



Serious Crime Act 2015

2015 CHAPTER 9

PART 4

SEIZURE AND FORFEITURE OF DRUG-CUTTING AGENTS

Warrants

52 Applications for search and seizure warrants

- (1) A justice of the peace may issue a warrant (a “search and seizure warrant”) authorising a police or customs officer—
 - (a) to enter premises, and
 - (b) to search them for substances that appear to be intended for use as drug-cutting agents,if the justice is satisfied that there are reasonable grounds to suspect that a substance intended for such use is on the premises.
- (2) In this Part “police or customs officer” means—
 - (a) a constable,
 - (b) a National Crime Agency officer, or
 - (c) a person designated as a general customs official under section 3(1) of the Borders, Citizenship and Immigration Act 2009.
- (3) A search and seizure warrant may be either—
 - (a) a warrant that relates to any premises occupied or controlled by a person specified in the warrant (an “all-premises warrant”), or
 - (b) a warrant that relates only to premises specified in the warrant (a “specific-premises warrant”).
- (4) A search and seizure warrant may be issued only on the application of a police or customs officer.

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- (5) The application may be made without notice being given to persons who might be affected by the warrant.
- (6) The application must be supported—
 - (a) in England and Wales, by an information in writing;
 - (b) in Scotland, by evidence on oath;
 - (c) in Northern Ireland, by a complaint on oath.
- (7) The police or customs officer must answer on oath any question that the justice of the peace hearing the application asks him or her.
- (8) A police or customs officer applying for a search and seizure warrant must—
 - (a) state that the application is made under this section;
 - (b) specify the premises or (as the case may be) each set of premises that it is desired to enter and search;
 - (c) state what are the grounds for suspecting that a substance intended for use as a drug-cutting agent is on the premises;
 - (d) identify, so far as is possible, the substance or substances to be sought.
- (9) If the police or customs officer is applying for a search and seizure warrant authorising entry and search on more than one occasion, the officer must also state—
 - (a) the ground on which the officer applies for such a warrant;
 - (b) whether the officer seeks a warrant authorising an unlimited number of entries, or (if not) the maximum number of entries desired.
- (10) If the police or customs officer is applying for an all-premises warrant, the officer must also specify—
 - (a) as many of the sets of premises that it is desired to enter and search as it is reasonably practicable to specify;
 - (b) the person who is in occupation or control of those premises and any others that it is desired to enter and search;
 - (c) why it is necessary to search more premises than those specified under paragraph (a);
 - (d) why it is not reasonably practicable to specify all the premises that it is desired to enter and search.

53 Further provisions about search and seizure warrants

- (1) A search and seizure warrant authorises entry on one occasion only, unless it specifies that it authorises multiple entries.

If it specifies that it authorises multiple entries, it must also specify whether the number of entries authorised is unlimited, or limited to a specified maximum.

- (2) A search and seizure warrant must—
 - (a) specify the name of the person who applies for it;
 - (b) specify the date on which it is issued;
 - (c) state that the warrant is issued under section 52 of this Act;
 - (d) specify each set of premises to be searched, or (in the case of an all-premises warrant) the person who is in occupation or control of premises to be

searched, together with any premises to be searched that are under the person's occupation and can be specified;

- (e) identify, so far as is possible, the substance or substances to be sought.
- (3) Two copies must be made of a search and seizure warrant that specifies only one set of premises and does not authorise multiple entries.
- (4) As many copies as are reasonably required may be made of any other kind of warrant.
- (5) The copies must be clearly certified as copies.

54 Execution of search and seizure warrants

- (1) Schedule 2 (execution of search and seizure warrants) has effect.
- (2) An entry on or search of premises under a search and seizure warrant is unlawful unless it complies with that Schedule.
- (3) A police or customs officer may use reasonable force, if necessary, for the purpose of entering premises under a search and seizure warrant.
- (4) An offence is committed by a person who without reasonable excuse obstructs a police or customs officer executing or seeking to execute a search and seizure warrant.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Seizure

55 Seizure of substances under search and seizure warrant

A police or customs officer searching premises under a search and seizure warrant may seize any substance on the premises that the officer has reasonable grounds to suspect is intended for use as a drug-cutting agent.

56 Seizure of substances without search and seizure warrant

If a police or customs officer—

- (a) is lawfully on premises that are not subject to a search and seizure warrant, and
- (b) finds a substance there that the officer has reasonable grounds to suspect is intended for use as a drug-cutting agent,

the officer may seize the substance.

57 Notice to be given where substances seized

- (1) An officer who has seized a substance under section 55 or 56 must make reasonable efforts to give written notice—
- (a) to the person from whom the substance was seized, and
 - (b) if the officer thinks that the substance may belong to a different person, to that person.
- (2) A notice under subsection (1) must explain the effect of sections 59, 60, 61 and 63.

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58 Containers

- (1) An officer who seizes a substance under section 55 or 56 may also seize any container holding the substance.
- (2) If a container is seized under this section, reasonable efforts must be made to return it to—
 - (a) the person from whom it was seized, or
 - (b) (if different) a person to whom it belongs.
- (3) Subsection (2) does not apply—
 - (a) if the container appears to be of negligible value,
 - (b) if it is not practicable for the container to be returned, or
 - (c) while the container is or may be needed for use as evidence at a trial for an offence.

Retention of seized substances

59 Initial retention of seized substances

- (1) Where—
 - (a) a substance has been seized under section 55 or 56, and
 - (b) there continue to be reasonable grounds to suspect that the substance was intended for use as a drug-cutting agent,it may be retained until the end of the 30th day after the date of seizure.
- (2) Where—
 - (a) a substance has been seized under another enactment and is lawfully in the possession of a police or customs officer,
 - (b) the period during which the substance may lawfully be retained under that enactment expires, and
 - (c) there are reasonable grounds to suspect that the substance was intended for use as a drug-cutting agent,it may be retained until the end of the 30th day after the period referred to in paragraph (b).

60 Continued retention or return of seized substances

- (1) On an application made by a police or customs officer, a magistrates' court or a justice of the peace may make an order extending the period for which a substance may be retained under section 59 if satisfied that—
 - (a) the condition in subsection (2) is met, or
 - (b) the condition in subsection (4) is met.
- (2) The condition in this subsection is that the continued retention of the substance is justified—
 - (a) while its intended use is further investigated, or
 - (b) while consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the substance is connected.

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- (3) If the condition in subsection (2) is met, an order under this section may authorise the retention of the substance for a specified period ending no later than the 60th day after—
- (a) the date of seizure, in the case of a substance seized under section 55 or 56, or
 - (b) the end of the period referred to in section 59(2)(b), in any other case.
- (4) The condition in this subsection is that proceedings against any person for an offence with which the substance is connected have been started but have not been concluded.
- (5) If the condition in subsection (4) is met, an order under this section may authorise the retention of the substance until the proceedings are concluded.
- (6) If on the hearing of an application under this section the court or justice is not satisfied that the condition in subsection (2) or (4) is met, the court or justice must order the substance to be returned to a person entitled to it.
- (7) Where—
- (a) an order is made under this section extending the period for which the substance may be retained, and
 - (b) no person entitled to the substance was present or represented at the hearing, a police or customs officer must make reasonable efforts to give written notice to the person from whom the substance was seized and, if the officer thinks that the substance may belong to a different person, to that person.
- (8) A notice under subsection (7) must explain—
- (a) the effect of the court's order, and
 - (b) the effect of section 63.
- (9) For the purposes of this Part, proceedings against a person for an offence are concluded when—
- (a) the person is convicted or acquitted of the offence and either—
 - (i) the time allowed for making an appeal, or applying for permission to do so, has expired, or
 - (ii) if an appeal is made, the appeal is determined or otherwise dealt with;
 - (b) the charge is withdrawn;
 - (c) in England and Wales or Northern Ireland—
 - (i) proceedings in respect of the charge are discontinued, or
 - (ii) an order is made for the charge to lie on the file;
 - (d) in Scotland—
 - (i) proceedings against the person are deserted *simpliciter*,
 - (ii) proceedings against the person are deserted *pro loco et tempore* and no trial diet is appointed,
 - (iii) the indictment or complaint relating to the person falls or for any other reason does not proceed to trial, or
 - (iv) the diet not having been continued, adjourned or postponed, no further proceedings are in contemplation in relation to the person.

Paragraph (a) applies, where an appeal is made, with references to an appeal being read as references to any further appeal.

Status: This is the original version (as it was originally enacted).

Forfeiture etc or return of seized substances

61 Forfeiture and disposal, or return, of seized substances

- (1) A police or customs officer may apply to a magistrates' court for the forfeiture of a substance retained under section 59.
- (2) Where an application for the forfeiture of a substance is made under this section, the substance is to be retained while proceedings on the application are in progress.
- (3) The court must order the forfeiture of the substance if satisfied that it was intended for use as a drug-cutting agent.
- (4) A substance ordered to be forfeited may be disposed of in whatever way the officer who applied for the order thinks is suitable.
- (5) A substance must not be disposed of under subsection (4)—
 - (a) before the end of the period within which an appeal under section 62 may be made, or
 - (b) if an appeal is made, before it is determined or otherwise dealt with.
- (6) The court must order the substance to be returned to a person entitled to it if not satisfied that the substance was intended for use as a drug-cutting agent.
- (7) If an order is made under subsection (6), the substance may nevertheless be retained—
 - (a) until the end of the period within which an appeal under section 62 may be made against the order, or
 - (b) if an appeal is made, until the time when it is determined or otherwise dealt with.

But if it is decided before the end of the period mentioned in paragraph (a) that there is to be no appeal, the substance must be returned as soon as possible after that decision is made.

62 Appeal against decision under section 61

- (1) A party to proceedings for an order under section 61, or a person entitled to the substance in question (if not a party to those proceedings), may appeal against an order under that section.
- (2) Where—
 - (a) a police or customs officer brings an appeal under this section, and
 - (b) no person entitled to the substance in question was a party to the original proceedings,the officer must make reasonable efforts to give notice of the appeal to the person from whom the substance was seized and, if the officer thinks that the substance may belong to a different person, to that person.
- (3) An appeal under this section is to—
 - (a) the Crown Court, in England and Wales;
 - (b) the Sheriff Appeal Court, in Scotland;
 - (c) a county court, in Northern Ireland.

- (4) An appeal under this section must be made before the end of the period of 30 days starting with the date of the order appealed against.
- (5) Subject to subsections (6) and (7), the court hearing the appeal may make any order the court thinks appropriate.
- (6) If an appeal against an order for the return of the substance is allowed—
 - (a) the court must order the substance to be forfeited, and
 - (b) subsections (4) and (5) of section 61 apply with the necessary adaptations.
- (7) If an appeal against an order forfeiting the substance is allowed—
 - (a) the court must order the substance to be returned to a person entitled to it, and
 - (b) subsection (7) of section 61 applies with the necessary adaptations.

63 Return of substance to person entitled to it, or disposal if return impracticable

- (1) Where the retention of a substance has been, but is no longer, authorised under this Part—
 - (a) the substance must (subject to subsection (4)) be returned to a person entitled to it;
 - (b) a magistrates' court must, if asked to do so by a person entitled to the substance, order it to be returned to that person.
- (2) A person who claims to be entitled to a substance retained under this Part may apply to a magistrates' court for an order under subsection (1)(b) or section 60(6) or 61(6) (as appropriate).
- (3) Where—
 - (a) a court makes an order under this Part requiring a substance to be returned to a particular person, and
 - (b) reasonable efforts have been made, without success, to find that person, or it is for some other reason impracticable to return the substance to that person,the order has effect as if it required the substance to be returned to any person entitled to it.
- (4) Where—
 - (a) a substance is required by a provision of this Part, or an order made under this Part, to be returned to a person entitled to it, and
 - (b) reasonable efforts have been made, without success, to find a person entitled to the substance, or it is for some other reason impracticable to return the substance to a person entitled to it,a police or customs officer may dispose of the substance in whatever way the officer thinks is suitable.

Supplementary

64 Compensation

- (1) If no forfeiture order is made in respect of a substance retained under this Part, the person to whom it belongs may make an application to a magistrates' court for compensation.

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- (2) If the court is satisfied that the applicant has suffered loss as a result of the retention of the substance, the court may order compensation to be paid to the applicant.
- (3) Subject to subsection (4), the amount of compensation to be paid is the relevant proportion of the value of the substance.
 For these purposes—
- (a) the “relevant proportion” is whatever proportion (not exceeding 100%) the court thinks is reasonable;
- (b) the “value” of the substance is the amount that it would cost the applicant to acquire the substance at the time when the court makes the order.
- (4) If the court thinks that, by reason of exceptional circumstances, the value of the substance would not be adequate compensation, it may order payment of whatever larger amount it thinks reasonable.
- (5) The fund from which, or person by whom, the compensation is to be paid depends on the person by whom the substance was seized, as follows—

<i>Person by whom substance seized</i>	<i>Fund from which or person by whom compensation payable</i>
A constable of a police force maintained by a local policing body	The police fund from which the expenses of the police force are met
A constable of the Police Service of Scotland	The Scottish Police Authority
A constable of the Police Service of Northern Ireland	The Chief Constable of the Police Service of Northern Ireland
A constable of the British Transport Police Force	The Chief Constable of the British Transport Police Force
A constable of the Ministry of Defence Police	The Secretary of State
A National Crime Agency officer	The Director General of the National Crime Agency
A person designated as a general customs official under section 3(1) of the Borders, Citizenship and Immigration Act 2009	The Secretary of State

65 Interpretation etc

- (1) For the purposes of this Part, a substance is used as a “drug-cutting agent” if it is added to a controlled drug in connection with the unlawful supply or exportation of the drug.
- (2) In this Part—
- “controlled drug” has the same meaning as in the Misuse of Drugs Act 1971 (see section 2 of that Act);
- “enactment” includes—
- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

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- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
 - (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- “entitled”, in relation to a substance, is to be read in accordance with subsection (3);
- “police or customs officer” has the meaning given by section 52(2);
- “premises” includes any place and, in particular, includes—
- (a) any vehicle, vessel, aircraft or hovercraft;
 - (b) any offshore installation within the meaning given by section 1 of the Mineral Workings (Offshore Installations) Act 1971;
 - (c) any renewable energy installation within the meaning given by section 104 of the Energy Act 2004;
 - (d) any tent or movable structure;
- “search and seizure warrant” means a warrant under section 52;
- “supplying” includes distributing;
- “unlawful” means—
- (a) in relation to a supply, unlawful under section 4 of the Misuse of Drugs Act 1971;
 - (b) in relation to an exportation, prohibited under section 3 of that Act.
- (3) The persons “entitled” to a substance for the purposes of this Part are—
- (a) the person from whom it was seized;
 - (b) (if different) any person to whom it belongs.
- (4) Where a retrial is ordered on a person’s appeal against conviction for an offence, a reference in this Part to the determination of the appeal is a reference to the conclusion of proceedings for the offence on retrial.
- (5) In the application of this Part to Scotland, a reference to a magistrates’ court or to a justice of the peace is to be read as a reference to a sheriff.
- (6) An application to a sheriff for an order under section 60, 61, 63 or 64 must be made by summary application.
- (7) In the application of this Part to Northern Ireland—
- (a) a reference to a justice of the peace in section 52 is to be read as a reference to a lay magistrate;
 - (b) a reference to a magistrates’ court or a justice of the peace in section 60, and any other reference to a magistrates’ court, is to be read as a reference to a court of summary jurisdiction.