedule 1 (complaints against the police);
 - (c) section 14 (liability for wrongful acts of constables);
 - (d) section 16 (impersonation); and
 - (e) section 17 (causing disaffection).¹⁷⁴

Police powers for contracted staff

77B Police powers for contracted staff

- (1) This section has effect for the purpose of enabling the Department to enter into a contract with a person for the supply by that person of services in assistance of the police force.
- (2) Subject to subsection (6) the Department may by order provide for conferring or imposing powers and duties specified in the order, being powers and duties of a member of the police force, on persons, not being members of the police force, who are employed by a contractor for the purpose of exercising functions assigned to them in pursuance of such a contract.
- (3) An order under this section shall specify —
 - (a) the functions which may be assigned in pursuance of the order to contracted staff;
 - (b) the title by which contracted staff to whom a particular function is, or functions of a particular class or description are, so assigned are to be known; and

- (c) the powers and duties which may be conferred or imposed on contracted staff to whom a particular function is, or functions of a particular class or description are, so assigned.
- (4) An order under this section may under subsection (3)(a) specify functions which, apart from the order, would be reserved to a member of the police force.
- (5) An order under this section may under subsection (3)(c) specify powers and duties —
 - (a) which are, by virtue of the order, conferred or imposed on all contracted staff to whom a specified function is, or functions of a specified class or description are, so assigned; or
 - (b) which may be conferred or imposed by a designation on contracted staff to whom a specified function is, or functions of a specified class or description are, so assigned.
- (6) An order under this section may not specify any function, power or duty in relation to the execution of a warrant to enter and search any land or premises.
- (7) For the avoidance of doubt, this section is without prejudice to any power conferred by or by virtue of any other provision of this Act or any other enactment.
- (8) An order under this section may modify in its application to contracted staff any statutory provision relating to the exercise by members of the police force of any power or duty referred to in subsection (3)(c).
- (9) Before making an order under this section the Department shall consult —
 - (a) the Chief Constable;
 - (b) the commissioner appointed under paragraph 2(1) of Schedule 1 to the *Police Act 1993*;
 - (c) the Isle of Man Police Federation; and
 - (d) such other persons as the Department thinks fit.
- (10) An order under this section shall not have effect unless it is approved by Tynwald.
- (11) Schedule 2A makes further provision about contracted staff.¹⁷⁵

78 Expenses

[P1984/60/115]

Any expenses of a Department incurred in consequence of the provisions of this Act, including any increase attributable to those provisions in sums payable under any other Act, shall be defrayed out of money provided by Tynwald.

79 Meaning of “serious offence”¹⁷⁶

[P1984/60/116]

- (1) This section has effect for determining whether an offence is a serious offence for the purposes of this Act.¹⁷⁷
- (2) The following offences are always serious offences —
 - (a) an offence under a statutory provision specified in Schedule 3; and
 - (b) any offence which is specified in paragraph 1 of Schedule 3 to the *Proceeds of Crime Act 2008* (drug trafficking offences).^{178 179}
- (3) Subject to subsection (4) any other offence is a serious offence only if its commission —
 - (a) has led to any of the consequences specified in subsection (6); or
 - (b) is intended or is likely to lead to any of those consequences.¹⁸⁰
- (4) An offence that consists of making a threat is a serious offence if carrying out the threat would be likely to lead to any of the consequences specified in subsection (6).¹⁸¹
- (5) [Repealed]¹⁸²
- (6) The consequences mentioned in subsections (3) and (4) are —
 - (a) serious harm to the security of the State or to public order;
 - (b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;
 - (c) the death of any person;
 - (d) serious injury to any person;
 - (e) substantial financial gain to any person; and
 - (f) serious financial loss to any person.
- (7) Loss is serious for the purposes of this section if, having regard to all the circumstances, it is serious for the person who suffers it.
- (8) In this section “injury” includes any disease and any impairment of a person’s physical or mental condition.
- (9) The Department may by order make any provision repealing or amending any provision of an enactment that is inconsistent with, or is unnecessary or requires modification in consequence of, the amendment of section 79 by section 50 of the *Criminal Justice, Police Powers and Other Amendments Act 2014*.¹⁸³

80 Power of constable to use reasonable force¹⁸⁴

[P1984/60/117]

Where any provision of this Act —

- (a) confers a power on a constable; and

- (b) does not provide that the power may only be exercised with the consent of, or if required by, some person, other than a police officer,

the officer may use reasonable force, if necessary, in the exercise of the power.

81 General interpretation

[P1984/60/118]

- (1) In this Act —

“**all premises warrant**” (other than in Schedule 1) has the meaning given in section 11(1A)(b);¹⁸⁵

“**arrestable offence**” [Repealed]¹⁸⁶

“**child**” and “**young person**” [Repealed]¹⁸⁷

“**clerk**” has the meaning given by section 114(1) of the *Summary Jurisdiction Act 1989*;

“**Department**” means the Department of Home Affairs;

“**excluded material**” has the meaning given by section 14;

“**item subject to legal privilege**” has the meaning given by section 13;

“**juvenile**” [Repealed]¹⁸⁸

“**journalistic material**” has the meaning given by section 16;

“**parent or guardian**” means in the case of a child or young person in the care of the Department of Health and Social Care, that Department;¹⁸⁹

“**premises**” includes any place and, in particular, includes —

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any offshore installation within the meaning given by section 1 of the *Mineral Workings (Offshore Installations) (Isle of Man) Act 1974*;
- (c) any tent or movable structure;

“**recordable offence**” has the meaning given by section 30(4);

~~“**registered medical practitioner**” means a fully registered person within the meaning of the *Medical Act 1985*;~~¹⁹⁰

~~“**registered nurse**” is to be interpreted in accordance with section 39A of the *National Health Service Act 2001*;~~¹⁹¹

“**serious offence**” has the meaning given in section 79;¹⁹²

“**special procedure material**” has the meaning given by section 17;

“**specific premises warrant**” (other than in Schedule 1) has the meaning given in section 11(1A)(a);¹⁹³

“**vehicle**” includes a caravan;

“vessel” includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

- (2) A person is in police detention for the purposes of this Act if —
- (a) he has been taken to a police station after being arrested for an offence or after being arrested under section 30 of the *Anti-Terrorism and Crime Act 2003*; or¹⁹⁴
 - (b) he is arrested at a police station after attending voluntarily at the station or accompanying a constable to it,
- and is detained there or is detained elsewhere in the charge of a constable, except that a person who is at a court after being charged is not in police detention for those purposes.
- (3) Any reference in this Act to any provision of an Act of Parliament shall be construed as a reference to such provision as it has effect in the Island from time to time.
- (4) Where any provision of an Act of Parliament referred to in this Act (whether as originally enacted or as amended under this subsection) is repealed and replaced (with or without amendments), the Council of Ministers may by order amend such reference so that it refers to the provision replacing it.
- (5) An order under subsection (4) shall not come into operation unless it is approved by Tynwald.

82 Statutory indemnity

Without prejudice to section 76(6), a failure on the part of a police officer to comply with any time limit imposed by this Act shall not, in the absence of bad faith, render him liable to any civil proceedings.

83 Amendments and repeals

- (1) The enactments mentioned in Schedule 4 are amended in accordance with that Schedule.
- (2) The enactments mentioned in Schedule 5 are repealed to the extent specified in the third column of that Schedule.

84 Commencement

- (1) This Act shall come into operation on such day as the Department of Home Affairs may by order appoint, and different days may be so appointed for different provisions and for different purposes.¹⁹⁵
- (2) An order under this section may make such transitional provisions as appears to the Department of Home Affairs to be necessary or expedient in connection with the provisions thereby brought into operation.

85 Short title

This Act may be cited as the Police Powers and Procedures Act 1998.

SCHEDULE 1**SPECIAL PROCEDURE**

Section 12

*Making of orders by a Judge*¹⁹⁶

1. If on an application made by a constable a Judge is satisfied that one or other of the sets of access conditions is fulfilled, he may make an order under paragraph 4.¹⁹⁷

2. The first set of access conditions is fulfilled if —

(a) there are reasonable grounds for believing —

(i) that a serious offence has been committed;¹⁹⁸

(ii) that there is material which consists of special procedure material or includes special procedure material and does not also include excluded material on premises specified in the application, or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);¹⁹⁹

(iii) that the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and

(iv) that the material is likely to be relevant evidence;

(b) other methods of obtaining the material —

(i) have been tried without success; or

(ii) have not been tried because it appeared that they were bound to fail; and

(c) it is in the public interest, having regard —

(i) to the benefit likely to accrue to the investigation if the material is obtained; and

(ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given.

3. The second set of access conditions is fulfilled if —

(a) there are reasonable grounds for believing that there is material which consists of or includes excluded material or special

procedure material on premises specified in the application, or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);²⁰⁰

- (b) but for section 12(2) a search of the premises for that material could have been authorised by the issue of a warrant to a constable under an enactment other than this Schedule; and
- (c) the issue of such a warrant would have been appropriate.

4. An order under this paragraph is an order that the person who appears to the Judge to be in possession of the material to which the application relates shall —

- (a) produce it to a constable for him to take away; or
- (b) give a constable access to it,

not later than the end of the period of 7 days from the date of the order or the end of such longer period as the order may specify.²⁰¹

5. Where the material consists of information stored in any electronic form —

- (a) an order under paragraph 4(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
- (b) an order under paragraph 4(b) shall have effect as an order to give a constable access to the material in a form in which it is visible and legible or from which it can be readily produced in a visible and legible form.^{202 203}

6. For the purposes of sections 24 and 25 material produced in pursuance of an order under paragraph 4(a) shall be treated as if it were material seized by a constable.

Notices of applications for orders

7. Notice of an application for an order under paragraph 4 shall be given to the person referred to in that paragraph and he shall be entitled to be present at the application and to make representations either personally or by counsel.

8. Notice of an application for such an order may be served in accordance with Part 4, Division 5 of the *Interpretation Act 2015* (service of documents).²⁰⁴

9. Such a notice may be served on a partnership, by serving it on one of the partners.

10. For the purposes of this Schedule, and of Part 4, Division 5 of the *Interpretation Act 2015* (service of documents) in its application to this Schedule, the proper address of a partner of a firm shall be that of the principal office of the firm or his last known place of abode.²⁰⁵

11. Where notice of an application for an order under paragraph 4 has been served on a person, he shall not conceal, destroy, alter or dispose of the material to which the application relates except —

- (a) with the leave of a Judge; or²⁰⁶
- (b) with the written permission of a constable, until —
 - (i) the application is dismissed or abandoned; or
 - (ii) he has complied with an order under paragraph 4 made on the application.

*Issue of warrants by Judge*²⁰⁷

12. If on an application made by a constable a Judge —

- (a) is satisfied —
 - (i) that either set of access conditions is fulfilled; and
 - (ii) that any of the further conditions set out in paragraph 14 is also fulfilled in relation to each set of premises specified in the application; or²⁰⁸
- (b) is satisfied —
 - (i) that the second set of access conditions is fulfilled; and
 - (ii) that an order under paragraph 4 relating to the material has not been complied with,

he may issue a warrant authorising a constable to enter and search the premises (in which case the application is for a “specific premises warrant”) or (as the case may be) all premises occupied or controlled by the person mentioned in paragraph 2(a)(ii) or 3(a), including such sets of premises as are specified in the application (in which case the application is for an “all premises warrant”).²⁰⁹

12A. The Judge may not issue an all premises warrant under paragraph 12 unless he or she is satisfied —

- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question that are not specified in the application, as well as those that are, in order to find the material in question; and
- (b) that it is not reasonably practicable to specify in the application all the premises that the person in question occupies or controls that might need to be searched.²¹⁰

13. A constable may seize and retain anything for which a search has been authorised under paragraph 12.

14. The further conditions mentioned in paragraph 12(a)(ii) are —

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;²¹¹
- (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;
- (c) that the material contains information which —
 - (i) is subject to a restriction or obligation such as is mentioned in section 14(2)(b); and
 - (ii) is likely to be disclosed in breach of it if a warrant is not issued;
- (d) that service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation.

15. If a person fails to comply with an order under paragraph 4, a Judge may deal with him as if he had committed a contempt of the High Court.²¹²

Costs

16. The costs of any application under this Schedule and of anything done or to be done in pursuance of an order made under it shall be in the discretion of the Judge.²¹³

SCHEDULE 1A²¹⁴

[Sections 26A(5) & (6), 26B(5), 26E(5)(b), 26F(5), 26J(10)(b), 26K(5) & (6)(a) & 26M(1)(a) & paragraph 2 of Schedule 1B]

POWERS OF SEIZURE

PART 1 - POWERS TO WHICH SECTION 26A, 26E(5)(B), 26J(10)(B) AND 26M(1)(A) APPLIES

1 Sexual Offences and Obscene Publications Act 2021²¹⁵

Each of the powers of seizure conferred by sections 78 to 80 and 110 of, and Schedule 2 to, the *Sexual Offences and Obscene Publications Act 2021*.²¹⁶

2 Forgery Act 1952

The power of seizure conferred by section 15 of the *Forgery Act 1952* (seizure of forgeries and counterfeits and of things used for making them etc).

3 Betting Act 1970

The power of seizure conferred by paragraph 8 of Schedule 3 to the *Betting Act 1970* (in relation to offences involving general betting duty).

4 Misuse of Drugs Act 1976

Each of the powers of seizure conferred by the provisions of section 23(2) and (3) of the *Misuse of Drugs Act 1976* (power to search for and seize controlled drugs and related documents).

5 Theft Act 1981

The power of seizure conferred by section 28(1) of the *Theft Act 1981* (seizure of goods suspected of being stolen).

6 Customs and Excise Management Act 1986

The power of seizure conferred by section 124C(4) of the *Customs and Excise Management Act 1986* (seizure of evidence of fraud offences).

7 Criminal Justice Act 1991

The power of seizure conferred by section 22(1) of the *Criminal Justice Act 1991* (search and seizure of material relevant to evidence for use outside Island).

8 Computer Security Act 1992

The power of seizure conferred by section 13(4) of the *Computer Security Act 1992* (seizure of evidence of offences under that Act).

9 Value Added Tax Act 1996

The power of seizure conferred by paragraph 12 of Schedule 12 to the *Value Added Tax Act 1996* (seizure of evidence of fraudulent evasion of VAT etc).

10 Police Powers and Procedures Act 1998

Each of the powers of seizure conferred by the provisions of Part II or III of this Act (police powers of entry, search and seizure).

11 Criminal Justice Act 2001

- (1) The power of seizure conferred by section 13(2) of the *Criminal Justice Act 2001* (seizure of publications consisting of or containing prohibited material).
- (2) [Repealed]²¹⁷

12 Anti-Terrorism and Crime Act 2003

Each of the powers of seizure conferred by the provisions of paragraphs 1, 3, 10 and 14 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003* (powers for use in terrorism investigations).

13 Proceeds of Crime Act 2008

The power of seizure conferred by section 169(4) of the *Proceeds of Crime Act 2008* (seizure of material likely to be of substantial value to certain investigations).

14 Police Powers and Procedures Act 1998

The power of seizure conferred by paragraph 7(3) of the Schedule to the *Animal Welfare Act 2023*.²¹⁸

**PART 2 - POWERS TO WHICH SECTION 26B, 26E(5)(B), 26J(10)(B)
AND 26M(1)(A) APPLIES****14 Misuse of Drugs Act 1976**

Each of the powers of seizure conferred by the provisions of section 23(2) and (3) of the *Misuse of Drugs Act 1976* (power to search for and seize controlled drugs and related documents).

15 Police Powers and Procedures Act 1998

Each of the powers of seizure conferred by the provisions of Part II or III of this Act (police powers of entry, search and seizure).

16 Anti-Terrorism and Crime Act 2003

- (1) The power of seizure conferred by section 32(4) of the *Anti-Terrorism and Crime Act 2003* (seizure on the occasion of a search of a suspected terrorist).
- (2) Each of the powers of seizure conferred by the provisions of paragraphs 1, 3, 10 and 14 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003* (powers for use in terrorism investigations).

PART 3 - POWERS TO WHICH SECTION 26F, 26K(5) AND 26K(6)(A) APPLIES

17 Sexual Offences and Obscene Publications Act 2021²¹⁹

Each of the powers of seizure conferred by section 110 of the *Sexual Offences and Obscene Publications Act 2021* (powers of search and seizure).²²⁰

18 Forgery Act 1952

The power of seizure conferred by section 15 of the *Forgery Act 1952* (seizure of forgeries and counterfeits and of things used for making them etc).

19 Theft Act 1981

The power of seizure conferred by section 28(3) of the *Theft Act 1981* (power to search for and seize goods suspected of being stolen).

20 Criminal Justice Act 1991

The power of seizure conferred by section 22(1) of the *Criminal Justice Act 1991* (search and seizure of material relevant to evidence for use outside Island).

21 Computer Security Act 1992

The power of seizure conferred by section 13(4) of the *Computer Security Act 1992* (seizure of evidence of offences under that Act).

22 Police Powers and Procedures Act 1998

The power of seizure conferred by section 11 of this Act (police powers of entry, search and seizure).

23 Sexual Offences and Obscene Publications Act 2021²²¹

Each of the powers of seizure conferred by sections 78 to 80 of and Schedule 2 to the *Sexual Offences and Obscene Publications Act 2021* (forfeiture of indecent photographs and prohibited images of children).²²²

24 Anti-Terrorism and Crime Act 2003

- (1) Each of the powers of seizure conferred by the provisions of paragraphs 1 and 3 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003* (powers for use in terrorism investigations).

- (2) The power of seizure conferred by paragraph 14 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003*, so far only as the power in question is conferred by reference to paragraph 1 of that Schedule.

25 Proceeds of Crime Act 2008

The power of seizure conferred by section 169(4) of the *Proceeds of Crime Act 2008* (seizure of material likely to be of substantial value to certain investigations).

SCHEDULE 1B²²³

[Section 26P]

APPLICATION OF ENACTMENTS

1 Forfeiture of seized items

- (1) The provisions mentioned in sub-paragraph (2) (forfeiture etc of items which have been seized) applies in relation to an item seized under section 26A as if the item had been seized under the power of seizure in reliance on which it was seized.
- (2) Those provisions are —
- (a) sections 78 to 80 of, and Schedule 2 to (forfeiture of indecent photographs and prohibited images of children), and section 110 (powers of search and seizure) of the *Sexual Offences and Obscene Publications Act 2021*; and²²⁴
 - (b) section 15 of the *Forgery Act 1952* (seizure of forgeries and counterfeits and of things used for making them etc).

2 Disclosure of information

Any provision that —

- (a) restricts the disclosure, or permits the disclosure only for limited purposes or in limited circumstances, of information obtained through the exercise of a power of seizure specified in Part 1 or 2 of Schedule 1A; or
- (b) confers power to make provision that does either or both of those things,

applies in relation to information obtained under section 26A or 26B in reliance on the power in question as it applies in relation to information obtained through the exercise of that power.

3 Interpretation

For the purposes of this Schedule, an item is seized, or information is obtained, under section 26A or 26B in reliance on a power of seizure if the item is seized, or the information obtained, in exercise of so much of any power conferred by that section as is exercisable by reference to that power of seizure.

SCHEDULE 2

PRESERVED POWERS OF ARREST

Section 29

[Sch 2 amended by Children and Young Persons Act 2001 Sch 13 and by Anti-Terrorism and Crime Act 2003 Sch 15.]

Section 4 of the Emergency Powers Act 1936.

Section 5 of the Criminal Law Act 1981.

Sections 5(6) and 5B(6) of, and paragraph 19 of Schedule 3 to, the Road Traffic Act 1985.²²⁵

Section 6(1) of the Police Act 1993.

Section 5 of the Custody Act 1995.

Rule 34 in Schedule 2 to the Representation of the People Act 1995.

Sections 36 and 37 of the Animal Health Act 1996.

Paragraph 1 of Schedule 4 to the Cruelty to Animals Act 1997.

Sections 18, 132 and 134 of the Mental Health Act 1998.

SCHEDULE 2A²²⁶

Section 77B(11)

CONTRACTED STAFF**1 Designation of contracted staff**

- (1) The Chief Constable may by a designation in writing (and not otherwise) assign functions specified in the designation to a contracted person named in it.
- (2) A contracted person so designated —
 - (a) shall have the powers and duties conferred or imposed on him or her —
 - (i) by any relevant provision made under section 77B(5)(a); and
 - (ii) by the designation in accordance with section 77B(5)(b); and
 - (b) when exercising any of those powers or performing any of those duties, shall act under the direction and control of the Chief Constable.
- (3) The Chief Constable shall not designate a contracted person under this paragraph unless he or she is satisfied that that person —
 - (a) is a suitable person to carry out the functions assigned to him or her;
 - (b) is capable of effectively carrying out those functions; and
 - (c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred or imposed on him or her as mentioned in sub-paragraph (2)(a).
- (4) The Chief Constable shall not designate a contracted person under this paragraph unless he or she is satisfied that the contractor is a fit and proper person to supervise the carrying out of the functions assigned to the contracted person.
- (5) A designation, unless it is previously withdrawn or ceases to have effect in accordance with sub-paragraph (6), shall remain in force for such period as may be specified in the designation; but it may be renewed at any time with effect from the time when it would otherwise expire.
- (6) A designation shall cease to have effect —
 - (a) if the contracted person ceases to be an employee of the contractor;
 - (b) if the contract between the Department and the contractor is terminated or expires; or
 - (c) if it is withdrawn under sub-paragraph (7).

- (7) The Chief Constable may at any time, by notice to a contracted person, modify or withdraw a designation.
- (8) Where a contracted person's designation is modified or withdrawn, the Chief Constable shall send a copy of the notice to the contractor by whom that person is employed.

2 Powers and duties of contracted staff

- (1) A contracted person authorised or required to do anything by virtue of a designation —
 - (a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of his or her employment by the contractor; and
 - (b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in that designation.
- (2) Where any power exercisable by any person in reliance on his or her designation is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.
- (3) A contracted person who exercises or performs any power or duty in relation to any person in reliance on his or her designation, or who purports to do so, shall produce that designation to that person, if requested to do so.
- (4) Except in such circumstances as may be specified in an order under section 77B, a power exercisable by a contracted person in reliance on his or her designation shall be exercisable only by a person wearing such uniform as may be —
 - (a) determined or approved by the Chief Constable for the purpose of this sub-paragraph; and
 - (b) identified or described in the designation.

3 Complaints etc.

- (1) An order under section 77B shall apply to contracted persons the provisions of Schedule 1 to the *Police Act 1993* with respect to complaints against or misconduct of members of the police force, with such modifications as are specified in the order.
- (2) For the purposes of determining liability for the unlawful conduct of contracted staff, conduct by a contracted person in reliance or purported reliance on a designation shall be taken to be conduct in the course of his or her employment by the contractor by whom he or she is employed; and,

in the case of a tort, that contractor shall fall to be treated as a joint tortfeasor accordingly.

4 Offences against contracted staff

- (1) Any person who assaults a contracted person in the execution of his or her duty is guilty of an offence and liable on summary conviction to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both.²²⁷
- (2) Any person who resists or wilfully obstructs a contracted person in the execution of his or her duty is guilty of an offence and liable on summary conviction to custody for a term not exceeding 3 months or to a fine not exceeding level 3 on the standard scale, or to both.²²⁸
- (3) Any person who, with intent to deceive —
 - (a) impersonates a contracted person;
 - (b) makes any statement or does any act calculated falsely to suggest that he or she is a contracted person; or
 - (c) makes any statement or does any act calculated falsely to suggest that he or she has powers as a contracted person that exceed the powers he or she actually has,is guilty of an offence and liable on summary conviction to custody for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or to both.²²⁹
- (4) In this paragraph references to the execution by a contracted person of his or her duty are to his or her exercising any power or performing any duty conferred or imposed on him or her as mentioned in paragraph 1(2)(a).

SCHEDULE 3¹**SERIOUS OFFENCES²³⁰**

Section 79

OFFENCES MENTIONED IN SECTION 79(2)

Criminal Code 1872

1. Section 2, 3, 4 or 5 (treason).
2. Section 18 (murder).
3. Section 20 (manslaughter).
4. Sections 60B to 60D (unlawful detention, kidnapping and hostage taking).

Explosive Substances Act 1883

5. Section 2 (causing explosion likely to endanger life or property).

Sexual Offences and Obscene Publications Act 2021²³¹

6. Part 5, insofar as it relates to obscene matter or items.²³²

Firearms Act 1947

7. Section 22 (possession of firearms with intent to injure).
8. Section 23(1) (use of firearms and imitation firearms to resist arrest).

Firearms Act 1968

9. Section 1 (carrying firearms with criminal intent).

Aviation Security Act 1982 (an Act of Parliament)

10. Section 1 (hi-jacking).

Road Traffic Act 1985

11. Section 1 (causing death by dangerous driving).

¹ Schedule 3 modified in respect of psychoactive substances with effect from 18 August 2016 – See SD 2016/0230.

Criminal Justice Act 1988 (an Act of Parliament)

12. Section 134 (torture).

Sexual Offences and Obscene Publications Act 2021²³³

13. Section 4 (rape).²³⁴
14. Section 8 (rape of a child under 13).²³⁵
15. Section 9 (assault of a child under 13 by penetration).²³⁶
16. Section 12 where the child is under 13 and subsection (3) of that section applies (sexual activity with a child).²³⁷
- 16A. Section 28 (sexual activity with a child family member) where the child is under 13.²³⁸

Maritime Security Act 1995

17. Section 1 (hijacking of ships).
18. Section 2 (seizing or exercising control of fixed platforms).

SCHEDULE 4**MINOR AND CONSEQUENTIAL AMENDMENTS**

Section 83(1)

[Sch 4 amended by Children and Young Persons Act 2001 Sch 13 and by Anti-Terrorism and Crime Act 2003 Sch 15, and amends the following Acts —

Criminal Code 1872 q.v.

Criminal Law Act 1981 q.v.

Theft Act 1981 q.v.

Customs and Excise Management Act 1986 q.v.

Gaming, Betting and Lotteries Act 1988 q.v.

Criminal Justice Act 1990 q.v.

Wildlife Act 1990 q.v.

Criminal Justice Act 1991 q.v.

Drug Trafficking Act 1996 q.v.

Cruelty to Animals Act 1997 q.v.]

SCHEDULE 5**REPEAL OF ENACTMENTS**

Section 83(2)

[Sch 5 repeals the following Act wholly —

Criminal Justice (Intimate Body Searches) Act 1994

and the following Acts in part —

Newspapers Act 1846

Pedlars and Street Traders Act 1906

Obscene Publications and Indecent Advertisements Act 1907

Petty Sessions and Summary Jurisdiction Act 1927

Firearms Act 1947

Prevention of Crime Act 1954

Children and Young Persons Act 1966

Firearms Act 1968

Chapmen's Act 1971

Misuse of Drugs Act 1976

Criminal Law Act 1981

Theft Act 1981

Isle of Man Passenger Transport Act 1982

Non-Resident Traders Act 1983

Highways Act 1986

Customs and Excise Management Act 1986

Gaming, Betting and Lotteries Act 1988

Summary Jurisdiction Act 1989

Wildlife Act 1990

Sexual Offences Act 1992

Police Act 1993

Shot Guns, Air Weapons and Cross-bows Act 1994

Licensing Act 1995.]

ENDNOTES

Table of Endnote References

¹ Para (aa) inserted by Fireworks Act 2004 s 6.

² Para (d) substituted by Fraud Act 2017 Sch 1.

³ Subs (1) substituted by Criminal Justice Act 2001 s 18.

⁴ Subs (2) repealed by Criminal Justice Act 2001 s 18.

⁵ Subs (3) amended by Criminal Justice Act 2001 s 18.

⁶ Subs (3A) inserted by Criminal Justice Act 2001 s 18.

⁷ Subs (8) amended by Fines and Penalties Act 2024 Sch 3.

⁸ Subs (9) amended by Criminal Justice Act 2001 s 18.

⁹ Subs (11) added by Criminal Justice Act 2001 s 18.

¹⁰ Subs (12) added by Criminal Justice Act 2001 s 18.

¹¹ Para (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹² Para (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹³ Subs (3) amended by Fines and Penalties Act 2024 Sch 3.

¹⁴ Para (c) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹⁵ Para (a) amended by SD155/10 Sch 5.

¹⁶ Subs (11) amended by Harbours Act 2010 Sch 4.

¹⁷ Subpara (i) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹⁸ Para (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹⁹ Subpara (i) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

²⁰ Para (c) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

²¹ Para (c) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

²² Subpara (i) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 23.

²³ Para (d) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 23.

²⁴ Subs (1A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 23.

²⁵ Subs (1B) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 23.

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- ²⁶ Subs (1C) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 23.
- ²⁷ Subs (1D) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 23.
- ²⁸ S 11A inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 24.
- ²⁹ Subpara (iii) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 25.
- ³⁰ Para (b) substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 25.
- ³¹ Subs (2A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 25.
- ³² Subs (4) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.
- ³³ Subs (5) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 25.
- ³⁴ Subs (5A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 25.
- ³⁵ Subpara (iv) substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 25.
- ³⁶ Subs (7) substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 25.
- ³⁷ Subs (8) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 25.
- ³⁸ Subs (3) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 26.
- ³⁹ Subs (3A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 26.
- ⁴⁰ Subs (3B) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 26.
- ⁴¹ Subs (9) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 26.
- ⁴² Para (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.
- ⁴³ Para (ba) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 15.
- ⁴⁴ Para (bb) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 15.
- ⁴⁵ Para (bc) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 15.
- ⁴⁶ Para (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.

⁴⁷ Subs (1) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 Sch 3.

⁴⁸ Subs (4) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 29.

⁴⁹ Subs (1) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 29.

⁵⁰ S 26 amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

⁵¹ Part IIA inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁵² S 26A inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁵³ S 26B inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁵⁴ S 26C inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁵⁵ S 26D inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁵⁶ S 26E inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁵⁷ S 26F inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁵⁸ S 26G inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁵⁹ S 26H inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶⁰ S 26I inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶¹ S 26J inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶² S 26K inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶³ S 26L inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶⁴ S 26M inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶⁵ S 26N inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶⁶ S 26O inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶⁷ S 26P inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 28.

⁶⁸ S 27 substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 30.

⁶⁹ S 28 substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 30.

⁷⁰ S 28A inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 30.

⁷¹ Para (b) substituted by Anti-Terrorism and Crime Act 2003 Sch 14.

⁷² Subs (10) amended by Anti-Terrorism and Crime Act 2003 Sch 14.

⁷³ Subs (6) amended by Police (Detention and Bail) Act 2017 s 2. [Editorial Note: the words “This subsection is subject to section 50(5) (which provides for the calculation of certain periods, where a person has been granted bail under this Part, by reference to time when the person is in police detention only).” added by Police (Detention and Bail) Act 2017 are deemed always to have had effect – see s.2(3) of that Act.]

⁷⁴ Subs (12) amended by Children and Young Persons Act 2001 Sch 12.

⁷⁵ Definition of “arrested juvenile” amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 33.

⁷⁶ Subpara (v) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

⁷⁷ Subs (6) amended by Children and Young Persons Act 2001 Sch 12, by SD155/10 Sch 6 and by SD2014/08.

⁷⁸ Subs (4) amended by Children and Young Persons Act 2001 Sch 12, by SD155/10 Sch 6 and by SD2014/08.

⁷⁹ Subs (5) amended by Children and Young Persons Act 2001 Sch 12, by SD155/10 Sch 6 and by SD2014/08.

⁸⁰ Para (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

⁸¹ Para (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

⁸² Subpara (ii) amended by SD155/10 Sch 6 and by SD2014/08.

⁸³ S 49A inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 34.

⁸⁴ Subs (5) amended by Police (Detention and Bail) Act 2017 s 2. [Editorial Note: the words “and any time during which the person was on bail shall not be so included” added by the Police (Detention and Bail) Act 2017 are deemed always to have had effect – see s.2(3) of that Act.]

⁸⁵ Subs (7) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 16.

⁸⁶ S 50A inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 17.

⁸⁷ Subs (1) amended by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 18.

⁸⁸ Subs (1A) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 18.

⁸⁹ Para (b) substituted by Anti-Terrorism and Crime Act 2003 Sch 14.

⁹⁰ See General Note.

⁹¹ Subpara (ii) substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5.

⁹² S 55 substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 37.

⁹³ Para (a) repealed by Anti-Terrorism and Crime Act 2003 Sch 15.

⁹⁴ S 57A inserted by Anti-Terrorism and Crime Act 2003 Sch 11.

⁹⁵ Subs (1) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 38.

⁹⁶ Subs (3A) inserted by Criminal Justice, Police and Courts Act 2007 s 13.

⁹⁷ Subs (3B) inserted by Criminal Justice, Police and Courts Act 2007 s 13.

⁹⁸ Para (b) amended by Children and Young Persons Act 2001 Sch 12.

⁹⁹ Subs (11A) inserted by Criminal Justice, Police and Courts Act 2007 s 13.

¹⁰⁰ Subs (12) amended by Criminal Justice, Police and Courts Act 2007 s 13.

¹⁰¹ Para (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.

¹⁰² Subs (14A) inserted by Criminal Justice, Police and Courts Act 2007 s 13.

¹⁰³ Definition of “juvenile” inserted by Criminal Justice, Police Powers and other Amendments Act 2014 s 38.

¹⁰⁴ S 58A inserted by Criminal Justice, Police Powers and other Amendments Act 2014 s 39.

¹⁰⁵ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹⁰⁶ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹⁰⁷ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹⁰⁸ Subs (7) substituted by Proceeds of Crime Act 2008 Sch 7.

¹⁰⁹ Subs (7A) inserted by Proceeds of Crime Act 2008 Sch 7.

¹¹⁰ Subs (12) substituted by Anti-Terrorism and Crime Act 2003 Sch 14.

¹¹¹ Subs (13) repealed by Anti-Terrorism and Crime Act 2003 Sch 14.

¹¹² S 60 repealed by Children and Young Persons Act 2001 Sch 13.

¹¹³ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹¹⁴ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹¹⁵ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹¹⁶ Subs (10) substituted by Proceeds of Crime Act 2008 Sch 7.

¹¹⁷ Subs (10A) inserted by Proceeds of Crime Act 2008 Sch 7.

¹¹⁸ Subs (14) substituted by Anti-Terrorism and Crime Act 2003 Sch 14.

¹¹⁹ Subs (15) to (20) repealed by Anti-Terrorism and Crime Act 2003 Sch 14.

¹²⁰ S 63 substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 40.

¹²¹ Subs (2A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 41.

¹²² Para (b) amended by Anti-Terrorism and Crime Act 2003 Sch 11.

¹²³ Subs (4) amended by Anti-Terrorism and Crime Act 2003 Sch 11.

¹²⁴ Subs (6) substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 41.

¹²⁵ Para (b) substituted by Anti-Terrorism and Crime Act 2003 Sch 14.

¹²⁶ Subss (10) and (11) repealed by Anti-Terrorism and Crime Act 2003 Sch 15.

¹²⁷ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 42.

¹²⁸ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 42.

¹²⁹ Subs (2A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 42.

¹³⁰ Subs (2B) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 42.

¹³¹ Subs (3) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 42.

¹³² Subs (4) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 42.

¹³³ Subs (9) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 42.

¹³⁴ Subs (14) added by Anti-Terrorism and Crime Act 2003 Sch 14.

¹³⁵ Subs (2A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 43.

¹³⁶ Subs (6) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 43.

¹³⁷ Subs (7) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 43.

¹³⁸ Subs (7A) inserted by Criminal Justice, Police and Courts Act 2007 s 14 and amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 43.

¹³⁹ Subs (10) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 43.

¹⁴⁰ Subs (12) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 43.

¹⁴¹ Subs (14) added by Anti-Terrorism and Crime Act 2003 Sch 14.

¹⁴² Subs (1) substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 44.

¹⁴³ Subs (1A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 44.

¹⁴⁴ Subs (1B) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 44.

¹⁴⁵ Subs (1C) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 44.

¹⁴⁶ Subs (1D) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 44.

¹⁴⁷ Subs (1E) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 44.

¹⁴⁸ Subs (1F) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 44.

¹⁴⁹ Subs (1G) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 44.

¹⁵⁰ Subs (1A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 45.

¹⁵¹ Subs (1B) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 45.

¹⁵² Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 45.

¹⁵³ Para (c) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 45.

¹⁵⁴ Subs (7) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 45.

¹⁵⁵ S 68A inserted by Anti-Terrorism and Crime Act 2003 Sch 11.

¹⁵⁶ Definition of “analysis” inserted by Criminal Justice, Police and Courts Act 2007 s 15.

¹⁵⁷ Para (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 46.

¹⁵⁸ Definitions of “drug trafficking” and “drug trafficking offence” repealed by Proceeds of Crime Act 2008 Sch 9.

¹⁵⁹ Para (e) substituted by Criminal Justice, Police and Courts Act 2007 s 15.

¹⁶⁰ Definition of “skin impression” inserted by Criminal Justice, Police and Courts Act 2007 s 15.

¹⁶¹ Definition of “the terrorism provisions” substituted by Anti-Terrorism and Crime Act 2003 Sch 14.

¹⁶² Definition of “terrorism” substituted by Anti-Terrorism and Crime Act 2003 Sch 14.

¹⁶³ Definition of “proceeds of drug trafficking” repealed by Proceeds of Crime Act 2008 Sch 9.

¹⁶⁴ Subs (1) (previously s 69) renumbered by Criminal Justice, Police and Courts Act 2007 s 15.

¹⁶⁵ Subs (2) added by Criminal Justice, Police and Courts Act 2007 s 15.

¹⁶⁶ Para (c) added by Anti-Terrorism and Crime (Amendment) Act 2011 s 55.

¹⁶⁷ Para (e) (as substituted by section 47 of the Criminal Justice, Police Powers and Other Amendments Act 2014) is only brought into operation for the purpose of making

and bringing into operation a code of practice with regard to the exercise of police powers under sections 74 and 76 of the Licensing Act 1995 (see Art 4 SD2014/0362).

¹⁶⁸ S 75 substituted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 47.

¹⁶⁹ Subs (3A) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 48.

¹⁷⁰ S A77 inserted by Criminal Justice, Police and Courts Act 2007 s 16.

¹⁷¹ Subpara (i) amended by Proceeds of Crime Act 2008 Sch 7.

¹⁷² Para (c) added by Proceeds of Crime Act 2008 Sch 7.

¹⁷³ Subs (3) substituted by Proceeds of Crime Act 2008 Sch 7.

¹⁷⁴ S 77A inserted by Proceeds of Crime Act 2008 Sch 7.

¹⁷⁵ S 77B inserted by Police (amendment) Act 2016 s 4.

¹⁷⁶ S 79 heading amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50.

¹⁷⁷ Subs (1) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50.

¹⁷⁸ Para (b) substituted by Proceeds of Crime Act 2008 Sch 7.

¹⁷⁹ Subs (2) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50.

¹⁸⁰ Subs (3) amended by Anti-Terrorism and Crime Act 2003 Sch 15 and by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50.

¹⁸¹ Subs (4) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50.

¹⁸² Subs (5) repealed by Anti-Terrorism and Crime Act 2003 Sch 15.

¹⁸³ Subs (9) inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50.

¹⁸⁴ P1984/60/117]Where any provision of this Act

¹⁸⁵ Definition of "all premises warrant" inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 51.

¹⁸⁶ Definition of "arrestable offence" repealed by Criminal Justice, Police Powers and Other Amendments Act 2014 s 51.

¹⁸⁷ Definitions of "child" and "young person" repealed by Criminal Justice, Police Powers and Other Amendments Act 2014 s 51.

¹⁸⁸ Definition of "juvenile" repealed by Criminal Justice, Police Powers and Other Amendments Act 2014 s 51.

¹⁸⁹ Definition of "parent or guardian" amended by SD155/10 Sch 6 and by SD2014/08.

¹⁹⁰ Definition of "registered medical practitioner" inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 51.

¹⁹¹ Definition of "registered nurse" inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 51.

¹⁹² Definition of "serious offence" inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 51.

¹⁹³ Definition of “specific premises warrant” inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 51.

¹⁹⁴ Para (a) amended by Anti-Terrorism and Crime Act 2003 Sch 14.

¹⁹⁵ ADO (ss 62, 63, 75, 76) 20/10/1998; (remaining provisions) 11/1/1999 (SD592/98).

¹⁹⁶ Cross heading amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.

¹⁹⁷ Para 1 amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.

¹⁹⁸ Item (i) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.

¹⁹⁹ Item (ii) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 27.

²⁰⁰ Subpara (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 27.

²⁰¹ Para 4 amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.

²⁰² Subpara (b) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 29.

²⁰³ Para 5 amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 29.

²⁰⁴ Para 8 amended by Interpretation Act 2015 s 106.

²⁰⁵ Para 10 amended by Interpretation Act 2015 s 106.

²⁰⁶ Subpara (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.

²⁰⁷ Cross heading amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.

²⁰⁸ Item (ii) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 27.

²⁰⁹ Para 12 amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 27 and s 52.

²¹⁰ Para 12A inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 27.

²¹¹ Subpara (a) amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 27.

²¹² Para 15 amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.

²¹³ Para 16 amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 52.

²¹⁴ Sch 1A inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 29.

²¹⁵ Para 1 heading substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).

- ²¹⁶ Para 1 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5 and amended by SD2024/0108, subject to savings provisions (see SD2024/0108).
- ²¹⁷ Subpara (2) repealed by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²¹⁸ Para 14 inserted by Animal Welfare Act 2023 s 41.
- ²¹⁹ Para 17 heading substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²²⁰ Para 17 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²²¹ Para 23 heading substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²²² Para 23 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²²³ Sch 1B inserted by Criminal Justice, Police Powers and Other Amendments Act 2014 s 29.
- ²²⁴ Para (a) substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²²⁵ Entry amended by Road Traffic Legislation (Amendment) Act 2021 s 39.
- ²²⁶ Sch 2A inserted by Police (Amendment) Act 2017 s 4.
- ²²⁷ Subpara (1) amended by Fines and Penalties Act 2024 Sch 5.
- ²²⁸ Subpara (2) amended by Fines and Penalties Act 2024 Sch 3.
- ²²⁹ Subpara (3) amended by Fines and Penalties Act 2024 Sch 5.
- ²³⁰ Sch 3 heading amended by Criminal Justice, Police Powers and Other Amendments Act 2014 s 50 and Sch 3.
- ²³¹ Cross-heading substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²³² Para 6 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²³³ Cross-heading substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²³⁴ Para 13 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²³⁵ Para 14 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²³⁶ Para 15 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²³⁷ Para 16 substituted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).
- ²³⁸ Para 16A inserted by Sexual Offences and Obscene Publications Act 2021 Sch 5, subject to savings provisions (see SD2024/0108).