STATUTORY INSTRUMENTS

2015 No. 1783

REVENUE AND CUSTOMS, ENGLAND AND WALES

The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015

Made - - - -	*13th October 2015*
Laid before Parliament	*14th October 2015*
Coming into force - -	*4th November 2015*

The Treasury, in exercise of the powers conferred by sections 114(2) and (3) of the Police and Criminal Evidence Act 1984(**1**), makes the following Order:

Citation and commencement

1. This Order may be cited as the Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 and shall come into force on 4th November 2015

Interpretation

2.—(1) In this Order—

"the Act" means the Police and Criminal Evidence Act 1984;

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"the customs and excise Acts" has the meaning given to it by section 1 of the Customs and Excise Management Act 1979(**2**);

"designated customs official" has the meaning given to it by section 14(6) of the Borders, Citizenship and Immigration Act 2009(**3**);

"Home Office custody suite" means premises wholly or partly used for the detention of persons by designated customs officials;

(**1**) 1984 c. 60. Subsection 114(4) of the Act was repealed by subsection 50(6) of, and paragraph 31 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 114 of the Act was amended by section 82 of the Finance Act 2007 (c. 11).
(**2**) 1979 c.2.
(**3**) 2009 c.11.

"office of Revenue and Customs" means premises wholly or partly occupied by Her Majesty's Revenue and Customs;

"relevant indictable offence" means an indictable offence which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions;

"relevant investigation" means a criminal investigation conducted by officers of Revenue and Customs which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions.

(2) A person is in Revenue and Customs detention for the purpose of this Order if—

(a) he has been taken to an office of Revenue and Customs after being arrested for an offence; or

(b) he is arrested at an office of Revenue and Customs after attending voluntarily at the office or accompanying an officer of Revenue and Customs to it,

and is detained there or detained elsewhere in the charge of an officer of Revenue and Customs.

(3) A person is in Home Office detention for the purpose of this Order if—

(a) he has been taken to a Home Office custody suite after being arrested for an offence; or

(b) he is arrested at a Home Office custody suite after attending voluntarily at that suite or accompanying a designated customs official to it,

and is detained there or detained elsewhere in the charge of a designated customs official.

Application

3.—(1) 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, shall apply to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers.

This is subject to the modifications in paragraphs (2) and (3) and articles 4 to 19 and Schedule 2.

(2) The Act shall have effect as if the words and phrases in Column 1 of Part 1 of Schedule 2 to this Order were replaced by the substitute words and phrases in Column 2 of that Part.

(3) Where in the Act any act or thing is to be done by a constable of a specific rank, that act or thing shall be done by an officer of Revenue and Customs of at least the grade specified in Column 2 of Part 2 of Schedule 2 to this Order, and the Act shall be construed accordingly.

Exceptions

4. Nothing in the application of the Act to Revenue and Customs confers on an officer of Revenue and Customs any power—

(a) to charge a person with any offence;

(b) to release a person on bail; or

(c) to detain a person for an offence after he has been charged with that offence.

Seizure and retention of things found upon search

5.—(1) Where in the Act a constable is given power to seize and retain any thing found upon a lawful search of person or premises, an officer of Revenue and Customs shall have the same power, notwithstanding that the thing found is not evidence of an offence which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions.

(2) Nothing in the application of the Act to Revenue and Customs prevents any thing lawfully seized by a person under any enactment from being accepted and retained by an officer of Revenue and Customs.

(3) Section 21 of the Act (access and copying)(**4**) shall not apply to any thing seized as liable to forfeiture under the customs and excise Acts.

Excluded and special procedure material

6. In its application by virtue of article 3 above the Act shall have effect as if the following section were inserted after section 14—

"**Exception for Revenue and Customs**

14A. Material in the possession of a person who acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office and which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions, is neither excluded material nor special procedure material for the purposes of any enactment such as is mentioned in subsection 9(2) above.".

Restriction on other powers to apply for production of documents

7. In its application by virtue of article 3 above the Act shall have effect as if the following section were inserted after section 14A—

"**Revenue and Customs: restriction on other powers to apply for production of documents**

14B.—(1) An officer of Revenue and Customs may make an application for the delivery of, or access to, documents under a provision specified in subsection (3) only if the condition in subsection (2) is satisfied.

(2) The condition is that the officer thinks that an application under Schedule 1 would not succeed because the material required does not consist of or include special procedure material.

(3) The provisions are—

(a) section 20BA and Schedule 1AA of the Taxes Management Act 1970 (serious tax fraud)(**5**);

(b) paragraph 11 of Schedule 11 to the Value Added Tax Act 1994 (VAT)(**6**);

(c) paragraph 4A of Schedule 7 to the Finance Act 1994 (insurance premium tax)(**7**);

(d) paragraph 7 of Schedule 5 to the Finance Act 1996 (landfill tax)(**8**);

(e) paragraph 131 of Schedule 6 to the Finance Act 2000 (climate change levy)(**9**);

(**4**) Section 21(9) of the Act was inserted by section 12 of, and paragraphs 1 and 3 of Schedule 1 to, the Criminal Justice Act 2003 (c.44).
(**5**) 1970 c. 9. Section 20BA and Schedule 1AA were inserted by section 149 of the Finance Act 2000 c.17.
(**6**) 1994 c. 23. Paragraph 11 of Schedule 11 is derived from Schedule 7 to the Value Added Tax Act 1983 (c.55).
(**7**) 1994 c. 9. Paragraph 4A of Schedule 7 was inserted by section 34 of, and paragraph 8(1) of Schedule 5 to, the Finance Act 1995 (c.4). Paragraph 4A was amended by section 70 of, and paragraphs 13(1)(a), (1)(b) and (2)(g) of Part 2 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c.16).
(**8**) 1996 c. 8. Paragraph 7 of Schedule 5 was amended by section 70 of, and paragraphs 13(1)(a), (1)(b) and (2)(h) of Part 2 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c.16).
(**9**) 2000 c. 17. Paragraph 131 of Schedule 6 was amended by section 70 of, and paragraphs 13(1)(a), (1)(b) and (2)(i) of Part 2 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c.16).

(f) paragraph 8 of Schedule 7 to the Finance Act 2001 (aggregates levy)(**10**);

(g) Part 6 of Schedule 13 to the Finance Act 2003 (stamp duty land tax)(**11**).".

Modification of section 18 of the Act (Entry and search after arrest)

8.—(1) Section 18 of the Act (entry and search after arrest)(**12**) is modified as follows.

(2) For subsection 18(1) substitute—

"(1) Subject to the following provisions of this section, an officer of Revenue and Customs may enter and search any premises occupied or controlled by a person who is under arrest for any relevant indictable offence if he has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates—

(a) to that offence; or

(b) to some other indictable offence which is connected with or similar to that offence.

(3) In sub-sections (5) and (5A), after "police station", insert ", office of Revenue and Customs or Home Office custody suite".

(4) In sub-section (8), after "police detention", insert ", Revenue and Customs detention or Home Office detention"."

Modification of section 30 of the Act (Arrest elsewhere than at police station)

9.—(1) Section 30 of the Act (arrest elsewhere than at police station)(**13**) is modified as follows.

(2) In subsections (1A), (2), (3), subsection (4)(a), and subsections (5), (6), (7), (7A), (10), (10A) and (11), after "police station", wherever that expression occurs, insert ", office of Revenue and Customs or Home Office custody suite".

(3) In subsection (2), sub-sections (4)(a) and (5)(b), and subsection (6), after "designated police station", wherever that expression occurs, insert ", designated office of Revenue and Customs or designated Home Office custody suite".

(4) In subsection (3), before "detention", delete "police".

(5) In its application by virtue of article 3 above the Act shall have effect as if the following subsection were inserted after subsection 30(6)—

"(6A) An arrested person may be transferred between Revenue and Customs detention and Home Office detention, and between Revenue and Customs detention and police detention".

Modification of section 35 of the Act (Designated police stations)

10.—(1) Section 35 of the Act (designated police stations)(**14**) is modified as follows.

(2) For subsection 35(1) substitute—

(**10**) 2001 c.9.
(**11**) 2003 c.14.
(**12**) Section 18 of the Act was amended by section 111 of, and paragraph 43(1) and (5) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c.15) and section 12 of, and paragraphs 1 and 2 of Schedule 1 to, the Criminal Justice Act 2003 (c.44).
(**13**) Section 18 of the Act was amended by section 111 of, and paragraph 43(1) and (5) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c.15) and section 12 of, and paragraphs 1 and 2 of Schedule 1 to, the Criminal Justice Act 2003 (c.44).
(**14**) Section 35 of the Act was amended by section 12 of, and paragraphs 1 and 6 of Schedule 7 to, the Criminal Justice Act 2003 (c.44). There are other amendments not relevant to this Order.

"(1) The Commissioners shall designate offices of Revenue and Customs which, subject to subsections 30(3) and (5), are to be the offices to be used for the purposes of detaining arrested persons.".

(3) For subsection 35(2) substitute—

"(2) The Commissioners' duty under subsection (1) above is to designate offices of Revenue and Customs appearing to them to provide enough accommodation for that purpose.".

(4) For subsection 35(3) substitute—

"(3) Without prejudice to section 12 of the Interpretation Act 1978 (continuity of duties) the Commissioners—

(a) may designate an office which was not previously designated; and

(b) may direct that a designation of an office previously made shall cease to operate.".

Modification of section 36 of the Act (Custody officers at police stations)

11.—(1) Section 36 of the Act (custody officers at police stations)(**15**) is modified as follows.

(2) For subsection (2) substitute—

"(2) A custody officer for an office of Revenue and Customs designated under subsection 35(1) above shall be appointed—

(a) by the Commissioners; or

(b) by such officer of Revenue and Customs as the Commissioners may direct.".

Modification of section 41 of the Act (Limits on period of detention without charge)

12.—(1) Section 41 of the Act (limits on period of detention without charge)(**16**) is modified as follows.

(2) For paragraph (2)(b) substitute—

"(b) in the case of a person arrested outside England and Wales, shall be—

(i) the time at which that person arrives at the office of Revenue and Customs in England and Wales in which the offence for which he was arrested is being investigated; or

(ii) the time 24 hours after the time of that person's entry into England and Wales.".

Modification of section 50 of the Act (Records of detention)

13.—(1) Section 50 of the Act (records of detention)(**17**) is modified as follows.

(2) For subsection (1) substitute—

"(1) The Commissioners shall keep written records showing on an annual basis—

(a) the number of persons kept in Revenue and Customs detention for more than 24 hours and subsequently released without charge;

(b) the number of applications for warrants of further detention and the results of the applications; and

(**15**) Section 36 of the Act was amended by section 101 of, and paragraphs 11, 13(1) and (2) of Schedule 7 to, the Anti-Terrorism, Crime and Security Act 2001 (c.24). There are other amendments not relevant to this Order

(**16**) Section 41 of the Act was amended by section 12 of, and paragraphs 1 and 8 of Schedule 1 to, the Criminal Justice Act 2003 (c.44) and section 29(4)(b) of the Criminal Justice and Public Order Act 1994 (c.33).

(**17**) Section 50 of the Act was amended by section 103 of, and paragraph 35 of Schedule 7 to, the Police Act 1996 (c.16).