

TERRORISM ACT 2006

EXPLANATORY NOTES

COMMENTARY

Definitions

Part 2

Section 28 – Search, Seizure and forfeiture of terrorist publications

128. This section creates a power of seizure and forfeiture in relation to terrorist publications within the meaning of section 2.

Subsections (1) and (2)

129. **Subsection (1)** grants a justice of the peace the power to issue a warrant authorising a constable to enter and search premises and seize any article on those premises that meets the test in subsection (2) if he is satisfied that there are reasonable grounds for suspecting that an article that meets the test in subsection (2) is on those premises. The test in **subsection (2)** is that the article is likely to be subject to conduct of the kind mentioned in section 2(2)(a) to (e) (distribution etc.) and it would be treated as a terrorist publication (as defined in section 2(3)).

Subsection (3)

130. **Subsection (3)** entitles the person exercising the power conferred by the warrant to use reasonable force in doing so.

Subsections (4) and (5)

131. If a warrant is granted on the basis of an information laid by or on behalf of the Director of Public Prosecutions (“the DPP”), or, in Northern Ireland, the Director of Public Prosecutions for Northern Ireland, the articles seized under it are liable to be forfeited under the procedure in Schedule 2 (as introduced by **subsection (8)**). **Subsection (4)** states that items seized under the authority of a warrant may be removed by a constable to such a place as he thinks fit, and may be retained there until returned or otherwise disposed of in accordance with procedures outlined. **Subsection (5)** sets out that only those items seized under a warrant issued following an information laid by the DPP or the DPP for Northern Ireland shall be liable to forfeiture. Subsection (5) also provides that if forfeited, articles may be destroyed or disposed of by a constable in whatever manner he sees fit.

Subsections (6) and (7)

132. **Subsection (6)** amends the Criminal Justice and Police Act 2001 to include the powers of seizure in this section in Parts 1 and 3 of Schedule 1 of that Act. This will enable a bulk of material to be taken away to be read, rather than being examined on the premises, to see if it should be seized. This is needed for cases where large numbers of publications are held at a set of premises. **Subsection (7)** sets out that existing rules for seized

*These notes refer to the Terrorism Act 2006 (c.11)
which received Royal Assent on 30 March 2006*

property contained in the Police (Property) Act 1897, and the Police (Northern Ireland) Act 1998 shall not apply to articles seized under authority of the powers outlined in this section as the Act provides specific powers for the treatment of seized property.

Subsections (9) and (10)

133. **Subsection (9)** provides a number of definitions. “Article” is defined as having the same meaning as in Part 1 of this Act (defined in Section 20 (interpretation of Part 1)). “Premises” is defined as having the same meaning as in section 23 of the [Police and Criminal Evidence Act 1984 \(c.60\)](#). The definition in that Act defines premises as including any place and in particular including any vehicle, vessel, aircraft, hovercraft, offshore installation, renewable energy installation, tent or movable structure. **Subsection (10)** modifies section 28 in its application to Scotland.