

**POLICE POWERS**  
**of**  
**STOP**  
**SEARCH**  
**SEIZURE**  
**and**  
**ARREST**



# GENERAL PRINCIPALS

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- Freedom to do anything not prescribed by law
- Unlawful interference with the person and property – amounts to the torts of assault, battery, false imprisonment, trespass to the person / property and criminal offences of assault / grievous bodily harm etc under Offences Against the Persons Act 1861



# GENERAL PRINCIPALS

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- Public remedy – habeas corpus – to gain release from false imprisonment
- Citizen may use reasonable force to resist unlawful interference
- The authorities require a statutory / common law power to enable them to interfere with a person or their property : Most powers require “Reasonable Suspicion” : *Castorina v Chief Constable of Surrey* : *Monaghan v Corbert*.



# GENERAL PRINCIPALS

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- Unlawful actions : resisting lawful arrest : offences of obstructing or assaulting an officer in the lawful execution of his duty
- *s89 Police Act 1996 :*
- *Kenlin v Gardiner :*
- *Donnelly v Jackman :*
- *Benley v Brudzinski.*



# STOP – LEGALITY : s1-4 PACE 1984

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- ❑ Location *s1(1) PACE* – excludes private land unless non-resident or trespasser – *s1(4) PACE*
- ❑ Vehicles *s1(5) PACE* – *s163 Road Traffic Act 1988* – permits random stop but search requires suspicion.
- ❑ Anticipation of violence *s60 CJPO Act 1994* weapons – dangerous instruments – no suspicion required – anyone in a specified place for 24 hours.



# STOP – LEGALITY : s1-4 PACE 1984

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- ❑ Terrorism – *s13A Prevention of Terrorism Act 1989* – anyone – specified place 28 days.
- ❑ Purpose of stop – criteria - reasonable suspicion *s1(3) PACE : King v Gardner : Daniel v Morrison + s66 PACE / Annex B Code of Practice*
- ❑ Compliance with formalities – uniform – explanation – written notice *s2 PACE*



# SEARCH – LEGALITY : s1-4 PACE 1984

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- ❑ Location *s1(1)(a)(b) s1(2) PACE*
- ❑ Power of seizure *s1(6) PACE*
- ❑ Purpose – criteria – reasonable suspicion – what potential offences covered – stolen goods – prohibited articles *s1(7) PACE* – offences see *s1(8) PACE* – offence weapons *s1(9) PACE*
- ❑ Extent of search – formalities – conduct of search *s2 PACE*



# SEIZURE – LEGALITY : *s1(6) PACE*

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- What can be seized *s1(6) PACE*
- Compliance with procedures
- Records *s3 PACE*
- *ROAD CHECKS s4 PACE*





# ENTRY UNDER WARRANT

## *s8 & s15 PACE*

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- ❑ Procedures *s15 PACE*
- ❑ *Robson v Hallet* :
- ❑ *Davis v Lisle* :
- ❑ *Entick v Carrington* :
- ❑ *Thomas v Sawkins* :
- ❑ *Elias v Pasmore* :
- ❑ *Chic Fashions* :
- ❑ *Ghani v Jones*.



# ENTRY WITHOUT WARRANT

## *Part II PACE & Schedule 1.*

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- Purpose of entry *s17(1)(b)(c)(d)(e) PACE* – arrest – saving life or limb – preventing damage
- Formalities *s17(2) PACE* reasonable grounds for believing – uniform, *17(3)*
- Extent of Search *s17(2) PACE* - – limited territorial scope – power to exercised reasonably *s17(4)*



# ENTRY POST ARREST *s18 PACE*

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- Limited to arrestable offences : *s18(1) PACE*
- Grounds – reasonable suspicion of evidence of that or related arrestable offences *s18(1) PACE*
- Can seize anything for which he is allowed to search *s18(2) PACE*
- Scope of search limited by reasonableness test *s18(3) PACE*
- Requires authorisation in writing *s18(4) PACE* unless post arrest search in presence of arrested person *s18(5) PACE*



# POWER OF SEIZURE *s19 PACE*

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- ❑ Constable lawfully on property may seize articles *s19(1) PACE*
- ❑ Anything – reasonable grounds for believing obtained by offence or necessary to prevent destruction / concealment *s19(2) PACE*
- ❑ Anything if reasonable grounds for believing evidence of an offence – necessary to prevent concealment / destruction *s19(3) PACE*
- ❑ Opening up computers *s19(4) PACE*
- ❑ Exception for privileged material *s19(5) PACE*

# RETENSION OF SEIZED PROPERTY

## *s21 PACE*

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- Provide a written record to owner  
*s21(1) PACE*
- Within a reasonable time *s21(2) PACE*
- Application by citizen for supervised access to seized goods *s21(3) PACE*
- Photographic evidence and access thereto *s21(4)-(8) PACE*

# ARREST UNDER WARRANT

## *s16 PACE*

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- ❑ Exercisable by any constable **s16(1) PACE**
- ❑ Can authorise others to accompany a constable **s16(2) PACE**
- ❑ Warrants only last a month **s16(3) PACE**
- ❑ Entry at a reasonable hour – unless necessary to prevent frustration of purpose **s16(4) PACE**
- ❑ Procedures **s16(5) –(9) PACE**

# ARRESTABLE OFFENCES :

## s24 PACE 1984

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- Powers – relevant offences *s24(1) PACE* – Penalty fixed by law or 5 years + Jail
- Cohate offences – attempt, aid, abet, incite etc *s21(3) PACE*
- Arrest anyone committing or reasonable believed to be committing an offence *s21(4) PACE*



## s24 PACE 1984

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- Arrest anyone guilty of /reasonably suspected - if an offence committed *s21(5) PACE*
- Reasonable suspicion – Constable anyone reasonably suspected of *s21(6) PACE*
- Constable - Anyone about to commit or suspected of being about to commit *s21(7) PACE*



# GENERAL ARREST CONDITIONS

## s25 PACE 1984

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- Purpose – any offence – reasonable grounds for believing summons impracticable *s25(1) PACE*

Relevant person if the person suspected by constable *s25(2) PACE*

General arrest conditions *s25(3) PACE* a) name unknown b) not believed c) address unsatisfactory d) necessary to prevent injury – loss or damage to property – public decency – obstruction to highway



# INFORMATION TO BE GIVEN ON ARREST s28 PACE

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- ❑ Must be informed of reason for arrest (but not the source of information)
- ❑ and of the fact of arrest
- ❑ Unless not practicable



# ARREST AWAY FROM A STATION

## s30 PACE

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- ❑ Must be taken to nearest station
- ❑ As soon as possible
- ❑ But may go to another place to search first



# **ARREST FOR FURTHER OFFENCES**

## **s31 PACE**

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- ❑ **SEARCH UPON ARREST 32 PACE**