



# Home Office Circular

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THIS CIRCULAR IS ADDRESSED TO:	<b>CHIEF OFFICERS OF POLICE (ENGLAND AND WALES) CLERKS TO THE POLICE AUTHORITIES</b>
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## **ANTI-TERRORISM, CRIME AND SECURITY ACT 2001: SECTION 94 REMOVAL OF DISGUISES**

The purpose of this Circular is to inform you that section 94 of the Anti-terrorism, Crime and Security Act 2001 came into force on Royal Assent on 14 December 2001.

### Changes to the legislation

2. Section 94 inserts a new section 60AA into the Criminal Justice and Public Order Act 1994.
3. Section 60AA adds to the existing powers for a constable in uniform to require the removal of any item which the constable reasonably believes is being worn wholly or mainly for the

purposes of concealing his identity, or to seize any item which the constable reasonably believes any person intends to wear for that purpose. These powers only apply in the locality and for the period for which an authorisation under section 60 of the 1994 Act or an authorisation under section 60AA(3) has been given.

4. There is no power to stop and search for items used to conceal identity. An officer may seize any such item which he sees being worn or carried, and which he reasonably believes is intended to be used for concealing anyone's identity. Where an item has been removed in accordance with the power in section 60AA(2)(a), the officer should consider whether reasonable grounds remain to seize the item under the power in section 60AA(2)(b), that is, whether he reasonably believes the person still intends to wear the item wholly or mainly for the purposes of concealing identity. If an authorisation under section 60 or 60AA(3) is in place, an officer may seize an item which he comes across when exercising a power of search for something else.

5. The Police and Criminal Evidence Act 1984 (PACE) Code of Practice A draws attention to the need for caution in respect of face coverings which are worn for legitimate reasons, for example the wearing of veils by Muslim women. The officer must be satisfied in each case that the face covering is being worn wholly or mainly to conceal identity. Care should be exercised in considering items which may be legitimately worn for other purposes, for example a coat with hood worn in winter.

## **Authorisation**

6. Where an authorisation under the existing section 60 powers is in place (powers to stop and search in anticipation of violence), the power to require removal of face coverings will continue to be available. Section 60AA(3) introduces an alternative lower test for the authorisation of the removal of face coverings. It allows an officer of the rank of Inspector or above to authorise the powers for up to 24 hours if he or she reasonably believes that:

- activities may take place in any locality within the police area which that are likely to involve the commission of offences, and
- an authorisation given under this section would be expedient to prevent their occurrence

Where an authorisation under section 60 or section 60AA(3) is in force, powers under section 60AA may be exercised at any place within that locality for a period of up to twenty four hours. As an additional safeguard, the officer giving the authorisation (if below the rank of Superintendent) is required to inform a Superintendent as soon as it is practicable to do so. An authorisation given under section 60AA of the 1994 Act must be in writing and must specify the locality and the period for which it applies. The authorisation must also specify the grounds on which the authorisation is given. The powers remain subject to the provisions of the PACE Codes of Practice and its non-discrimination requirements. The powers should not be used in place of normal powers of stop and search in dealing with routine crime problems.

7. The exercise of these powers may be authorised for a further period of twenty four hours by an officer of the rank of Superintendent or above, having regard to offences which have, or are reasonably suspected to have, been committed in connection with any incident falling within the authorisation.

8. Any extension of the authorisation given under section 60AA of the 1994 Act must be in writing and must specify the locality and the period for which it applies. The authorisation must also specify the grounds on which the authorisation is given.

## **Penalties**

9. A person who fails to remove an item used to conceal identity when required to do so by a constable in the exercise of his powers under section 60AA of the Criminal Justice and Public Order Act 1994 commits an offence and is liable on summary conviction to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale or both. The

offence under section 60AA (7) is an arrestable offence and replaces the offence in section 60 (8) (b). Section 24 (2) (o) of PACE is amended by section 94(3).

### Forfeit of property

10. Regulations concerning the retention, safe keeping, disposal and destruction of items seized under section 60AA have made under the power set out in section 60A (inserted by section 26 of the Crime and Disorder Act 1998 and amended by section 94(2) of the Anti-terrorism, Crime and Security Act). They are cited as the Police (Retention and Disposal of Items Seized) Regulations

11. An item used to conceal identity seized by a constable under section 60AA of the 1994 Act, unless it is an item of property to which the Police (Property) Regulations 1997 apply, shall be retained by the police force of which the constable concerned is a member for a period of 2 months from the date on which it was seized. The exception to this is if, before the end of that period, the owner of the item has made a successful application for the return of the item. Items should not be returned if they are required as evidence in any criminal proceedings.

### Disposal of property

12. The owner of an item may at any time within the 2 month period apply to the chief officer of the force or any other person by whom the item is retained for the item to be released to him. Such an application can be made verbally or in writing.

13. Where the chief officer or other person responsible for retaining the item is satisfied that the applicant is the owner of the item and that further retention of the item is not necessary for the purposes of any criminal proceedings, he shall arrange for the item to be returned to the applicant. The regulations specify that in this context, the "owner" of the article is the person from whom it was seized.

14. If the specified period expires without the owner claiming the return of the item, the item shall be destroyed or disposed of in accordance with the directions of the chief officer of police or any other person by whom the item has been retained.

### Extent of provisions

15. The provisions referred to in this circular apply to England and Wales.

### Repeals

16. In Section 60 (4A) of the Criminal Justice and Public Order Act 1994 and in subsection (8), paragraph (b) and the word "or" immediately preceding it are repealed. Section 25(1) of the Crime and Disorder Act 1998 is also repealed.

**ACTION AGAINST CRIME AND DISORDER UNIT  
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