



POLICE POWERS AND PROCEDURES ACT 1998 (APPLICATION TO CUSTOMS AND EXCISE) ORDER 2015

Index

Article	Page
1 Title	3
2 Commencement	3
3 Interpretation.....	3
4 Application of the provisions of the Act contained in Schedule 1.....	4
5 Limitations on the application of the Act.....	4
6 Search of persons and premises and seizure	4
7 Insertion of sections 17A and 17B.....	5
8 Modification of section 21 of the Act	5
9 Application of section 26A of the Act to investigations conducted by officers of customs and excise	5
10 Application of section 26B of the Act to investigations conducted by officers of customs and excise	5
11 Application of section 26F of the Act to investigations conducted by officers of customs and excise	6
12 Application of section 58 of the Act to investigations conducted by officers of customs and excise.....	6
13 Use of reasonable force	6
14 Revocation	6
SCHEDULE 1	7
PROVISIONS OF THE ACT APPLIED TO CUSTOMS AND EXCISE	7
SCHEDULE 2	9
PART I	9
PART 2	9

Statutory Document No. 2015/0056



Police Powers and Procedures Act 1998

POLICE POWERS AND PROCEDURES ACT 1998 (APPLICATION TO CUSTOMS AND EXCISE) ORDER 2015

Approved by Tynwald: 17 March 2015
Coming into Operation: 1st April 2015

The Treasury makes the following Order under section 77(2) of the Police Powers and Procedures Act 1998.

1 Title

This Order is the Police Powers and Procedures Act 1998 (Application to Customs and Excise) Order 2015.

2 Commencement

If approved by Tynwald, this Order comes into operation on 1 April 2015¹.

3 Interpretation

(1) In this Order —

“**the Act**” means the Police Powers and Procedures Act 1998;

“**assigned matter**” has the meaning given to it by section 184 of the Customs and Excise Management Act 1986;

“**the customs and excise Acts**” has the meaning given to it by section 184 of the Customs and Excise Management Act 1986;

“**customs office**” means a place for the time being occupied by the Customs and Excise Division of the Treasury;

“**designated police station**” has the meaning given to it by section 38 of the Act;

“**officer of customs and excise**” has the same meaning as that given to officer by section 184 of the Customs and Excise Management Act 1986.

¹ Tynwald approval is required by section 77(5) of the Act.

- (2) A person is in customs detention for the purposes of this Order if —
- (a) the person has been taken to a customs office after being arrested for an offence; or
 - (b) the person is arrested at a customs office after attending voluntarily at the office or accompanying an officer to it,
- and is detained there or is detained elsewhere in the charge of an officer, and nothing prevents a detained person from being transferred between customs detention and police detention: But a person who is arrested must be transferred to a designated police station as soon as practicable.

4 Application of the provisions of the Act contained in Schedule 1

- (1) Subject to the modifications in paragraph (2) and (3) of this article, in articles 5 to 9 and in Schedule 2 to this Order, the provisions of the Act contained in Schedule 1 to this Order which relate to investigations of offences conducted by police officers or to persons detained by the police apply to investigations conducted by officers of customs and excise of offences which relate to assigned matters, and to persons detained by such officers of customs and excise.
- (2) The Act has effect as if the words and phrases in column 1 of Part 1 of Schedule 2 to this Order were replaced by the substituted words and phrases in column 2 of that Part.
- (3) Where in the Act any act or thing is to be done by a police officer of a specified rank, that act or thing must be done by an officer of customs and excise of at least the grade specified in column 2 of Part 2 of Schedule 2 to this Order, and the Act is to be interpreted as if the substituted grade were specified in the Act.

5 Limitations on the application of the Act

Nothing in the application of the Act to Customs and Excise confers any of the following powers on an officer of customs and excise —

- (a) to charge a person with an offence;
- (b) to release a person on bail;
- (c) to detain a person for an offence after the person has been charged with that offence.

6 Search of persons and premises and seizure

- (1) If in the Act a police officer is given power to seize and retain any thing found upon a lawful search of persons or premises, an officer of customs and excise has the same power despite that the thing found is not evidence of an offence in relation to an assigned matter.

- (2) Nothing in the application of the Act to Customs and Excise prevents any thing lawfully seized by a person under any enactment from being accepted and retained by an officer of customs and excise.
- (3) Section 24 of the Act (access and copying) does not apply to any thing seized as being liable to forfeiture under the customs and excise Acts.

7 Insertion of sections 17A and 17B

In relation to the investigation of offences conducted by officers of customs and excise, the Treasury directs that the Act has effect as if section 17A and 17B, as specified in section 77(2)(b)(i)², were inserted after section 17.

8 Modification of section 21 of the Act

- (1) Section 21 of the Act (entry and search after arrest) shall be modified as follows.
- (2) For subsection (1) substitute —
 - ❏(1) Subject to the following provisions of this section, an officer of customs and excise may enter and search any premises occupied or controlled by a person who is under arrest for an offence triable on information which relates to an assigned matter, as defined in section 184 of the Customs and Excise Management Act 1986, if the officer has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates —
 - (a) to that offence; or
 - (b) to some other offence triable on information which is connected with or similar to that offence. ❏.

9 Application of section 26A of the Act to investigations conducted by officers of customs and excise

In relation to the investigation of offences conducted by officers of customs and excise, section 26A of the Act (additional powers of seizure from premises) applies only to those powers of seizure mentioned in Items 4, 6, 9, 10 and 13 of Part 1 of Schedule 1A to the Act.

10 Application of section 26B of the Act to investigations conducted by officers of customs and excise

In relation to the investigation of offences conducted by officers of customs and excise, section 26B of the Act (additional powers of seizure from the person) applies only to those powers of seizure mentioned in Item 15 of Part 2 of Schedule 1A to the Act.

² Section 77(2)(b)(i) was modified by paragraph 9(4)(a) of Schedule 7 to the Act.

11 Application of section 26F of the Act to investigations conducted by officers of customs and excise

In relation to the investigation of offences conducted by officers of customs and excise, section 26B of the Act (obligation to return excluded and special procedure material) applies only to those powers of seizure mentioned in Items 22 and 25 of Part 3 of Schedule 1A to the Act.

12 Application of section 58 of the Act to investigations conducted by officers of customs and excise

In relation to the investigation of offences conducted by officers of customs and excise, section 58 of the Act (intimate searches) applies only to those things such as are mentioned in subsection (1)(a) of that section.

13 Use of reasonable force

Where any provision of the Act as applied to Customs and Excise —

- (a) confers a power on an officer; and
- (b) does not provide that the power may only be exercised with the consent of some person other than an officer,

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

14 Revocation

The following Orders are revoked —

- (a) the Police Powers and Procedures Act 1998 (Application to Customs and Excise) Order 1998³;
- (b) the Police Powers and Procedures Act 1998 (Application to Customs and Excise) Order 2010⁴; and
- (c) the Police Powers and Procedures Act 1998 (Application to Customs and Excise) (Amendment) Order 2010⁵.

MADE 11th February 2015

W E TEARE
Minister for the Treasury

³ SD 624/98.

⁴ SD 200/10.

⁵ SD 201/10.

SCHEDULE 1

[Article 3]

PROVISIONS OF THE ACT APPLIED TO CUSTOMS AND EXCISE

Section 11

Section 11A

Section 12 and Schedule 1

Section 18

Section 19

Section 20(1)(a)(i), (b) and (c), (2) and (3)

Section 21 subject to the modifications in article 8 of this Order

Section 22

Section 23

Section 24 subject to the modifications in article 6(3) of this Order

Section 25(1) to (4)

Section 26A(1) to (4) subject to the modifications in article 9 of this Order

Section 26B(1) to (4) subject to the modifications in article 10 of this Order

Section 26C(1) to (4)

Sections 26D to 26E

Section 26F subject to the modifications in article 11 of this Order

Section 26G

Section 26H(1) to (4)

Sections 26I

Section 26J (excluding subsections (7)(b)(ii) and (iii))

Section 26K (excluding subsections (5)(d) and (e) and (6)(c) and (d))

Section 26L to 26N

Section 26O(1) to (4)

Section 27(1) to (4), (5)(i) to (iii) and (7)

Section 31

Section 32

Section 33(1) to (8)

Section 34

Section 35(1) to (9) subject to the modifications in article 6 of this Order

Section 54(d)

Section 55

Section 58 subject to the modifications in article 12 of this Order

SCHEDULE 1

Section 59(1) to (11)

Section 61(1) to (13)

Section 65(1) to (12)

Section 66

Section 67

Section 68(1) to (8)

Section A77

SCHEDULE 2

[Article 3]

PART I

Substitution of equivalent words and phrases in the Act

Where in the Act a word or phrase specified in Column 1 is used, in the application of the Act to Customs and Excise, there shall be substituted the equivalent word or phrase in Column 2.

Column 1 Words and Phrases Used in the Act	Column 2 Substituted Words and Phrases
constable	officer of customs and excise
the police	Customs and Excise
police detention (except in section 82 and section 42)	customs detention
police officer	officer
police station (except in the case of a "designated police station")	customs office
rank	grade
station	customs office
police officer	officer of customs and excise

PART 2

Equivalent grades of officers

Where in the Act an act or thing is to be done by a constable of the rank specified in column 1, that same act or thing shall, in the application of the Act to Customs and Excise, be done by an officer of at least the grade specified in column 2.

Column 1 Rank of Constable	Column 2 Grade of Officer
sergeant	executive officer
inspector	higher executive officer
chief inspector	senior executive officer
chief constable	Collector

*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order specifies which provisions of the Police Powers and Procedures Act 1998 apply in relation to Customs and Excise. It revokes and replaces the Police Powers and Procedures Act 1998 (Application to Customs and Excise) Order 1998⁶, as amended by the Police Powers and Procedures Act 1998 (Application to Customs and Excise) (Amendment) Order 2010⁷, and the Police Powers and Procedures Act 1998 (Application to Customs and Excise) Order 2010⁸.

The Order —

- 1) details those modifications required to provisions of the Act as they relate to Customs and Excise;
- 2) specifies the equivalent grades of officer required where in the Act any act or thing is to be done by a constable of a specified rank;
- 3) makes it clear that officers may not charge a person with an offence, release a person on bail, or detain a person for an offence after he has been charged with that offence;
- 4) disapplies section 24 of the Act to anything seized as liable to forfeiture under the Customs and Excise Acts;
- 5) modifies the application of certain sections of the Act in their use by officers of customs and excise so as to be primarily for use in respect of assigned matters (as defined in section 184, Customs and Excise Management Act 1986);
- 6) allows officers to use reasonable force in exercise of powers conferred on them by provisions of the Act; and
- 7) takes account of amendments made to the Act, including the Criminal Justice, Police Powers and Other Amendments Act 2014.

Note that section 77A of the Act separately provides for officers of customs and excise seconded to the Financial Crime Unit of the Isle of Man Constabulary, and authorised for the purpose by the Attorney General, have the powers, duties and obligations conferred on a constable.

⁶ SD 624/98.

⁷ SD 201/10.

⁸ SD 200/10.