

## **Powers of arrest -**

A “citizen’s arrest” is no longer the term applicable, the Serious Organised Crime & Police Act 2005 abolished the statutory concept of the “arrestable offence”. A constable may now arrest for any offence in appropriate circumstances.

This Act inserted section 24A into the Police & Criminal Evidence Act 1984 allowing a person other than a constable to arrest without a warrant in certain circumstances. The offence must be indictable (bilking, or refusing to pay, is indictable).

Causing damage of less than £5000 in value is NOT an indictable offence.

## **The Police & Criminal Evidence Act 1984:**

### **24A Arrest without warrant: other persons**

- (1) A person other than a constable may arrest without a warrant—
- (a) anyone who is in the act of committing an indictable offence;
  - (b) anyone whom he has reasonable grounds for suspecting to be committing an indictable offence.
- (2) Where an indictable offence has been committed, a person other than a constable may arrest without a warrant—
- (a) anyone who is guilty of the offence;
  - (b) anyone whom he has reasonable grounds for suspecting to be guilty of it.
- (3) But the power of summary arrest conferred by subsection (1) or (2) is exercisable only if—
- (a) the person making the arrest has reasonable grounds for believing that for any of the reasons mentioned in subsection (4) it is necessary to arrest the person in question; and
  - (b) it appears to the person making the arrest that it is not reasonably practicable for a constable to make it instead.
- (4) The reasons are to prevent the person in question—
- (a) causing physical injury to himself or any other person;
  - (b) suffering physical injury;
  - (c) causing loss of or damage to property; or
  - (d) making off before a constable can assume responsibility for him.”

In relation to England and Wales, the expression "*indictable offence*" means an offence which, if committed by an adult, is triable on indictment, whether it is exclusively so triable or triable "*either way*"; and the term "indictable", in its application to offences, is to be construed accordingly. There is no simple definition.

An *either way* offence allows the defendant to elect between trial by jury on indictment in the Crown Court and summary trial in the Magistrates' Court. However, the election may be overruled by the Magistrates' Court if the facts suggest that the sentencing powers of a Magistrates' Court would be inadequate to reflect the seriousness of the offence. These offences can be the subject of an arrest.

In relation to some indictable offences, **for example criminal damage**, only summary trial is available unless the damage caused exceeds £5,000. Breaking a window is therefore not an offence for which you can detain a suspected offender.

A youth court has jurisdiction to try all indictable offences with the exception of homicide and certain firearms offences, and will normally do so provided that the available sentencing power of 2 years detention is adequate to punish the offender if found guilty.

The maximum penalty for an offence under Sections 6 and 11 of the Fraud Act is 12 months' imprisonment on summary conviction and 5 years' imprisonment on conviction on indictment. It is an offence triable on indictment or by summary trial in the Magistrates court.

Section 11 offences are those primarily referred to in the notice posted in licensed vehicles.

**There is no specific wording to use when making a citizens arrest. However you must inform the person you are arresting as soon as possible what you are doing, why you are doing it and what offence you believe the person has committed.**

You may well be liable for any harm caused to an offender when you detain him; reflect on the circumstances and the problems detention may cause.

