STATUTORY INSTRUMENTS

2017 No. 520

EMPLOYMENT, ENGLAND AND WALES

The Police and Criminal Evidence Act 1984 (Application to Labour Abuse Prevention Officers) Regulations 2017

Made - - - -	*3rd April 2017*
Laid before Parliament	*6th April 2017*
Coming into force - -	*30th April 2017*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 114B(1), (2), (5) and (7)(c) of the Police and Criminal Evidence Act 1984(**1**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Police and Criminal Evidence Act 1984 (Application to Labour Abuse Prevention Officers) Regulations 2017 and come into force on 30th April 2017.

(2) In these Regulations, "PACE" means the Police and Criminal Evidence Act 1984.

Application of PACE

2.—(1) The provisions of PACE set out in regulation 3 apply in relation to investigations of labour market offences(**2**) conducted by labour abuse prevention officers(**3**) as they apply in relation to investigations of offences by police officers.

(2) Those provisions apply with the modifications specified in the Schedule.

Applicable provisions of PACE

3. The provisions of PACE which apply for the purposes of regulation 2(1) are—

(a) section 1(1) to (3) and (6) (power of constable to stop and search persons, vehicles etc.)(**4**);

(**1**) 1984 c. 60; section 114B was inserted by section 12 of the Immigration Act 2016 (c. 19).
(**2**) "Labour market offence" has the meaning given in section 3 of the Immigration Act 2016 (see section 114B(11) of the Police and Criminal Evidence Act 1984 ("PACE")).
(**3**) "Labour abuse prevention officers" is defined in section 114B(3) of PACE.
(**4**) Section 1 of PACE was amended by section 140 of the Criminal Justice Act 1988 (c. 33) and section 115 of the Serious Organised Crime and Police Act 2005 (c. 15) ("the SOCPA 2005"). Other amendments are not relevant to these Regulations.

(b) section 2(1) to (3), (8) and (9) (provisions relating to search under section 1 and other powers);

(c) section 3(1), (2), (6), (6A), (7) and (9) (duty to make records concerning searches)(**5**);

(d) section 8(1) to (5) (power of justice of the peace to authorise entry and search of premises)(**6**);

(e) section 9(1) and Schedule 1 (special provisions as to access)(**7**);

(f) section 15 (search warrants - safeguards)(**8**);

(g) section 16 (execution of warrants)(**9**);

(h) section 17(1)(a)(i) and (b), (2) and (4) (entry for purpose of arrest etc.)(**10**);

(i) section 18 (entry and search after arrest)(**11**);

(j) section 19 (general power of seizure etc.)(**12**);

(k) section 20 (extension of powers of seizure to computerised information)(**13**);

(l) section 21(1) to (9) (access and copying)(**14**);

(m) section 22(1), (2)(a), (3), (4) and (7) (retention)(**15**);

(n) section 24(1)(b) and (d), (2) to (4) and (5)(a), (b), (c)(i) to (iii), (d), (e) and (f) (arrest without warrant: constables)(**16**);

(o) section 28 (information to be given on arrest);

(p) section 29 (voluntary attendance at police station etc.);

(q) section 30(1)(a), (1A), (1B) and (7) to (11) (arrest elsewhere than at police station)(**17**);

(r) section 32(1) to (9) (search upon arrest)(**18**);

(s) section 43 (warrants of further detention)(**19**);

(t) section 44 (extension of warrants of further detention)(**20**);

(**5**) Section 3 of PACE was amended by section 1 of the Crime and Security Act 2010 (c. 17).

(**6**) Section 8 of PACE was amended by sections 113 and 114 of, and paragraph 43 of Schedule 7 to, the SOCPA 2005. Other amendments are not relevant to these Regulations.

(**7**) Amendments to section 9 of PACE are not relevant to these regulations. Schedule 1 to PACE was amended by paragraph 14 of Schedule 2 to the Criminal Justice and Police Act 2001 (c. 16) ("the CJPA 2001"); section 113 of, paragraph 43 of Schedule 7 to, and Part 2 of Schedule 17 to, the SOCPA 2005; paragraph 11 of Schedule 2 to the Armed Forces Act 2011 (c. 18); and section 82 of the Deregulation Act 2015 (c. 20). Schedule 1 to PACE was also amended by paragraph 6 of Schedule 4 to the Courts Act 2003 (c. 39) and section 14 of the SOCPA, but those amendments are not yet in force.

(**8**) Section 15 of PACE was amended by sections 113 and 114 of, and Part 2 of Schedule 17 to, the SOCPA 2005 and S.I. 2005/3496.

(**9**) Section 16 of PACE was amended by paragraph 281 of Schedule 8 to the Courts Act 2003; section 2 of the Criminal Justice Act 2003 (c. 44) ("the CJA 2003"); sections 113 and 114 of the SOCPA 2005; and S.I. 2005/3496.

(**10**) Section 17(1)(b) of PACE was amended by paragraph 43 of Schedule 7 to the SOCPA 2005. Other amendments are not relevant to these Regulations.

(**11**) Section 18 of PACE was amended by paragraphs 1 and 2 of Schedule 1 to the CJA 2003, paragraph 43 of Schedule 7 to the SOCPA 2005 and section 53 of the Policing and Crime Act 2017 (c. 3) ("the PCA 2017").

(**12**) Section 19 of PACE was amended by paragraph 13 of Schedule 2 to the CJPA 2001.

(**13**) Section 20 of PACE was amended by paragraph 13 of Schedule 2 to the CJPA 2001.

(**14**) Section 21 of PACE was amended by paragraphs 1 and 3 of Schedule 1 to the CJA 2003. It was also amended by section 20(2) of the PCA 2017, but that amendment is not yet in force.

(**15**) Section 22(7) of PACE was amended by paragraphs 1 and 4 of Schedule 1 to the CJA 2003. Other amendments are not relevant to these Regulations.

(**16**) Section 24 of PACE was substituted by section 110 of the SOCPA 2005.

(**17**) Section 30 of PACE was amended by section 4 of the CJA 2003, paragraphs 160 and 161 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and section 53 of the PCA 2017. Other amendments are not relevant to these Regulations.

(**18**) Section 32 of PACE was amended by section 59 of the Criminal Justice and Public Order Act 1994 (c. 33) (the "CJPOA 1994") and paragraph 43 of Schedule 7 to the SOCPA 2005. Other amendments are not relevant to these Regulations.

(**19**) Section 43 of PACE was amended by section 29 of the CJPOA 1994, paragraph 43 of Schedule 7 to the SOCPA 2005 and sections 57, 65 and 67 of the PCA 2017.

(**20**) Section 44 of PACE was amended by sections 57 and 67 of the PCA 2017.

(u) section 77 (confessions by mentally handicapped persons)(**21**);

(v) section 117 (power of constable to use reasonable force); and

(w) sections 10 to 14, 23, 82 and 118 (interpretation provisions)(**22**), to the extent relevant to the sections mentioned in paragraphs (a) to (v).

Transitional provision

4. Until section 20(2) of the Policing and Crime Act 2017(**23**) comes into force, regulation 3(1) is to be read as if for "section 21(1) to (9)" there were substituted "section 21".

Amber Rudd
Secretary of State
3rd April 2017 Home Office

(**21**) Section 77 of PACE was amended by paragraph 38 of Schedule 7 to the Police Act 1996 (c. 16) and paragraph 48 of Schedule 36 to the CJA 2003.

(**22**) Section 14 of PACE was amended by paragraph 193 of Schedule 1 to the Corporation Tax Act 2010 (c. 4). Section 23 of PACE was amended by section 103 of, and Part 1 of Schedule 23 to, the Energy Act 2004 (c. 20). Section 118 was amended by paragraph 9 of Schedule 1 to the Civil Evidence Act 1995 (c. 38); paragraph 5 of Schedule 15 to the Terrorism Act 2000 (c. 11); paragraph 9 of Schedule 7 to the Police Reform Act 2002 (c. 30); and paragraph 24 of Schedule 7, and Part 2 of Schedule 17, to the SOCPA 2005. Other amendments to section 118 are not relevant to these Regulations.

(**23**) 2017 c. 3.

SCHEDULE Regulation 2(2)

Modifications of PACE when applied to investigations conducted by labour abuse prevention officers

Introductory

1. The provisions of PACE set out in regulation 3 have effect with the modifications set out in paragraphs 2 to 23.

General modifications

2. Except where expressly provided in these Regulations, each reference to a constable is to be read as, or in the case of sections 8, 9, 15, 16, 43 and 44 and Schedule 1 is to be read as including, a reference to a labour abuse prevention officer.

3. Each reference to "an officer" or "the officer" is to be read as "a labour abuse prevention officer" or "the labour abuse prevention officer", as the case may be.

4. Except as provided in paragraph 17(b), each reference to an offence is to be read as a reference to a labour market offence.

5. Each reference to an indictable offence is to be read as a reference to a labour market offence which is an indictable offence.

6. Each reference to a criminal investigation is to be read as a reference to a criminal investigation in connection with a labour market offence.

7. Each reference to an offence (including a labour market offence) includes an offence committed, or suspected of having been committed, before the coming into force of these Regulations or of section 114B of PACE.

8. Each reference to a person being charged with an offence is to be read as a reference to a person being charged with an offence by a constable.

9. Each reference to a person being released on bail is to be read as a reference to a person being released on bail by a constable.

10.—(1) Where, under a provision of PACE as applied by these Regulations, a power is exercisable only by or with the authority of a labour abuse prevention officer of at least the grade of senior investigating officer, any labour abuse prevention officer is to be treated as being of the grade of senior investigating officer if the condition in sub-paragraph (2) is met.

(2) The condition is that the labour abuse prevention officer has been authorised by an officer of the Gangmasters and Labour Abuse Authority of at least the grade of director to exercise the power or, as the case may be, to give the authority for its exercise.

Specific modifications

11. Section 1 (power of constable to stop and search persons, vehicles etc.) is to be read as if—

(a) in the heading, the words ", vehicles etc" were omitted;

(b) for subsection (1), there were substituted—

"(1) A constable may exercise any power conferred by this section on any premises which is being searched by a labour abuse prevention officer in reliance on a warrant under section 8 or paragraph 12 of Schedule 1.";

(c) in subsection (2)—

(i) the words "to (5)" were omitted;

(ii) in paragraph (a)—

(aa) in sub-paragraph (i), for the words "or vehicle" there were substituted "found on the premises";

(bb) sub-paragraph (ii) were omitted;

(cc) for the words "stolen or prohibited articles" to "below applies" there were substituted "material which might be evidence in relation to a labour market offence";

(iii) in paragraph (b), the words "or vehicle" were omitted;

(d) in subsection (3)—

(i) the words "or vehicle or anything in or on a vehicle" were omitted; and

(ii) for the words "he will find stolen" to the end there were substituted "the person to be searched has concealed on him material which might be evidence in relation to a labour market offence.";

(e) after subsection (3), there were inserted—

"(3A) This section only gives a labour abuse prevention officer a power to search to the extent that is reasonably required for the purpose of discovering any such material."; and

(f) in subsection (6)—

(i) for the words "an article" there were substituted "material, other than an item subject to legal privilege,";

(ii) for the words from "a stolen" to "below applies" there were substituted "evidence of a labour market offence or to have been obtained in consequence of a labour market offence";

(iii) at the end, there were inserted "if it is necessary to do so in order to prevent it being concealed, lost, altered or destroyed".

12. Section 2 (provisions relating to search under section 1 and other powers) is to be read as if—

(a) in subsection (1)—

(i) the words "or vehicle" were omitted;

(ii) in paragraph (a), the word "or" were omitted; and

(iii) paragraph (b) were omitted;

(b) in subsection (2)—

(i) the words ", other than a search of an unattended vehicle," were omitted;

(ii) in paragraph (a), the word "or" were omitted;

(iii) paragraph (b) were omitted;

(iv) the words ", subject to subsection (4) below," were omitted;

(v) for the words "the appropriate person" there were substituted "the person proposed to be searched";

(vi) in paragraph (i) (which appears after the words "the appropriate person"), the words "if the constable is not in uniform" were omitted; and

(vii) in paragraph (ii), the words "whether he is in uniform or not," were omitted;

(c) in subsection (3)—

(i) in paragraph (a), the words "and the name" to the end were omitted; and