

Operation Oasis Stop & Search Refresher Document

Stops and Searches – Legislation

**Section 1, Police and Criminal Evidence Act
1984**

In broad terms, Section 1 PACE provides that:

'A police constable may detain in order to search any person, vehicle or anything which is in or on a vehicle, in any place to which the public has access, if he or she has reasonable grounds for suspecting that stolen or prohibited articles (or sharply pointed or bladed articles) or articles in respect of destroying or damaging property will be found. Any such article found during a search may be seized.'

The Act gives a constable power to **detain** a Person or vehicle so that a search may be made for 'stolen, prohibited, or sharply pointed or bladed articles'.

Detain

**There is no power to
detain a person in
order to find
grounds for a
search**

**If your detention for
searching is not
reasonable, you
may also breach
Article 5 of the
European
Convention of
Human Rights**

Stolen or prohibited articles (or sharply pointed or bladed articles) or articles in respect of destroying or damaging property

Stolen articles

Section 1 PACE, 1984 does not define 'stolen articles'. An existing definition of 'stolen goods' is to be found in the Theft Act 1968 and this includes the 'proceeds of stolen goods'.

Prohibited articles

In essence, there are two types of prohibited articles defined by the Act:

1. Offensive weapons, which are anything:
 - a) made or adapted for use for causing injury to people, or
 - b) intended by the person having it with him for such use by him or by some other person.

Operation Oasis Stop & Search Refresher Document

2. Any other articles:

a) made or adapted for use in the course of or in connection with an offence of:

(i) burglary

(ii) theft

(iii) taking motor vehicles or other conveyances without authority

(iv) obtaining property by deception

or

b) intended by the person having it with him, for such use by him or by some other person.

Although the Act defines the types of Prohibited Articles for which a person or vehicle may be searched, it does not make it an offence to possess such articles. The

**Definition of stolen
or prohibited articles**

In addition to prohibited articles, you may also search for bladed or sharply pointed articles. Section 1 of PACE was later extended to include bladed or pointed articles as covered by Section 139 of the Criminal Justice Act 1988.

**Articles used or intended for committing
criminal damage**

Searches for articles in respect of destroying or damaging property as per Section 1 of the Criminal Damage Act 1971 as amended by the Criminal Justice Act 2003 are also lawful.

**In addition to
prohibited articles
you may also search
for bladed or sharply
pointed articles**

In addition to prohibited articles, you may also search for bladed or sharply pointed articles. Section 1 of PACE was later extended to include bladed or pointed articles as covered by Section 139 of the Criminal Justice Act 1988.

Grounds for search

Object and purpose of search

Warrant card (if in plain clothes or requested)

Identity of officer

Station to which attached

Entitlement to a copy of the search record

Legal power used

You are detained for the purposes of a search

Operation Oasis Stop & Search Refresher Document 06/08/08

From Supt Nottage

Further to be considered into Stop & Search Strategy currently being employed:

- The need for reasonable suspicion
- That suspicion is a lower threshold than belief
- That code A includes people innocently in possession of prohibited items
- That there is no mandatory or random search regime in place
- Relevant intelligence and recent activity that may impact on officers reasonable suspicion
- That there is no power to stop in order to obtain that suspicion
- That before being searched relevant questions can be asked to negate that suspicion before search etc
- The need for correctly completed S1 forms with supervisor signature

Secondly

- officers are not to instruct protestors to lock D locks onto fences and gates at FOB 1 to avoid them being seized by police. (this has been happening)
- officers to consider seizing cameras if protestors are stopped in suspicious circumstances near the site

- articles made or adapted for use in burglary, theft, taking a conveyance without consent, fraud, or criminal damage;
 - any artwork possessed in breach of a prohibition imposed by any of the firework regulations.
- Note that some items, drugs for example, are not prohibited articles. Instead, there are other statutory powers of search available to use for searching for other items such as drugs and firearms (see Code A, Annex A).

You may detain a person or vehicle for the purpose of such a search, but the length of time the person or vehicle is detained must be reasonable and kept to a minimum (Code A, para 3.3).

8.5.4 Grounds for 'Stop, Search and Detain'

Under s 1(3) of the PACE Act 1984, you do not have the power to search unless you have reasonable grounds for suspecting that you will find stolen or prohibited articles. Reasonable grounds for suspicion depend on the circumstances in each case (see Code A, para 2.2), but the following factors can all be considered:

- a suspect's behaviour, for example trying to hide something;
 - accurate and current intelligence or information;
 - reliable information that members of a group habitually carry prohibited articles.
- Reasonable grounds do not include personal factors, such as ethnicity, age, appearance, or previous convictions either singly or in combination.

If you discover an article which you have reasonable grounds to suspect to be stolen or prohibited, you can seize it (s 1(6), PACE Act).

8.5.5 Requirements Regarding the Search of Persons and Vehicles

These requirements are explained in s 2 of the PACE Act 1984. Briefly, they state that you must take reasonable steps to provide certain information to the person to be searched or the person in charge of the vehicle to be searched. The information you must provide is shown in the table below and can be best remembered by the use of the mnemonic GO WISELY:

G	Grounds of the suspicion for the search
O	Object/purpose of search
W	Warrant card (if in plain clothes or requested)
I	Identity of officer
S	Station to which attached
E	Entitlement to a copy of the search record
L	Legal power used
Y	You are detained for the purposes of a search

You can carry out the search either:

- at the place where the person or vehicle was first detained; or
 - near (within a reasonable travelling distance of) the place where the person or vehicle was first detained (see Code A, para 3.4, note 6).
- After searching an unattended vehicle, you must leave a search form inside the vehicle (unless it is not reasonable or practical to do so without causing damage, see s 2(6), PACE Act).

When searching persons:

- You must seek the co-operation of the person to be searched every time. Reasonable force may be used as a last resort to conduct a search, but only after you have been met with resistance from the person to be searched (see Code A, para 3.2).
- You cannot require any person to remove any clothing in public other than an outer jacket and gloves. You can search a person's hair as well, but only if the removal of headgear is not required (see Code A, para 3.5).

- You can place your hands inside the pockets of outer clothing and feel round the inside of collars, socks, and shoes (see Code A, para 3.5).
- You cannot search a member of the opposite sex if it involves removal of more than outer coat, jacket, gloves, headgear, or footwear, and you cannot be present at such a search unless the person being searched specifically requests it (see Code A, para 3.6).
- You can carry out a more thorough search, for example requiring the removal of a T-shirt, but it must be undertaken out of public view, for example in a police van or police station (see Code A, para 3.6).
- You must make a record of the search and give a copy to the person you have searched unless it is impracticable to do so (see Code A, paras 4.1 and 4.2). In this case, provide the person with the date of the search and details of the police station where they can obtain the record of the search (see Code A, note 21).
- You must keep the search relevant; the extent of the search must relate to the object you are searching for, and if the suspicion relates to a certain pocket, then only that pocket can be searched (see Code A, para 3.3).

TASK 2

- As you have seen, there are a number of requirements that you must follow when making a search under s 1 of the PACE Act 1984. Some of these relate to what you must tell the person you are searching. In order for this to become second nature, write down the list of things you have to say in a way that you will remember them. For example, make a mind-map or a mnemonic to help you remember.
- Completion of this task will help you towards meeting the knowledge requirements of CAr1211 in your SOLAP under the headings 'Legal and organisational requirements' and 'Searching Individuals'.

Stop and Search for Offensive Weapons

- If you find yourself in a situation where it seems likely that a serious breakdown in public order might occur, s 60 of the Criminal Justice and Public Order Act 1994 empowers a senior police officer to authorise you to stop and search people for offensive weapons or other dangerous instruments. Under s 60(5), you do not have to have grounds for suspecting that the person or vehicle is carrying weapons or dangerous articles.

Section 60(1) of the Criminal Justice and Public Order Act 1994 states that,

- If a police officer of or above the rank of Inspector reasonably believes,
- (b) that persons are carrying dangerous instruments or offensive weapons in any locality in [his/her] police area without good reason;
- OR
- (a) that individuals involving serious violence may take place in any locality in [his/her] police area, and that it is expedient to give an authorisation under this section to prevent their occurrence;
- ...the senior police officer[] may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.

Public Order Act 1986

LEGISLATION – AIDE MEMOIREE

Human Rights Act 2000

Article 10 – Freedom of Expression: Everyone has the right to hold opinions and to express their views on their own or in a group.

Article 11 – Freedom of Assembly: Everyone has the right to assemble with other people in a peaceful way.

Article 1 of Protocol 1 – Protection of Property: Everyone has the right to the peaceful enjoyment of their possessions.

Breach of the Peace

The important threshold requirement is the reasonable apprehension of an imminent breach of the peace not a reasonable suspicion that a breach will occur.

Corralling / Containment

Only where there is a reasonable belief that there are no other means where a breach of the peace is imminent and can only be avoided by a containment of an individual's rights will it be lawful. Test is necessity and must be justifiable in extreme and exceptional circumstances and will require full evidence.

Criminal Damage Act 1971 Section 1

"A person who without lawful excuse destroys or damages any property, whether belonging to himself or another -

- Intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
- Intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be therefore endangered;"

Aggravated Trespass

* Criminal Justice and Public Order Act 1994, section 68: offence committed of a persons trespassing on land does anything which is intended to intimidate people who are there lawfully so as to deter them from their engaged activity, to obstruct their engaged activity, to obstruct their engaged activity or to disrupt that activity is an offence.

* Section 69: If a senior officer present reasonably believes that a person is committing, has committed or intends to commit the offence of aggravated trespass or that two or more people are trespassing and that they intend to disrupt others from their lawful activity he may direct them to leave if they fail to leave they commit an offence.

* Section 60: Stop and search in anticipation of violence – you must have intelligence information to support and an authority. Please be aware of Human Rights issues.

* Section 60 a a: A constable may request the removal of items worn or held to conceal their identity. Please be aware of Human Rights issues.

Public Order Act 1986

- * Section 12: Senior police officer imposing conditions on public assembly. Non-compliance of those conditions commits an offence.
 - * Section 14: Senior police officer imposing conditions on public processions. Non-compliance of those conditions commits an offence.
- Further explanations are contained in the pocket guide supplied with the 'Grab' boxes.**

Seizure of Property

A constable lawfully on premises may seize anything if he reasonably believes it has been obtained as a result of the commission of an offence and if not seized it will be concealed, lost, destroyed or altered.

An arresting officer should always be in a position to justify his decision to arrest. Please remember section 24 of PACE as amended.

Stop and Search

Section 1, Police and Criminal Evidence Act 1984 states, in broad terms that:

'A police constable may detain in order to search any person, vehicle or anything which is in or on a vehicle, in any place to which the public has access, if he or she has reasonable grounds for suspecting that stolen or prohibited articles (or sharply pointed or bladed articles) or articles in respect of destroying or damaging property will be found. Any such article found during a search may be seized.'

There is no power to detain a person in order to find grounds for a search. If your detention for searching is not reasonable, you may also breach Article 5 of the European Convention of Human Rights. Remember GoWisely (Grounds, Object/Purpose, Warrant, Identification, Station, Entitlement to copy of search record, Legal power, You are detained for the purposes of a search)

Use of Force

Section 3 Criminal Law Act 1967

A person may use such force as is reasonable in the circumstances in the prevention of crime or in the effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Common Law

If you have an honest held belief that you or another are in imminent danger, then you may use such force that is reasonable and necessary to avert that danger.

Section 117 P.A.C.E. Act 1984

Where any provision of this act confers powers on a constable and does not provide that the power may only be exercised with the consent of some person other than a constable the officer may use REASONABLE FORCE.