STATUTORY INSTRUMENTS

2007 No. 3175

REVENUE AND CUSTOMS, ENGLAND AND WALES

The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2007

Made - - - -	*8th November 2007*
Laid before Parliament	*9th November 2007*
Coming into force - -	*1st December 2007*

The Treasury make the following Order in exercise of the powers conferred by section 114 (2) and (3) of the Police and Criminal Evidence Act 1984(**a**):

Citation and commencement

1. This Order may be cited as the Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2007 and shall come into force on 1st December 2007.

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(**b**);

"former Inland Revenue matter" means a matter specified in section 54(4) (b) or (f) of, or in paragraphs 3, 7, 10, 13 to 15, 19 or 24 to 29 of Schedule 1 to, the Commissioners for Revenue and Customs Act 2005(**c**);

"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 apart from a former Inland Revenue matter;

"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 apart from a former Inland Revenue matter.

(**a**) 1984 c.60. Section 114(4) of the Act was repealed by section 50(6) of, and paragraph 31 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c.11).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).

(**b**) 1979 c.2

(**c**) 2005 c.11. Former Inland Revenue matters are listed in Schedule 1 to the 2005 Act. Paragraph 26 of Schedule 1 was amended by section 11 of, and paragraph 61 of Schedule 1 to, the Work and Families Act 2006 (c.18).

(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, and nothing shall prevent a detained person from being transferred between Revenue and Customs detention and police detention.

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 specified 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)(**a**) shall not apply to any thing seized as liable to forfeiture under the customs and excise Acts.

(**a**) 1984 c.60. 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).

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—

"14A Exception for Revenue and Customs

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 section 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—

"14B Revenue and Customs: restriction on other powers to apply for production of documents

(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)(**a**);

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

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

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

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

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

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

(**a**) 1970 c.9. Section 20BA and Schedule 1AA were inserted by section 149 of the Finance Act 2000 c.17.
(**b**) 1994 c.23. Paragraph 11 of Schedule 11 is derived from Schedule 7 to the Value Added Tax Act 1983 (c.55).
(**c**) 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).
(**d**) 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).
(**e**) 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**) 2001 c.9.
(**g**) 2003 c.14.

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

8.—(1) Section 18 of the Act (entry and search after arrest)(**a**)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 .".

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

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

(2) For subsection 35(1) substitute—

"(1) The Director of Detection shall designate offices of Revenue and Customs which, subject to sections 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 Director of Detection's duty under subsection (1) above is to designate offices of Revenue and Customs appearing to him 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 Director of Detection—

(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)

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

(2) For subsection (2) substitute—

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

(a) by the Director of Detection; or

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

(**a**) 1984 c.60. 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).

(**b**) 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.

(**c**) 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.

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

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

(2) For subsection (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)

12.—(1) Section 50 of the Act (records of detention)(**b**) 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

(c) in relation to each warrant of further detention—

(i) the period of further detention authorised by it;

(ii) the period which the person named in it spent in Revenue and Customs detention on its authority; and

(iii) whether he was charged or released without charge."

(3) For subsection (2) substitute—

"(2) Every annual report made by the Commissioners shall contain information about the matters mentioned in subsection (1) above in respect of the period to which the report relates.".

Modification of section 55 of the Act (Intimate searches)

13.—(1) Section 55 of the Act (intimate searches)(**c**) shall have effect as if it related only to things such as are mentioned in subsection (1)(a) of that section.

(2) The annual report of the Commissioners shall contain information about searches under section 55 which have been carried out during the period to which the report relates.

(**a**) 1984 c.60. 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).

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

(**c**) Section 55 of the Act was amended by section 170(1) of, and paragraphs 97 and 99 of Schedule 15 to, the Criminal Justice Act 1988 (c.33); section 103 of, and paragraph 36 of Schedule 7 to, the Police Act 1996 (c.16); section 79 of the Criminal Justice and Police Act 2001 (c.16) and section 3 of the Drugs Act 2005 (c.17).

Modification of section 64 of the Act (Destruction of fingerprints and samples)

14.—(1) Section 64 of the Act (destruction of fingerprints and samples)(**a**)is modified as follows.

(2) For subsection (5)(b) substitute—

"(b) the Director of Risk and Intelligence shall make access to the data impossible, as soon as it is practicable to do so.".

(3) For subsection (6A) substitute—

"(6A) If—

(a) subsection (5)(b) above falls to be complied with; and

(b) the person to whose fingerprints or impressions of footwear the data relates asks for a certificate that it has been complied with,

such a certificate shall be issued to him, not later than the end of the period of three months beginning with the day on which he asks for it, by the Director of Risk and Intelligence or a person authorised by him or on his behalf for the purposes of this section."

Modification of section 77 of the Act (Definition of independent person)

15. Section 77(3) of the Act (definition of independent person)(**b**) shall be modified to the extent that the definition of "independent person" shall, in addition to the persons mentioned therein, also include an officer of Revenue and Customs or any other person acting under the authority of the Commissioners.

Use of reasonable force

16. Where any provision of the Act as applied to Revenue and Customs—

(a) confers a power on an officer of Revenue and Customs, and

(b) does not provide that the power may only be exercised with the consent of some person other than that officer,

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

Arrest without warrant

17. Section 24(2) of the Act (arrest without warrant)(**c**)does not limit—

(a) section 138(1) of the Customs and Excise Management Act 1979;

(b) section 20 and paragraph 4 of Schedule 3 to the Criminal Justice (International Co-operation) Act 1990;

(c) any other enactment, including any enactment contained in subordinate legislation, for the time being in force which confers upon officers of Revenue and Customs the power to arrest or detain persons.

(**a**) 1984 c.60. Section 64 of the Act was amended by section 148 of the Criminal Justice Act 1988 (c.33); section 57(2) of the Criminal Justice and Public Order Act 1994 (c.33); section 103 of, and paragraph 37 of Part II of Schedule 7 to, the Police Act 1996 (c.16); section 82 of the Criminal Justice and Police Act 2001 (c.16); section 117(7) and section 118(4) of the Serious Organised Crime and Police Act 2005 (c.15). There are further amendments to section 64 in section 117(8) to (10) of the 2005 Act (c.15) which are not yet in force. Section 64(4) was repealed by section 137 of, and Part 2(1) of Schedule 7 to, the Criminal Justice and Police Act 2001 (c.16).

(**b**) Section 77 of the Act was amended by section 103 of, and paragraph 38 of Schedule 7 to, the Police Act 1996 (c.16) and section 331 of, and paragraph 48 of Part 4 of Schedule 36 to, the Criminal Justice Act 2003 (c.44).

(**c**) Section 24 of the Act was amended by section 110(1) of the Serious Organised Crime and Police Act 2005 (c.15).

Search of persons

18. Where an officer of Revenue and Customs searches premises in reliance on a warrant under section 8 of, or paragraph 12 of Schedule 1 to, the Act (power of justice of the peace to authorise entry and search of premises)(**a**), he may search any person found on the premises—

(a) where he has reasonable cause to believe that person to be in possession of material which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence;

(b) but no person should be searched except by a person of the same sex.

Authorisation

19. Powers and functions in the provisions of the Act contained in Schedule 1 to this Order may be exercised only by officers of Revenue and Customs acting with the authority (which may be general or specific) of the Commissioners.

Revocation

20. The following instruments are revoked—

(a) the Police and Criminal Evidence Act 1984 (Application to Customs and Excise) Order 1981(**b**);

(b) the Police and Criminal Evidence Act 1984 (Application to Customs and Excise) Order 1987(**c**);

(c) the Police and Criminal Evidence Act 1984 (Application to Customs and Excise) (Amendment) Order 1995(**d**); and

(d) the Police and Criminal Evidence Act 1984 (Application to Customs and Excise) (Amendment) Order 1996(**e**).

Dave Watts
Steve McCabe
8th November 2007 Two of the Lord's Commissioners of Her Majesty's Treasury

---

(**a**) 1984 c.60. Section 8 of the Act was amended by sections 113(3),(4), 114(2) and section 111 of, and paragraph 43(3) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c.15); section 169(1) of, and paragraph 80(2) of Schedule 14 to, the Immigration and Asylum Act 1999 (c.33) and section 86 of the Finance Act 2007 (c.11). Paragraph 12 of Schedule 1 to the Act was amended by section 113(1) and (13) of the Serious Organised Crime and Police Act 2005 (c.15) and section 65 of, and paragraph 6(1) of Schedule 4 to, the Courts Act 2003 (c.39) but the latter amendment is not yet in force.
(**b**) S.I. 1985/1800.
(**c**) S.I. 1987/439.
(**d**) S.I. 1995/3217.
(**e**) S.I. 1996/1860.

SCHEDULE 1

Article 3(1)

Provisions of the Act applied to Revenue and Customs

Section 8 (power of justice of the peace to authorise entry and search of premises)(**a**)

Section 9 (special provisions as to access) and Schedule 1 (special procedure)(**b**)

Section 15 (search warrants-safeguards)(**c**)

Section 16 (execution of warrants)(**d**)

Section 17(1)(b), (2), (4) (entry for purpose of arrest etc.)(**e**)

Section 18 (entry and search after arrest)(**f**) (subject to the modification in article 8)

Section 19 (general power of seizure etc.)(**g**)

Section 20 (extension of powers of seizure to computerised information)(**h**)

Section 21 (access and copying)(**i**) (subject to the modification in article 5)

Section 22(1) to (4) (retention)(**j**)

Section 24(2) (arrest without warrant: constables)(**k**) (subject to the modification in article 17)

Section 28 (information to be given on arrest)

Section 29 (voluntary attendance at police station etc.)

Section 30(1) to (4) (a) and (5) to (11) (arrest elsewhere than at police station)(**l**)

Section 31 (arrest for further offence)

(**a**) 1984 c.60. Section 8 of the Act was amended by sections 113(3), (4), 114(2) and 111 of, and paragraph 43(3) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c.15); section 169(1) of, and paragraph 80(2) of Schedule 14 to, the Immigration and Asylum Act 1999 (c.33) and section 86 of the Finance Act 2007 (c.11).

(**b**) Section 9 of the Act was amended by section 86(1) of the Criminal Justice and Police Act 2001 (c.16) and section 65 of, and paragraph 5 of Schedule 4 to, the Courts Act 2003 (c.39) but the latter amendment is not yet in force. Schedule 1 of the Act was amended by section 70 of, and paragraph 14 of Part 2 of Schedule 4 to, the Criminal Justice and Police Act 2001 (c.16); section 111 of, and paragraph 43(13) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c.15) and section 113(10) to (13) of the 2005 Act (c.15). There are further amendments to Schedule 1 of the Act in section 114(9) of the Serious Organised Crime and Police Act 2005 (c.15) and section 65 of, and paragraph 6 of Schedule 4 to, the Courts Act 2003 (c.39) which are not yet in force.

(**c**) Section 15 of the Act was amended by section 113(6) to (8), 114(4) to (7) and 174(2) of, and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c.15) and Article 7 of the Serious Organised Crime and Police Act 2005 (Amendment) Order 2005 (S.I. 2005/3496).

(**d**) Section 16 of the Act was amended by section 109(1) of, and paragraph 281(3) of Schedule 8 to the Courts Act 2003 (c.39); section 2 of the Criminal Justice Act 2003 (c.44); section 113(9) and 114(8) of the Serious Organised Crime and Police Act 2005 (c.15) and Article 8 of the Serious Organised Crime and Police Act 2005 (Amendment) Order 2005 (S.I. 2005/3496).

(**e**) Section 17(1)(b) of the Act was amended by section 111 of, and paragraph 43(1) and (4) of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c.15).

(**f**) 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).

(**g**) Section 19 of the Act was amended by section 70 of, and paragraph 13(1) and (2)(a) of Part 2 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c.16).

(**h**) Section 20 of the Act was amended by section 70 of, and paragraph 13(1) and (2)(a) of Part 2 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c.16).

(**i**) 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).

(**j**) There are amendments to section 22 of the Act which are not relevant to this Order.

(**k**) Section 24(2) of the Act was amended by section 110(1) of the Serious Organised Crime and Police Act 2005 (c.15).

(**l**) Section 30 of the Act was amended by section 4(1) to (6) of the Criminal Justice Act 2003 (c.44).

Section 32(1) to (9) (search upon arrest)(**a**) (subject to the modifications in article 5)

Section 34(1) to (5) (limitations on police detention)(**b**)

Section 35(1), (2), (3) and (4) (designated police stations)(**c**) (subject to the modification in article 9)

Section 36(1), (2), (3), (4), (5), (6), (7), (8), (9) and (10) (custody officers at police stations)(**d**) (subject to the modification in article 10)

Section 37 (duties of custody officer before charge)(**e**)

Section 39 (responsibilities in relation to persons detained)(**f**)

Section 40 (review of police detention)(**g**)

Section 41(1), (2), (4) and (6) to (9) (limits on period of detention without charge)(**h**) (subject to the modification in article 11)

Section 42(1), (2) and (4) to (11) (authorisation of continued detention)(**i**)

Section 43(1) to (12) and (14) to (19) (warrants of further detention)(**j**)

Section 44 (extension of warrants of further detention)

Section 50 (records of detention)(**k**) (subject to the modification in article 12)

Section 51(d) (savings)(**l**)

Section 54 (searches of detained persons)(**m**)

Section 55 (intimate searches)(**n**) (subject to the modifications in articles 5 and 13)

(**a**) 1984 c.60. Section 32 of the Act was amended by section 59(2) of the Criminal Justice and Public Order Act 1994 (c.33) and section 111 of, and paragraph 43(6) of part 3 of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c.15). There are other amendments to section 30 which are not relevant to this Order.

(**b**) Section 34 of the Act was amended by section 56(2) of the Criminal Justice and Court Services Act 2000 (c.43). There are other amendments to section 34 which are not relevant to this Order.

(**c**) 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.

(**d**) 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.

(**e**) Section 37 of the Act was amended by section 108(7) of, and Schedule 15 to, the Children Act 1989 (c.41); sections 29(4)(a) and 168(3) of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c.33); section 28 of, and paragraph 2 of Schedule 2 to, the Criminal Justice Act 2003 (c.44); section 23(1) of, and paragraph 2 of Schedule 1 to, the Drugs Act 2005 (c.17) and sections 11 and 52 of, and paragraph 9 of Schedule 14 to, the Police and Justice Act 2006 (c.48).

(**f**) Section 39 of the Act was amended by section 108(5) of, and paragraph 54 of Schedule 13 to the Children Act 1989 (c.41). Section 39(5) was repealed by section 108(7) of, and Schedule 15 to, the Children Act 1989 (c.41). There are further amendments to section 39 by section 121(7) of the Serious Organised Crime and Police Act (c.15) which are not yet in force.

(**g**) Section 40 of the Act was amended by section 52 of the Police Reform Act 2002 (c.30) and section 28 of, and paragraph 4 of Schedule 2 to, the Criminal Justice Act 2003 (c.44).

(**h**) 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).

(**i**) Section 42 of the Act was amended by section 29(4)(b) of the Criminal Justice and Public Order Act 1994 (c.33); section 7 of the Criminal Justice Act 2003 (c.44) and section 111 of, and paragraph 43(7) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act (c.15).

(**j**) Section 43 of the Act was amended by section 29(4)(b) of the Criminal Justice and Public Order Act 1994 (c.33) and section 111 of, and paragraph 43(8) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act (c.15).

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

(**l**) There are amendments to section 51 of the Act which are not relevant to this Order.

(**m**) Section 54 of the Act was amended by section 147 of the Criminal Justice Act 1988 (c.33); section 168(2) of, and paragraph 55 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c.33) and section 8 of the Criminal Justice Act 2003 (c.44). There are further amendments to section 54 by section 46(1) and (6) of the Police and Justice Act 2006 (c.48) which are in force for some purposes only (see article 3(n) of the Police and Justice Act 2006 (Commencement No. 2, Transitional and Saving Provisions) Order 2007 (S.I. 2007/709)).

(**n**) Section 55 of the Act was amended by section 170(1) of, and paragraphs 97 and 99 of Schedule 15 to, the Criminal Justice Act 1988 (c.33); section 103 of, and paragraph 36 of Schedule 7 to, the Police Act 1996 (c.16); section 79 of the Criminal Justice and Police Act 2001 (c.16) and section 3 of the Drugs Act 2005 (c.17).

Section 56(1) to (9) (right to have someone informed when arrested)(**a**)

Section 57 (additional rights of children and young persons)(**b**)

Section 58(1) to (11) (access to legal advice)(**c**)

Section 62 (intimate samples)(**d**)

Section 63 (other samples)(**e**)

Section 64, except (6B), (destruction of fingerprints and samples)(**f**) (subject to the modification in article 14)

Section 66 (codes of practice)(**g**)

Section 67 (codes of practice-supplementary)(**h**)

Section 77 (confessions by mentally handicapped persons)(**i**) (subject to the modification in article 15)

Section 107 (police officers performing duties of higher rank)(**j**)

(**a**) 1984 c.60. Section 56 of the Act was amended by section 32(1) of the Drug Trafficking Offences Act 1986 (c.32); section 74 of the Criminal Justice and Police Act 2001 (c.16); section 456 of, and paragraph 14(2) of Schedule 11 to, the Proceeds of Crime Act 2002 (c.29) and section 111 of, and paragraph 43(9) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act (c.15).

(**b**) Section 57 of the Act amends section 34 of the Children and Young Persons Act 1933.

(**c**) Section 58 of the Act was amended by section 32(2) of the Drug Trafficking Offences Act 1986 (c.32); section 456 of, and paragraph 14(1) and (3) of Schedule 11 to, the Proceeds of Crime Act 2002 (c.29) and section 111 of, and paragraph 43(10) of Part 3 of Schedule 7 to, the Serious Organised Crime and Police Act (c.15).

(**d**) Section 62 of the Act was amended by section 4 of, and paragraph 27 of Schedule 3 to, the Road Traffic (Consequential Provisions) Act 1988 (c.54); sections 54 and 168 of, and Schedule 9, paragraphs 57(a) and (b) and 62(4)(a) of Schedule 10 and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c.33); section 125(1) of, and paragraph 5(1) and (8) of Schedule 15 to, the Terrorism Act 2000 (c.11); section 74 of, and paragraphs 76 and 78 of Part II of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c.43); section 80(1) of the Criminal Justice and Police Act 2001 (c.16) and section 53(2) and 54(1) of the Police Reform Act 2002 (c.30). Section 62(10)(a)(i) was repealed by sections 41 and 332 of, and paragraph 56(1) and (2)(a) of Part 2 of Schedule 3 and Part 4 of Schedule 37 to, the Criminal Justice Act 2003 (c.44) but that repeal is not yet in force. Section 62(10)(aa)(i) and (ii) was repealed and subsequent words substituted by section 41 of, and paragraph 56(1) and (2)(b) of Part 2 of Schedule 3 to, the Criminal Justice Act 2003 (c.44) but that repeal and substitution are not yet in force.

(**e**) Section 63 of the Act was amended by section 55 of the Criminal Justice and Public Order Act 1994 (c.33) and section 168(2) of, and paragraphs 58(a) and (b) and 62(4)(b) of Schedule 10 to, the 1994 Act (c.33); sections 1(2) and 2(2) of the Criminal Evidence (Amendment) Act 1997 (c.17); section 125(1) of, and paragraph 5(1) and (9) of Schedule 15 to, the Terrorism Act 2000 (c.11); section 80(1) and (3) of the Criminal Justice and Police Act 2001 (c.16); section 107(1) of, and paragraph 9(4) of Schedule 7 to, the Police Reform Act 2002 (c.30); section 169(1) and (4) of the Extradition Act 2003 (c.41) and sections 10 and 332 of, and Part 1 of Schedule 7 to, the Criminal Justice Act 2003 (c.44). There is a further amendment to section 63 of the Act by section 80(4) of the Criminal Justice and Police Act 2001 (c.16) but that amendment is not yet in force.

(**f**) Section 64 of the Act was amended by section 148 of the Criminal Justice Act 1988 (c.33); section 57(2) of the Criminal Justice and Public Order Act 1994 (c.33); section 103 of, and paragraph 37 of Part II of Schedule 7 to, the Police Act 1996 (c.16); section 82 of the Criminal Justice and Police Act 2001 (c.16); section 117(7) and section 118(4) of the Serious Organised Crime and Police Act 2005 (c.15). There are further amendments to section 64 in section 117(8) to (10) of the 2005 Act (c.15) which are not yet in force. Section 64(4) was repealed by section 137 of, and Part 2(1) of Schedule 7 to, the Criminal Justice and Police Act 2001 (c.16).

(**g**) Section 66 of the Act was amended by section 57(4) of the Criminal Justice and Court Services Act 2000 (c.43) and section 110(3) of the Serious Organised Crime and Police Act 2005 (c.15).

(**h**) Section 67 of the Act was amended by section 107(1) of, and paragraph 9(7) of Schedule 7 to, the Police Reform Act 2002 (c.30); section 107(2) of, and Schedule 8 to, the Police Reform Act 2002 (c.30); sections 11(1) and 332 of, and Part 1 of Schedule 37 to, the Criminal Justice Act 2003 (c.44); section 6(1) of, and paragraph 1 of Schedule 4 to, the Police and Justice Act 2006 (c.48). There are further amendments by section 38 of, and Part 1 of Schedule 7 to, the Armed Forces Act 2006 (c.52) and section 378(1) of, and paragraph 101 of Schedule 16 to, the 2006 Act (c.52). Section 67(8) was repealed by section 103 of, and Part II of Schedule 9 to, the Police Act 1996 (c.16).

(**i**) Section 77 of the Act was amended by section 103 of, and paragraph 38 of Schedule 7 to, the Police Act 1996 (c.16) and section 331 of, and paragraph 48 of Part 4 of Schedule 36 to, the Criminal Justice Act 2003 (c.44).

(**j**) Section 107 of the Act was amended by section 44 of, and paragraph 35 of Part II of Schedule 5 to, the Police and Magistrates' Courts Act 1994 (c.29).

SCHEDULE 2

Article 3(2)

PART 1

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 Revenue and Customs, there shall be substituted the equivalent word or phrase in column 2—

Column 1	*Column 2*
WORDS AND PHRASES USED IN THE ACT	*SUBSTITUTED WORDS AND PHRASES*
chief officer of police	director
constable	officer of Revenue and Customs
designated police station	designated office of Revenue and Customs
officer of a force maintained by a police authority	officer of Revenue and Customs
Police detention (except in section 118 and in section 39(1)(a) the second time the words occur)	Revenue and Customs detention
Police officer	Officer of Revenue and Customs
Police station	Office of Revenue and Customs
rank	Grade
station	Office of Revenue and Customs
The police	Her Majesty's Revenue and Customs

PART 2

Equivalent titles 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 Revenue and Customs, be done by an officer of Revenue and Customs of at least an equivalent grade specified in Column 2—

Column 1	*Column 2*
RANK OF CONSTABLE	GRADE OF OFFICER
Sergeant	Officer
Inspector	Higher officer
Chief Inspector	Higher officer
Superintendent	Senior officer

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which extends to England and Wales, applies certain provisions of the Police and Criminal Evidence Act 1984, subject to specified modifications, to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers. A relevant investigation is 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 apart from certain specified former Inland Revenue matters.

Article 3 of the Order applies the provisions of the Act contained in Schedule 1, subject to specified modifications, to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers. Schedule 2 to the Order substitutes terms applicable to Revenue and Customs for certain words and phrases in the Act and sets out equivalent Revenue and Customs grades for specified ranks of constable.

Article 4 ensures that officers of Revenue and Customs do not have powers to charge a person, release a person on bail or to detain a person after charge.

Article 5(1) permits officers of Revenue and Customs to retain things found during a lawful search 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. Article 5(2) ensures that nothing in the application of the Act to Revenue and Customs shall be construed to prevent any thing lawfully seized by a person under any enactment from being accepted and retained by an officer. Article 5(3) provides that the provisions in the Act on access and copying shall not apply to any thing seized as liable to forfeiture under the customs and excise Acts.

Article 6 inserts section 14A into the Act which provides that material acquired or created in the course of a trade or business is not excluded or special procedure material for the purposes of any enactment mentioned in section 9(2) of the Act.

Article 7 inserts section 14B into the Act which restricts the use of powers to apply for the production of documents under other enactments. An officer of Revenue and Customs may only use those other powers if he thinks that an application under Schedule 1 of the Act would not succeed because the material required does not consist of or include special procedure material.

Article 8 modifies section 18(1) of the Act to restrict the power of entry and search after arrest to relevant indictable offences.

Article 9 modifies section 35 of the Act by substituting the Director of Detection for the chief officer of police for a police area.

Article 10 modifies section 36 of the Act by substituting the Director of Detection for the chief officer of police for a police area.

Article 11 modifies section 41 of the Act by providing that the time from which the period of detention is calculated in the case of a person arrested outside England and Wales is the earliest of either the time at which the person arrives at the office of Revenue and Customs in England and Wales in which the offence for which he is arrested is being investigated or the time 24 hours after the time of his entry into England and Wales.

Article 12 modifies section 50 of the Act by substituting the Commissioners for police force and provides for the keeping of records of detention and the publication of an annual report containing information on detention by the Commissioners.

Article 13 modifies section 55 of the Act so that it has effect as if it related only to items which might cause injury.

Article 14 modifies section 64 of the Act by substituting the Director of Risk and Intelligence for the chief officer of police controlling access to computer data.

Article 15 modifies section 77 of the Act by expanding the definition of "independent person" to include an officer of Revenue and Customs or any other person acting under the authority of the Commissioners.

Article 16 provides that where any provision of the Act applied to Revenue and Customs confers a power on an officer of Revenue and Customs (and does not provide that the power may only be exercised with the consent of some person other than the officer) the officer may use reasonable force in the exercise of the power.

Article 17 modifies section 24(2) of the Act so that it does not limit other enactments which confer upon officers of Revenue and Customs the power to arrest or detain persons.

Article 18 provides that an officer of Revenue and Customs searching premises under the authority of a warrant under section 8 of, or paragraph 12 of Schedule 1 to, the Act, may search persons found on the premises where he has reasonable cause to believe that person to be in possession of material likely to be of substantial value to the investigation of the offence. The power must be exercised by a person of the same sex as the person being searched.

Article 19 provides that powers and functions in the provisions of the Act applied to Revenue and Customs by the Order may only be exercised by officers of Revenue and Customs who are authorised to do so by the Commissioners.

STATUTORY INSTRUMENTS

2007 No. 3175

REVENUE AND CUSTOMS, ENGLAND AND WALES

The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2007

£3.00

© Crown copyright 2007

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1558 11/2007 171558T 19585

