



Isle of Man

Ellan Vannin

AT 4 of 2014

**CRIMINAL JUSTICE, POLICE POWERS
AND OTHER AMENDMENTS ACT 2014**



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**Isle of Man***Ellan Vannin*

CRIMINAL JUSTICE, POLICE POWERS AND OTHER AMENDMENTS ACT 2014

Signed in Tynwald: 20 May 2014
Received Royal Assent: 20 May 2014
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AN ACT to make new provision relating to criminal law, criminal justice and the police; to amend enactments relating to those matters; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Criminal Justice, Police Powers and Other Amendments Act 2014.

2 Commencement

- (1) This Act (other than this section and section 1) comes into operation on such day or days as the Department of Home Affairs by order appoints and different days may be appointed for different provisions and for different purposes.
- (2) An order under subsection (1) may make such consequential, incidental, transitional and saving provisions as the Department of Home Affairs considers necessary or expedient.

3 Expiry

- (1) This Act expires —

- (a) on the day after its promulgation if all of its provisions are in operation on its promulgation; or
 - (b) otherwise, on the day after the last provision is brought into operation.
- (2) The expiry does not —
- (a) revive any Act it amended as the Act operated before the amendment commenced;
 - (b) revive anything not in operation or existing when the amendment took effect; or
 - (c) affect the continuing operation of the amendment.

PART 2 — AMENDMENT OF THE BAIL ACT 1952

Bail: conditions and breach

4 Amendment of the Bail Act 1952

The *Bail Act 1952* is amended in accordance with sections 5 to 11.

5 Amendment of section 2

In section 2 (bail in offences triable by a Court of Summary Jurisdiction) delete from “with or without a surety” to the end of the section.

6 Amendment of section 3

In sections 3(1) and (3) (bail in offences triable on information) delete from “with or without a surety” to the end of the subsections.

7 Substitution of section 3A

- (1) For section 3A (conditions for bail) substitute —

3A Grant of bail and recognizance conditions

- (1) If a court is admitting a person to bail by recognizance, the court may —
- (a) grant bail with or without a surety or sureties; and
 - (b) impose a condition (a “**recognizance condition**”) on the person if the court believes that the condition is necessary to secure that the person will —
 - (i) surrender to custody at a particular time or place, or both;
 - (ii) not commit an offence while on bail;

- (iii) not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or herself or another person;
- (iv) make himself or herself available for the purpose of enabling inquiries or a report to be made to assist the police or a court in dealing with the person for the offences;
- (v) make himself or herself available for appearance at every time or place to which the hearing may from time to time be adjourned during the course of proceedings; or
- (vi) not leave the Island.

- (2) The court may impose the recognizance condition on the person before release on bail or later.
- (3) Subsection (1) does not affect the power of the court to vary a recognizance condition on a person. **22**.

8 Repeal of section 4

Section 4 (continuous bail) is repealed.

9 Amendment of section 8

In section 8 (recognizances of prisoners may be taken before any justice) delete “, with or without a surety or sureties,”.

10 Repeal of section 12

Section 12 (bail on arrest) is repealed.

11 Substitution of section 15 and insertion of sections 15A to 15C

For section 15 (forfeited recognizances for bail) substitute —

15 Arrest of person who breaches conditions of bail

- (1) A constable may arrest without a warrant any person who has been admitted to bail by recognizance if —
 - (a) the constable has reasonable grounds for believing that the person is likely to contravene a recognizance condition or a bail condition imposed on the person;
 - (b) the constable has reasonable grounds for believing that the person has contravened a recognizance condition or a bail condition imposed on the person;

- (c) a court, by order, withdraws the bail of the person under section 15A(2)(b)(ii); or
 - (d) a surety for that person notifies the constable in writing that the surety believes that the person is likely to contravene a recognizance condition or a bail condition imposed on the person and for that reason the surety wishes to be relieved of the surety's obligations.
- (2) The person must be brought before —
- (a) if the person is arrested in the period of 24 hours before being required to appear before a court because of a recognizance condition or a bail condition imposed on the person, that court; or
 - (b) in any other case, a court.
- (3) The person must be brought before the court mentioned in subsection (2) as soon as practicable and, in any event, not later than the first sitting of the court after the person is arrested.
- (4) In this section, “first sitting” means —
- (a) a sitting of the court on the day on which the person is arrested or on the next day; or
 - (b) if the court is not sitting on one of those days —
 - (i) a sitting determined under subsection (5); or
 - (ii) if subsections (7) and (8) apply, a sitting arranged under those subsections.
- (5) A judge may, in writing, determine places, days and times when a court may sit for the purposes of dealing with matters under this section.
- (6) Subsections (7) and (8) apply if —
- (a) no court is due to sit on the day on which the person is arrested under this section or on the next day; and
 - (b) no determination under subsection (5) has been made in relation to the day on which the person is arrested under this section or on the next day.
- (7) The custody officer at the police station where the person is being detained must inform the Chief Registrar, or a person assigned by the Chief Registrar to act as clerk of the court, that a person has been detained under this section.
- (8) The Chief Registrar, or a person so assigned, must arrange for the court to sit not later than —
- (a) the day after the day on which the person was arrested; or
 - (b) if that day is any of the following, the first day after that day —

- (i) a Sunday;
- (ii) Christmas Day;
- (iii) Good Friday; or
- (iv) Tynwald Day.

- (9) Nothing in this section prevents the re-arrest without a warrant of a person released on bail under this Act if new evidence justifying a further arrest has come to light since that person's release.
- (10) If a person is re-arrested, this Act applies to the person as it applies to a person arrested for the first time.
- (11) Nothing in this section requires a person who is in hospital to be brought before a court if the person is not well enough.
- (12) This section applies despite section 36 of the *Interpretation Act 1976*.

15A Breach of condition

- (1) This section applies if —
 - (a) a person is admitted to bail by recognizance; and
 - (b) the person engages in conduct that contravenes a recognizance condition or a bail condition imposed on the person.
- (2) A court before which a person arrested under section 15 is brought —
 - (a) must, unless it finds reason not to do so, order forfeiture under section 15B; and
 - (b) may, by order —
 - (i) discharge the recognizance;
 - (ii) withdraw bail;
 - (iii) dispense with a surety or sureties;
 - (iv) reduce the amount for which a surety is bound;
 - (v) vary a recognizance condition or a bail condition imposed on the person; or
 - (vi) impose a new recognizance condition on the person.
- (3) If the court finds reasons not to order forfeiture the court must give those reasons.
- (4) If the court withdraws bail, the court must —
 - (a) remand the person in custody if the person in relation to whom the order is made is before the court; or
 - (b) order the person to surrender himself or herself into custody if the person is not before the court.

15B Breach of bail condition: forfeiture

- (1) If a court orders forfeiture under this section, the court must order that an amount equal to or less than the recognizance sum be paid to the court within the period provided by the court.
- (2) In determining an amount for the purposes of subsection (1), the court may consider whether the person admitted to bail had a reasonable excuse for contravening the recognizance condition or bail condition imposed on the person.
- (3) If the court is satisfied that the person has a reasonable excuse, the amount under subsection (1) may be zero.
- (4) The amount payable must be applied as a fine imposed by a criminal court.
- (5) The amount payable does not reduce the amount of the recognizance sum.
- (6) In this section —
 - “criminal court” has the same meaning as in section 1(4) of the *Collection of Fines etc. Act 1985*;
 - “recognizance sum” means a sum of money that is paid or payable by the person admitted to bail by the recognizance or a surety of that person (or both) —
 - (a) under a recognizance; and
 - (b) to secure performance of a recognizance condition imposed on the person.

15C Interpretation

In this Act —

- “**bail by recognizance**” means bail by recognizance granted or varied in accordance with section 3A;
- “**bail condition**” means a bail condition imposed on a person by a custody officer under section 50A(1)(b) of the *Police Powers and Procedures Act 1998*;
- “**recognizance condition**” means a recognizance condition imposed by a court on a person in accordance with section 3A. .

PART 3 – AMENDMENT OF THE CRIMINAL LAW ACT 1981

Arrest of persons granted bail

12 Repeal of section 5

Section 5 (arrest of persons granted bail) of the *Criminal Law Act 1981* is repealed.

PART 4 – AMENDMENT OF THE SUMMARY JURISDICTION ACT 1989

Recognizances

13 Amendment of the Summary Jurisdiction Act 1989

For section 83(1) of the *Summary Jurisdiction Act 1989* (warrant endorsed for bail) substitute –

- █ (1) A justice, on issuing a warrant for the arrest of a person, may endorse the warrant with a direction that that person must, on arrest, be released on bail by recognizance in accordance with section 3A of the *Bail Act 1952*. █.

PART 5 – AMENDMENT OF THE CRIMINAL JUSTICE ACT 1991

Search etc for relevant material: evidence or information for use outside Island

14 Amendment of section 22

- (1) Section 22 of the *Criminal Justice Act 1991* (search for material relevant to section 21) is amended as follows.
- (2) In subsection (1)(c) for “premises in the Island occupied or controlled by that person” substitute █ premises mentioned in subsection (1A) █.
- (3) After subsection (1) insert –

- █ (1A) The premises mentioned in subsection (1)(c) are –
- (a) one or more sets of premises occupied or controlled by a person specified in the application (in which case the application is for a “specific premises warrant”); or
 - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so

- specified (in which case the application is for an “all premises warrant”).
- (1B) If the application is for an all premises warrant, the Judge must also be satisfied —
- (a) that, because of the particulars of the conduct mentioned in subsection (1)(b), there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question that are not specified in the application in order to find the evidence or information mentioned in subsection (1)(c); and
- (b) that it is not reasonably practicable to specify in the application all the premises that the person in question occupies or controls and that might need to be searched.
- (1C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the Judge is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the warrant is issued.
- (1D) If the warrant authorises multiple entries, the number of entries authorised may be unlimited or limited to a maximum. 22.
- (4) Consequently, in sections 20(1) and 22(1), for “Deemster” substitute 23 Judge 22.

PART 6 – AMENDMENT OF THE CRIMINAL JURISDICTION ACT 1993

Forfeiture of recognizances

15 Amendment of section 32

For section 32(1) of the *Criminal Jurisdiction Act 1993* (bail pending determination of appeal) substitute —

- 23 (1) The Appeal Division may, on the application of the appellant, admit the appellant to bail by recognizance in accordance with section 3A of the *Bail Act 1952*, pending determination of an appeal under this Act. 22.

PART 7 — AMENDMENT OF THE POLICE ACT 1993*Police regulations***16 Amendment of the Police Act 1993**

The *Police Act 1993* is amended in accordance with sections 17 to 21.

17 Substitution of sections 8 and 8A and insertion of new sections 8B to 8G

For sections 8 (police regulations) and 8A (regulations for special constables) substitute —

8 Police regulations

- (1) The Department may make regulations as to the government, discipline, administration and conditions of service of the police force.
- (2) The regulations may, in particular, make provision with respect to —
 - (a) the ranks to be held by members of the police force;
 - (b) the qualifications for appointment and promotion of members of the police force;
 - (c) periods of service on probation;
 - (d) voluntary retirement of members of the police force;
 - (e) the conduct, efficiency and effectiveness of members of the police force and the maintenance of discipline;
 - (f) the suspension of members of the police force from membership of the force and from their office as constable;
 - (g) the maintenance of personal records of members of the police force;
 - (h) the duties that are or are not to be performed by members of the police force;
 - (i) the treatment as occasions of police duty of attendance at meetings of the Federation and of any other body specified in the regulations;
 - (j) the hours of duty, leave, pay and allowances of members of the police force; and
 - (k) the issue, use and return of police clothing, personal equipment and accoutrements.

- (3) The regulations may also establish, or make provision for the establishment of, procedures for cases in which a member of the police force may be dealt with by dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution.
- (4) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection authorises pay or allowances payable to any person to be reduced retrospectively.

8A Regulations for special constables

- (1) The Department may make regulations as to the government, discipline, administration and conditions of service of special constables.
- (2) The regulations may, in particular, make provision with respect to —
 - (a) the qualifications for appointment of special constables;
 - (b) the retirement of special constables;
 - (c) the conduct, efficiency and effectiveness of special constables and the maintenance of discipline;
 - (d) the suspension of special constables from their office as constable;
 - (e) the maintenance of personal records of special constables;
 - (f) the duties that are or are not to be performed by special constables;
 - (g) the allowances payable to special constables;
 - (h) the issue, use and return of police clothing, personal equipment and accoutrements; and
 - (i) the application to special constables, subject to such modifications as may be prescribed by the regulations, of any provisions made by or under any enactment relating to the pensions payable to or in respect of members of the police force.
- (3) If the regulations provide for the calculation of any pension payable to, or in respect of, special constables by reference to a scale of notional remuneration specified in the regulations, they may increase any such notional remuneration with retrospective effect to any date specified in the regulations.

8B Regulations for police cadets

- (1) The Department may make regulations as to the government, discipline, administration and conditions of service of police cadets.
- (2) Section 8(4) (pay and allowances) applies to regulations under this section.

8C Regulations as to standard and provision of equipment

- (1) The Department may make regulations requiring equipment provided or used for police purposes to satisfy such requirements as to design and performance as may be prescribed in the regulations.
- (2) The regulations may, in particular, make provision with respect to —
 - (a) provision requiring all the police force, when using equipment for the purposes specified in the regulations to use only —
 - (i) the equipment that is specified in the regulations;
 - (ii) equipment that is of a description so specified; or
 - (iii) equipment that is of a type approved by the Department in accordance with the regulations;
 - (b) provision requiring all the police force to keep available for use the equipment falling within paragraph (a)(i) to (iii) that is specified or described in, or approved in accordance with, the regulations;
 - (c) provision prohibiting all the police force from using equipment of a type approved as mentioned in paragraph (a)(iii) except —
 - (i) if the conditions subject to which the approval was given are satisfied; and
 - (ii) in accordance with the other terms of that approval;
 - (d) provision requiring equipment used by the police force to comply, in the case of all the police force, with such conditions as may be specified in the regulations, or as may be approved by the Department in accordance with the regulations; and
 - (e) provision prohibiting all the police force from using equipment specified in the regulations, or any equipment of a description so specified.
- (3) The Department must not make any regulations under subsection (2) unless it considers it necessary to do so for the purpose of

promoting the efficiency and effectiveness generally of the police force.

- (4) In this section “equipment” includes —
- (a) software;
 - (b) vehicles; and
 - (c) headgear and protective and other clothing.

8D Regulation of procedures and practices

- (1) The Department may by regulations make provision requiring all the police force to adopt particular procedures or practices.
- (2) Regulations under subsection (1) may make provision in relation to the matters in that subsection by applying, adopting or incorporating, with or without modification, the provisions of any document as in operation at a particular time, or as in operation from time to time.
- (3) Subsection (2) applies even if the document mentioned in that subsection makes provision for a matter by applying, adopting or incorporating, with or without modification, another document as in operation at a particular time, or from time to time.

8E Regulations to establish negotiation bodies

- (1) The Department may by regulations establish a body for the purpose of negotiating or consulting (or both) on conditions of service of the police force, special constables and police cadets in training with the police force.
- (2) Before making regulations under subsection (1), the Department must consult the Chief Constable, the superintendent (if any) and the Federation.

8F Regulations: supplementary

Regulations made under sections 8, 8A, 8B and 8E may —

- (a) authorise or require provision to be made by, or confer discretionary powers on, the Department, a negotiation body established in accordance with regulations made under section 8E, the Chief Constable or other persons; or
- (b) authorise or require the delegation by a person of functions conferred on that person by or under the regulations.

8G Revocation and saving of regulations

- (1) Regulations that —

- (a) were made, or purportedly made, for the purposes of section 5(4), 8, 8A or 11 (as in operation immediately before the commencement of this section);
 - (b) were in operation immediately before the commencement of this section; and
 - (c) are specified in Schedule 1A,
- continue to have effect after this section commences as if they had been made for the purposes of section 8 to 8E.
- (2) All other regulations made, or purportedly made, for the purposes of section 5(4), 8, 8A or 11 (as in operation immediately before the commencement of this section) are revoked.
 - (3) An act or thing done, or purportedly done —
 - (a) by the Chief Constable before the commencement of this section; or
 - (b) by the Department before 14 September 2007,
 under a discretion conferred by regulations covered by subsection (1) is taken to be an act or thing validly done, to the extent that it was done, or purportedly done, in reliance on that discretion.
 - (4) A decision made, or purportedly made —
 - (a) by the Chief Constable before the commencement of this section; or
 - (b) by the Department before 14 September 2007,
 under a power conferred by regulations covered by subsection (1) is taken to be a decision validly made, to the extent that it was made, or purportedly made, in reliance on that power. **22**.

18 Amendment of section 10

In section 10 for “section 11” substitute “section 8B”.

19 Repeal of section 11

Section 11 (regulations for police cadets) is repealed.

20 Amendment of section 21

In the definition of “police regulations” in section 21 (interpretation) for “section 8(1)” substitute “sections 8 to 8E”.

21 Insertion of new Schedule 1A

After Schedule 1 insert the Schedule set out in Schedule 1 to this Act.

PART 8 — AMENDMENT OF THE POLICE POWERS AND PROCEDURES ACT 1998

22 Amendment of the Police Powers and Procedures Act 1998

The *Police Powers and Procedures Act 1998* is amended in accordance with sections 23 to 52.

Search warrants

23 Amendment of section 11

(1) Section 11 (power to authorise entry and search of premises) is amended as follows.

(2) In subsection (1) —

- (a) in paragraph (a)(i), for “specified in the application” substitute “**mentioned in subsection (1A)**”; and
- (b) in paragraph (d), after “subsection (3) applies” insert “**in relation to each set of premises specified in the application**”.

(3) After subsection (1) insert —

(1A) The premises mentioned in subsection (1)(a)(i) are —

- (a) one or more sets of premises occupied or controlled by a person specified in the application (in which case the application is for a “**specific premises warrant**”); or
- (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “**all premises warrant**”).

(1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied —

- (a) that, because of the particulars of the offence mentioned in subsection (1)(a)(i), there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question and that are not specified in the application in order to find the material mentioned in subsection (1)(a)(i); and
- (b) that it is not reasonably practicable to specify in the application all the premises that the person in question occupies or controls and that might need to be searched.

(1C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the

peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the warrant is issued.

- (1D) If it authorises multiple entries, the number of entries authorised may be unlimited or limited to a maximum. **22**.

24 Insertion of new section 11A

After section 11 insert —

11A Warrants: persons who may accompany constables

- (1) This section applies if, under any enactment, a Judge or a justice of the peace has the power to issue a warrant or order authorising a constable to enter and search any land and inspect, examine, operate, test, retain, seize or take possession of any thing found there.
- (2) Such a warrant may name any suitable person who may accompany and assist the constable in the execution of the warrant.
- (3) If a suitable person is accompanying and assisting a constable under subsection (2), the warrant authorises the person to do such things under the warrant as the constable is authorised to do.
- (4) This section is in addition to but does not limit enactments that make express provision —
 - (a) for a warrant to name other persons who may accompany a constable when executing a warrant; or
 - (b) for a constable to be accompanied by other persons when executing a warrant.
- (5) In this section, “suitable person” means a person possessing such scientific or other technical expertise as the constable believes will advance the investigation. **22**.

25 Amendment of section 18

- (1) Section 18 (search warrants - safeguards) is amended as follows.
- (2) In subsection (2)(a) —
 - (a) at the end of sub-paragraph (i) delete “and”;
 - (b) at the end of sub-paragraph (ii) insert **13** and **22**; and
 - (c) in subsection (2)(a) at the end add —
 - 13** (iii) if the application is for a warrant authorising entry and search on more than one occasion, the ground on which he or she applies for such a warrant, and whether he or she seeks a warrant authorising an

- unlimited number of entries, or (if not) the maximum number of entries desired; **22**.
- (3) For subsection (2)(b) substitute —
- 23** (b) to specify the matters set out in subsection (2A); and **22**.
- (4) After subsection (2) insert —
- 23** (2A) The matters that must be specified pursuant to subsection (2)(b) are —
- (a) if the application is for a specific premises warrant made by virtue of section 11(1A)(a) or paragraph 12 of Schedule 1, each set of premises that it is desired to enter and search;
- (b) if the application is for an all premises warrant made by virtue of section 11(1A)(b) or paragraph 12 of Schedule 1 —
- (i) as many sets of premises that it is desired to enter and search as it is reasonably practicable to specify;
- (ii) the person who is in occupation or control of those premises and any others that it is desired to enter and search;
- (iii) why it is necessary to search more premises than those specified under sub-paragraph (i); and
- (iv) why it is not reasonably practicable to specify all the premises that it is desired to enter and search. **22**.
- (5) In subsection (5) at the end add **23** unless it specifies that it authorises multiple entries **22**.
- (6) After subsection (5) insert —
- 23** (5A) If a warrant specifies that it authorises multiple entries, it must also specify whether the number of entries authorised is unlimited or limited to a specified maximum. **22**.
- (7) For subsection (6)(a)(iv) substitute —
- 23** (iv) each set of premises to be searched, or (in the case of an all premises warrant) the person who is in occupation or control of premises to be searched, together with any premises under that person's occupation or control that can be specified and that are to be searched; and **22**.
- (8) For subsection (7) substitute —
- 23** (7) Two copies must be made of a specific premises warrant (see section 11(1A)(a)) that specifies only one set of premises and does not authorise multiple entries; and as many copies as are reasonably required may be made of any other kind of warrant. **22**.

- (9) In subsection (8) for “The” substitute “Each”.

26 Amendment of section 19

- (1) Section 19 (execution of warrants) is amended as follows.
- (2) In subsection (3) for “one month” substitute “3 months”.
- (3) After subsection (3) insert —
- (3A) If the warrant is an all premises warrant, no premises that are not specified in it may be entered or searched unless a police officer of at least the rank of inspector has authorised the entry in writing.
- (3B) No premises may be entered or searched for the second or any subsequent time under a warrant that authorises multiple entries unless a police officer of at least the rank of inspector has authorised the further entry in writing.
- (4) In subsection (9) at the end add —
- and, unless the warrant is a specific premises warrant specifying one set of premises only, he or she must do so separately in respect of each set of premises entered and searched, which he or she must in each case state in the endorsement.

27 Amendment of Schedule 1

- (1) Schedule 1 (special procedure as to access) is amended as follows.
- (2) In each of paragraphs 2(a)(ii) and 3(a) at the end add “, or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);”.
- (3) In paragraph 12 —
- (a) in sub-paragraph (a)(ii) after “fulfilled” insert “in relation to each set of premises specified in the application”; and
- (b) at the end of paragraph 12 add “(in which case the application is for a “specific premises warrant”) or (as the case may be) all premises occupied or controlled by the person mentioned in paragraph 2(a)(ii) or 3(a), including such sets of premises as are specified in the application (in which case the application is for an “all premises warrant”).”.
- (4) After paragraph 12 insert —
- 12A The Judge may not issue an all premises warrant under paragraph 12 unless he or she is satisfied —
- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the

person in question that are not specified in the application, as well as those that are, in order to find the material in question; and

- (b) that it is not reasonably practicable to specify in the application all the premises that the person in question occupies or controls that might need to be searched. **22**.

- (5) In paragraph 14(a) delete “to which the application relates”.

Additional powers of seizure

28 Insertion of new Part IIA

After Part II (powers of entry, search and seizure) insert —

23 PART IIA — ADDITIONAL POWERS OF SEIZURE

26A Additional powers of seizure from premises

- (1) If —

- (a) a person who is lawfully on any premises finds anything on those premises that the person has reasonable grounds for believing may be or may contain something for which that person is authorised to search on those premises;
- (b) a power of seizure to which this section applies or the power conferred by subsection (2) would entitle that person, if that person found it, to seize whatever it is that the person has grounds for believing that thing to be or to contain; and
- (c) in all the circumstances, it is not reasonably practicable for it to be determined, on those premises —
- (i) whether what has been found is something that the person is entitled to seize; or
- (ii) the extent to which what has been found contains something that the person is entitled to seize,

that person's powers of seizure include power to seize so much of what the person has found as it is necessary to remove from the premises to enable that to be determined.

- (2) If —

- (a) a person who is lawfully on any premises finds anything on those premises (the “seizable property”) which that person would be entitled to seize but for its being comprised in something else that the person has (apart from this subsection) no power to seize;

- (b) the power under which that person would have power to seize the seizable property is a power to which this section applies; and
- (c) in all the circumstances it is not reasonably practicable for the seizable property to be separated, on those premises, from that in which it is comprised,

that person's powers of seizure include power to seize both the seizable property and that from which it is not reasonably practicable to separate it.

- (3) The factors to be taken into account in considering, for the purposes of this section, whether or not it is reasonably practicable on particular premises for something to be determined, or for something to be separated from something else, are confined to the following —

- (a) how long it would take to carry out the determination or separation on those premises;
- (b) the number of persons that would be required to carry out that determination or separation on those premises within a reasonable period;
- (c) whether the determination or separation would (or would if carried out on those premises) involve damage to property;
- (d) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation; and
- (e) in the case of separation, whether the separation —
 - (i) would be likely; or
 - (ii) if carried out by the only means that are reasonably practicable on those premises, would be likely, to prejudice the use of some or all of the separated seizable property for a purpose for which something seized under the power in question is capable of being used.

- (4) Section 22(6) (powers of seizure not to include power to seize anything that a constable has reasonable grounds for believing is legally privileged) does not apply to the power of seizure conferred by subsection (2).
- (5) This section applies to each of the powers of seizure specified in Part 1 of Schedule 1A.
- (6) The Department may by order amend Schedule 1A by adding entries to, or removing entries from, any Part of that Schedule.

- (7) An order under subsection (6) only comes into operation if it is approved by Tynwald.

26B Additional powers of seizure from the person

- (1) If —
- (a) a person carrying out a lawful search of any person finds something that the person has reasonable grounds for believing may be or may contain something for which that person is authorised to search;
 - (b) a power of seizure to which this section applies or the power conferred by subsection (2) would entitle the person, if that person found it, to seize whatever it is that the person has grounds for believing that thing to be or to contain; and
 - (c) in all the circumstances it is not reasonably practicable for it to be determined, at the time and place of the search —
 - (i) whether what was found is something that the person is entitled to seize; or
 - (ii) the extent to which what was found contains something that the person is entitled to seize,

that person's powers of seizure include power to seize so much of what that person has found as it is necessary to remove from that place to enable that to be determined.

- (2) If —
- (a) a person (“A”) carrying out a lawful search of any person finds something (the “seizable property”) which A would be entitled to seize but for its being comprised in something else that A has (apart from this subsection) no power to seize;
 - (b) the power under which that person would have power to seize the seizable property is a power to which this section applies; and
 - (c) in all the circumstances it is not reasonably practicable for the seizable property to be separated, at the time and place of the search, from that in which it is comprised,

A's powers of seizure include power to seize both the seizable property and that from which it is not reasonably practicable to separate it.

- (3) The factors to be taken into account in considering, for the purposes of this section, whether or not it is reasonably practicable, at the time and place of a search, for something to be

determined, or for something to be separated from something else, are confined to the following —

- (a) how long it would take to carry out the determination or separation at that time and place;
- (b) the number of persons that would be required to carry out that determination or separation at that time and place within a reasonable period;
- (c) whether the determination or separation would (or would if carried out at that time and place) involve damage to property;
- (d) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation; and
- (e) in the case of separation, whether the separation —
 - (i) would be likely; or
 - (ii) if carried out by the only means that are reasonably practicable at that time and place, would be likely, to prejudice the use of some or all of the separated seizable property for a purpose for which something seized under the power in question is capable of being used.

(4) Section 22(6) (powers of seizure not to include power to seize anything that a constable has reasonable grounds for believing is legally privileged) does not apply to the power of seizure conferred by subsection (2).

(5) This section applies to each of the powers of seizure specified in Part 2 of Schedule 1A.

26C Notice of exercise of power under section 26A or 26B

- (1) If a person exercises a power of seizure conferred by section 26A, the person must on doing so (subject to subsections (2) and (3)) notify the occupier of the premises in writing —
- (a) specifying what has been seized in reliance on the powers conferred by that section;
 - (b) specifying the grounds on which those powers have been exercised;
 - (c) setting out the effect of sections 26J to 26L;
 - (d) specifying the name and address of the person to whom notice of an application under section 26J(2) to a Judge in respect of any of the seized property must be given; and
 - (e) specifying the name and address of the person to whom an application may be made to be allowed to attend the initial

- examination required by any arrangements made for the purposes of section 26D(2).
- (2) If it appears to the person exercising on any premises a power of seizure conferred by section 26A —
- (a) that the occupier of the premises is not present on the premises at the time of the exercise of the power; but
 - (b) that there is some other person present on the premises who is in charge of the premises,
- subsection (1) applies as if it required the notice under that subsection to be given to that other person.
- (3) If it appears to the person exercising a power of seizure conferred by section 26A that there is no one present on the premises to whom notice may be given for the purposes of complying with subsection (1), that person must, before leaving the premises, instead of complying with that subsection, attach a notice such as is mentioned in that subsection in a prominent place to the premises.
- (4) If a person exercises a power of seizure conferred by section 26B the person must notify the person from whom the seizure is made in writing —
- (a) specifying what has been seized in reliance on the powers conferred by that section;
 - (b) specifying the grounds on which those powers have been exercised;
 - (c) setting out the effect of sections 26J to 26L;
 - (d) specifying the name and address of the person to whom notice of any application under section 26J(2) to a Judge in respect of any of the seized property must be given; and
 - (e) specifying the name and address of the person to whom an application may be made to be allowed to attend the initial examination required by any arrangements made for the purposes of section 26D(2).
- (5) The Department may by regulations provide that a person who exercises a power of seizure conferred by section 26A must, in accordance with subsection (1), notify any person, or send it to any place, described in the regulations.
- (6) Regulations under subsection (5) must be laid before Tynwald.

Return or retention of seized property

26D Examination and return of property seized under section

26A or 26B

- (1) This section applies if anything has been seized under a power conferred by section 26A or 26B.
- (2) The person for the time being in possession of the seized property in consequence of the exercise of that power must secure that there are arrangements in force that (subject to section 26L), ensure —
 - (a) that an initial examination of the property is carried out as soon as reasonably practicable after the seizure;
 - (b) that that examination is confined to whatever is necessary for determining how much of the property falls within subsection (3);
 - (c) that anything found, on that examination, not to fall within subsection (3) is separated from the rest of the seized property and is returned as soon as reasonably practicable after the examination of all the seized property has been completed; and
 - (d) that, until the initial examination of all the seized property has been completed and anything that does not fall within subsection (3) has been returned, the seized property is kept separate from anything seized under any other power.
- (3) The seized property falls within this subsection to the extent only —
 - (a) that it is property for which the person seizing it had power to search when that person made the seizure but is not property the return of which is required by section 26E;
 - (b) that it is property the retention of which is authorised by section 26G; or
 - (c) that it is something that, in all the circumstances, it will not be reasonably practicable, following the examination, to separate from property falling within paragraph (a) or (b).
- (4) In determining for the purposes of this section the earliest practicable time for the carrying out of an initial examination of the seized property, due regard must be had to the desirability of allowing the person from whom it was seized, or a person with an interest in that property, an opportunity of being present or (if such a person chooses) of being represented at the examination.
- (5) In this section, references to whether or not it is reasonably practicable to separate part of the seized property from the rest of it are references to whether or not it is reasonably practicable to do so without prejudicing the use of the rest of that property, or a

part of it, for purposes for which (disregarding the part to be separated) the use of the whole or of a part of the rest of the property, if retained, would be lawful.

26E **Obligation to return items subject to legal privilege**

(1) If, at any time after a seizure of anything has been made in exercise of a power of seizure to which this section applies —

(a) it appears to the person for the time being in possession of the seized property in consequence of the seizure that the property —

- (i) is an item subject to legal privilege; or
- (ii) has such an item comprised in it; and

(b) in a case where the item is comprised in something else which has been lawfully seized, it is not comprised in property falling within subsection (3),

the person must secure that the item is returned as soon as reasonably practicable after the seizure but no later than 42 days after the seizure.

(2) However, the person mentioned in subsection (1) may make an application to a Judge for permission to retain the seized property for a period in excess of 42 days if the circumstances are such that it is not reasonably practicable to secure that the item is returned in accordance with that subsection.

(3) Property in which an item subject to legal privilege is comprised falls within this subsection if —

(a) the whole or a part of the rest of the property is property falling within subsection (4) or property the retention of which is authorised by section 26G; and

(b) in all the circumstances, it is not reasonably practicable for that item to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that item) its use, if retained, would be lawful.

(4) Property falls within this subsection to the extent that it is property for which the person seizing it had power to search when that person made the seizure, but is not property that is required to be returned under this section or section 26F.

(5) This section applies —

(a) to the powers of seizure conferred by sections 26A and 26B;

- (b) to each of the powers of seizure specified in Parts 1 and 2 of Schedule 1A; and
- (c) to any power of seizure (not falling within paragraph (a) or (b)) conferred on a constable by or under any enactment, including an enactment passed after this section comes into operation.

26F Obligation to return excluded and special procedure material

- (1) If, at any time after a seizure of anything has been made in exercise of a power to which this section applies —
 - (a) it appears to the person for the time being in possession of the seized property in consequence of the seizure that the property —
 - (i) is excluded material or special procedure material; or
 - (ii) has any excluded material or any special procedure material comprised in it,
 - (b) its retention is not authorised by section 26G; and
 - (c) in a case where the material is comprised in something else that has been lawfully seized, it is not comprised in property falling within subsection (3) or (4),

the person must secure that the item is returned as soon as reasonably practicable after the seizure but no later than 42 days after the seizure.
- (2) However, the person mentioned in subsection (1) may make an application to a Judge for permission to retain the seized property for a period in excess of 42 days if the circumstances are such that it is not reasonably practicable to secure that the item is returned in accordance with that subsection.
- (3) Property in which any excluded material or special procedure material is comprised falls within this subsection if —
 - (a) the whole or a part of the rest of the property is property for which the person seizing it had power to search when that person made the seizure but is not property the return of which is required by this section or section 26E; and
 - (b) in all the circumstances, it is not reasonably practicable for that material to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that material) its use, if retained, would be lawful.

- (4) Property in which any excluded material or special procedure material is comprised falls within this subsection if —
- (a) the whole or a part of the rest of the property is property the retention of which is authorised by section 26G; and
 - (b) in all the circumstances, it is not reasonably practicable for that material to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that material) its use, if retained, would be lawful.
- (5) This section applies (subject to subsection (6)) to each of the powers of seizure specified in Part 3 of Schedule 1A.
- (6) In its application to the powers of seizure conferred by section 169(4) of the *Proceeds of Crime Act 2008* this section applies with the omission of every reference to special procedure material.
- (7) In this section, except in its application to —
- (a) the power of seizure conferred by section 11(2);
 - (b) either of the powers of seizure conferred by the provisions of paragraphs 1 and 3 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003*; and
 - (c) the power of seizure conferred by paragraph 14 of Schedule 5 to that Act of 2003, so far only as the power in question is conferred by reference to paragraph 1 of that Schedule,
- “special procedure material” means special procedure material consisting of documents or records other than documents.

26G Property seized by constables

- (1) The retention of —
- (a) property seized on any premises by a constable who was lawfully on the premises; and
 - (b) property seized by a constable carrying out a lawful search of any person,
- is authorised by this section if the property falls within subsection (2) or (3).
- (2) Property falls within this subsection to the extent that there are reasonable grounds for believing —
- (a) that it is property obtained in consequence of the commission of an offence; and
 - (b) that it is necessary for it to be retained in order to prevent its being concealed, lost, damaged, altered or destroyed.

- (3) Property falls within this subsection to the extent that there are reasonable grounds for believing —
 - (a) that it is evidence in relation to any offence; and
 - (b) that it is necessary for it to be retained in order to prevent its being concealed, lost, altered or destroyed.
- (4) Nothing in this section authorises the retention (except in pursuance of section 26E(3)) of anything at any time when its return is required by section 26E.

26H Retention of seized items

- (1) This section applies in relation to the provisions of enactments specified in an order made by the Department that are about the retention of items that have been seized and are referred to in this section as “the relevant provisions”.
- (2) The relevant provisions apply in relation to any property seized in exercise of a power conferred by section 26A or 26B as if the property had been seized under the power of seizure by reference to which the power under that section was exercised in relation to that property.
- (3) Nothing in any of sections 26D to 26G authorises the retention of any property at any time when its retention would not (apart from the provisions of this Part) be authorised by the relevant provisions.
- (4) Nothing in any of the relevant provisions authorises the retention of anything after an obligation to return it has arisen under this Part.
- (5) An order under this section must be laid before Tynwald.

26I Person to whom seized property is to be returned

- (1) If —
 - (a) anything has been seized in exercise of any power of seizure; and
 - (b) there is an obligation under this Part for the whole or any part of the seized property to be returned,the obligation to return it is (subject to the following provisions of this section) an obligation to return it to the person from whom it was seized.
- (2) If —
 - (a) any person is obliged under this Part to return anything that has been seized to the person from whom it was seized; and

(b) the person under that obligation is satisfied that some other person has a better right to that thing than the person from whom it was seized,

the obligation to return it is, instead, an obligation to return it to that other person or, as the case may be, to the person appearing to the person under that obligation to have the best right to the thing in question.

(3) If different persons claim to be entitled to the return of anything that is required to be returned under this Part, that thing may be retained for as long as is reasonably necessary for the determination in accordance with subsection (2) of the person to whom it must be returned.

(4) References in this Part to the person from whom something has been seized, in relation to a case in which the power of seizure was exercisable by reason of that thing having been found on any premises, are references to the occupier of the premises at the time of the seizure.

(5) References in this section to the occupier of any premises at the time of a seizure, in relation to a case in which —

(a) a notice in connection with the entry or search of the premises in question, or with the seizure, was given to a person appearing in the occupier's absence to be in charge of the premises; and

(b) it is practicable, for the purpose of returning something that has been seized, to identify that person but not to identify the occupier of the premises,

are references to that person.

Remedies and safeguards

26J Application to Judge

(1) This section applies if anything has been seized in exercise, or purported exercise, of a relevant power of seizure.

(2) Any person with a relevant interest in the seized property may apply to a Judge, on one or more of the grounds mentioned in subsection (3), for the return of the whole or a part of the seized property.

(3) Those grounds are —

(a) that there was no power to make the seizure;

- (b) that the seized property is or contains an item subject to legal privilege that is not comprised in property falling within section 26E(3);
- (c) that the seized property is or contains any excluded material or special procedure material which —
 - (i) has been seized under a power to which section 26F applies;
 - (ii) is not comprised in property falling within section 26F(3) or (4); and
 - (iii) is not property the retention of which is authorised by section 26G; and
- (d) that the seized property is or contains something seized under section 26A or 26B that does not fall within section 26D(3),

and sections 26F(6) and (7) apply for the purposes of paragraph (c) as they apply for the purposes of that section.

- (4) Subject to subsection (6), a Judge, on an application under subsection (2), must —

- (a) if satisfied as to any of the matters mentioned in subsection (3), order the return of so much of the seized property as is property in relation to which the Judge is so satisfied; and
- (b) to the extent that the Judge is not so satisfied, dismiss the application.

- (5) The Judge —

- (a) on an application under subsection (2);
- (b) on an application made by the person for the time being in possession of anything in consequence of its seizure under a relevant power of seizure; or
- (c) on an application made —
 - (i) by a person with a relevant interest in anything seized under section 26A or 26B; and
 - (ii) on the grounds that the requirements of section 26D(2) have not been or are not being complied with,

may give such directions as the Judge thinks fit as to the examination, retention, separation or return of the whole or any part of the seized property.

- (6) On any application under this section, the Judge may authorise the retention of any property that —

- (a) has been seized in exercise, or purported exercise, of a relevant power of seizure; and

- (b) would otherwise fall to be returned,
if that Judge is satisfied that the retention of the property is justified on grounds falling within subsection (7).
- (7) Those grounds are that (if the property were returned) it would immediately become appropriate —
- (a) to issue, on the application of the person who is in possession of the property at the time of the application under this section, a warrant in pursuance of which, or of the exercise of which, it would be lawful to seize the property; or
- (b) to make an order under —
- (i) paragraph 4 of Schedule 1;
- (ii) section 105H or 105I of the *Income Tax Act 1970*; or
- (iii) paragraph 5 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003*,
- under which the property would fall to be delivered up or produced to the person mentioned in paragraph (a).
- (8) If any property which has been seized in exercise, or purported exercise, of a relevant power of seizure has parts (“part A” and “part B”) comprised in it such that —
- (a) it would be inappropriate, if the property were returned, to take any action such as is mentioned in subsection (7) in relation to part A;
- (b) it would (or would but for the facts mentioned in paragraph (a)) be appropriate, if the property were returned, to take such action in relation to part B; and
- (c) in all the circumstances, it is not reasonably practicable to separate part A from part B without prejudicing the use of part B for purposes for which it is lawful to use property seized under the power in question,
- the facts mentioned in paragraph (a) must not be taken into account by the Judge in deciding whether the retention of the property is justified on grounds falling within subsection (7).
- (9) If a person fails to comply with any order or direction made or given by a Judge in exercise of any jurisdiction under this section —
- (a) the Judge may deal with that person as if that person had committed a contempt of the High Court; and
- (b) any enactment relating to contempt of the High Court applies in relation to the failure as if it were such a contempt.

- (10) The relevant powers of seizure for the purposes of this section are —
- (a) the powers of seizure conferred by sections 26A and 26B;
 - (b) each of the powers of seizure specified in Parts 1 and 2 of Schedule 1A; and
 - (c) any power of seizure (not falling within paragraph (a) or (b)) conferred on a constable by or under any enactment, including an enactment passed after this section comes into operation.
- (11) References in this section to a person with a relevant interest in seized property are references to —
- (a) the person from whom it was seized;
 - (b) any person with an interest in the property; or
 - (c) any person, not falling within paragraph (a) or (b), who had custody or control of the property immediately before the seizure.
- (12) For the purposes of subsection (11)(b), the persons who have an interest in seized property, in the case of property that is or contains an item subject to legal privilege, include the person in whose favour that privilege is conferred.

26K Cases where obligation to secure arises

- (1) If property has been seized in exercise, or purported exercise, of any power of seizure conferred by section 26A or 26B, an obligation to secure arises under section 26L in relation to the seized property if —
- (a) a person entitled to do so makes an application under section 26J for the return of the property;
 - (b) at least one of the conditions set out in subsections (2) and (3) is satisfied; and
 - (c) notice of the application is given to a relevant person.
- (2) The first condition is that the application is made on the grounds that the seized property is or contains an item subject to legal privilege that is not comprised in property falling within section 26E(3).
- (3) The second condition is that —
- (a) the seized property was seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers specified in subsection (6); and
 - (b) the application —

- (i) is made on the ground that the seized property is or contains something that does not fall within section 26D(3); and
 - (ii) states that the seized property is or contains special procedure material or excluded material.
- (4) In relation to property seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers of seizure conferred by section 169(4) of the *Proceeds of Crime Act 2008*, the second condition is satisfied only if the application states that the seized property is or contains excluded material.
- (5) In relation to property seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers of seizure specified in Part 3 of Schedule 1A but not by virtue of —
 - (a) the power of seizure conferred by section 11(2);
 - (b) either of the powers of seizure conferred by paragraphs 1 and 3 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003*; or
 - (c) the power of seizure conferred by paragraph 14 of Schedule 5 to that Act of 2003 so far as they are conferred by reference to paragraph 1 of that Schedule,the second condition is satisfied only if the application states that the seized property is or contains excluded material or special procedure material consisting of documents or records other than documents.
- (6) The powers mentioned in subsection (3) are —
 - (a) the powers of seizure specified in Part 3 of Schedule 1A;
 - (b) the power of seizure conferred by the provisions of Parts II and III (except section 11(2));
 - (c) the power of seizure conferred by the provisions of paragraph 10 of Schedule 5 to the Act of 2003; and
 - (d) the power of seizure conferred by the provisions of paragraph 14 of that Schedule so far as they are conferred by reference to paragraph 10 of that Schedule.
- (7) In this section “relevant person” means any one of the following —
 - (a) the person who made the seizure;
 - (b) the person for the time being in possession, in consequence of the seizure, of the seized property; or

- (c) the person named for the purposes of section 26C(1)(d) or (4)(d) in any notice given under that section with respect to the seizure.

26L The obligation to secure

- (1) The person for the time being in possession of the seized property in consequence of the seizure must ensure that arrangements are in force that secure that the seized property (without being returned) is not, at any time after the giving of the notice of the application under section 26K(1), either —
 - (a) examined or copied; or
 - (b) put to any use to which its seizure would, apart from this subsection, entitle it to be put,except with the consent of the applicant or in accordance with the directions of the Judge.
- (2) Subsection (1) does not apply in relation to any time after the withdrawal of the application to which the notice relates.
- (3) Section 26J(9) does not apply in relation to any jurisdiction conferred on the Judge by this section as it applies in relation to the jurisdiction conferred by that section.

26M Use of inextricably linked property

- (1) This section applies to property, other than property that is for the time being required to be secured in pursuance of section 26L, if —
 - (a) it has been seized under any power conferred by section 26A or 26B or specified in Part 1 or 2 of Schedule 1A; and
 - (b) it is inextricably linked property.
- (2) Subject to subsection (3), the person for the time being in possession, in consequence of the seizure, of the inextricably linked property must ensure that arrangements are in force that secure that that property (without being returned) is not at any time, except with the consent of the person from whom it was seized, either —
 - (a) examined or copied; or
 - (b) put to any other use.
- (3) Subsection (2) does not require arrangements under that subsection to prevent inextricably linked property from being put to any use falling within subsection (4).
- (4) A use falls within this subsection to the extent that it is use that is necessary for facilitating the use, in any investigation or

- proceedings, of property in which the inextricably linked property is comprised.
- (5) Property is inextricably linked property for the purposes of this section if it falls within any of subsections (6) to (8).
- (6) Property falls within this subsection if —
- (a) it has been seized under a power conferred by section 26A or 26B; and
 - (b) but for section 26D(3)(c), arrangements under section 26D(2) in relation to the property would be required to ensure the return of the property as mentioned in section 26D(2)(c).
- (7) Property falls within this subsection if —
- (a) it has been seized under a power to which section 26E applies; and
 - (b) but for section 26E(1)(b), the person for the time being in possession of the property would be under an obligation to secure its return as mentioned in that subsection.
- (8) Property falls within this subsection if —
- (a) it has been seized under a power of seizure to which section 26F applies; and
 - (b) but for section 26F(1)(c), the person for the time being in possession of the property would be under an obligation to secure its return as mentioned in that subsection.

Construction of Part IIA

26N Copies

- (1) Subject to subsection (2) —
- (a) in this Part, “**seize**” includes take a copy of;
 - (b) this Part applies as if any copy taken under any power to which any provision of this Part applies were the original of that of which it is a copy; and
 - (c) for the purposes of this Part, except sections 26A and 26B, the powers to obtain hard copies of information that is stored in electronic form must be treated as powers of seizure, and references to seizure and to seized property must be construed accordingly.
- (2) Subsection (1) does not apply to section 26H.

26O General interpretation of Part IIA

(1) In this Part —

“**documents**” includes information recorded in any form;

“**item subject to legal privilege**” has the meaning given in section 13;

“**premises**” includes any vehicle, stall or moveable structure (including an offshore installation) and any other place whatever, whether or not occupied as land;

“**return**”, in relation to seized property, means returned in accordance with section 26I;

“**seize**” has the meaning given in section 26N(1);

“**seized property**”, in relation to any exercise of a power of seizure, means anything seized in exercise of that power;

“**vehicle**” includes any vessel, aircraft or hovercraft.

(2) In this Part references, in relation to a time when seized property is in any person's possession in consequence of a seizure (the “**relevant time**”), to something for which the person making the seizure had power to search is to be construed —

(a) if the seizure was made on the occasion of a search carried out on the authority of a warrant, as including anything of the description of things the presence or suspected presence of which provided grounds for the issue of the warrant;

(b) if the property was seized in the course of a search on the occasion of which it would have been lawful for the person carrying out the search to seize anything that on that occasion was believed by that person to be, or to appear to be, of a particular description, as including —

(i) anything which at the relevant time is believed by the person in possession of the seized property, or (as the case may be) appears to that person, to be of that description; and

(ii) anything which is in fact of that description;

(c) if the property was seized in the course of a search on the occasion of which it would have been lawful for the person carrying out the search to seize anything that there were on that occasion reasonable grounds for believing was of a particular description, as including —

(i) anything that there are at the relevant time reasonable grounds for believing is of that description; and

(ii) anything that is in fact of that description; and

- (d) if the property was seized in the course of a search to which neither paragraph (b) nor paragraph (c) applies, as including anything that is of a description of things that, on the occasion of the search, it would have been lawful for the person carrying it out to seize otherwise than under section 26A and 26B.
- (3) References in subsection (2) to a search include references to any search authorised by virtue of any enactment.
- (4) In this Part —
 - (a) references to excluded material are to be construed in accordance with section 14 (meaning of “excluded material”); and
 - (b) references to special procedure material are to be construed in accordance with section 17 (meaning of “special procedure material”).
- (5) Nothing in this Part affects the power to dispose of property in the possession of the police in accordance with section 34 of the *Summary Jurisdiction Act 1989*.

Supplemental provisions of Part IIA

26P Consequential applications and amendments of enactments

- (1) Schedule 1B (which applies enactments in relation to provision made by this Part) has effect.
- (2) The Department may by order amend Schedule 1B by adding entries to, or removing entries from, that Schedule.
- (3) An order under this section may amend any other enactment if it is necessary as a consequence of the addition or removal of an entry in Schedule 1B.
- (4) An order under this section only comes into operation if it is approved by Tynwald. **22**.

29 Insertion of new Schedules 1A and 1B and minor miscellaneous amendments

- (1) After Schedule 1 insert the Schedules set out in Schedule 2 to this Act.
- (2) In each of the provisions mentioned in subsection (3) (which confer powers to require the production of information contained in a computer in a visible and legible form) —
 - (a) for “contained in a computer” substitute **23** stored in any electronic form **22**; and

- (b) after “in which it is visible and legible” insert **69** or from which it can readily be produced in a visible and legible form **70**.
- (3) The provisions are —
 - (a) sections 22(4) and 23(1) of, and paragraph 5 of, Schedule 1;
 - (b) section 124D(4) of the *Customs and Excise Management Act 1986*; and
 - (c) paragraph 13(4) of Schedule 12 to the *Value Added Tax Act 1996*.

Powers of arrest

30 Substitution of sections 27 and 28, insertion of section 28A and consequential amendments and repeals

- (1) For sections 27 and 28 (arrest without warrant) substitute —

69 27 Arrest without warrant: constables

- (1) A constable may arrest without a warrant —
 - (a) anyone who is about to commit an offence;
 - (b) anyone who is in the act of committing an offence;
 - (c) anyone whom the constable has reasonable grounds for suspecting to be about to commit an offence; or
 - (d) anyone whom the constable has reasonable grounds for suspecting to be committing an offence.
- (2) If a constable has reasonable grounds for suspecting that an offence has been committed, the constable may arrest without a warrant anyone whom the constable has reasonable grounds to suspect of being guilty of that offence.
- (3) If an offence has been committed, a constable may arrest without a warrant —
 - (a) anyone who is guilty of the offence; or
 - (b) anyone whom the constable has reasonable grounds for suspecting to be guilty of it.
- (4) The power of summary arrest conferred by subsection (1), (2) or (3) is exercisable only if the constable has reasonable grounds for believing that for any of the reasons mentioned in subsection (5) it is necessary to arrest the person in question.
- (5) The reasons are —
 - (a) to enable the name of the person in question to be ascertained (in the case where the constable does not know, and cannot readily ascertain, the person's name, or

- has reasonable grounds for doubting whether a name given by the person is that person's real name);
- (b) that —
- (i) the person in question has failed to give a satisfactory address for service; or
- (ii) the constable has reasonable grounds for doubting whether an address given by the person in question is a satisfactory address for service;
- (c) to prevent the person in question —
- (i) causing physical injury to himself or herself or any other person;
- (ii) suffering physical injury;
- (iii) causing loss of or damage to property;
- (iv) committing an offence against public decency (subject to subsection (6)); or
- (v) causing an unlawful obstruction of the highway;
- (d) to protect a child or other vulnerable person from the person in question;
- (e) to allow the prompt and effective investigation of the offence or of the conduct of the person in question; and
- (f) to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.
- (6) Subsection (5)(c)(iv) applies only if members of the public going about their normal business cannot reasonably be expected to avoid the person in question.
- (7) For the purposes of subsection (5)(b), an address is a satisfactory address for service if it appears to the constable —
- (a) that the person in question will be at that address for a sufficiently long period for it to be possible to serve a summons on him or her; or
- (b) that some other person specified by the person in question will accept service of a summons for the person in question at it.
- (8) This section has effect in relation to any offence whenever committed.

28 Arrest without warrant: other persons

- (1) A person other than a constable may arrest without a warrant —
- (a) anyone who is in the act of committing an offence; or

- (b) anyone whom the person has reasonable grounds for suspecting to be committing an offence.
- (2) If an offence has been committed, a person other than a constable may arrest without a warrant —
 - (a) anyone who is guilty of the offence; or
 - (b) anyone whom the person has reasonable grounds for suspecting to be guilty of it.
- (3) The power of summary arrest conferred by subsection (1) or (2) is exercisable only if —
 - (a) the person making the arrest has reasonable grounds for believing that for any of the reasons mentioned in subsection (4) it is necessary to arrest the person in question; and
 - (b) it appears to the person making the arrest that it is not reasonably practicable for a constable to make it instead.
- (4) The reasons are to prevent the person in question (“A”) —
 - (a) causing physical injury to A or to any other person;
 - (b) suffering physical injury;
 - (c) causing loss of or damage to property; or
 - (d) making off before a constable can assume responsibility for A.
- (5) This section has effect in relation to any offence whenever committed.

28A Sections 27 and 28: supplementary

- (1) The Department may by order make any provision repealing or amending any provision of an enactment that is inconsistent with, or is unnecessary or requires modification in consequence of, section 27 or 28, as those provisions were substituted by section 30 of the *Criminal Justice, Police Powers and Other Amendments Act 2014*.
- (2) An order under subsection (1) only comes into operation if it is approved by Tynwald. 
- (2) The following enactments are repealed —
 - (a) section 2(3) of the *Protection from Harassment Act 2000*;
 - (b) section 19(2) of the *Criminal Justice Act 2001*;
 - (c) paragraph 6(1) and (2) of Schedule 14 to the *Anti-Terrorism and Crime Act 2003*; and
 - (d) the *Criminal Justice (Arrestable Offences) Act 2004*.

- (3) The enactments in Part 1 of Schedule 3 are amended in accordance with that Schedule.

Bail elsewhere than at police station

31 Amendment of section 33

- (1) Section 33 (arrest elsewhere than at police station) is amended as follows.
- (2) For subsection (1) substitute —
- ⁶⁶ (1) Subsection (1A) applies if a person is, at any place other than a police station —
- (a) arrested by a constable for an offence; or
- (b) taken into custody by a constable after being arrested for an offence by a person other than a constable.
- (1A) The person must be taken by a constable to a police station as soon as practicable after the arrest.
- (1B) Subsection (1A) applies subject to section 33A (release on bail) and subsection (5) (release without bail).⁶⁷
- (3) For subsection (5) substitute —
- ⁶⁶ (5) A person arrested by a constable at any place other than a police station must be released without bail if the condition in subsection (5A) is satisfied.
- (5A) The condition is that, at any time before the person arrested reaches a police station, a constable is satisfied that there are no grounds for keeping the person under arrest or releasing the person on bail under section 33A.⁶⁷
- (4) For subsections (7) and (8) substitute —
- ⁶⁶ (7) Nothing in subsection (1A) or in section 33A prevents a constable delaying taking a person to a police station or releasing the person on bail if the condition in subsection (7A) is satisfied.
- (7A) The condition is that the presence of the person at a place (other than a police station) is necessary in order to carry out such investigations as it is reasonable to carry out immediately.
- (8) If there is any such delay the reasons for the delay must be recorded when the person first arrives at the police station or (as the case may be) is released on bail.⁶⁷
- (5) In subsection (9) for “subsection (1)” substitute ⁶⁶subsection (1A) or section 33A.⁶⁷

32 Insertion of new sections 33A to 33D

After section 33 insert —

33A Bail elsewhere than at police station

- (1) A constable may, after obtaining the consent of a police officer of or above the rank of sergeant, release on bail a person who is arrested or taken into custody in the circumstances mentioned in section 33(1).
- (2) A person may be released on bail under subsection (1) at any time before that person arrives at a police station.
- (3) A person released on bail under subsection (1) must be required to attend a police station.
- (4) No other requirement may be imposed on the person as a condition of bail.
- (5) The police station that the person is required to attend may be any police station.

33B Bail under section 33A: notices

- (1) If a constable grants bail to a person under section 33A, the constable must notify that person in writing before that person is released.
- (2) The notice must state —
 - (a) the offence for which the person was arrested; and
 - (b) the ground on which the person was arrested.
- (3) The notice must inform the person that the person is required to attend a police station.
- (4) It may also specify the police station that the person is required to attend and the time when the person is required to attend.
- (5) If the notice does not include the information mentioned in subsection (4), the person must subsequently be given a further notice in writing that contains that information.
- (6) The person may be required to attend a different police station from that specified in the notice under subsection (4) or (5) or to attend at a different time.
- (7) The person must be given notice in writing of any such change as is mentioned in subsection (6) and more than one such notice may be given to the person.

33C Bail under section 33A: supplemental

- (1) A person who has been required to attend a police station is not required to do so if the person is given notice in writing that the person's attendance is no longer required.
- (2) If a person is required to attend a police station that is not a designated police station that person must be —
 - (a) released; or
 - (b) taken to a designated police station,
not more than 6 hours after the arrival of that person at the police station.
- (3) Nothing in the *Bail Act 1952* applies in relation to bail under section 33A.
- (4) Nothing in section 33A or 33B or in this section prevents the re-arrest without a warrant of a person released on bail under section 33A if new evidence justifying a further arrest has come to light since that person's release.

33D Failure to answer to bail under section 33A

- (1) A constable may arrest without a warrant a person who —
 - (a) has been released on bail under section 33A subject to a requirement to attend a specified police station; but
 - (b) fails to attend the police station at the specified time.
- (2) A person arrested under subsection (1) must be taken to a police station (which may be the specified police station or any other police station) as soon as practicable after the arrest.
- (3) In subsection (1), “specified” means specified in a notice under section 33B(1) or (5) or, if notice of change has been given under section 33B(7), in that notice.
- (4) For the purposes of —
 - (a) section 33 (subject to the obligation in subsection (2)); and
 - (b) section 34,an arrest under this section is to be treated as an arrest for an offence. 

*Duties of custody officer before charge: children***33 Amendment of section 40**

In the definition of “arrested juvenile” in section 40(13) (interpretation of concepts about duties of custody officer before charge) for “17” substitute **18**.

*Remand of suspected drug offenders***34 Insertion of new section 49A**

After section 49 insert —

49A Remand of suspected drug offenders to detention

- (1) If —
- (a) a person is brought before a court of summary jurisdiction charged with —
 - (i) an offence against section 5(2) of the *Misuse of Drugs Act 1976* (possession of controlled drug); or
 - (ii) a drug trafficking offence; and
 - (b) the court has power to remand the person, the court may, if it considers it appropriate to do so, commit the person to the custody of a constable to be detained for a period not exceeding 192 hours.
- (2) This section does not apply if a charge is brought against a person under the age of 18.
- (3) In this section “drug trafficking offence” means any of the following offences (including one committed by aiding, abetting, counselling or procuring) —
- (a) an offence under section 4(2) or (3) of the *Misuse of Drugs Act 1976* (production and supply of controlled drugs);
 - (b) an offence under section 20 of that Act (assisting in or inducing commission outside the Island of an offence punishable under a corresponding law);
 - (c) any such other offence under that Act as may be designated by order under subsection (4);
 - (d) an offence under —
 - (i) section 47(2) or (3) of the *Customs and Excise Management Act 1986* (improper importation);
 - (ii) section 69(2) of that Act (exportation); or

- (iii) section 178 of that Act (fraudulent evasion), in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the *Misuse of Drugs Act 1976*;
 - (e) an offence under section 330 of the *Criminal Code 1872* of conspiracy to commit any of the offences in paragraphs (a) to (d);
 - (f) an offence under section 9 of the *Criminal Law Act 1981* of attempting to commit any of those offences; and
 - (g) an offence under section 19 of the *Misuse of Drugs Act 1976* of attempting or inciting another person to commit an offence under that Act.
- (4) The Department of Home Affairs may by order designate offences under the *Misuse of Drugs Act 1976* for the purposes of subsection (3)(c).
- (5) An order under subsection (4) only comes into operation if it is approved by Tynwald.
- (6) An order under subsection (4) may provide, in relation to any offence designated by such an order, that it is to be treated as so designated only —
- (a) for such purposes; and
 - (b) in cases where it was committed in such manner or in such circumstances,
- as may be described in the order.
- (7) In calculating a period for the purposes of subsection (1), the following periods of 24 hours are excluded —
- (a) a Saturday;
 - (b) a Sunday;
 - (c) Christmas Day or Good Friday;
 - (d) a day that is a bank holiday under the *Bank Holidays Act 1989*; or
 - (e) another day declared to be or proclaimed as a public holiday. .

Police bail

35 Substitution of section 50 and insertion of new sections 50A to 50E

For section 50 (bail after arrest) substitute —

50 Interpretation: bail concepts

In this Part —

“**bail**” means bail with or without sureties and subject to any bail conditions imposed under section 50A;

“**bail condition**” has the meaning given in section 50A(1)(b).

50A Bail conditions

(1) If a person is released on bail under this Part, the custody officer may —

- (a) grant bail with or without a surety or sureties; and
- (b) impose a condition (a “**bail condition**”) on the person if the custody officer believes that the condition is necessary to secure that the person will —
 - (i) surrender to custody at a particular time or place, or both;
 - (ii) not commit an offence while on bail;
 - (iii) not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or herself or another person;
 - (iv) make himself or herself available for the purpose of enabling inquiries or a report to be made to assist the police or a court in dealing with the person for the offences; or
 - (v) not leave the island.

(2) If a custody officer grants bail to a person subject to a bail condition imposed on the person to appear at a police station, the custody officer may notify that person in writing that the person's attendance at the police station is not required.

(3) If —

- (a) a person is granted bail; and
- (b) the person attends at a police station in accordance with a bail condition imposed on the person, or is arrested under section 52,

then, any time during which the person was in police detention prior to being granted bail must be included as part of any period that falls to be calculated under this Part.

(4) Nothing in this Part prevents the re-arrest without a warrant of a person released on bail subject to a duty to attend at a police station if new evidence justifying a further arrest has come to light since the person's release.

- (5) If a person is re-arrested —
 - (a) the provisions of this Part apply to the person as they apply to a person arrested for the first time; but
 - (b) this subsection does not apply to a person who is arrested under section 52 or has attended a police station in accordance with a bail condition imposed on the person (and who is deemed by section 37(6) or 52(2) to have been arrested for an offence).
- (6) The powers conferred on a custody officer of the rank of constable by this section may not be exercised without the written authorisation of an officer of at least the rank of sergeant.

50B Review by senior officer of bail conditions

- (1) If a custody officer has granted bail under this Part, a senior officer may, at the request of the person to whom it was granted —
 - (a) release the person without bail;
 - (b) withdraw bail;
 - (c) dispense with a surety or sureties;
 - (d) reduce the amount for which a surety is bound;
 - (e) vary a bail condition imposed on the person; or
 - (f) impose a new bail condition on the person.
- (2) The officer must give reasons for imposing or varying a bail condition imposed on the person or for withdrawing bail.
- (3) The reasons given under subsection (2) must be noted in the custody record and a copy of that note must be given to the person concerned.
- (4) The copy of the note mentioned in subsection (3) must inform the person concerned that he or she has a right to appeal under section 50C.
- (5) In this section, “senior officer” means an officer of higher rank than the custody officer and the officer who gave written authorisation under section 50A(6).

50C Appeal of bail decision

- (1) A person in relation to whom a condition under section 50A has been imposed may appeal to a court of summary jurisdiction against a decision under section 50B.
- (2) A constable must make the appeal on the person's behalf if the person notifies the custody officer that he or she —

- (a) wants to exercise his or her right to appeal; and
 - (b) is unrepresented.
- (3) The court may —
- (a) release the person without bail;
 - (b) withdraw bail;
 - (c) dispense with a surety or sureties;
 - (d) reduce the amount for which a surety is bound;
 - (e) vary a bail condition imposed on the person; or
 - (f) impose a new bail condition on the person.
- (4) On determining an appeal the court must, in accordance with the determination, remand the applicant in custody or on bail.
- (5) If the court withdraws bail or grants bail, the grant of bail made by the custody officer lapses.

50D Appearance in court

- (1) A court before which a person is obliged to appear in compliance with a bail condition imposed on the person may —
- (a) appoint a later time as the time at which the person is to appear; and
 - (b) vary a bail condition imposed on the person or impose a new bail condition on the person.
- (2) The court may impose a condition on the person that the court believes to be necessary to secure that the person makes himself or herself available for appearance at every time or place to which the hearing may from time to time be adjourned during the course of proceedings.
- (3) Subsection (2) does not affect the power of the court to vary a recognizance condition imposed on a person.

50E Police bail taken to be bail by recognizance under Bail Act 1952

- If —
- (a) a person released on bail is charged with an offence; and
 - (b) the person appears before a court in compliance with a bail condition imposed on the person or after arrest under section 15 of the *Bail Act 1952*;

then, from the time of the person's appearance, the bail is taken to have been granted by a court and the provisions of the *Bail Act 1952* apply to the bail as if it were a bail by recognizance in accordance with section 3A of that Act. **22**.

36 Amendment of section 52 and consequential amendments

- (1) Section 52 (power of arrest for failure to answer to police bail) is amended as follows.
- (2) Subsection (1) is repealed.
- (3) In subsection (2) for “this section” substitute **“section 15 of the *Bail Act 1952*”**.
- (4) Consequently, in sections 44(7), 45(10) and 46(18) for “section 52” substitute **“section 15 of the *Bail Act 1952*”**.
- (5) Consequently, in Schedule 2 delete “Section 5 of the Criminal Law Act 1981”.

*Child arrested for serious offence***37 Substitution of section 55**

For section 55 substitute —

55 Children: serious offences

This Part does not apply to a person who —

- (a) is arrested without a warrant otherwise than for —
 - (i) an offence that leads, or is intended or likely to lead, to a person's death or to physical injury to a person, or an offence that is required to be charged as arson; or
 - (ii) an offence under the *Sexual Offences Act 1992* (except sections 25 to 31); and
- (b) is, in the opinion of the constable who arrested the person, aged 10 years or over, but under 14 years. **“**

*Intimate searches***38 Amendment of section 58**

- (1) Section 58 (intimate searches) is amended as follows.
- (2) In subsection (1) for “chief inspector” substitute **“inspector”**.
- (3) After the definition of “controlled drug” in subsection (17) insert —

“juvenile’ means a person who, in the opinion of the officer mentioned in subsection (1), is under the age of 18 years. **”**

*Police powers relating to drugs***39 Insertion of new section 58A**

After section 58 insert —

58AX-rays and ultrasound scans

- (1) If an officer of at least the rank of inspector has reasonable grounds for believing that a person who has been arrested for an offence and is in police detention —
 - (a) may have —
 - (i) swallowed a Class A drug; or
 - (ii) concealed a Class A drug in his or her anus or her vagina; and
 - (b) was in possession of it with the appropriate criminal intent before his or her arrest,

the officer may authorise that an x-ray is taken of the person or an ultrasound scan is carried out on the person (or both).
- (2) An x-ray must not be taken of a person and an ultrasound scan must not be carried out on him or her unless the appropriate consent has been given in writing.
- (3) If it is proposed that an x-ray is taken or an ultrasound scan is carried out, a constable must inform the person who is to be subject to it —
 - (a) of the giving of the authorisation for it; and
 - (b) of the grounds for giving the authorisation.
- (4) An x-ray may be taken or an ultrasound scan carried out only by a suitably qualified person and only at —
 - (a) a hospital;
 - (b) a registered medical practitioner's surgery; or
 - (c) some other place used for medical purposes.
- (5) The custody record of the person must also state —
 - (a) the authorisation by virtue of which the x-ray was taken or the ultrasound scan was carried out;
 - (b) the grounds for giving the authorisation; and
 - (c) the fact that the appropriate consent was given.
- (6) The information required to be recorded by subsection (5) must be recorded as soon as practicable after the x-ray has been taken or ultrasound scan carried out.

- (7) Every annual report under section 4A of the *Police Act 1993* must contain information about x-rays that have been taken and ultrasound scans that have been carried out under this section in the area to which the report relates during the period to which it relates.
- (8) The information about such x-rays and ultrasound scans must be presented separately and must include —
- (a) the total number of x-rays;
 - (b) the total number of ultrasound scans;
 - (c) the results of the x-rays; and
 - (d) the results of the ultrasound scans.
- (9) If the appropriate consent to an x-ray or ultrasound scan of any person is refused without good cause, in any proceedings against that person for an offence —
- (a) the court, in determining whether there is a case to answer;
 - (b) a Judge, in deciding whether to grant an application made by the accused for the charge or any of the charges in the case to be dismissed; and
 - (c) the court or jury, in determining whether that person is guilty of the offence charged,
- may draw such inferences from the refusal as appear proper.
- (10) In this section —
- “**the appropriate criminal intent**” has the same meaning as in section 58;
- “**Class A drug**” has the same meaning as in section 2 of the *Misuse of Drugs Act 1976*;
- “**suitably qualified person**” means —
- (a) a registered medical practitioner; or
 - (b) a registered nurse. **22**.

Audio and visual recording of interviews

40 Section 63 substituted

For section 63 (tape-recording of interviews) substitute —

63 Audio and visual recording of interviews

- (1) The Department must by order —
- (a) issue a code of practice about the audio recording of interviews to which this section applies; and

- (b) require the audio recording of interviews to which this section applies to be in accordance with any relevant code of practice under paragraph (a).
- (2) An interview to which this section applies may only be recorded visually if the Department makes an order permitting the visual recording of interviews.
- (3) An order under subsection (2) —
 - (a) must contain a code of practice about the visual recording of interviews to which the order applies; and
 - (b) must require the interviews to be visually recorded in accordance with any relevant code of practice under paragraph (a).
- (4) This section applies to any interview held by a police officer at a police station.
- (5) In this section —
 - (a) references to any interview are references to an interview of a person suspected of a criminal offence; and
 - (b) references to a visual recording include references to a visual recording in which an audio recording is comprised. **22**.

Fingerprints

41 Amendment of section 64

- (1) Section 64 (fingerprinting) is amended as follows.
- (2) After subsection (2) insert —
 - 23** (2A) The fingerprints of a person who is not in police detention may be taken at a place other than a police station —
 - (a) if a police officer of at least the rank of inspector authorises it to be taken; and
 - (b) if the appropriate consent is given.”.
- (3) For subsection (6) substitute —
 - 24** (6) The fingerprints of a person detained at a police station may also be taken without the appropriate consent if the person has been —
 - (a) convicted of a recordable offence; or
 - (b) given a caution in respect of a recordable offence that, at the time of caution, he or she has admitted. **25**.

*Samples taken elsewhere than at police station***42 Amendment of section 65**

- (1) Section 65 (intimate samples) is amended as follows.
- (2) In subsections (1)(a) and (2)(a) for “chief inspector” substitute **“inspector”**.
- (3) After subsection (2) insert —
 - (2A)** An intimate sample may be taken at a place other than a police station from a person who is not in police detention —
 - (a) if a police officer of at least the rank of inspector authorises it to be taken; and
 - (b) if the appropriate consent is given.
 - (2B)** Subsection (2A) is in addition to subsection (2). **“”**.
- (4) In subsection (3) for “(1) or (2)” substitute **“(1), (2) or (2A)”**.
- (5) In subsection (4) for “(1) or (2)” substitute **“(1), (2) or (2A)”**.
- (6) In subsection (9) for “a person at a police station” substitute **“a person who is not in police detention”**.

43 Amendment of section 66

- (1) Section 66 (other samples) is amended as follows.
- (2) After subsection (2) insert —
 - (2A)** A non-intimate sample may be taken at a place other than a police station from a person who is not in police detention —
 - (a) if a police officer of at least the rank of inspector authorises it to be taken; and
 - (b) if the appropriate consent is given. **“”**.
- (3) In subsection (6) for “subsection (3)” substitute **“subsection (2A) or (3)”**.
- (4) In subsection (7) for “subsection (3)” substitute **“subsection (2A) or (3)”**.
- (5) In subsection (7A) for “subsection (3)” substitute **“subsection (2A) or (3)”**.
- (6) In subsection (10) for “subsection (3)” substitute **“subsection (2A) or (3)”**.
- (7) In subsection (12) for “a person at a police station” substitute **“a person who is not in police detention”**.

44 Amendment of section 67

- (1) For section 67(1) (fingerprints and samples: supplementary provisions) substitute —

67 (1) Where a person has been arrested on suspicion of being involved in a recordable offence or has been charged with such an offence or has been informed that he or she will be reported for such an offence, fingerprints, impressions of footwear or samples or the information derived from samples taken under any power conferred by this Part from the person may be checked against —

- (a) other fingerprints, impressions of footwear or samples to which the person seeking to check has access and that are held by or on behalf of any one or more relevant law-enforcement authorities or that are held in connection with, or as a result of, an investigation of an offence; and
- (b) information derived from other samples, if the information is contained in records to which the person seeking to check has access and that are held as mentioned in paragraph (a).

(1A) In subsection (1) “relevant law-enforcement authority” means —

- (a) a police force;
- (b) the body corporate established under section 1 of the Serious Organised Crime and Police Act 2005 (of Parliament);
- (c) a public authority (not falling within paragraphs (a) or (b)) with functions in any part of the British Islands that consist of, or include the investigation of, crimes or the charging of offenders;
- (d) any person with functions in any country or territory outside the Island that —
 - (i) correspond to those of a police force; or
 - (ii) otherwise consist of or include the investigation of conduct contrary to the law of that country or territory, or the apprehension of persons guilty of such conduct,
- (e) any person with functions under any international agreement that consist of or include the investigation of conduct that is —
 - (i) unlawful under the law of one or more places;
 - (ii) prohibited by such an agreement; or
 - (iii) contrary to international law,
 or the apprehension of persons guilty of such conduct; or

- (f) a person or body specified in an order under subsection (1B).
- (1B) The Department may, by order, specify a person or body (including an international organisation) for the purposes of subsection (1A)(f).
- (1C) An order under subsection (1B) only comes into operation if it is approved by Tynwald.
- (1D) The reference in subsection (1A) to a police force is a reference to any of the following —
- (a) the Isle of Man Constabulary;
 - (b) any police force maintained under section 2 of the Police Act 1996 (of Parliament) (police forces in England and Wales outside London);
 - (c) the metropolitan police force;
 - (d) the City of London police force;
 - (e) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (of Parliament);
 - (f) the Police Service of Northern Ireland;
 - (g) the Police Service of Northern Ireland Reserve;
 - (h) the Ministry of Defence Police;
 - (i) the Royal Navy Police;
 - (j) the Royal Military Police;
 - (k) the Royal Air Force Police;
 - (l) the British Transport Police;
 - (m) the States of Jersey Police Force; or
 - (n) the salaried police force of the Island of Guernsey.
- (1E) Where —
- (a) fingerprints, impressions of footwear or samples have been taken from any person in connection with the investigation of an offence but otherwise than in circumstances to which subsection (1) applies; and
 - (b) the person has given his or her consent in writing to the use in a speculative search of the fingerprints, of the impressions of footwear or of the samples and of information derived from them,
- the fingerprints or impressions of footwear or, as the case may be, those samples and that information may be checked against any of the fingerprints, impressions of footwear, samples or information mentioned in that subsection.

- (1F) A consent given for the purposes of subsection (1E) is not capable of being withdrawn.
- (1G) Where fingerprints or samples have been taken from any person under section 64(6) or 66(5), the fingerprints or samples, or information derived from the samples may be checked against any of the fingerprints, samples or information mentioned in subsection (1)(a) or (b). **22**.

Photographing of suspects

45 Amendment of section 68A

- (1) Section 68A (photographing of suspects) is amended as follows.
- (2) After subsection (1) insert —
 - 66** (1A) A person falling within subsection (1B) may, on the occasion of the relevant event mentioned in subsection (1B), be photographed elsewhere than at a police station —
 - (a) with the appropriate consent; or
 - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.
 - (1B) A person falls within this subsection if he or she has been —
 - (a) arrested by a constable for an offence; or
 - (b) taken into custody by a constable after being arrested for an offence by a person other than a constable. **22**.
- (3) In subsection (4)(a) after “prosecution” insert **66** or to the enforcement of a sentence **22**.
- (4) In subsection (5) at the end of paragraph (b) insert —
 - 66**; and
 - (c) “sentence” includes any order made by a court in the Island when dealing with an offender in respect of his or her offence. **22**.
- (5) After subsection (6) insert —
 - 66** (7) In this section, “photograph” includes a moving image. **22**.

Consent to searches etc

46 Amendment of section 69

In paragraph (a) of the definition of “appropriate consent” in section 69(1) (interpretation for Part V) for “17” substitute **66** 18 **22**.

*Codes of practice***47 Substitution of section 75**

For section 75 (codes of practice) substitute —

75 Codes of practice

- (1) The Department must by order provide for codes of practice in connection with —
 - (a) the exercise by police officers of statutory powers —
 - (i) to search a person without first arresting him or her;(ii) to search a vehicle or vessel without making an arrest; or
 - (iii) to arrest a person;
 - (b) the detention, treatment, questioning and identification of persons by police officers;
 - (c) searches of premises by police officers;
 - (d) the seizure and treatment of property found by police officers on persons, premises, vehicles or vessels; and
 - (e) the exercise by police officers of any other statutory or common law powers.
- (2) An order under subsection (1) may make provision in relation to the matters in that subsection by applying, adopting or incorporating, with or without modification, the provisions of any document as in operation at a particular time, or as in operation from time to time.
- (3) Subsection (2) applies even if the document mentioned in that subsection makes provision for a matter by applying, adopting or incorporating, with or without modification, another document as in operation at a particular time, or from time to time. **22**.

48 Amendment of section 76

After section 76(3) (codes of practice: supplementary) insert —

- 3A** (3A) An order bringing a code, or a revision of a code, into operation may include transitional or saving provisions. **22**.

*Powers of constables on Manx ships***49 Insertion of new section 77B**

After section 77A (customs officers: powers of constables) insert —

77B Powers of constables on Manx Ships

- (1) This section applies to an offence if conduct constituting the offence done on land in the Island would constitute that offence if done on a Manx ship.
- (2) The powers, duties and obligations conferred on a constable by a statutory provision or by the common law may be exercised in relation to a Manx ship for the purpose of detecting and taking appropriate action in respect of an offence to which this section applies that has, or is reasonably suspected to have, been committed on any Manx ship.
- (3) In this section, “Manx ship” has the same meaning as in the *Merchant Shipping Registration Act 1991*.
- (4) The powers, duties and obligations conferred by this section are in addition to, and not in derogation of, powers, duties and obligations conferred by another statutory provision.

*Meaning of “serious offence”***50 Amendment of section 79 and consequential amendments**

- (1) Section 79 (meaning of 'serious arrestable offence') is amended as follows.
- (2) In subsection (1) for “serious arrestable offence” substitute **serious offence**.
- (3) In subsection (2) for “arrestable offences are always serious” substitute **offences are always serious offences**.
- (4) In subsection (3) for “arrestable offence is serious” substitute **offence is a serious offence**.
- (5) In subsection (4) for “arrestable offence which consists of making a threat is serious” substitute **offence that consists of making a threat is a serious offence**.
- (6) At the end of the section add —
 - (9) The Department may by order make any provision repealing or amending any provision of an enactment that is inconsistent with, or is unnecessary or requires modification in consequence of, the amendment of section 79 by section 50 of the *Criminal Justice, Police Powers and Other Amendments Act 2014*.**
- (7) In the marginal note for “serious arrestable offence” substitute **serious offence**.

- (8) Consequently, the enactments specified in Part 2 of Schedule 3 are amended in accordance with that Schedule.

General interpretation

51 Amendment of section 81

- (1) Section 81(1) (general interpretation) is amended as follows.
- (2) Before the definition of “arrestable offence” insert —
- “all premises warrant”** (other than in Schedule 1) has the meaning given in section 11(1A)(b); **and**.
- (3) The definitions of “arrestable offence”, “child” and “young person”, and “juvenile” are repealed.
- (4) After the definition of “recordable offence” insert —
- “registered medical practitioner”** means a fully registered person within the meaning of the *Medical Act 1985*;
- “registered nurse”** is to be interpreted in accordance with section 39A of the *National Health Service Act 2001*;
- “serious offence”** has the meaning given in section 79; **and**.
- (5) After the definition of “special procedure material” insert —
- “specific premises warrant”** (other than in Schedule 1) has the meaning given in section 11(1A)(a); **and**.

Miscellaneous

52 Miscellaneous minor amendments

- (1) In the provisions mentioned in subsection (2) for “Deemster” (wherever occurring) substitute **“Judge”**.
- (2) Those provisions are —
- (a) section 18(4);
 - (b) section 58(14A)(b); and
 - (c) paragraphs 1, 4, 11(a), 12, 15 and 16 of Schedule 1 and the cross-headings immediately before paragraphs 1 and 12 of that Schedule.

PART 9 – AMENDMENT OF THE CHILDREN AND YOUNG PERSONS ACT 2001

Return of missing children

53 Insertion of new section 49A

After section 49 of the *Children and Young Persons Act 2001* (recovery of abducted person) insert —

49A Return of missing children

- (1) If a constable has reason to believe that a child has run away or is staying away from a person responsible for the welfare of the child, the constable may —
 - (a) return the child to any person responsible for the welfare of the child; or
 - (b) take the child into police protection under section 45, if the constable has reasonable cause to believe it is necessary to do so.
- (2) For the purposes of this section, a person responsible for the welfare of a child is —
 - (a) a parent of the child;
 - (b) a person who is not a parent of the child but has parental responsibility for the child;
 - (c) a relative of the child who has assumed responsibility for the child; or
 - (d) the Department, if the child is being looked after by the Department. **22**.

PART 10 - AMENDMENT OF THE CRIMINAL JUSTICE, POLICE AND COURTS ACT 2007

Live television links

54 Amendment of section 29(1)

In section 29(1) of the *Criminal Justice, Police and Courts Act 2007* (use of live television links at preliminary hearings) delete “and with the consent of the accused”.

PART 11 - AMENDMENT OF THE CUSTODY (AMENDMENT) ACT 2013

Expiry of Act

55 Insertion of new section 1A

After section 1 of the *Custody (Amendment) Act 2013* (short title) insert —

“1A Expiry

- (1) This Act expires on the day after its promulgation.
- (2) The expiry does not —
 - (a) revive any Act it amended as the Act operated before the amendment commenced;
 - (b) revive anything not in operation or existing when the amendment took effect; or
 - (c) affect the continuing operation of the amendment.”.

SCHEDULE 1

[Section 21]

NEW SCHEDULE 1A TO THE POLICE ACT 1993**☒ SCHEDULE 1A**

[Section 8G]

REGULATIONS TAKEN TO BE REGULATIONS UNDER SECTIONS 8 TO 8D**Regulations taken to be regulations under sections 8 to 8D**

The following regulations are taken to be regulations under sections 8 to 8D for the purposes of section 8F —

- (a) Isle of Man Police (Discipline) (Senior Officers) Regulations 1980¹;
- (b) Isle of Man Police (Discipline) (Amendment) Regulations 1994²;
- (c) Isle of Man Police (Discipline) Regulations 1995³;
- (d) Isle of Man Police Regulations 2000⁴;
- (e) Isle of Man Police (Amendment) Regulations 2001⁵;
- (f) Isle of Man Police (Amendment) Regulations 2002⁶;
- (g) Isle of Man Police (Amendment) Regulations 2003⁷; and
- (h) Isle of Man Police (Amendment) Regulations 2005⁸. ☒.

¹ GC 209/80

² SD 0535/94

³ SD 0336/95

⁴ SD 0118/00

⁵ SD 0555/01

⁶ SD 0052/02

⁷ SD 0713/02

⁸ SD 19/05

SCHEDULE 2

[Section 29]

**NEW SCHEDULES 1A AND 1B TO THE POLICE POWERS AND PROCEDURES
ACT 1998****■ SCHEDULE 1A**

[Sections 26A(5) & (6), 26B(5), 26E(5)(b), 26F(5), 26J(10)(b), 26K(5) & (6)(a) & 26M(1)(a)
& paragraph 2 of Schedule 1B]

POWERS OF SEIZURE

PART 1 - POWERS TO WHICH SECTION 26A, 26E(5)(b), 26J(10)(b) AND 26M(1)(a)
APPLIES

1 Obscene Publications and Indecent Advertisements Act 1907

Each of the powers of seizure conferred by section 3 of the *Obscene Publications and Indecent Advertisements Act 1907* (power to search for and seize obscene materials and documents relating to a connected business).

2 Forgery Act 1952

The power of seizure conferred by section 15 of the *Forgery Act 1952* (seizure of forgeries and counterfeits and of things used for making them etc).

3 Betting Act 1970

The power of seizure conferred by paragraph 8 of Schedule 3 to the *Betting Act 1970* (in relation to offences involving general betting duty).

4 Misuse of Drugs Act 1976

Each of the powers of seizure conferred by the provisions of section 23(2) and (3) of the *Misuse of Drugs Act 1976* (power to search for and seize controlled drugs and related documents).

5 Theft Act 1981

The power of seizure conferred by section 28(1) of the *Theft Act 1981* (seizure of goods suspected of being stolen).

6 Customs and Excise Management Act 1986

The power of seizure conferred by section 124C(4) of the *Customs and Excise Management Act 1986* (seizure of evidence of fraud offences).

7 Criminal Justice Act 1991

The power of seizure conferred by section 22(1) of the *Criminal Justice Act 1991* (search and seizure of material relevant to evidence for use outside Island).

8 Computer Security Act 1992

The power of seizure conferred by section 13(4) of the *Computer Security Act 1992* (seizure of evidence of offences under that Act).

9 Value Added Tax Act 1996

The power of seizure conferred by paragraph 12 of Schedule 12 to the *Value Added Tax Act 1996* (seizure of evidence of fraudulent evasion of VAT etc).

10 Police Powers and Procedures Act 1998

Each of the powers of seizure conferred by the provisions of Part II or III of this Act (police powers of entry, search and seizure).

11 Criminal Justice Act 2001

- (1) The power of seizure conferred by section 13(2) of the *Criminal Justice Act 2001* (seizure of publications consisting of or containing prohibited material).
- (2) The power of seizure conferred by paragraph 4(2) of Schedule 3 to the *Criminal Justice Act 2001* (seizure of indecent photographs or pseudo-photographs of children).

12 Anti-Terrorism and Crime Act 2003

Each of the powers of seizure conferred by the provisions of paragraphs 1, 3, 10 and 14 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003* (powers for use in terrorism investigations).

13 Proceeds of Crime Act 2008

The power of seizure conferred by section 169(4) of the *Proceeds of Crime Act 2008* (seizure of material likely to be of substantial value to certain investigations).

PART 2 - POWERS TO WHICH SECTION 26B, 26E(5)(b), 26J(10)(b) AND 26M(1)(a)
APPLIES

14 Misuse of Drugs Act 1976

Each of the powers of seizure conferred by the provisions of section 23(2) and (3) of the *Misuse of Drugs Act 1976* (power to search for and seize controlled drugs and related documents).

15 Police Powers and Procedures Act 1998

Each of the powers of seizure conferred by the provisions of Part II or III of this Act (police powers of entry, search and seizure).

16 Anti-Terrorism and Crime Act 2003

(1) The power of seizure conferred by section 32(4) of the *Anti-Terrorism and Crime Act 2003* (seizure on the occasion of a search of a suspected terrorist).

(2) Each of the powers of seizure conferred by the provisions of paragraphs 1, 3, 10 and 14 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003* (powers for use in terrorism investigations).

PART 3 - POWERS TO WHICH SECTION 26F, 26K(5) AND 26K(6)(a) APPLIES

17 Obscene Publications and Indecent Advertisements Act 1907

Each of the powers of seizure conferred by section 3 of the *Obscene Publications and Indecent Advertisements Act 1907* (power to search for and seize obscene materials and documents relating to a connected business).

18 Forgery Act 1952

The power of seizure conferred by section 15 of the *Forgery Act 1952* (seizure of forgeries and counterfeits and of things used for making them etc).

19 Theft Act 1981

The power of seizure conferred by section 28(3) of the *Theft Act 1981* (power to search for and seize goods suspected of being stolen).

20 Criminal Justice Act 1991

The power of seizure conferred by section 22(1) of the *Criminal Justice Act 1991* (search and seizure of material relevant to evidence for use outside Island).

21 Computer Security Act 1992

The power of seizure conferred by section 13(4) of the *Computer Security Act 1992* (seizure of evidence of offences under that Act).

22 Police Powers and Procedures Act 1998

The power of seizure conferred by section 11 of this Act (police powers of entry, search and seizure).

23 Criminal Justice Act 2001

The power of seizure conferred by paragraph 4(2) of Schedule 3 to the *Criminal Justice Act 2001* (seizure of indecent photographs or pseudo-photographs of children).

24 Anti-Terrorism and Crime Act 2003

- (1) Each of the powers of seizure conferred by the provisions of paragraphs 1 and 3 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003* (powers for use in terrorism investigations).
- (2) The power of seizure conferred by paragraph 14 of Schedule 5 to the *Anti-Terrorism and Crime Act 2003*, so far only as the power in question is conferred by reference to paragraph 1 of that Schedule.

25 Proceeds of Crime Act 2008

The power of seizure conferred by section 169(4) of the *Proceeds of Crime Act 2008* (seizure of material likely to be of substantial value to certain investigations).

SCHEDULE 1B

[Section 26P]

APPLICATION OF ENACTMENTS**1 Forfeiture of seized items**

- (1) The provisions mentioned in sub-paragraph (2) (forfeiture etc of items which have been seized) applies in relation to an item seized under section 26A as if the item had been seized under the power of seizure in reliance on which it was seized.
- (2) Those provisions are —
 - (a) section 3 of the *Obscene Publications and Indecent Advertisements Act 1907* (power to search for and seize obscene materials and documents relating to a connected business); and
 - (b) section 15 of the *Forgery Act 1952* (seizure of forgeries and counterfeits and of things used for making them etc).

2 Disclosure of information

Any provision that —

- (a) restricts the disclosure, or permits the disclosure only for limited purposes or in limited circumstances, of information obtained through the exercise of a power of seizure specified in Part 1 or 2 of Schedule 1A; or
- (b) confers power to make provision that does either or both of those things,

applies in relation to information obtained under section 26A or 26B in reliance on the power in question as it applies in relation to information obtained through the exercise of that power.

3 Interpretation

For the purposes of this Schedule, an item is seized, or information is obtained, under section 26A or 26B in reliance on a power of seizure if the item is seized, or the information obtained, in exercise of so much of any power conferred by that section as is exercisable by reference to that power of seizure. .

SCHEDULE 3

[Sections 30(3) and 50(8)]

AMENDMENTS CONSEQUENTIAL ON SECTIONS 30 AND 50

PART 1 - AMENDMENTS RELATING TO SECTION 30

1 Criminal Code 1872

In section 60C(c) of the *Criminal Code 1872* delete “arrestable”.

2 Criminal Law Act 1981

(1) In sections 7(1) and 8(1) of the *Criminal Law Act 1981* for “arrestable offence” (wherever occurring) substitute “offence”.

(2) Consequently, section 7(1A) of that Act is repealed.

3 Summary Jurisdiction Act 1989

In section 36A(4) of, and paragraph 8 of Schedule 2 to, the *Summary Jurisdiction Act 1989* for “arrestable offence” substitute “offence”.

4 Police Powers and Procedures Act 1998

In sections 20(1)(b) and 21(1) of the *Police Powers and Procedures Act 1998* for “arrestable offence” (wherever occurring) substitute “offence triable on information”.

5 Criminal Justice Act 1991

In section 22(1)(b) of the *Criminal Justice Act 1991* for “arrestable offence within the meaning of the *Police Powers and Procedures Act 1998*” substitute “offence”.

6 Criminal Jurisdiction Act 1993

(1) In section 22(4) of the *Criminal Jurisdiction Act 1993* for “arrestable offence” substitute “offence”.

(2) Consequently, section 22(9) of that Act is repealed.

7 Criminal Justice Act 1996

In section 4(3) of the *Criminal Justice Act 1996* for “arrestable offence” substitute “offence under that section”.

8 Public Order Act 1998

In section 5(3) of the *Public Order Act 1998* for “arrestable offence” substitute “offence under that section”.

PART 2 - AMENDMENTS RELATING TO SECTION 50

9 Police Powers and Procedures Act 1998

In the following provisions of the *Police Powers and Procedures Act 1998*, for “serious arrestable offence” substitute **“serious offence”** —

- (a) section 4(2)(b);
- (b) section 5(2)(b);
- (c) section 6(8)(c);
- (d) section 8(4)(a)(i), (b), (c)(i), (9)(c) and (13)(c);
- (e) section 11(1)(a)(i);
- (f) section 26 (wherever occurring);
- (g) section 41(1)(a)(v);
- (h) section 45(1)(b);
- (i) section 46(4)(b);
- (j) Section 59(2)(a), (6)(a) and (7)(a);
- (k) section 61(5)(a), (9)(a) and (10)(a);
- (l) paragraph 2(a)(i) of Schedule 1; and
- (m) the heading to Schedule 3.

10 Anti-Terrorism and Crime Act 2003

In paragraph 8(4)(a), (c), (d) and (9) of Schedule 8 to the *Anti-Terrorism and Crime Act 2003*, for “serious arrestable offence” substitute **“serious offence”**.

11 International Criminal Court Act 2003

In section 30(2) of the *International Criminal Court Act 2003* for “serious arrestable offence” substitute **“serious offence”**.

12 Organised and International Crime Act 2010

In section 8(4) of the *Organised and International Crime Act 2010* for “serious arrestable offence” substitute **“serious offence”**.