

Statutory Powers

Source	Types of items	Power
Section 14 of the Criminal Procedure (Scotland) Act 1995	Articles which may have assisted them in, or are products of, the crime or offence for which they have been detained.	Provides a power of search after detention but prevents search in order to find evidence to justify detention.
Common law arrest	Articles which may have assisted them in, or are products of, the crime or offence for which they have been arrested	At common law, constables are empowered to search any person they have arrested to find any of the articles which may have assisted them in, or are products of, the crime or offence with which they have been charged.
Section 23 of the Misuse of Drugs Act 1971	Controlled drugs	If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of the Act or of any regulations or orders made thereunder, the constable may search that person and detain them for the purpose of searching them.
Section 23A of the Misuse of Drugs Act 1971	Temporary Class Drugs	Where a constable has reasonable grounds to suspect that a person is in possession of a temporary class drug and it does not appear to the constable that a power under section 23(2) applies to the case, they may search the person and detain them for the purposes of searching them for temporary class drugs.
Section 60 of the Civic Government (Scotland) Act 1982	Stolen Property	If a constable has reasonable grounds to suspect that a person is in possession of any stolen property, the constable may search that person or anything in their possession and detain them for as long as is necessary for the purpose of that search.
Sec 48 of the Criminal Law (Consolidation) (Scotland) Act 1995	Offensive Weapon	Where a constable has reasonable grounds for suspecting that any person is carrying an offensive weapon and has committed or is committing an offence under Section 47 of the Act, the constable may search that person without warrant and detain them for such time as is reasonably required to permit the search to be carried out.
Sec 50 of the Criminal Law (Consolidation) (Scotland) Act 1995	Bladed or pointed articles	Where a constable has reasonable grounds for suspecting that a person has with them an article to which Section 49 of the Act applies and has committed or is committing an offence under subsection (1) of that section, the constable may search that person without warrant and detain them for such time as is reasonably required to permit the search to be carried out.

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Section 49B of the Criminal Law (Consolidation) (Scotland) Act 1995	Offensive weapons/bladed or pointed articles in Schools	A constable may enter school premises and search those premises and any person on those premises for any article to which section 49 of the Act applies, or any offensive weapon within the meaning of section 47 of the Act, if they have reasonable grounds for suspecting that an offence under section 49A of the Act is being, or has been, committed.
Section 47 of the Firearms Act 1968	Firearms	If a constable has reasonable cause to suspect a person of having a firearm with them in a public place, or to be committing or about to commit, elsewhere than in a public place, an offence relevant for the purposes of this section, the constable may search that person and may detain them for the purpose of doing so.
Section 21 of the Criminal Law (Consolidation) (Scotland) Act 1995	Alcohol, controlled articles/substances / containers	A constable may without warrant search a person who they have reasonable grounds to suspect is committing or has committed an offence in relation to controlled items at sporting events.
Section 60 of the Criminal Justice and Public Order Act 1994	Offensive weapons, dangerous instruments and items for concealing identity	Where an authorisation has been made under this section for a particular area, a constable in uniform may stop pedestrians or vehicles and search persons for offensive weapons, dangerous instruments (items which have a blade or are sharply pointed) or items for concealing identity.
Section 11A of the Fireworks Act 2003	Fireworks	A constable may search a person without warrant if the constable has reasonable grounds for suspecting that the person possesses a firework in contravention of a prohibition imposed by fireworks regulations. Prohibitions include possession of "adult fireworks" in a public place by persons under the age of 18.
Section 4 of the Crossbows Act 1987	Crossbows or part of a crossbow	If a constable suspects with reasonable cause that a person is under the age of eighteen (who is not supervised by a person who is twenty-one years of age or older) and has with them a crossbow (with a draw weight of 1.4 kilograms or more) which is capable of discharging a missile or parts of a crossbow which together can be assembled to form a crossbow capable of discharging a missile, the constable may search that person for a crossbow or parts of a crossbow.
Section 43 of the Terrorism Act 2000	Evidence of terrorism	A constable may stop and search a person they reasonably suspect to be a terrorist to discover whether they have in their possession anything which may constitute evidence that they are a terrorist. A power conferred by virtue of this Act to stop a person includes power to stop a vehicle.

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Section 47A of the Terrorism Act 2000	Evidence of terrorism	Where an authorisation has been made for searches in specified areas or places a constable in uniform may, without suspicion, stop a vehicle or pedestrian in the specified area or place and to search the vehicle, persons in the vehicle or pedestrian and anything carried by the pedestrian for the purpose of discovering whether there is anything which may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a terrorist.
Section 53 of the Terrorism Act 2000	Evidence of terrorism – port and border control	An examining officer (including a constable) who questions a person at a port (including airport or hoverport) for the purpose of determining whether they appear to be a terrorist may search the person for the purpose of determining whether they are a terrorist.
Section 24B of the Aviation Security Act 1982	Stolen or prohibited articles in aerodromes	A constable can stop and search, without warrant, any person, vehicle or aircraft in any area of an aerodrome for stolen or prohibited articles (articles made or adapted for use in the course of, or in connection with, criminal conduct, or intended by the person having it with them for such use by them or another), where they have reasonable grounds to suspect that they will find such articles.
Section 19 of the Wildlife & Countryside Act 1981	Evidence of the commission of offence	If a constable suspects with reasonable cause that any person is committing or has committed an offence under Part 1 of the Act, the constable may without warrant stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person.
Section 11 of the Protection of Badgers Act 1992	Evidence of the commission of offence	Where a constable has reasonable grounds for suspecting that a person is committing, or has committed, an offence under the Act and that evidence of the commission of the offence is to be found on that person or any vehicle or article he may have with him, the constable may, without warrant, stop and search that person and any vehicle or article they may have with them.
Section 101 of the Conservation (Natural Habitats, &c.) Regulations 1994	Evidence of the commission of offence	If a constable suspects with reasonable cause that any person is committing or has committed an offence under Part III of the Regulations (Protection of Species), the constable may without warrant stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person.

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<p>Section 4 of the Wild Mammals (Protection) Act 1996</p>	<p>Evidence of the commission of offence</p>	<p>Where a constable has reasonable grounds for suspecting that a person has committed an offence under the provisions of this Act (various harms to wild mammals) and that evidence of the commission of the offence may be found on that person, the constable may without warrant, stop and search that person.</p>
<p>Section 7 of the Protection of Wild Mammals (Scotland) Act 2002</p>	<p>Evidence of the commission of offence</p>	<p>A constable who suspects with reasonable cause that a person has committed or is committing an offence under this Act (hunting a wild mammal with a dog) may, without warrant, stop and search that person if the constable suspects with reasonable cause that evidence in connection with the offence is to be found on that person.</p>

Statutory Powers to require the surrender of items

The following statutory powers are available to officers to require persons to surrender specific items **(but do not include a power of search)**:

Source	Types of items	Power
<p>Section 7 of the Tobacco and Primary Medical Services (Scotland) Act 2010</p>	<p>Tobacco products or cigarette papers</p>	<p>Provides a power for a constable to require a person, in a public place, who is suspected to be under the age of 18 to surrender tobacco products or cigarette papers to the constable.</p> <p>In order to use these powers a constable must have reasonable grounds for suspecting that the person is in possession of a tobacco product or cigarette papers. The constable must inform the person of their suspicion and that failure to comply with a requirement is an offence.</p> <p>There is no power of search associated with this power. A constable may arrest without warrant any person who fails to comply with a requirement. A constable making a requirement may also require the person to supply the constable with the person's name and address.</p> <p>It is an offence (punishable by fine only) to fail to comply with requirements under this section.</p>
<p>Section 61 of the Crime and Punishment (Scotland) Act 1997</p>	<p>Alcohol</p>	<p>Provides a power for a constable to require a person, in a public place, who is suspected to be under the age of 18 to surrender alcohol to the constable.</p> <p>In order to use this power a constable must have reasonable grounds for suspecting that the person is in possession of alcohol. A constable may also require that person to supply him with his name and address.</p> <p>The constable must inform the person of their suspicion and of the fact that failure to comply with a requirement made is an offence.</p> <p>The section also provides a power to require the surrender of alcohol (and to require the name and address of the person) where the person is over the age of 18 and a constable has reasonable grounds for suspecting the person has alcohol and has supplied, or intends to supply, alcohol to a person under age of 18 for consumption in a public place.</p> <p>There is no power of search associated with these powers.</p> <p>A constable may arrest without warrant any person who fails to comply with a requirement.</p> <p>It is an offence (punishable by fine only) to fail to comply with a requirement under this section.</p>

There are no specific powers in relation to possession of a number of other potentially harmful items (e.g. solvents, fire lighting materials), however, where an officer suspects that a person has used, or is intending to use, such items in committing an offence punishable by imprisonment (including supplying harmful items to others in such a way that a charge of culpable and reckless conduct may be relevant) use of their powers of detention under section 14 of the Criminal Procedure (Scotland) Act 1995 may be an option. Following detention for such an offence constables are entitled to seize any article found in the possession of an accused person which is used or calculated to be of use in the commission of the offence.

List of Associated Legislation

Statutory Powers of Search

- [Section 23 of the Misuse of Drugs Act 1971](#)
- [Section 23A of the Misuse of Drugs Act 1971](#)
- [Section 60 of the Civic Government \(Scotland\) Act 1982](#)
- [Section 48 of the Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#)
- [Section 50 of the Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#)
- [Section 49B of the Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#)
- [Section 47 of the Firearms Act 1968](#)
- [Section 21 of the Criminal Law \(Consolidation\) \(Scotland\) Act 1995](#)
- [Section 60 of the Criminal Justice and Public Order Act 1994](#)
- [Section 11A of the Fireworks Act 2003](#)
- [Section 4 of the Crossbows Act 1987](#)
- [Section 43 of the Terrorism Act 2000](#)
- [Section 47A of the Terrorism Act 2000](#)
- [Section 53 of the Terrorism Act 2000](#)
- [Section 24B of the Aviation Security Act 1982](#)
- [Section 19 of the Wildlife & Countryside Act 1981](#)
- [Section 11 of the Protection of Badgers Act 1992](#)
- [Section 101 of the Conservation \(Natural Habitats, &c.\) Regulations, 1994](#)
- [Section 4 of the Wild Mammals \(Protection\) Act 1996](#)
- [Section 7 of the Protection of Wild Mammals \(Scotland\) Act 2002](#)

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