



Criminal Justice and Police Act 2001

2001 CHAPTER 16

PART 2

POWERS OF SEIZURE

Remedies and safeguards

60 Cases where duty to secure arises

- (1) Where property has been seized in exercise, or purported exercise, of any power of seizure conferred by section 50 or 51, a duty to secure arises under section 61 in relation to the seized property if—
 - (a) a person entitled to do so makes an application under section 59 for the return of the property;
 - (b) in relation to England, Wales and Northern Ireland, at least one of the conditions set out in subsections (2) and (3) is satisfied;
 - (c) in relation to Scotland, the condition set out in subsection (2) is satisfied; and
 - (d) notice of the application is given to a relevant person.
- (2) The first condition is that the application is made on the grounds that the seized property is or contains an item subject to legal privilege that is not comprised in property falling within section 54(2).
- (3) The second condition is that—
 - (a) the seized property was seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers specified in subsection (6); and
 - (b) the application—
 - (i) is made on the ground that the seized property is or contains something which does not fall within section 53(3); and
 - (ii) states that the seized property is or contains special procedure material or excluded material.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Section 60. (See end of Document for details)

(4) In relation to property seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers of seizure conferred by—

- (a) ^{F1}
- (b) section 56(5) of the Drug Trafficking Act 1994 (c. 37), ^{F2} . . .
- (c) Article 51(5) of the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996 1299 (N.I. 6)), [^{F3} or
- (d) section 352(4) of the Proceeds of Crime Act 2002.]

the second condition is satisfied only if the application states that the seized property is or contains excluded material

(5) In relation to property seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers of seizure specified in Part 3 of Schedule 1 but not by virtue of—

- (a) the power of seizure conferred by section 8(2) of the 1984 Act,
- (b) the power of seizure conferred by Article 10(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)),
- (c) either of the powers of seizure conferred by paragraphs 1 and 3 of Schedule 5 to the Terrorism Act 2000 (c. 11), or
- (d) either of the powers of seizure conferred by paragraphs 15 and 19 of Schedule 5 to that Act of 2000 so far as they are conferred by reference to paragraph 1 of that Schedule,

the second condition is satisfied only if the application states that the seized property is or contains excluded material or special procedure material consisting of documents or records other than documents.

(6) The powers mentioned in subsection (3) are—

- (a) the powers of seizure specified in Part 3 of Schedule 1;
- (b) the powers of seizure conferred by the provisions of Parts 2 and 3 of the 1984 Act (except section 8(2) of that Act);
- (c) the powers of seizure conferred by the provisions of Parts 3 and 4 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (except Article 10(2) of that Order);
- (d) the powers of seizure conferred by the provisions of paragraph 11 of Schedule 5 to the Terrorism Act 2000; ^{F4} . . .
- (e) the powers of seizure conferred by the provisions of paragraphs 15 and 19 of that Schedule so far as they are conferred by reference to paragraph 11 of that Schedule.
- [^{F5}(f) the powers of seizure conferred by the provisions of paragraph 9 of Schedule 2 to the National Security Act 2023; and
- (g) the powers of seizure conferred by the provisions of paragraph 12 of that Schedule so far as conferred by reference to paragraph 9 of that Schedule.]

[^{F6}(6A) In relation to the powers of seizure mentioned in subsection (6B)—

- (a) subsection (3)(b)(ii) applies as if the reference to special procedure material or excluded material were to confidential material within the meaning of Part 1 of Schedule 2 to the National Security Act 2023, but not including items subject to legal privilege, and
- (b) subsection (5) of this section does not apply.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Section 60. (See end of Document for details)

- (6B) The powers of seizure referred to in subsection (6A) are the powers conferred by—
- (a) paragraph 2 of Schedule 2 to the National Security Act 2023, and
 - (b) paragraph 12 of that Schedule, so far as conferred by reference to paragraph 2 of that Schedule.]
- (7) In this section “a relevant person” means any one of the following—
- (a) the person who made the seizure;
 - (b) the person for the time being having possession, in consequence of the seizure, of the seized property;
 - (c) the person named for the purposes of subsection (1)(d) or (4)(d) of section 52 in any notice given under that section with respect to the seizure.

Textual Amendments

- F1** S. 60(4)(a) repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 457, 458(1)(3), [Sch. 12](#); [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-13](#) (as amended by [S.I. 2003/531](#), [arts. 3, 4](#)))
- F2** Word in s. 60(4) omitted (24.2.2003) by virtue of [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 457, 458, [Sch. 11 para. 40\(3\)](#) and by {[Sch. 12](#)} of the said [Proceeds of Crime Act 2002](#) the same word is repealed (24.3.2003); [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (subject to [arts. 3-7](#) (as amended by [S.I. 2003/333](#), [art. 14](#))) and [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-13](#) (as amended by [S.I. 2003/531](#), [arts. 3, 4](#)))
- F3** S. 60(4)(d) and word inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458(1)(3), [Sch. 11 para. 40\(3\)](#); [S.I. 2003/120](#), [art. 2](#) [Sch.](#) (subject to transitional provisions and savings in [arts. 3-7](#)) (as amended by [S.I. 2003/333](#), [art. 14](#)))
- F4** Word in s. 60(6)(d) omitted (20.12.2023) by virtue of [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), [Sch. para. 21\(4\)\(a\)\(i\)](#)
- F5** S. 60(6)(f)(g) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), [Sch. para. 21\(4\)\(a\)\(ii\)](#)
- F6** S. 60(6A)(6B) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), [Sch. para. 21\(4\)\(b\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Section 60.