

SUMMARY OF POLICE POWERS AND SAFEGUARDS IN PACE 1984

Power	Extent of Power	Safeguards
Stop and search	<p>Police may stop and search any person or vehicle for stolen or prohibited articles: s1(2). Prohibited article means an offensive weapon or an article for use in the course of burglary, theft, taking a motor vehicle or conveyance without authority or obtaining by deception: s1(7) and (8)</p> <p>Such articles may be seized: s1(6)</p>	<p>Must be in a public place: s1(1)</p> <p>Police must have reasonable grounds for suspicion: s1(3). Reasonable suspicion cannot be based on personal factors alone: Code A, 1.7</p> <p>Police cannot require citizen to remove any clothing in public except outer coat, jacket or gloves: s2(9). Where it is necessary to conduct a more thorough search (eg by requiring a person to take off a T-shirt), this shall be done out of public view for example, in a police van or police station if there is one nearby: Code A, 3.5.</p> <p>Police must make a written record of the search: s3(1). Note of person's ethnic origin must be included in record: Code A, 4.5</p>
Entry and Search	<p>1. Police, with a warrant, may search premises if a serious arrestable offence has been committed and there is material on the premises which is likely to be of value to the investigation of the offence: s8(1)</p> <p>Police may seize material: s8(2)</p> <p>2. Police, without a warrant, may enter premises in order to execute a warrant of arrest, or to arrest a person for an arrestable offence: s17(1)</p> <p>3. Police may enter and search premises occupied by arrested person: s18(1)</p> <p>4. Police may search an arrested person if reasonable grounds for believing that person may be a danger to himself or others: s32(1)</p> <p>5. Police may search (a) arrested person for anything he might use to escape; and (b) premises where person was when or immediately before arrested: s32(2)</p>	<p>1. Magistrates issue warrants under s8</p> <p>Warrant will specify premises and articles/person sought.</p> <p>Entry and search must be at a reasonable hour unless the purpose of the search would be frustrated: s16(4)</p> <p>2. Must have reasonable grounds for believing that person sought is on the premises: s17(2)</p> <p>3. Must have reasonable grounds for suspecting that there is evidence on the premises: s18(1)</p> <p>4. Must have reasonable grounds for believing citizen may be a danger to himself or others: s32(1)</p> <p>5. Search must be to extent reasonably required for discovering items or evidence: s32(3)</p> <p>Police cannot require citizen to remove any clothing in public except outer coat, jacket or gloves: s32(4)</p>

<p>Arrest</p>	<p>Any person may arrest without a warrant (a) anyone who is in the act of committing an arrestable offence; or (b) anyone whom he has reasonable grounds for suspecting to be committing such an offence: s24(4)</p> <p>When an arrestable offence has been committed, any person may arrest without a warrant (a) anyone who is guilty of the offence; or (b) anyone whom he has reasonable grounds for suspecting to be guilty of it: s24(5)</p> <p>Where a constable has reasonable grounds for suspecting that an arrestable offence has been committed, he may arrest without a warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence: s24(6)</p> <p>A constable may arrest without a warrant (a) anyone who is about to commit an arrestable offence; or (b) anyone whom he has reasonable grounds for suspecting to be about to commit an arrestable offence: s24(7)</p> <p>Where a constable has reasonable grounds for suspecting that a non-arrestable offence has been committed or attempted, or is being committed or attempted, he may arrest the person if he believes that service of a summons is impracticable or inappropriate because any of the general arrest conditions is satisfied: s25(1)</p>	<p>Offence being committed or reasonable grounds for suspicion</p> <p>Offence committed or reasonable grounds for suspicion</p> <p>Reasonable grounds for suspicion that offence committed and reasonable grounds for suspecting person to be guilty</p> <p>Offence about to be committed or reasonable grounds for suspicion</p> <p>Reasonable grounds for suspicion and service of summons impracticable, eg, name of person unknown or doubted, address not given or doubted: s25(3)</p> <p><i>Other points:</i></p> <p>People who voluntarily go to a police station, without having been arrested, are entitled to leave at will unless arrested: s29</p> <p>Where a person is arrested, the arrest is not lawful unless the person is told that he is under arrest: s28(1)</p> <p>The arrest will not be lawful unless the person is told the ground of arrest, at the time or as soon as practicable: s28(3)</p> <p>A person must be cautioned upon arrest: Code C, 10.3. The caution shall be in the following terms: 'You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.' (Code C, 10.4)</p> <p>Arrested person must be taken to police station as soon as practicable: s30</p>
---------------	---	---

<p>Detention</p>	<p>Person must not be detained for more than 24 hours without being charged: s41</p> <p>Superintendent may authorise detention for up to 36 hours: s42</p> <p>Magistrates may issue a warrant of further detention to detain person for another 36 hours: s43 (total = 72 hours)</p> <p>Magistrates may extend warrant of further detention for up to another 36 hours; but ending no later than 96 hours since the person arrived at the station: s44 (total = 96 hours)</p>	<p>Time to be calculated from arrival at station or arrest, whichever is earlier: s41</p> <p>Reasonable grounds for believing detention necessary to secure or preserve evidence and offence is a serious arrestable offence</p> <p>Court must be satisfied that there are reasonable grounds for believing that further detention is justified</p> <p>Court must be satisfied that there are reasonable grounds for believing that further detention is justified</p> <p><i>Role of the Custody Officer:</i></p> <p>If CO realises that grounds for detention of a person no longer exist, he must order his immediate release: s34(2)</p> <p>CO must decide if there is sufficient evidence to charge a person: s37(1). If not, CO must have reasonable grounds for believing that detention necessary to secure or preserve or obtain evidence relating to the offence: s37(2)</p> <p>Duty of CO to ensure (a) that detainees are treated in accordance with PACE and the codes of practice; and (b) all matters are recorded in the custody record: s39</p> <p>CO responsible for accuracy and completeness of custody record: Code C, 2.3</p> <p>There must be a periodic review of the detention of a person who has been arrested and charged by the CO, but if not charged by an inspector: s40</p> <p>CO must tell person of following rights: to have someone informed of his arrest; to consult with a solicitor (free of charge); and to read the codes of practice: Code C, 3.1</p> <p><i>Additional rights of children & mentally ill</i></p> <p>If the person is a juvenile (a person under the age of 17), then the CO must, as soon as practicable, inform an appropriate adult of the grounds for his detention and his whereabouts and ask the adult to come to the police station to see the person: s57.</p> <p>The same applies if the person is mentally handicapped or suffers from a mental disorder: Code C, 3.9</p>
------------------	---	--

Interviews		<p>A juvenile or a person who is mentally disordered or mentally handicapped must not be interviewed or asked to provide or sign a written statement in the absence of an appropriate adult: Code C, 11.14. The <i>exceptions</i> are where delay would be likely to (a) harm evidence, (b) alert other suspects, or (c) hinder the recovery of property: C, 11.1</p> <p>Person must be cautioned before any questions are put: Code C, 10</p> <p>Tape recording of interviews shall be carried out openly to instil confidence in its reliability as an impartial and accurate record of the interview: Code E, 2.1</p> <p>No police officer may try to obtain answers to questions or to elicit a statement by the use of oppression: Code C, 11.3</p> <p>In any period of 24 hours a detained person must be allowed a continuous period of at least 8 hours for rest, free from questioning: Code C, 12.2</p> <p>Breaks from interviewing at meal times and short breaks for refreshment approximately every 2 hours subject to interviewing officer's discretion to delay a break if reasonable grounds for believing it would involve a risk of harm to people or property; delay the person's release from custody; or prejudice the investigation: Code C 12.7</p> <p>If a confession was or may have been obtained (a) by oppression or (b) in consequence of anything said or done which was likely to render the confession unreliable, the court will not allow the confession to be given in evidence: s76</p> <p>The court may refuse to allow evidence if it appears that the admission of the evidence would have an adverse effect on the fairness of the proceedings: s78</p>
------------	--	---

Note:

“Arrestable offence” is defined in s24 as (a) an offence for which the sentence is fixed by law, (b) an offence for which an adult may be imprisoned for five years or more, or (c) an offence listed in s24(2). It includes, among others: murder, theft, ABH, rape, robbery and taking a motor vehicle.

“Serious arrestable offence” is defined in s116 and Schedule 5 and includes, among others: treason, murder, manslaughter, rape, kidnapping and indecent assault.

THE RIGHT TO SILENCE AND THE CJPOA 1994

The police have the power to ask suspects or detainees questions. However, questioning is supposed to stop once a person has been charged (Code C, para 16.5). It is generally believed that a person has the right to maintain silence in the face of police questioning. However, the government limited (rather than abolished) the right to silence in the Criminal Justice and Public Order Act 1994.

First of all, if a person fails to mention a defence to the police, then when being tried, the court or jury may draw such inferences as appear proper under s34. Secondly, when a suspect who is interviewed after arrest fails or refuses to answer certain questions, or to answer them satisfactorily, after due warning, a court or jury may draw such inferences as appear proper under ss36 and 37.

Power	Extent of Power	Safeguards
Questioning	<p>Where a suspect, on being questioned fails to mention any fact relied on in his defence, which could reasonably have been mentioned when questioned, the court or jury, in deciding whether the accused is guilty of the offence, may draw such inferences from the failure as appear proper: s34</p> <p>Where a person is arrested and there is found on his person, or in his clothing or footwear, or otherwise in his possession, or in the place where he was arrested, any objects, marks or substances, or marks on such objects, and the person fails or refuses to account for the objects, marks or substances found, then the court or jury in determining whether the accused is guilty of the offence, may draw such inferences from the failure or refusal as appear proper: s36</p> <p>Where a person arrested was found by a constable at a place at or about the time of the offence for which he was arrested is alleged to have been committed, and the person fails or refuses to account for his presence at that place, the court or jury in determining whether the accused is guilty of the offence, may draw such inferences from the failure or refusal as appear proper: s37</p>	<p>Person must be cautioned before any questions are put to him (Code C, 10.1). The caution shall be in the following terms: 'You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.' (Code C, 10.4)</p> <p>Due warning must be given to the suspect (Code C paras 10.5A-C). The interviewing officer must first tell the suspect in ordinary language:</p> <ul style="list-style-type: none">(a) what offence he is investigating;(b) what fact he is asking the suspect to account for;(c) that he believes this fact may be due to the suspect's taking part in the commission of the offence in question;(d) that a court or jury may draw a proper inference if he fails or refuses to account for the fact about which he is being questioned; and(e) that a record is being made of the interview and that it may be given in evidence if he is brought to trial.