



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART II

POWERS OF ENTRY, SEARCH AND SEIZURE

Search warrants

8 Power of justice of the peace to authorise entry and search of premises

- (1) If on an application made by a constable a justice of the peace is satisfied that there are reasonable grounds for believing—
 - (a) that a serious arrestable offence has been committed; and
 - (b) that there is material on premises specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence ; and
 - (c) that the material is likely to be relevant evidence ; and
 - (d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material; and
 - (e) that any of the conditions specified in subsection (3) below applies,he may issue a warrant authorising a constable to enter and search the premises.
- (2) A constable may seize and retain anything for which a search has been authorised under subsection (1) above.
- (3) The conditions mentioned in subsection (1)(e) above are—
 - (a) that it is not practicable to communicate with any person entitled to grant entry to the premises ;
 - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
 - (c) that entry to the premises will not be granted unless a warrant is produced;

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(d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

(4) In this Act "relevant evidence", in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.

(5) The power to issue a warrant conferred by this section is in addition to any such power otherwise conferred.

9 Special provisions as to access

(1) A constable may obtain access to excluded material or special procedure material for the purposes of a criminal investigation by making an application under Schedule 1 below and in accordance with that Schedule.

(2) Any Act (including a local Act) passed before this Act under which a search of premises for the purposes of a criminal investigation could be authorised by the issue of a warrant to a constable shall cease to have effect so far as it relates to the authorisation of searches—

- (a) for items subject to legal privilege ; or
- (b) for excluded material; or
- (c) for special procedure material consisting of documents or records other than documents.

10 Meaning of " items subject to legal privilege "

(1) Subject to subsection (2) below, in this Act " items subject to legal privilege " means—

- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
- (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings ; and
- (c) items enclosed with or referred to in such communications and made—
 - (i) in connection with the giving of legal advice; or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

11 Meaning of " excluded material "

(1) Subject to the following provisions of this section, in this Act " excluded material " means—

- (a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence ;

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- (b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence ;
 - (c) journalistic material which a person holds in confidence and which consists—
 - (i) of documents; or
 - (ii) of records other than documents.
- (2) A person holds material other than journalistic material in confidence for the purposes of this section if he holds it subject—
- (a) to an express or implied undertaking to hold it in confidence ; or
 - (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment contained in an Act passed after this Act.
- (3) A person holds journalistic material in confidence for the purposes of this section if—
- (a) he holds it subject to such an undertaking, restriction or obligation; and
 - (b) it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

12 Meaning of " personal records "

In this Part of this Act " personal records " means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating—

- (a) to his physical or mental health ;
- (b) to spiritual counselling or assistance given or to be given to him ; or
- (c) to counselling or assistance given or to be given to him,
for the purposes of his personal welfare, by any voluntary organisation or by any individual who—
 - (i) by reason of his office or occupation has responsibilities for his personal welfare ; or
 - (ii) by reason of an order of a court has responsibilities for his supervision.

13 Meaning of " journalistic material "

- (1) Subject to subsection (2) below, in this Act "journalistic material" means material acquired or created for the purposes of journalism.
- (2) Material is only journalistic material for the purposes of this Act if it is in the possession of a person who acquired or created it for the purposes of journalism.
- (3) A person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

14 Meaning of " special procedure material "

- (1) In this Act "special procedure material" means—
 - (a) material to which subsection (2) below applies; and
 - (b) journalistic material, other than excluded material.

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- (2) Subject to the following provisions of this section, this subsection applies to material, other than items subject to legal privilege and excluded material, in the possession of a person who—
- (a) acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office ; and
 - (b) holds it subject—
 - (i) to an express or implied undertaking to hold it in confidence; or
 - (ii) to a restriction or Obligation such as is mentioned in section 11(2)(b) above.
- (3) Where material is acquired—
- (a) by an employee from his employer and in the course of his employment; or
 - (b) by a company from an associated company,
- it is only special procedure material if it was special procedure material immediately before the acquisition.
- (4) Where material is created by an employee in the course of his employment, it is only special procedure material if it would have been special procedure material had his employer created it.
- (5) Where material is created by a company on behalf of an associated company, it is only special procedure material if it would have been special procedure material had the associated company created it.
- (6) A company is to be treated as another's associated company for the purposes of this section if it would be so treated under section 302 of the Income and Corporation Taxes Act 1970.

15 Search warrants-safeguards

- (1) This section and section 16 below have effect in relation to the issue to constables under any enactment, including an enactment contained in an Act passed after this Act, of warrants to enter and search premises; and an entry on or search of premises under a warrant is unlawful unless it complies with this section and section 16 below.
- (2) Where a constable applies for any such warrant, it shall be his duty—
- (a) to state—
 - (i) the ground on which he makes the application ; and
 - (ii) the enactment under which the warrant would be issued;
 - (b) to specify the premises which it is desired to enter and search; and
 - (c) to identify, so far as is practicable, the articles or persons to be sought
- (3) An application for such a warrant shall be made *ex parte* and supported by an information in writing.
- (4) The constable shall answer on oath any question that the justice of the peace or judge hearing the application asks him.
- (5) A warrant shall authorise an entry on one occasion only.
- (6) A warrant—
- (a) shall specify—
 - (i) the name of the person who applies for it;

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- (ii) the date on which it is issued ;
 - (iii) the enactment under which it is issued ; and
 - (iv) the premises to be searched ; and
- (b) shall identify, so far as is practicable, the articles or persons to be sought.
- (7) Two copies shall be made of a warrant.
- (8) The copies shall be clearly certified as copies.

16 Execution of warrants

- (1) A warrant to enter and search premises may be executed by any constable.
- (2) Such a warrant may authorise persons to accompany any constable who is executing it.
- (3) Entry and search under a warrant must be within one month from the date of its issue.
- (4) Entry and search under a warrant must be at a reasonable hour unless it appears to the constable executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.
- (5) Where the occupier of premises which are to be entered and searched is present at the time when a constable seeks to execute a warrant to enter and search them, the constable—
- (a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a constable ;
 - (b) shall produce the warrant to him; and
 - (c) shall supply him with a copy of it.
- (6) Where—
- (a) the occupier of such premises is not present at the time when a constable seeks to execute such a warrant; but
 - (b) some other person who appears to the constable to be in charge of the premises is present,
- subsection (5) above shall have effect as if any reference to the occupier were a reference to that other person.
- (7) If there is no person present who appears to the constable to be in charge of the premises, he shall leave a copy of the warrant in a prominent place on the premises.
- (8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.
- (9) A constable executing a warrant shall make an endorsement on it stating—
- (a) whether the articles or persons sought were found ; and
 - (b) whether any articles were seized, other than articles which were sought.
- (10) A warrant which—
- (a) has been executed ; or
 - (b) has not been executed within the time authorised for its execution,
- shall be returned—
- (i) if it was issued by a justice of the peace, to the clerk to the justices for the petty sessions area for which he acts; and

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- (ii) if it was issued by a judge, to the appropriate officer of the court from which he issued it.
- (11) A warrant which is returned under subsection (10) above shall be retained for 12 months from its return—
- (a) by the clerk to the justices, if it was returned under paragraph (i) of that subsection ; and
 - (b) by the appropriate officer, if it was returned under paragraph (ii).
- (12) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, he shall be allowed to do so.