



House of Commons
Amendments 6 June 2016 6:49 pm
CONSIDERATION OF BILL

POLICING AND CRIME BILL

Secretary Theresa May

1

To move the following Clause—

“Inspection of fire and rescue authorities

- (1) The Fire and Rescue Services Act 2004 is amended as follows.
- (2) In section 28 (inspectors), before subsection (1) insert—
 - “(A1) Her Majesty may appoint such number of inspectors of fire and rescue authorities in England (the “English inspectors”) as the Secretary of State may determine.
 - (A2) Of the persons appointed under subsection (A1) one is to be appointed as the chief fire and rescue inspector for England.
 - (A3) The English inspectors must inspect, and report on the efficiency and effectiveness of, fire and rescue authorities in England.
 - (A4) The English inspectors must carry out such other duties for the purpose of furthering the efficiency and effectiveness of fire and rescue authorities in England as the Secretary of State may from time to time direct.
 - (A5) The chief fire and rescue inspector for England may appoint assistant inspectors and other officers for the purpose of assisting the English inspectors.
 - (A6) When carrying out an inspection under subsection (A3) of a fire and rescue authority created by an order under section 4A, an English inspector must not review or scrutinise decisions made, or other action taken, by the fire and rescue authority in connection with the discharge of an excluded function.
 - (A7) For the purposes of subsection (A6), the following are excluded functions in relation to a fire and rescue authority—
 - (a) the function of preparing a fire and rescue plan and a fire and rescue statement (within the meaning of Schedule A2);
 - (b) the functions that the authority has in its capacity as a major precepting authority for the purposes of Part 1 of the Local Government Finance Act 1992;
 - (c) the function of appointing a chief finance officer under section 4D(4);

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- (d) where functions of the authority have been delegated to a chief constable under an order under section 4H, the functions conferred on the authority by section 4J(4) and (5);
 - (e) functions specified, or of a description specified, in relation to that authority in an order made by the Secretary of State.
- (A8) The power under subsection (A7)(e) may be exercised in relation to—
- (a) all fire and rescue authorities created by an order under section 4A,
 - (b) a particular fire and rescue authority created by an order under section 4A, or
 - (c) a particular description of fire and rescue authorities created by an order under section 4A.
- (A9) Schedule A3 makes further provision in relation to the English inspectors.”
- (3) In section 28, in subsection (1)(a), after “fire and rescue authorities” insert “in Wales”.
- (4) After section 28 insert—

“28A Inspection programme and inspection framework etc: England

- (1) The chief fire and rescue inspector for England must from time to time prepare—
 - (a) a document setting out what inspections of fire and rescue authorities in England the English inspectors propose to carry out under section 28(A3) (an “inspection programme”);
 - (b) a document setting out the manner in which the English inspectors propose to carry out the function conferred on them by section 28(A3) (an “inspection framework”).
- (2) The chief fire and rescue inspector for England must obtain the approval of the Secretary of State to an inspection programme or inspection framework before the English inspectors act in accordance with it.
- (3) The Secretary of State may at any time require the chief fire and rescue inspector for England to carry out, or arrange for another English inspector to carry out, an inspection under section 28(A3) of—
 - (a) a fire and rescue authority in England;
 - (b) all fire and rescue authorities in England;
 - (c) all fire and rescue authorities in England of a particular type.
- (4) A requirement imposed under subsection (3) may limit the inspection to a particular matter.
- (5) The chief fire and rescue inspector for England or, at the request of that inspector, any other English inspector may carry out an inspection under section 28(A3) of a fire and rescue authority in England that has not been set out in an inspection programme (and has not been required under subsection (3)).
- (6) Before deciding to carry out, or to request another English inspector to carry out, an inspection of a fire and rescue authority in England that has not been set out in an inspection programme, the chief fire and rescue inspector for England must consult the Secretary of State.
- (7) Nothing in an inspection programme or inspection framework is to be read as preventing an English inspector from making a visit without notice.

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- (8) In this section “English inspector” means an inspector appointed under section 28(A1).”
- (5) After section 28A (as inserted by subsection (4)) insert—
- “28B Publication of inspection reports etc: England**
- (1) The chief fire and rescue inspector for England must arrange for a report prepared under section 28(A3) to be published in such manner as appears to him or her to be appropriate.
- (2) But the chief fire and rescue inspector for England must exclude from publication under subsection (1) anything that he or she considers—
- (a) would be against the interests of national security, or
- (b) might jeopardise the safety of any person.
- (3) The chief fire and rescue inspector for England must—
- (a) send a copy of the published report to the Secretary of State, and
- (b) disclose to the Secretary of State anything excluded from publication by virtue of subsection (2).
- (4) The chief fire and rescue inspector for England must in each year submit to the Secretary of State a report on the carrying out of inspections under section 28(A3) (during the period since the last report).
- (5) A report under subsection (4) must include the chief fire and rescue inspector for England’s assessment of the efficiency and effectiveness of fire and rescue authorities in England for the period in respect of which the report is prepared.
- (6) The chief fire and rescue inspector for England must lay before Parliament a copy of a report submitted under subsection (4).
- (7) In this section “English inspector” means an inspector appointed under section 28(A1).”
- (6) In Schedule A2 (application of legislation relating to police and crime commissioners) (as inserted by Schedule 1 to this Act), in paragraph 8(2) (powers of police and crime panels: modifications of section 28 of the Police Reform and Social Responsibility Act 2011), after paragraph (c) insert—
- “(ca) the references in subsection (6) to the commissioner’s functions were to the functions of the relevant fire and rescue authority that are excluded functions for the purposes of section 28(A6) of this Act (see section 28(A7)),”
- (7) After Schedule A2 insert the new Schedule A3 set out in Schedule (*Schedule to be inserted as Schedule A3 to the Fire and Rescue Services Act 2004*) to this Act.
- (8) A person appointed, before the coming into force of this section, under section 28 of the Fire and Rescue Services Act 2004 for the purpose of obtaining information in relation to the functions of fire and rescue authorities in England (including a person taken to have been so appointed by virtue of subsection (3) of that section) is to be taken—
- (a) if an inspector, to have been appointed under subsection (A1) of that section, and
- (b) if an assistant inspector or other officer, to have been appointed under subsection (A5) of that section.”

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Member's explanatory statement

The new clause amends, in relation to England, the provision in the Fire and Rescue Services Act 2004 about inspections. New subsections (A1), (A2) and (A5) change the process for appointing inspectors, assistant inspectors and other officers and provide for one of the inspectors appointed to be the chief fire and rescue inspector for England. That person will have to prepare documents setting out details of proposed inspections (see new section 28A). New section 28B of the 2004 Act will impose new reporting requirements.

Secretary Theresa May

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To move the following Schedule—

“SCHEDULE TO BE INSERTED AS SCHEDULE A3 TO THE FIRE AND RESCUE SERVICES ACT
2004

“SCHEDULE A3

Section 28

ENGLISH INSPECTORS

Interpretation

- 1 (1) This paragraph applies for the purposes of this Schedule.
- (2) References to an English inspector are to an inspector appointed under section 28(A1).
- (3) References to the inspection function are to the function conferred on the English inspectors by section 28(A3).
- (4) References to a person providing services to a fire and rescue authority are to a person providing services, in pursuance of contractual arrangements (but without being employed by a fire and rescue authority), to assist the fire and rescue authority in relation to the exercise of its functions.
- (5) “Public authority” includes any person certain of whose functions are functions of a public nature.

Delegation

- 2 An English inspector may arrange for the inspection function to be exercised (to such extent as the inspector may determine) by another public authority on behalf of the inspector.

Working with Her Majesty's Inspectors of Constabulary

- 3 An English inspector, when exercising the inspection function, must co-operate with Her Majesty's Inspectors of Constabulary.
- 4 An English inspector may act jointly with Her Majesty's Inspectors of Constabulary where it is appropriate to do so for the efficient and effective exercise of the inspection function.

Assistance for other public authorities

- 5 (1) The chief fire and rescue inspector for England may, if he or she thinks it appropriate to do so, provide assistance to any other public

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authority for the purpose of the exercise by that authority of its functions.

- (2) The chief fire and rescue inspector for England may do anything he or she thinks appropriate to facilitate the carrying out of an inspection under section 10 of the Local Government Act 1999 (inspection of best value authorities).
- (3) Anything done under this paragraph may be done on such terms (including terms as to payment) as the chief fire and rescue inspector for England thinks fit.

Powers of English inspectors to obtain information etc

- 6 (1) An English inspector may serve on a relevant person a notice requiring the person—
 - (a) to provide the inspector with any information or documents that the inspector reasonably requires for the purpose of the exercise of the inspection function;
 - (b) to produce or deliver up to the inspector any evidence or other things that the inspector reasonably requires for that purpose.

This is subject to sub-paragraphs (6) to (8).

- (2) In sub-paragraph (1), “relevant person” means—
 - (a) a fire and rescue authority in England;
 - (b) an employee of a fire and rescue authority in England;
 - (c) a person providing services to a fire and rescue authority in England;
 - (d) an employee of a person providing services to a fire and rescue authority in England.
- (3) A notice under this paragraph must—
 - (a) specify or describe the information, documents, evidence or other things that are required by the inspector;
 - (b) specify the period within which the information, documents, evidence or other things must be provided, produced or delivered up.
- (4) A notice under this paragraph may specify the form and manner in which any information, documents, evidence or other things are to be provided, produced or delivered up.
- (5) An English inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.
- (6) A notice under this paragraph must not be used to obtain information, or any document or other thing, from a person if—
 - (a) the information, or the document or other thing, was obtained by that person (directly or indirectly) from a body or other entity mentioned in sub-paragraph (7), or
 - (b) the information, or the document or other thing, relates to a body or other entity mentioned in that sub-paragraph.
- (7) The bodies and other entities referred to in sub-paragraph (6) are—
 - (a) the Security Service,

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- (b) the Secret Intelligence Service,
 - (c) the Government Communications Headquarters, or
 - (d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities.
- (8) A notice under this paragraph must not require a person—
- (a) to provide information that might incriminate the person;
 - (b) to provide an item subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act).
- (9) In this paragraph—
- “document” means anything in which information of any description is recorded;
- “English inspector” includes—
- (a) a person appointed under section 28(A5) as an assistant inspector or other officer;
 - (b) a person authorised by an English inspector to act on behalf of the inspector for the purposes of this paragraph.

Powers of English inspectors to obtain access to premises

- 7 (1) An English inspector may serve on a person a notice requiring the person to allow the inspector access, which the inspector reasonably requires for the purpose of the exercise of the inspection function, to—
- (a) premises that are occupied for the purposes of —
 - (i) a fire and rescue authority in England,
 - (ii) a person providing services to a fire and rescue authority in England, and
 - (b) documents and other things on those premises.
- (2) A notice under this paragraph must—
- (a) specify or describe the premises to which the inspector requires access;
 - (b) specify the time when access is required (which may be immediately after the service of the notice).
- (3) Where there are reasonable grounds for not allowing the inspector to have access to the premises at the time specified under sub-paragraph (2)(b), the requirement under this paragraph has effect as a requirement to secure that access is allowed to the inspector at the earliest practicable time specified by the inspector after there cease to be such grounds.
- (4) An English inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.
- (5) In this paragraph “document” and “English inspector” have the same meanings as in paragraph 6 (and, for that purpose, the reference in paragraph (b) of the definition of “English inspector” in paragraph 6(9) to paragraph 6 is to be read as a reference to this paragraph).

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Failure to comply with notice under paragraph 6 or 7

- 8 (1) If a person who has received a notice under paragraph 6 or 7—
- (a) fails or refuses without reasonable excuse to do what is required by the notice, or
 - (b) (in the case of a notice under paragraph 6) knowingly or recklessly provides information in response to the notice that is false in a material respect,
- the chief fire and rescue inspector for England may certify in writing to the High Court that the person has failed to comply with the notice.
- (2) The High Court may then inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person, and after hearing any statement offered in defence, deal with the person as if the person had committed a contempt of court.

Sensitive information: restriction on further disclosure

- 9 (1) Where an English inspector, in exercise of the inspection function, receives information within sub-paragraph (2), the inspector must not disclose the information, or the fact that it has been received, unless the relevant authority consents to the disclosure.
- (2) The information is—
- (a) intelligence service information;
 - (b) information obtained from a government department which, at the time it is provided to the inspector, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority—
 - (i) cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or
 - (ii) jeopardise the safety of any person.
- (3) Where an English inspector discloses to another person information within sub-paragraph (2) that the inspector received in exercise of the inspection function, or the fact that the inspector has received such information in exercise of the inspection function, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.
- (4) A prohibition on disclosure in sub-paragraph (1) or (3) does not apply to disclosure by one English inspector to another.
- (5) In this paragraph—
- “English inspector” includes—
 - (a) a person appointed under section 28(A5) as an assistant inspector or other officer;
 - (b) a person authorised by an English inspector to act on behalf of the inspector for the purposes of paragraph 6 or 7;
 - “government department” means a department of Her Majesty’s Government but does not include—
 - (a) the Security Service,
 - (b) the Secret Intelligence Service, or

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(c) the Government Communications Headquarters (“GCHQ”);

“intelligence service information” means information that was obtained (directly or indirectly) from or that relates to—

- (a) the Security Service,
- (b) the Secret Intelligence Service,
- (c) GCHQ, or
- (d) any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities;

“Minister of the Crown” includes the Treasury;

“relevant authority” means—

- (a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;
- (b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;
- (c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;
- (d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty’s forces or the Ministry of Defence, the Secretary of State;
- (e) in the case of information within sub-paragraph (2)(b)—
 - (i) the Secretary of State, or
 - (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State).

Provision of intelligence service information to English inspectors

- 10 (1) A person who provides information that is intelligence service information to an English inspector exercising the inspection function must—
- (a) make the inspector aware that the information is intelligence service information, and
 - (b) provide the inspector with such additional information as will enable the inspector to identify the relevant authority in relation to the information.
- (2) In this paragraph, “English inspector”, “intelligence service information” and “relevant authority” have the same meaning as in paragraph 9.””

Member’s explanatory statement

Like the provision made by amendment 1, this new Schedule is about the inspection of fire and rescue authorities in England. It makes provision in relation to English inspectors about delegation, joint working with her Majesty’s Inspectors of Constabulary and the giving of assistance to public authorities. It also confers power on English inspectors to obtain information

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from fire and rescue authorities (and their employees) and from persons providing services to fire and rescue authorities (and their employees) and to obtain access to premises occupied for the purposes of fire and rescue authorities and persons providing services to them.

Secretary Theresa May

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Clause 12, page 20, line 39, leave out from first “person” to end of line 40 and insert “is not to be taken to have authorised another person to make a complaint on his behalf unless—”

Member’s explanatory statement

This amendment adjusts the wording of the amendment to section 12(6) of the Police Reform Act 2002 so that it fits better with paragraph (b) of that provision.

Secretary Theresa May

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Clause 17, page 30, line 6, after “paragraph 22)” insert “—
(i) in sub-paragraph (1A) (as inserted by section 16), after “sub-paragraph (2)(a)” insert “(read with sub-paragraph (2ZA))”;
(ii) ”

Member’s explanatory statement

This amendment clarifies the relationship between new sub-paragraph (1A) of paragraph 23 of Schedule 3 to the Police Reform Act 2002 (inserted by clause 16 of the Bill) and new sub-paragraph (2ZA) of that paragraph (inserted by clause 17 of the Bill).

Secretary Theresa May

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Clause 17, page 30, line 22, at end insert—
“() in paragraph 24B (action by the Commission in response to an investigation report under paragraph 24A), after sub-paragraph (1) insert—
“(1A) Sub-paragraph (3A) of paragraph 24A applies for the purposes of sub-paragraph (1) of this paragraph as it applies for the purposes of sub-paragraph (2)(b) of that paragraph.””

Member’s explanatory statement

This amendment is consequential on new section 21A of the Police Reform Act 2002, inserted by clause 17 of the Bill.

Secretary Theresa May

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Schedule 3, page 201, line 25, leave out sub-paragraph (5)

Member’s explanatory statement

The provision of the Bill omitted by this amendment is no longer needed given the addition at Committee of amendments to paragraph 26(5) of Schedule 3 to the Police Reform Act 2002 (see paragraph 37(7) of Schedule 4 to the Bill).

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Secretary Theresa May

7

To move the following Clause—

“Retention of fingerprints and DNA profiles: PACE

(1) Part 5 of the Police and Criminal Evidence Act 1984 (questioning and treatment of persons by police) is amended as follows.

(2) In section 63F (retention of section 63D material: persons arrested for or charged with a qualifying offence), after subsection (2) insert—

“(2A) In subsection (2), references to a recordable offence include an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (and, in the application of subsection (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).”

(3) In that section, after subsection (11) insert—

“(12) For the purposes of the definition of “excluded offence” in subsection (11)—

(a) references to a recordable offence or a qualifying offence include an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence or (as the case may be) a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted), and

(b) in the application of paragraph (b) of that definition in relation to an offence under the law of a country or territory outside England and Wales, the reference to a relevant custodial sentence of 5 years or more is to be read as a reference to a sentence of imprisonment or other form of detention of 5 years or more.”

(4) In section 63H (retention of section 63D material: persons arrested for or charged with a minor offence), after subsection (2) insert—

“(2A) In subsection (2), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).”

(5) In that section, in subsection (3), after “section 63F(11)” insert “(read with section 63F(12))”.

(6) After section 63I insert—

“63IA Retention of material: persons convicted of an offence outside England and Wales after taking of section 63D material

(1) This section applies where—

(a) section 63D material is taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence,

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- (b) at any time before the material is required to be destroyed by virtue of this Part of this Act, the person is convicted of an offence under the law of a country or territory outside England and Wales, and
 - (c) the act constituting the offence mentioned in subsection (1)(b) would constitute a recordable offence if done in England and Wales.
- (2) The material may be retained indefinitely.
- (3) This section does not apply where section 63KA applies.”
- (7) In the heading of section 63J, at the end insert “: other cases”.
- (8) In section 63K (retention of section 63D material: exception for persons under 18 convicted of minor offence), after subsection (1) insert—
 - “(1A) In subsection (1)(a)(ii), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).”
- (9) In that section, after subsection (5) insert—
 - “(5A) In subsection (5), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.”
- (10) After section 63K insert—
 - “63KA Retention of section 63D material under section 63IA: exception for persons under 18 convicted of first minor offence outside England and Wales**
 - (1) This section applies where—
 - (a) section 63D material is taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence,
 - (b) at any time before the material is required to be destroyed by virtue of this Part of this Act, the person is convicted of an offence under the law of a country or territory outside England and Wales,
 - (c) the act constituting the offence mentioned in subsection (1)(b) would constitute a recordable offence if done in England and Wales but would not constitute a qualifying offence,
 - (d) the person is aged under 18 at the time of the offence mentioned in subsection (1)(b), and
 - (e) the person has not previously been convicted of a recordable offence.
 - (2) In subsection (1)(e), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).
 - (3) Where the person is sentenced to imprisonment or another form of detention for less than 5 years in respect of the offence mentioned in

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subsection (1)(b), the section 63D material may be retained until the end of the period consisting of the term of the sentence plus 5 years.

- (4) Where the person is sentenced to imprisonment or another form of detention for 5 years or more in respect of the offence mentioned in subsection (1)(b), the material may be retained indefinitely.
 - (5) Where the person is given a sentence other than a sentence of imprisonment or other form of detention in respect of the offence mentioned in subsection (1)(b), the material may be retained until the end of the period of 5 years beginning with the date on which the person was arrested for the offence (or, if the person was not arrested for the offence, the date on which the person was charged with it).
 - (6) But if, before the end of the period within which material may be retained by virtue of this section, the person is again convicted of a recordable offence, the material may be retained indefinitely.
 - (7) In subsection (6), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.”
- (11) In section 63N (retention of section 63D material given voluntarily), after subsection (4) insert—
- “(5) The reference to a recordable offence in subsection (3)(a) includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.
 - (6) The reference to a recordable offence in subsections (3)(b) and (4), and the reference to a qualifying offence in subsection (4), includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence or (as the case may be) a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).””

Member’s explanatory statement

This new clause amends the provision made by the Police and Criminal Evidence Act 1984 for the retention of biometric material so that, where appropriate, convictions outside England and Wales are treated in the same way as convictions in England and Wales.

Secretary Theresa May

8

To move the following Clause—

“Retention of fingerprints and DNA profiles: Terrorism Act 2000

- (1) Schedule 8 to the Terrorism Act 2000 (detention) is amended as follows.
- (2) In paragraph 20B (retention of paragraph 20A material: persons detained under section 41), after sub-paragraph (2) insert—
 - “(2A) In sub-paragraph (2) —

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- (a) the reference to a recordable offence includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute—
 - (i) a recordable offence under the law of England and Wales if done there, or
 - (ii) a recordable offence under the law of Northern Ireland if done there,(and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted);
 - (b) the reference to an offence in Scotland which is punishable by imprisonment includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute an offence under the law of Scotland which is punishable by imprisonment if done there (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).”
- (3) In paragraph 20C (retention of paragraph 20A material: persons detained under Schedule 7), after sub-paragraph (2) insert—
- “(2A) In sub-paragraph (2) —
- (a) the reference to a recordable offence includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute—
 - (i) a recordable offence under the law of England and Wales if done there, or
 - (ii) a recordable offence under the law of Northern Ireland if done there,(and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted);
 - (b) the reference to an offence in Scotland which is punishable by imprisonment includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute an offence under the law of Scotland which is punishable by imprisonment if done there (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).”
- (4) In paragraph 20D (interpretation), after sub-paragraph (5) insert—
- “(5A) For the purposes of sub-paragraph (4)—
- (a) a person is to be treated as having previously been convicted in England and Wales of a recordable offence if —
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute a recordable offence under the law of England and Wales if done there (whether or not it constituted such an offence when the person was convicted);

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- (b) a person is to be treated as having previously been convicted in Northern Ireland of a recordable offence if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute a recordable offence under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted);
 - (c) a person is to be treated as having previously been convicted in Scotland of an offence which is punishable by imprisonment if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute an offence punishable by imprisonment under the law of Scotland if done there (whether or not it constituted such an offence when the person was convicted);
 - (d) the reference in sub-paragraph (4)(b) to a qualifying offence includes a reference to an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute a qualifying offence under the law of England and Wales if done there or (as the case may be) under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted).
- (5B) For the purposes of paragraphs 20B and 20C and this paragraph—
- (a) offence, in relation to any country or territory outside the United Kingdom, includes an act punishable under the law of that country or territory, however it is described;
 - (b) a person has in particular been convicted of an offence under the law of a country or territory outside the United Kingdom if—
 - (i) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity, or
 - (ii) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against the person in respect of the offence.””

Member’s explanatory statement

This new clause amends the provision made by Schedule 8 to the Terrorism Act 2000 for the retention of biometric material so that, where appropriate, convictions outside the United Kingdom are treated in the same way as convictions in the United Kingdom.

Secretary Theresa May

To move the following Clause—

Policing and Crime Bill, *continued*

“Extension of cross-border powers of arrest: urgent cases

In Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement), after section 137 insert—

“137A Additional cross-border powers of arrest etc: urgent cases

- (1) A constable of a police force in England and Wales may arrest a person in England and Wales without a warrant if—
 - (a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in Scotland or in Northern Ireland, and
 - (b) the constable also has reasonable grounds for believing that it is necessary to arrest the person—
 - (i) to allow the prompt and effective investigation of the offence, or
 - (ii) to prevent any prosecution for the offence from being hindered by the disappearance of the person.
- (2) A constable of a police force in Scotland may arrest a person in Scotland without a warrant if—
 - (a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in England and Wales or in Northern Ireland, and
 - (b) the constable is satisfied that it would not be in the interests of justice to delay the arrest either to enable a warrant for the person’s arrest to be obtained and then executed under section 136 or to enable a power of arrest under section 137 to be exercised.
- (3) Without prejudice to the generality of subsection (2)(b), it would not be in the interests of justice to delay an arrest for a purpose mentioned in that subsection if the constable reasonably believes that, unless the person is arrested without delay, the person will obstruct the course of justice in any way, including by seeking to avoid arrest or interfering with witnesses or evidence.
- (4) A constable of a police force in Northern Ireland may arrest a person in Northern Ireland without a warrant if—
 - (a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in England and Wales or in Scotland, and
 - (b) the constable also has reasonable grounds for believing that it is necessary to arrest the person—
 - (i) to allow the prompt and effective investigation of the offence, or
 - (ii) to prevent any prosecution for the offence from being hindered by the disappearance of the person.
- (5) The power conferred by subsection (1) or (2) may be exercised by a constable appointed under section 24 of the Railways and Transport Safety Act 2003 in England and Wales or (as the case may be) in Scotland, but only in relation to a person suspected of having committed a specified offence in Northern Ireland.

Policing and Crime Bill, *continued*

- (6) The following provisions apply in relation to an arrest under this section by a constable of a person suspected of having committed a specified offence in England and Wales or in Northern Ireland—
- (a) where the arrest is in England and Wales under subsection (1) or in Northern Ireland under subsection (4), the constable has the powers of entry and search conferred by section 137E;
 - (b) where the arrest is in Scotland under subsection (2), the constable has the same powers of entry and search for the purpose of the arrest as a constable of a police force in Scotland would have if there were reasonable grounds for suspecting that the offence had been committed in Scotland;
 - (c) the constable has the powers conferred by section 139 in relation to the arrested person;
 - (d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.
- (7) Where a constable is arresting under this section a person suspected of having committed a specified offence in Scotland, the constable has the same powers as a constable of a police force in Scotland would have if arresting the person for the offence in Scotland.
- (8) In this section—
- “constable of a police force”, in relation to Northern Ireland, means a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;
 - “specified offence” means an offence specified in regulations made by the Secretary of State under section 137B.

137B Power to specify offences for the purposes of section 137A

- (1) The Secretary of State may by regulations made by statutory instrument specify offences for the purposes of section 137A (see the definition of “specified offence” in subsection (8) of that section).
- (2) An offence may be specified in regulations under subsection (1) only if—
- (a) the offence is indictable, and
 - (b) the Secretary of State considers that it is necessary in the interests of justice to specify it for the purposes of section 137A.
- (3) For the purpose of subsection (2)(a), an offence is indictable if—
- (a) in the case of an offence under the law of England and Wales, it is an indictable offence in England and Wales;
 - (b) in the case of an offence under the law of Scotland, it may be tried on indictment in Scotland;
 - (c) in the case of an offence under the law of Northern Ireland, it is an indictable offence in Northern Ireland.
- (4) The Secretary of State may not make regulations under subsection (1) unless the Scottish Ministers and the Department of Justice in Northern Ireland consent to the making of the regulations.
- (5) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Policing and Crime Bill, *continued*

137C Detention for the purpose of re-arrest

- (1) A person arrested under section 137A in respect of a specified offence may be detained but only for the purpose of—
 - (a) enabling a warrant for the person's arrest in respect of the offence to be obtained and then executed under section 136, or
 - (b) enabling the person to be re-arrested under section 137.
- (2) The person may be detained for that purpose—
 - (a) for an initial period of 3 hours beginning with the time of the arrest;
 - (b) for a second period of no more than 21 hours beginning with the end of the initial period, but only if detention for that period is authorised by both an officer of at least the rank of inspector in the arresting force and an officer of at least the rank of inspector in the investigating force;
 - (c) for a third period of no more than 12 hours beginning with the end of the second period, but only if detention for that period is authorised by both an officer of a rank above that of inspector in the arresting force and an officer of a rank above that of inspector in the investigating force.
- (3) An officer of the arresting force may give an authorisation for the purpose of subsection (2)(b) or (c) only if satisfied that it is in the interests of justice to do so.
- (4) An officer of the investigating force may give an authorisation for the purpose of subsection (2)(b) only if satisfied that—
 - (a) there are reasonable grounds to suspect that the person has committed the specified offence,
 - (b) a constable intends that the person be arrested as soon as is reasonably practicable (whether by the obtaining and execution of a warrant under section 136 or under section 137) and is acting expeditiously for that purpose, and
 - (c) it is in the interests of justice to give the authorisation.
- (5) An officer of the investigating force may give an authorisation for the purpose of subsection (2)(c) only if satisfied that—
 - (a) there continue to be reasonable grounds to suspect that the person has committed the specified offence,
 - (b) a constable intends that the person be arrested as soon as is reasonably practicable (whether by the obtaining and execution of a warrant under section 136 or under section 137) and is acting expeditiously for that purpose, and
 - (c) it is in the interests of justice to give the authorisation.
- (6) If, at any time while the person is detained, an appropriate officer in the investigating force is satisfied that it is no longer in the interests of justice for the person to be detained—
 - (a) the officer must notify the arresting force, and
 - (b) the person must be released immediately.
- (7) In subsection (6), "appropriate officer" means—
 - (a) in relation to the person's detention for the initial period, any constable;

Policing and Crime Bill, *continued*

- (b) in relation to the person's detention for the second period, an officer of at least the rank of inspector;
 - (c) in relation to the person's detention for the third period, an officer of a rank above that of inspector.
- (8) In this section—
- “arresting force” means the police force of which the constable who arrested the person under section 137A is a member;
 - “investigating force” means the police force that is investigating the specified offence which the person arrested under section 137A is suspected of having committed;
 - “specified offence” has the same meaning as in section 137A (see sections 137A(8) and 137B).

137D Rights of persons arrested under section 137A

- (1) A person arrested under section 137A must be informed of the following matters as soon as is practicable after the arrest—
 - (a) the purpose for which the person may be detained under section 137C;
 - (b) the provision made by that section about the periods for which the person may be detained.
- (2) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in England and Wales (subject to regulations under subsection (5))—
 - (a) section 28 of the Police and Criminal Evidence Act 1984 (information to be given on arrest);
 - (b) section 56 of that Act (right to have someone informed when arrested);
 - (c) section 58 of that Act (access to legal advice);
 - (d) section 34 of the Children and Young Persons Act 1933 (additional protection for children and young persons).
- (3) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in Scotland (subject to regulations under subsection (5))—
 - (a) section 3 of the Criminal Justice (Scotland) Act 2016 (asp 1) (information to be given on arrest);
 - (b) Chapter 5 of Part 1 of that Act (rights of suspects in police custody).
- (4) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in Northern Ireland (subject to regulations under subsection (5))—
 - (a) article 30 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (information to be given on arrest);
 - (b) article 57 of that Order (right to have someone informed when arrested);
 - (c) article 59 of that Order (access to legal advice);
 - (d) article 10 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I.9)) (additional protection for children and young persons).

Policing and Crime Bill, *continued*

- (5) The Secretary of State may by regulations made by statutory instrument provide that any of the provisions mentioned in subsection (2), (3) or (4)—
 - (a) do not apply as mentioned in that subsection in cases or circumstances specified in the regulations;
 - (b) apply as mentioned in that subsection subject to such modifications as may be specified in the regulations (which may be general modifications or modifications that apply only in cases or circumstances specified in the regulations).
- (6) A statutory instrument containing regulations under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) The Secretary of State may not make regulations under subsection (5) which relate to a provision mentioned in subsection (3) unless the Scottish Ministers consent.
- (8) The Secretary of State may not make regulations under subsection (5) which relate to a provision mentioned in subsection (4) unless the Department of Justice in Northern Ireland consents.”

Member’s explanatory statement

This new clause extends the cross-border powers of arrest conferred by Part 10 of the Criminal Justice and Public Order Act 1994 by giving a constable of a police force in a particular part of the United Kingdom power to arrest a person in that part who is reasonably suspected of having committed a specified offence in another part. The Secretary of State has power by regulations to specify the offences. The powers of arrest are available only in urgent cases and for the purpose of enabling the person to be re-arrested either under section 136 (where a warrant is obtained) or under section 137. The clause also specifies limits on the period for which persons arrested under the new powers may be detained and makes other supplementary provision.

Secretary Theresa May

10

To move the following Clause—

“Cross-border enforcement: powers of entry to effect arrest

In Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement), after section 137D (as inserted by section (*Extension of cross-border powers of arrest: urgent cases*)) insert—

“137E Entry and search for the purposes of arrest

- (1) A constable may enter and search any premises—
 - (a) for the purpose of executing in England and Wales under section 136(2)(b) a warrant issued in Northern Ireland;
 - (b) for the purpose of executing in Northern Ireland under section 136(3)(a) a warrant issued in England and Wales;
 - (c) for the purpose of arresting a person in Northern Ireland under section 137(1) in respect of a relevant England and Wales offence;
 - (d) for the purpose of arresting a person in England and Wales under section 137(3) in respect of a relevant Northern Ireland offence;
 - (e) for the purpose of arresting a person in England and Wales under section 137A(1) in respect of a specified offence committed in Northern Ireland;

Policing and Crime Bill, *continued*

- (f) for the purpose of arresting a person in Northern Ireland under section 137A(4) in respect of a specified offence committed in England and Wales.
- (2) In subsection (1)—
- (a) “relevant England and Wales offence” means—
- (i) an offence that is an indictable offence in England and Wales;
 - (ii) an offence mentioned in section 17(1)(c) or (caa) of the Police and Criminal Evidence Act 1984;
- (b) “relevant Northern Ireland offence” means—
- (i) an offence that is an indictable offence in Northern Ireland;
 - (ii) an offence mentioned in article 19(1)(ba) to (c) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)).
- (3) The powers of entry and search conferred by subsection (1)—
- (a) are exercisable only 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 two or more separate dwellings, to powers to enter and search—
- (i) any part of the premises which the occupier of any dwelling comprised in the premises uses in common with the occupier 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.
- (4) The power of search conferred by subsection (1) is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.
- (5) In this section, “premises” includes any place and, in particular, includes—
- (a) any vehicle, vessel, aircraft or hovercraft,
 - (b) any offshore installation,
 - (c) any renewable energy installation, and
 - (d) any tent or movable structure.
- “Offshore installation” has the meaning given to it by section 44 of the Petroleum Act 1998.
- “Renewable energy installation” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act).”

Member’s explanatory statement

This new clause confers powers of entry and search for the purpose of making an arrest under Part 10 of the Criminal Justice and Public Order Act 1994 (as amended by the new clause inserted by amendment 9). It applies only in relation to the exercise of powers of arrest in England and Wales or Northern Ireland and only in respect of indictable and certain other offences committed in England and Wales or Northern Ireland.

Secretary Theresa May

To move the following Clause—

Policing and Crime Bill, *continued*

“Cross-border enforcement: minor and consequential amendments

Schedule (*Cross-border enforcement: minor and consequential amendments*)—

- (a) makes minor amendments of Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement), and
- (b) makes amendments consequential on the other amendments of that Part made by this Chapter.”

Member’s explanatory statement

This new clause introduces the Schedule inserted by amendment 12. It makes minor and consequential amendments of Part 10 of the Criminal Justice and Public Order Act 1994. In particular, it makes minor amendments to reflect changes made to the Police and Criminal Evidence Act 1984 and the Police and Criminal Evidence (Northern Ireland) Order 1989. It also makes other minor and consequential amendments.

12

To move the following Schedule—

“CROSS-BORDER ENFORCEMENT: MINOR AND CONSEQUENTIAL AMENDMENTS

AMENDMENTS OF PART 10 OF THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

- 1 Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement) is amended in accordance with paragraphs 2 to 8.

Powers of constables of PSNI etc. under section 137

- 2 (1) Section 137 (cross-border powers of arrest etc.) is amended as follows.
 - (2) In subsection (3), for “the conditions applicable to this subsection are satisfied” substitute “the condition applicable to this subsection is satisfied”.
 - (3) For subsection (6) substitute—
 - “(6) The condition applicable to subsection (3) above is that it appears to the constable that it would have been lawful for him to have exercised the powers had the suspected person been in Northern Ireland.”
 - (4) In subsection (9), omit the definition of “arrestable offence”.
- 3 In section 138 (powers of arrest: supplementary provisions), omit subsections (3) to (5).

Powers to search premises under section 139

- 4 (1) Section 139 (search powers available on arrests under sections 136 and 137) is amended as follows.
 - (2) In the heading, for “sections 136 and 137” substitute “sections 136, 137 and 137A”.
 - (3) For subsection (1) substitute—
 - “(1) The powers conferred by subsections (2) and (3) are available to a constable in relation to—

Policing and Crime Bill, *continued*

- (a) a person arrested under section 136(1), (2)(b) or (3)(a);
 - (b) a person arrested under section 137(1) or (3);
 - (c) a person arrested under section 137A in respect of a specified offence committed in England and Wales or Northern Ireland.”
- (4) Omit subsection (3)(b).
- (5) After subsection (3) insert—
- “(3A) The powers conferred by subsection (3B) are available to a constable in relation to—
- (a) a person arrested under section 136(1) or (3)(a) in the execution of a warrant issued in England and Wales in respect of an offence that is an indictable offence in England and Wales;
 - (b) a person arrested under section 136(1) or (2)(b) in the execution of a warrant issued in Northern Ireland in respect of an offence that is an indictable offence in Northern Ireland;
 - (c) a person arrested under section 137(1) in respect of an offence that is an indictable offence in England and Wales;
 - (d) a person arrested under section 137(3) in respect of an offence that is an indictable offence in Northern Ireland;
 - (e) a person arrested under section 137A(2) or (4) in respect of a specified offence committed in England and Wales;
 - (f) a person arrested under section 137A(1) or (2) in respect of a specified offence committed in Northern Ireland.
- (3B) The constable may enter and search any premises in which the person was when arrested or immediately before he was arrested for evidence relating to the offence.”
- (6) In subsection (4), after “subsection (3)” insert “or (3B)”.
- (7) In subsection (7)—
- (a) for “subsection (3)(b)” substitute “subsection (3B)”;
 - (b) for “that paragraph” substitute “that subsection”.
- (8) In subsection (8), for “subsection (3)(b)” substitute “subsection (3B)”.
- (9) After subsection (10) insert—
- “(10A) Where a constable of a police force in England and Wales searches premises in the exercise of the power conferred by subsection (3B) or where a constable of the British Transport Police searches premises in England and Wales in the exercise of that power—
- (a) the constable has the same powers as the constable would have under section 19 of the Police and Criminal Evidence Act 1984 if the search had taken place under section 32(2)(b) of that Act, and
 - (b) sections 21 and 22 of that Act apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.
- (10B) Where a constable of a police force in Northern Ireland searches premises in the exercise of the power conferred by subsection (3B)—
- (a) the constable has the same powers as the constable would have under article 21 of the Police and Criminal Evidence (Northern

Policing and Crime Bill, *continued*

Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) if the search had taken place under article 34(2)(b) of that Order, and

- (b) articles 23 and 24 of that Order apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.

(10C) Where a constable of a police force in Scotland searches premises in the exercise of the power conferred by subsection (3B), or where a constable of the British Transport Police searches premises in Scotland in the exercise of that power, the constable has the same powers of seizure and retention as the constable would have if the search had taken place in the exercise of a power of the constable (by virtue of any rule of law) in relation to a person arrested and charged with an offence by the constable in Scotland.”

(10) In subsection (12)—

- (a) in the definition of “premises”, at the end of paragraph (b) (before the “and”) insert—

“(ba) any renewable energy installation;”;

- (b) omit the “and” after that definition;

- (c) in the definition of “offshore installation” for “section 1 of the Mineral Workings (Offshore Installations) Act 1971” substitute “section 44 of the Petroleum Act 1998”;

- (d) at the end of the subsection insert “; and

“renewable energy installation” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act).”

Reciprocal powers of arrest - minor correction

5 In section 140 (reciprocal powers of arrest)—

- (a) in subsection (1), for the words in brackets substitute “(arrest without warrant)”;
- (b) in subsection (5), for the words in the second set of brackets substitute “(arrest without warrant)”.

References to the British Transport Commission Act 1949 - updating

6 In each of the following places, for references to “section 53 of the British Transport Commission Act 1949” substitute “section 24 of the Railways and Transport Safety Act 2003”—

- (a) section 136(1) and (2);
- (b) section 137(2A);
- (c) section 140(6A).

Other amendments

7 (1) Section 136 (execution of warrants) is amended as follows.

(2) After subsection (4) insert—

“(4A) The following provisions apply in relation to the execution under this section by a constable of a warrant issued in England and Wales or Northern Ireland—

Policing and Crime Bill, *continued*

- (a) where the warrant is executed under subsection (1), the constable has the same powers of entry and search for the purpose of executing the warrant as a constable of a police force in Scotland would have if the warrant had been issued in Scotland;
 - (b) where the warrant is executed under subsection (2)(b) or (3)(a), the constable has the powers of entry and search conferred by section 137E;
 - (c) where the warrant is executed under subsection (1), (2)(b) or (3)(a), the constable has the powers conferred by section 139 in relation to the arrested person;
 - (d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.”
- (3) In subsection (5), omit paragraph (a).
- (4) In subsection (9), for “sections 137 to 139” substitute “sections 137 and 137E to 139”.
- 8 (1) Section 137 (cross-border powers of arrest etc.) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) The following provisions apply in relation to an arrest under this section by a constable under subsection (1) or (3)—
- (a) where the arrest is under subsection (1) in Northern Ireland or under subsection (3) in England and Wales, the constable has the powers of entry and search conferred by section 137E;
 - (b) where the arrest is under subsection (1) or (3) in Scotland, the constable has the same powers of entry and search for the purpose of the arrest as a constable of a police force in Scotland would have if there were reasonable grounds for suspecting that the offence had been committed or attempted in Scotland;
 - (c) the constable has the powers conferred by section 139 in relation to the arrested person;
 - (d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.”
- (3) In subsection (8), omit paragraph (a).

PART 2

AMENDMENTS OF OTHER LEGISLATION

Finance Act 2007 (c.11)

- 9 (1) Section 87 of the Finance Act 2007 (cross-border exercise of powers) is amended as follows.
- (2) In subsection (2), for “Sections 136 to 139” substitute “Sections 136, 137 and 137E to 139”.
- (3) In subsection (4), for “sections 136 to 139” substitute “sections 136, 137 and 137E to 139”.

Policing and Crime Bill, *continued*

Crime and Courts Act 2013 (c.22)

- 10 (1) Section 55 of the Crime and Courts Act 2013 (powers of immigration officers) is amended as follows.
- (2) In subsection (7), for “Sections 136 to 139” substitute “Sections 136, 137 and 137E to 139”.
- (3) In subsection (8), for “sections 136 to 139” substitute “sections 136, 137 and 137E to 139”.

Member’s explanatory statement

Please see the explanatory statement for amendment 11.

Secretary Theresa May

13

Clause **60**, page **71**, line **35**, leave out “otherwise” and insert “in an FCA case or any other case”

Member’s explanatory statement

This amendment is related to amendments 14, 15, 16 and 17. The amendments make provision in connection with cases where the power to release a person on bail is exercised in relation to an offence which is being investigated by the Financial Conduct Authority.

Secretary Theresa May

14

Clause **60**, page **72**, line **2**, at end insert—
“() an “FCA case” is a case in which—
(i) the relevant offence in relation to the person is being investigated by the Financial Conduct Authority, and
(ii) a senior officer confirms that sub-paragraph (i) applies,”

Member’s explanatory statement

Please see the explanatory statement for amendment 13.

Secretary Theresa May

15

Clause **60**, page **73**, line **29**, at end insert—
“() a member of staff of the Financial Conduct Authority who is of the description designated for the purposes of this paragraph by the Chief Executive of the Authority (in an FCA case),”

Member’s explanatory statement

Please see the explanatory statement for amendment 13.

Secretary Theresa May

16

Clause **60**, page **74**, line **8**, after “by” insert “the Chief Executive of the Financial Conduct Authority,”

Member’s explanatory statement

Please see the explanatory statement for amendment 13.

Secretary Theresa May

17

Clause **60**, page **75**, line **1**, after “constable,” insert “a member of staff of the Financial Conduct Authority who is of the description designated for the purposes of this

Policing and Crime Bill, continued

subsection by the Chief Executive of the Authority,”

Member’s explanatory statement

Please see the explanatory statement for amendment 13.

Secretary Theresa May

18

Clause **74**, page **91**, line **21**, leave out from beginning to “other” in line 23 and insert—

“() The power of a constable under subsection (1) may be exercised where the mentally disordered person is at any place,”

Member’s explanatory statement

Currently, clause 74(4) prevents a constable entering a house, flat or room where a person is living for the purpose of exercising a power under section 136 of the Mental Health Act 1983, as amended by the clause. This amendment ensures that a similar restriction applies where the constable is already at a house, flat or room where a person is living and becomes aware that a mentally disordered person is at the place (whether or not he or she is the person living there). In such a case, a constable may be able to apply for a warrant under section 135 of the 1983 Act but cannot act without a warrant under section 136.

Secretary Theresa May

19

Clause **74**, page **91**, line **28**, at end insert—

“() For the purpose of exercising the power under subsection (1), a constable may enter any place where the power may be exercised, if need be by force.”

Member’s explanatory statement

This amendment is consequential on amendment 18.

Secretary Theresa May

20

Clause **77**, page **95**, line **30**, leave out “in public”

Member’s explanatory statement

Clause 77 authorises searches of a person to whom a warrant under section 135(1) or (2) of the Mental Health Act 1983 relates, or who is detained under section 136(2) or (4) of that Act, where there are reasonable grounds for believing that the person may present a danger to himself or herself or to others. Currently, the clause specifies that the power may not be used to require a person to remove any of his or her clothing in public (other than certain specified items of outerwear). The amendment removes the words “in public” which means that this restriction applies even where the person is not in a public place.

Secretary Theresa May

21

Clause **78**, page **96**, line **13**, after “waters” insert “or international waters”

Member’s explanatory statement

This amendment extends the scope of the powers conferred by clause 78 by providing for them to be exercisable in relation to foreign ships in international waters.

Secretary Theresa May

22

Clause **78**, page **96**, line **15**, after “waters” insert “or international waters”

Member’s explanatory statement

Policing and Crime Bill, continued

This amendment extends the scope of the powers conferred by clause 78 by providing for them to be exercisable in relation to ships registered under the law of a relevant territory (that is, the Isle of Man, any of the Channel Islands or a British overseas territory) in international waters.

Secretary Theresa May

23

Clause 79, page 97, line 11, at end insert “or in international waters”

Member’s explanatory statement

This amendment is consequential on amendments 21 and 22.

Secretary Theresa May

24

Clause 80, page 97, line 28, leave out “relevant waters” and insert “England and Wales waters or international waters”

Member’s explanatory statement

This amendment extends the scope of the powers conferred by clause 80 by providing for them to be exercisable where a ship was in international waters immediately before the pursuit of the ship began.

Secretary Theresa May

25

Clause 80, page 97, line 34, leave out subsection (2)

Member’s explanatory statement

This amendment is consequential on amendment 24.

Secretary Theresa May

26

Clause 90, page 103, line 31, after “waters” insert “or international waters”

Member’s explanatory statement

This amendment extends the scope of the powers conferred by clause 90 by providing for them to be exercisable in relation to foreign ships in international waters.

Secretary Theresa May

27

Clause 90, page 103, line 33, after “waters” insert “or international waters”

Member’s explanatory statement

This amendment extends the scope of the powers conferred by clause 90 by providing for them to be exercisable in relation to ships registered under the law of a relevant territory (that is, the Isle of Man, any of the Channel Islands or a British overseas territory) in international waters.

Secretary Theresa May

28

Clause 91, page 104, line 33, at end insert “or in international waters”

Member’s explanatory statement

This amendment is consequential on amendments 26 and 27.

Secretary Theresa May

29

Clause 92, page 105, line 8, leave out “relevant waters” and insert “Scotland waters or international waters”

Member’s explanatory statement

Policing and Crime Bill, continued

This amendment extends the scope of the powers conferred by clause 92 by providing for them to be exercisable where a ship was in international waters immediately before the pursuit of the ship began.

Secretary Theresa May

30

Clause 92, page 105, line 14, leave out subsection (2)

Member's explanatory statement

This amendment is consequential on amendment 29.

Secretary Theresa May

31

To move the following Clause—

“Powers to seize invalid travel documents

- (1) Schedule 8 to the Anti-social Behaviour, Crime and Policing Act 2014 is amended as follows.
- (2) For the italic heading before paragraph 3 substitute “Powers of search and seizure etc: places other than ports”.
- (3) In paragraph 3, for sub-paragraph (1) substitute—
 - “(1) An examining officer who is a constable or a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971 may exercise any of the powers under this paragraph, at a place that is not a port, if the examining officer reasonably believes that a person is in possession of a cancelled UK passport or an invalid non-UK travel document.”
- (4) In that paragraph, in sub-paragraph (2)—
 - (a) for “This paragraph applies to a passport” substitute “A passport is “a cancelled UK passport”;
 - (b) at the end of paragraph (a) insert “and”;
 - (c) omit the “and” at the end of paragraph (b);
 - (d) omit paragraph (c).
- (5) After sub-paragraph (2) insert—
 - “(2A) An invalid travel document is “an invalid non-UK travel document” if it is, or appears to be, a passport or other document which has been issued by or for the government of a state other than the United Kingdom.”
- (6) In that paragraph—
 - (a) in sub-paragraph (3)—
 - (i) in paragraph (a), for “the constable” substitute “the examining officer”;
 - (ii) in paragraph (b), for “the constable” substitute “the examining officer”;
 - (iii) in paragraph (d), for “the constable believes” substitute “the examining officer reasonably believes”;

Policing and Crime Bill, *continued*

- (b) in sub-paragraph (4)—
 - (i) in paragraph (c), for “the constable believes” substitute “the examining officer reasonably believes”;
 - (ii) in paragraph (d), for “the constable” substitute “the examining officer”;
 - (c) in sub-paragraph (5)—
 - (i) in the opening words, for “A constable” substitute “An examining officer”;
 - (ii) in sub-paragraph (b), for “the constable’s behalf” substitute “the examining officer’s behalf”.
- (7) After paragraph 3 insert—

“Powers of entry, search and seizure etc: constables

- 3A (1) A constable may exercise any of the powers under this paragraph in relation to any premises, other than premises forming part of a port, if the constable reasonably believes that a cancelled UK passport or an invalid non-UK travel document is on the premises (whether or not in the possession of a person who is also on the premises).
“A cancelled UK passport” and “an invalid non-UK travel document” have the same meaning in this paragraph as they have in paragraph 3 (see paragraph 3(2) and (2A)).
- (2) The powers are—
- (a) to enter the premises;
 - (b) to search the premises for travel documents and to take possession of any that the constable finds;
 - (c) to inspect any travel document taken and to retain it while its validity is checked;
 - (d) (subject to paragraph 4) to retain any travel document taken that the constable reasonably believes to be invalid.
- (3) A constable—
- (a) may if necessary use reasonable force for the purpose of exercising a power under this paragraph;
 - (b) may authorise a person to carry out on the constable’s behalf a search under this paragraph.
- (4) This paragraph does not affect any power of a constable under paragraph 3(3), (4)(a) to (c) or (5) in relation to a person on any premises entered under sub-paragraph (2)(a).”
- (8) In paragraph 4 (retention or return of documents seized)—
- (a) in sub-paragraph (1), for “2(2)(c) or 3(3)(c)” substitute “2(2)(c), 3(3)(c) or 3A(2)(c)”;
 - (b) after sub-paragraph (2) insert—
 - “(2A) If it is established that a travel document taken from any premises under paragraph 3A—
 - (a) is valid, or
 - (b) is invalid only because it has expired,it must be returned to the person to whom it was issued straight away.”;

Policing and Crime Bill, *continued*

- (c) after sub-paragraph (3) insert—
- “(3A) A travel document taken from premises under paragraph 3A must be returned to the person to whom it was issued before the end of the period of 7 days beginning with the day on which it was taken, unless during that period it is established that the document is invalid for some reason other than expiry.”;
- (d) in sub-paragraph (4), for “(2)(b) or (3)” substitute “(2)(b), (2A), (3) or (3A)”;
- (e) in that sub-paragraph, after “from whom he or she took the document” insert “or (as the case may be) to whom it was issued”;
- (f) in sub-paragraph (5), for “(2) or (3)” substitute “(2), (2A), (3) or (3A)”.
- (9) In paragraph 5 (offences), in sub-paragraph (2), for “a search under paragraph 2 or 3” substitute “the exercise of a power of search under paragraph 2, 3 or 3A, or the exercise of a power of entry under paragraph 3A.”.
- (10) In paragraph 6 (power of arrest), for “2” substitute “2 or 3”.

Member’s explanatory statement

This new clause amends Schedule 8 to the Anti-social Behaviour, Crime and Policing Act 2014 in three main ways. First, it extends the existing powers of search and seizure under paragraph 3 of that Schedule so that they are exercisable by immigration officers as well as constables. Second, those powers are further extended so as to be exercisable on the basis of a reasonable belief that a person is in possession of an invalid non-UK travel document. (Currently, those powers are exercisable only on the basis of a reasonable belief that a person is in possession of a cancelled UK passport as defined in paragraph 3(2) of the Schedule.) Third, it inserts a new paragraph 3A that allows constables to enter and search premises where they reasonably believe that a cancelled UK passport or an invalid non-UK travel document is on the premises.

Secretary Theresa May

32

To move the following Clause—

“Anonymity of victims of forced marriage

- (1) In Part 10 of the Anti-social Behaviour, Crime and Policing Act (forced marriage), after section 122 insert—

“122A Anonymity of victims of forced marriage

Schedule 6A (anonymity of victims of forced marriage) has effect.”

- (2) Insert, as Schedule 6A to that Act, the following Schedule—

“SCHEDULE 6A

ANONYMITY OF VICTIMS OF FORCED MARRIAGE

Prohibition on the identification of victims in publications

- 1 (1) This paragraph applies where an allegation has been made that an offence of forced marriage has been committed against a person.
- (2) No matter likely to lead members of the public to identify the person, as the person against whom the offence is alleged to have been committed, may be included in any publication during the person’s lifetime.

Policing and Crime Bill, *continued*

- (3) In any criminal proceedings before a court, the court may direct that the restriction imposed by sub-paragraph (2) is not to apply (whether at all or to the extent specified in the direction) if the court is satisfied that either of the following conditions is met.
- (4) The first condition is that the conduct of a person’s defence at a trial of an offence of forced marriage would be substantially prejudiced if the direction were not given.
- (5) The second condition is that—
 - (a) the effect of sub-paragraph (2) is to impose a substantial and unreasonable restriction on the reporting of the proceedings, and
 - (b) it is in the public interest to remove or relax the restriction.
- (6) A direction under sub-paragraph (3) does not affect the operation of sub-paragraph (2) at any time before the direction is given.
- (7) In this paragraph, “the court” means a magistrates’ court or the Crown court.

Penalty for breaching prohibition imposed by paragraph 1(2)

- 2 (1) If anything is included in a publication in contravention of the prohibition imposed by paragraph 1(2), each of the persons responsible for the publication is guilty of an offence.
- (2) A person guilty of an offence under this paragraph is liable, on summary conviction, to a fine.
- (3) The persons responsible for a publication are as follows—

<i>Type of publication</i>	<i>Persons responsible</i>
Newspaper or other periodical	Any person who is a proprietor, editor or publisher of the newspaper or periodical.
Relevant programme	Any person who— (a) is a body corporate engaged in providing the programme service in which the programme is included, or (b) has functions in relation to the programme corresponding to those of an editor of a newspaper.
Any other kind of publication	Any person who publishes the publication.

Policing and Crime Bill, *continued*

- (4) If an offence under this paragraph is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a senior officer of a body corporate, or
 - (b) a person purporting to act in such a capacity,
- the senior officer or person (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) “Senior officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate; and for this purpose “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (6) Proceedings for an offence under this paragraph may not be instituted except by, or with the consent of, the Attorney General.

Offence under paragraph 2: defences

- 3 (1) This paragraph applies where a person (“the defendant”) is charged with an offence under paragraph 2 as a result of the inclusion of any matter in a publication.
- (2) It is a defence for the defendant to prove that, at the time of the alleged offence, the defendant was not aware, and did not suspect or have reason to suspect, that—
- (a) the publication included the matter in question, or
 - (b) the allegation in question had been made.
- (3) It is a defence for the defendant to prove that the publication in which the matter appeared was one in respect of which the victim had given written consent to the appearance of matter of that description.
- (4) The defence in sub-paragraph (3) is not available if—
- (a) the victim was under the age of 16 at the time when his or her consent was given, or
 - (b) a person interfered unreasonably with the peace and comfort of the victim with a view to obtaining his or her consent.
- (5) In this paragraph, “the victim” means the person against whom the offence of forced marriage in question is alleged to have been committed.

Special rules for providers of information society services

- 4 (1) Paragraph 2 applies to a domestic service provider who, in the course of providing information society services, publishes prohibited matter in an EEA state other than the United Kingdom (as well as to a person, of any description, who publishes prohibited matter in England and Wales).
- (2) Proceedings for an offence under paragraph 2, as it applies to a domestic service provider by virtue of sub-paragraph (1), may be taken at any place in England and Wales.
- (3) Nothing in this paragraph affects the operation of any of paragraphs 6 to 8.

Policing and Crime Bill, *continued*

- 5 (1) Proceedings for an offence under paragraph 2 may not be taken against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the derogation condition is met.
- (2) The derogation condition is that taking proceedings—
- (a) is necessary for the purposes of the public interest objective,
 - (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective, and
 - (c) is proportionate to that objective.
- (3) “The public interest objective” means the pursuit of public policy.
- 6 (1) A service provider does not commit an offence under paragraph 2 by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—
- (a) initiate the transmission,
 - (b) select the recipient of the transmission, or
 - (c) select or modify the information contained in the transmission.
- (2) For the purposes of sub-paragraph (1)—
- (a) providing access to a communication network, and
 - (b) transmitting information in a communication network,
- include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.
- 7 (1) A service provider does not commit an offence under paragraph 2 by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.
- (2) The first condition is that the storage of the information—
- (a) is automatic, intermediate and temporary, and
 - (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.
- (3) The second condition is that the service provider—
- (a) does not modify the information,
 - (b) complies with any conditions attached to having access to the information, and
 - (c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
 - (b) access to it has been disabled, or

Policing and Crime Bill, *continued*

- (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.
- 8 (1) A service provider does not commit an offence under paragraph 2 by storing information provided by a recipient of the service if—
- (a) the service provider has no actual knowledge when the information was provided that it was, or contained, a prohibited publication, or
 - (b) on obtaining actual knowledge that the information was, or contained, a prohibited publication, the service provider promptly removed the information or disabled access to it.
- (2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

- 9 (1) In this Schedule—
- “domestic service provider” means a service provider established in England and Wales, Scotland or Northern Ireland;
- “the E-Commerce Directive” means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce);
- “forced marriage offence” means an offence under section 121 of the Anti-social Behaviour, Crime and Policing Act 2014;
- “information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
- “non-UK service provider” means a service provider established in an EEA state other than the United Kingdom;
- “programme service” has the same meaning as in the Broadcasting Act 1990 (see section 201(1) of that Act);
- “prohibited material” means any material the publication of which contravenes paragraph 1(2);
- “publication” includes any speech, writing, relevant programme or other communication (in whatever form) which is addressed to, or is accessible by, the public at large or any section of the public;
- “recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society

Policing and Crime Bill, *continued*

service, in particular for the purposes of seeking information or making it accessible;

“relevant programme” means a programme included in a programme service;

“service provider” means a person providing an information society service.

(2) For the purposes of the definition of “publication” in sub-paragraph (1)—

- (a) an indictment or other document prepared for use in particular legal proceedings is not to be taken as coming within the definition;
- (b) every relevant programme is to be taken as addressed to the public at large or to a section of the public.

(3) For the purposes of the definitions of “domestic service provider” and “non-UK service provider” in sub-paragraph (1)—

- (a) a service provider is established in a particular part of the United Kingdom, or in a particular EEA state, if the service provider—
 - (i) effectively pursues an economic activity using a fixed establishment in that part of the United Kingdom, or that EEA state, for an indefinite period, and
 - (ii) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union;
- (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider’s activities relating to that service.”

Member’s explanatory statement

This new clause makes provision to protect the anonymity of victims of the offence of forced marriage under section 121 of the Anti-social Behaviour, Crime and Policing Act 2014. It is modelled on provision made by Schedule 1 to the Female Genital Mutilation Act 2003 to protect the anonymity of victims of female genital mutilation offences.

Secretary Theresa May

33

To move the following Clause—

“Licensing functions under taxi and PHV legislation: protection of children and vulnerable adults

- (1) The Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm.
- (2) The Secretary of State may revise any guidance issued under this section.

Policing and Crime Bill, *continued*

- (3) The Secretary of State must arrange for any guidance issued under this section, and any revision of it, to be published.
- (4) Any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.
- (5) Before issuing guidance under this section, the Secretary of State must consult—
 - (a) the National Police Chiefs' Council,
 - (b) persons who appear to the Secretary of State to represent the interests of public authorities who are required to have regard to the guidance,
 - (c) persons who appear to the Secretary of State to represent the interests of those whose livelihood is affected by the exercise of the licensing functions to which the guidance relates, and
 - (d) such other persons as the Secretary of State considers appropriate.
- (6) In this section, “taxi and private hire vehicle legislation” means—
 - (a) the London Hackney Carriages Act 1843;
 - (b) sections 37 to 68 of the Town Police Clauses Act 1847;
 - (c) the Metropolitan Public Carriage Act 1869;
 - (d) Part 2 of the Local Government (Miscellaneous Provisions) Act 1976;
 - (e) the Private Hire Vehicles (London) Act 1998;
 - (f) the Plymouth City Council Act 1975 (c.xx).”

Member's explanatory statement

This new clause provides for the Secretary of State to issue guidance to public authorities who have licensing functions under taxi and private hire vehicle legislation about how those functions may be exercised so as to protect children and vulnerable adults from harm. It also imposes a duty on those public authorities to have regard to the guidance.

Secretary Theresa May

34

To move the following Clause—

“Powers of litter authorities in Scotland

- (1) In Part 4 of the Environmental Protection Act 1990 (litter etc), after section 91 insert—

“92 Summary proceedings by litter authorities

- (1) Where a principal litter authority in Scotland other than a joint board is satisfied as respects—
 - (a) any relevant Crown land,
 - (b) any relevant land of a designated statutory undertaker,
 - (c) any relevant land of a designated educational institution, or
 - (d) any relevant land within a litter control area of a local authority,that it is defaced by litter or refuse or that defacement of it by litter or refuse is likely to recur, the authority shall serve a notice (a “litter abatement notice”) imposing either the requirement or the prohibition or both the requirement and the prohibition specified in subsection (2).

Policing and Crime Bill, *continued*

- (2) The requirement and prohibition referred to in subsection (1) are as follows, namely—
 - (a) a requirement that the litter or refuse be cleared within a time specified in the notice;
 - (b) a prohibition on permitting the land to become defaced by litter or refuse.
- (3) The litter abatement notice shall be served—
 - (a) as respects relevant Crown land, on the appropriate Crown authority;
 - (b) as respects relevant land of a designated statutory undertaker, on the undertaker;
 - (c) as respects relevant land of a designated educational institution, on the governing body of the institution or on the education authority responsible for the management of the institution;
 - (d) in any other case, on the occupier of the land or, if it is unoccupied, on the owner of the land.
- (4) The person served with the notice may appeal against the notice to the sheriff by way of application within the period of 21 days beginning with the date on which the notice was served.
- (5) If, on any appeal under subsection (4), the appellant proves that, as respects the land in question, he has complied with his duty under section 89(1), the court shall allow the appeal.
- (6) If a person on whom a litter abatement notice is served, without reasonable excuse, fails to comply with or contravenes the requirement or prohibition imposed by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale together with a further fine of an amount equal to one-twentieth of that level for each day on which the offence continues after the conviction.
- (7) In any proceedings for an offence under subsection (6), it shall be a defence for the person charged to prove that he has complied, as respects the land in question, with his duty under section 89(1).
- (8) A direction under section 89(6A) or a code of practice under section 89(7) shall be admissible in evidence in any proceedings under this section and, if any provision of such a direction or code appears to the court to be relevant to any question in the proceedings, it shall be taken into account in determining that question.
- (9) If a person on whom a litter abatement notice is served fails to comply with the requirement imposed by the notice in respect of any land, the authority may, subject to subsection (10)—
 - (a) enter on the land and clear the litter or refuse, and
 - (b) recover from that person the expenditure attributable to their having done so, except such of the expenditure as that person shows was unnecessary in the circumstances.
- (10) Subsection (9) does not apply in relation to relevant Crown land or relevant land of statutory undertakers.

Policing and Crime Bill, *continued*

93 Street litter control notices

- (1) A principal litter authority in Scotland other than a joint board may, with a view to the prevention of accumulations of litter or refuse in and around any street or open land adjacent to any street, issue notices (“street litter control notices”) imposing requirements on occupiers of premises in relation to such litter or refuse, in accordance with this section and section 94.
- (2) If the authority is satisfied, in respect of any premises which are of a description prescribed under section 94(1)(a) and have a frontage on a street in their area, that—
 - (a) there is recurrent defacement by litter or refuse of any land, being part of the street or open land adjacent to the street, which is in the vicinity of the premises,
 - (b) the condition of any part of the premises which is open land in the vicinity of the frontage is, and if no notice is served is likely to continue to be, detrimental to the amenities of the locality by reason of the presence of litter or refuse, or
 - (c) there is produced, as a result of the activities carried on on the premises, quantities of litter or refuse of such nature and in such amounts as are likely to cause the defacement of any part of the street, or of open land adjacent to the street, which is in the vicinity of the premises,

the authority may serve a street litter control notice on the occupier or, if the premises are unoccupied, on the owner of the premises.

- (3) A notice shall, subject to section 94(2), (3) and (4)—
 - (a) identify the premises and state the grounds under subsection (2) on which it is issued;
 - (b) specify an area of open land which adjoins or is in the vicinity of the frontage of the premises on the street;
 - (c) specify, in relation to that area or any part of it, such reasonable requirements as the authority considers appropriate in the circumstances;

and, for the purposes of paragraph (b), an area which includes land on both sides of the frontage of the premises shall be treated as an area adjoining that frontage.

- (4) In this section and section 94—
 - “notice” means a street litter control notice;
 - “open land” means land in the open air;
 - “the premises”, in relation to a notice, means the premises in respect of which the notice is issued;
 - “specified area” means the area specified in a notice under subsection (3)(b); and
 - “street” means a relevant highway, a relevant road or any other highway or road over which there is a right of way on foot.

94 Street litter: supplementary provisions

- (1) The Scottish Ministers may by order prescribe—
 - (a) the descriptions of commercial or retail premises in respect of which a street litter control notice may be issued;

Policing and Crime Bill, *continued*

- (b) the descriptions of land which may be included in a specified area; and
- (c) the maximum area of land which may be included in a specified area;

and different descriptions or maximum dimensions may be prescribed under paragraph (b) or (c) for different cases or circumstances.

An order under this subsection is subject to the negative procedure.

- (2) The power to describe premises or land under subsection (1)(a) or (b) includes power to describe the premises or land by reference to occupation or ownership or to the activities carried on there.
- (3) The land comprised in a specified area—
 - (a) shall include only land of one or more of the descriptions prescribed under subsection (1)(b);
 - (b) shall not include any land which is not—
 - (i) part of the premises,
 - (ii) part of a street,
 - (iii) relevant land of a principal litter authority, or
 - (iv) land under the direct control of any other local authority; and
 - (c) shall not exceed any applicable maximum area prescribed under subsection (1)(c);but a specified area shall not include any part of the premises which is or is part of a litter control area.
- (4) The requirements which may be imposed by a notice shall relate to the clearing of litter or refuse from the specified area and may in particular require—
 - (a) the provision or emptying of receptacles for litter or refuse;
 - (b) the doing within a period specified in the notice of any such thing as may be so specified (including the standards to which any such thing must be done); or
 - (c) the doing (while the notice remains in force) at such times or intervals, or within such period, of any such thing as may be so specified;but a notice may not require the clearing of litter or refuse from any carriageway, except at a time when the carriageway is closed to all vehicular traffic.
- (5) In relation to so much of the specified area as is not part of the premises the authority shall take account, in determining what requirements to impose, of their own duties under this Part or otherwise, and of any similar duties of any other local authority, in relation to that land.
- (6) An authority proposing to serve a notice shall—
 - (a) inform the person on whom the notice is to be served;
 - (b) give him the opportunity to make representations about the notice within the period of 21 days beginning with the day on which he is so informed; and
 - (c) take any representations so made into account in making their decision.

Policing and Crime Bill, *continued*

- (7) A person on whom a notice is served may appeal against the notice to the sheriff by way of application; and the court may quash the notice or may quash, vary or add to any requirement imposed by the notice.
 - (8) If it appears to the authority that a person has failed or is failing to comply with any requirement imposed by a notice, the authority may apply to the sheriff by way of application for an order requiring the person to comply with the requirement within such time as may be specified in the order.
 - (9) A person who, without reasonable excuse, fails to comply with an order under subsection (8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”
- (2) Any order under section 94(1) of the Environmental Protection Act 1990 which had effect immediately before the coming into force of paragraph 21 of Schedule 11 to the Anti-social Behaviour, Crime and Policing Act 2014—
 - (a) is (so far as extending to Scotland) revived on the coming into force of this section, and
 - (b) has effect on its revival as if made under section 94(1) of that Act as re-enacted with modifications by this section.”

Member’s explanatory statement

This new clause re-enacts, with minor changes, sections 92, 93 and 94 of the Environmental Protection Act 1990. The sections will form part of the law of Scotland only. The need for the new clause arises because the repeal of those sections by paragraph 21 of Schedule 11 to the Anti-social Behaviour, Crime and Policing Act 2014 was extended to Scotland by mistake.

Secretary Theresa May

35

Clause 131, page 137, line 16, at end insert—

- “() In paragraph 26 of that Schedule (modification of references), after paragraph (c) insert—
 - “(ca) a power of a general customs official is exercisable by any NCA officer, a reference to a general customs official in any enactment which relates to that power is to be taken to be, or to include, a reference to any NCA officer by whom that power is exercisable;”.
- () In paragraph 27 of that Schedule (power to make further provision), in sub-paragraph (2), after paragraph (d)(ii) insert—
 - “(iia) one or more grades of, or pay scales applicable to, general customs officials;”.
- () In paragraph 28 of that Schedule (functions of third parties relating to constables etc: extension to NCA), in sub-paragraph (2), after paragraph (c) insert—
 - “(ca) a general customs official,”.

Member’s explanatory statement

This amendment is consequential on clause 131, which enables the Director General of the National Crime Agency, and other designated NCA officers, to exercise the powers of general customs officials.

Secretary Theresa May

36

Clause 132, page 138, leave out lines 13 to 16

Policing and Crime Bill, continued

Member's explanatory statement

This amendment would remove from clause 132 a provision relating to Scotland. This amendment is related to amendments 39 and 41, which would mean that clause 132 would not extend to Scotland.

Secretary Theresa May

37

Clause 138, page 142, line 43, at end insert—

“() section (*Retention of fingerprints and DNA profiles: Terrorism Act 2000*);”

Member's explanatory statement

This amendment provides for the new clause inserted by amendment 8 to form part of the law of England and Wales, Scotland and Northern Ireland.

Secretary Theresa May

38

Clause 138, page 142, line 46, at end insert—

“() sections (*Extension of cross-border powers of arrest: urgent cases*), (*Cross-border enforcement: powers of entry to effect arrest*), (*Cross-border enforcement: minor and consequential amendments*) and Schedule (*Cross-border enforcement: minor and consequential amendments*);”

Member's explanatory statement

This amendment provides for the new clauses inserted by amendments 9, 10 and 11 and the new Schedule inserted by amendment 12 to form part of the law of England and Wales, Scotland and Northern Ireland.

Secretary Theresa May

39

Clause 138, page 143, line 4, leave out “132 and”

Member's explanatory statement

See Member's explanatory statement for amendment 36.

Secretary Theresa May

40

Clause 138, page 143, line 4, at end insert—

“() section (*Powers to seize invalid travel documents*);”

Member's explanatory statement

This amendment provides for the new clause inserted by amendment 31 to form part of the law of England and Wales, Scotland and Northern Ireland.

Secretary Theresa May

41

Clause 138, page 143, line 31, at end insert—

“(c) section 132.”

Member's explanatory statement

See Member's explanatory statement for amendment 36.

Secretary Theresa May

42

Clause 138, page 143, line 34, at end insert—

“(c) section (*Powers of litter authorities in Scotland*).”

Policing and Crime Bill, continued

Member's explanatory statement

This amendment provides for the new clause inserted by amendment 34 to form part of the law of Scotland only.

Secretary Theresa May

43

Clause 139, page 143, line 43, at end insert—

“() section (*Powers of litter authorities in Scotland*);”

Member's explanatory statement

This amendment provides for the new clause inserted by amendment 34 to come into force on the date on which the Bill is passed.

Secretary Theresa May

44

Clause 139, page 144, line 7, at end insert—

“() section (*Anonymity of victims of forced marriage*);”

Member's explanatory statement

This amendment provides for the new clause inserted by amendment 32 to come into force 2 months after the Bill is passed.

Secretary Theresa May

45

Title, line 13, after “charge;” insert “to make provision about the retention of biometric material;”

Member's explanatory statement

This amendment to the long title is consequential on the new clauses inserted by amendments 7 and 8.

Secretary Theresa May

46

Title, line 17, after “enforcement;” insert “to make provision for cross-border enforcement;”

Member's explanatory statement

This amendment to the long title is consequential on the new clauses inserted by amendments 9, 10 and 11 and the new Schedule inserted by amendment 12.

Secretary Theresa May

47

Title, line 26, after “information;” insert “to make provision about the seizure etc of invalid travel documents;”

Member's explanatory statement

This amendment to the long title is consequential on the new clause inserted by amendment 31.

Secretary Theresa May

48

Title, line 26, after “information;” insert “to make provision to protect the anonymity of victims of forced marriage;”

Member's explanatory statement

This amendment to the long title is consequential on the new clause inserted by amendment 32.

Policing and Crime Bill, *continued*

Secretary Theresa May

49

Title, line 27, after “children” insert “and to protect children and vulnerable adults from harm;”

Member’s explanatory statement

This amendment to the long title is consequential on the new clause inserted by amendment 33.

Secretary Theresa May

50

Title, line 27, after “children;” insert “to make provision about the powers of litter authorities in Scotland;”

Member’s explanatory statement

This amendment to the long title is consequential on the new clause inserted by amendment 34.