

Know the Law – Know your Rights

Darren Sylvester gives guidance on making a Citizen's Arrests

Introduction

Every citizen has certain powers of arrest when someone commits a crime, however, they are not as wide as police powers of arrest, and must be exercised with great caution. A citizen can arrest someone only for an '**arrestable offence**' – usually one that carries a maximum penalty of five or more years' imprisonment – or for breach of the peace. A person making a citizen's arrest must be sure that the offence has actually been committed.

A member of the public cannot arrest someone on suspicion of a crime where there is uncertainty that a crime has been committed. Neither can a member of the public arrest someone who is attempting a crime, but is not yet in the process of committing it. For example, a citizen could not arrest someone they found prowling outside their house, wearing nylon gloves and carrying a bag, just purely on the suspicion that the said individual is planning a burglary.

The police, on the other hand, are entitled to arrest someone they reasonably suspect of having committed some crime, or whom they find attempting to do so.

Making an arrest

If a member of the public were to arrest someone, they must tell them why they are doing so. If the suspect resists arrest, the member of the public is entitled to use '**reasonable force**', but must ensure that the suspect is taken to a police station within a reasonable time, if the arrest is to be legal.

It is noteworthy of mention that members of the public who arrest suspects may lay themselves open to claims for '**false imprisonment**' (an infringement of one's civil liberty to be detained without legal, just cause); '**assault**' (a threat to use force, where there is apprehension of immediate and unlawful personal violence) and '**battery**' (actual use of force, where the infliction of unlawful personal violence is from the defendant to the victim) if the offence is not an arrestable one, or if a Court decides that no offence has actually been committed.

Case Study: the citizen's arrest that failed

Mr Walters ran a railway station bookstall. He also ran a private newsagent's shop, where he sold books. His bookstall employers found (during a stocktaking exercise) that books were missing and set a trap by marking certain books.

One of the bookstall company's staff bought a book from Mr Walters' private shop and discovered that it was a marked copy from the bookstall. He subsequently arrested Mr Walters, accusing him of theft. Mr Walters was sent

for trial, but denied stealing. A jury acquitted Mr Walters and thereafter he sued the bookstall company for false imprisonment.

In his civil action Mr Walters won his case, being awarded £75 in damages due to the fact that the bookstall company could not prove that Mr Walters (or anybody else) had stolen the book.

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