



Policing and Crime Act 2017

CHAPTER 3

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

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- (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.”;
 - (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”.

Pardons for certain abolished offences etc

**164 Posthumous pardons for convictions etc of certain abolished offences:
England and Wales**

- (1) A person who has been convicted of, or cautioned for, an offence specified in subsection (3) and who has died before this section comes into force is pardoned for the offence if two conditions are met.

- (2) Those conditions are that –
- (a) the other person involved in the conduct constituting the offence consented to it and was aged 16 or over, and
 - (b) any such conduct at the time this section comes into force would not be an offence under section 71 of the Sexual Offences Act 2003 (sexual activity in a public lavatory).
- (3) The offences to which subsection (1) applies are –
- (a) an offence under section 12 of the Sexual Offences Act 1956 (buggery) or under section 13 of that Act (gross indecency between men);
 - (b) an offence under any of the following provisions (which made provision similar to section 12 of the Sexual Offences Act 1956) –
 - (i) 25 Hen. 8 c. 6 (1533) (an Act for the punishment of the vice of buggery);
 - (ii) 2 & 3 Edw. 6 c. 29 (1548) (an Act against sodomy);
 - (iii) 5 Eliz. 1 c. 17 (1562) (an Act for the punishment of the vice of buggery);
 - (iv) section 15 of 9 Geo. 4 c. 31 (1828) (an Act for consolidating and amending the law relating to offences against the person);
 - (v) section 61 of the Offences against the Person Act 1861;
 - (c) an offence under section 11 of the Criminal Law Amendment Act 1885 (which made provision similar to section 13 of the Sexual Offences Act 1956).
- (4) The list of offences in subsection (3) is to be read as if it also included the corresponding service offences and, for that purpose, the corresponding service offences are –
- (a) an offence under an enactment set out in subsection (5) which is such an offence by virtue of any of the enactments mentioned in subsection (3);
 - (b) an offence under section 32 of 13 Chas. 2 c. 9 (1661) (An Act for the regulation and better government of the navy);
 - (c) an offence under section 29 of 22 Geo. 2 c. 33 (1749) (An Act for amending and consolidating the laws relating to the navy);
 - (d) an offence of sodomy mentioned in, and punishable under, section 38 of the Naval Discipline Act 1860, section 38 of the Naval Discipline Act 1861, section 41 of the Naval Discipline Act 1864 or section 45 of the Naval Discipline Act 1866.
- (5) The enactments referred to in subsection (4)(a) are –
- (a) section 45 of the Naval Discipline Act 1866;
 - (b) section 41 of the Army Act 1881;
 - (c) section 41 of the Air Force Act 1917;
 - (d) section 70 of the Army Act 1955;
 - (e) section 70 of the Air Force Act 1955;
 - (f) section 42 of the Naval Discipline Act 1957.
- (6) The reference in subsection (2)(b) to an offence under section 71 of the Sexual Offences Act 2003 is to be read as including a reference to an offence under section 42 of the Armed Forces Act 2006 which is such an offence by virtue of section 71 of that Act of 2003.

- (7) Subject to subsection (8), the following provisions of section 101 of the Protection of Freedoms Act 2012 apply for the purposes of this section and section 167(1) (so far as relating to this section) as they apply for the purposes of Chapter 4 of Part 5 of that Act –
 - (a) in subsection (1), the definitions of “caution”, “conviction”, and “sentence” (and the related definition of “service disciplinary proceedings”);
 - (b) subsections (2) and (5) to (7).
- (8) The definition of “service disciplinary proceedings” in section 101(1) of the 2012 Act applies in accordance with subsection (7) with the modification that it also includes any proceedings (whether in England and Wales or elsewhere) under –
 - (a) 13 Chas. 2 c. 9 (1661) (An Act for the regulation and better government of the navy),
 - (b) 22 Geo. 2 c. 33 (1749) (An Act for amending and consolidating the laws relating to the navy), or
 - (c) the Naval Discipline Act 1860, the Naval Discipline Act 1861 or the Naval Discipline Act 1864.
- (9) Except in relation to service disciplinary proceedings, this section applies only in relation to persons convicted or cautioned in England and Wales.

165 Other pardons for convictions etc of certain abolished offences: England and Wales

- (1) This section applies to a person who has been convicted of, or cautioned for, an offence mentioned in section 92(1) of the Protection of Freedoms Act 2012 and who is living at the time this section comes into force.
- (2) If, at the time this section comes into force, the person’s conviction or caution has become a disregarded conviction or caution under Chapter 4 of Part 5 of the Protection of Freedoms Act 2012, the person is pardoned for the offence.
- (3) If, at any time after this section comes into force, the person’s conviction or caution becomes a disregarded conviction or caution under Chapter 4 of Part 5 of the Protection of Freedoms Act 2012, the person is also pardoned for the offence at that time.
- (4) Expressions used in this section or section 167(1) (so far as relating to this section) and in Chapter 4 of Part 5 of the Protection of Freedoms Act 2012 have the same meaning in this section or (as the case may be) section 167(1) as in that Chapter (see section 101 of that Act).

166 Power to provide for disregards and pardons for additional abolished offences: England and Wales

- (1) The Secretary of State may by regulations made by statutory instrument amend section 92 of the Protection of Freedoms Act 2012 (power of Secretary of State to disregard convictions or cautions) so as to add further offences to the list of offences specified in subsection (1) of that section.
- (2) An offence may be added to that list only if –
 - (a) it was an offence under the law of England and Wales,
 - (b) it has been repealed or, in the case of an offence at common law, abolished, and