
STATUTORY INSTRUMENTS

2006 No. 3322

The Compensation (Claims Management Services) Regulations 2006

PART 9

INVESTIGATION

CHAPTER 4

SEARCH WARRANTS GENERALLY

Definitions

38.—(1) In this Chapter—

“excluded material” has the meaning given by section 11 of the Police and Criminal Evidence Act 1984(1);

“items subject to legal privilege” has the meaning given by section 10 of that Act;

“special procedure material” has the meaning given by section 14 of that Act.

(2) In this Chapter, a reference to an officer of the Regulator is a reference to an officer of the Regulator authorised in writing by the Regulator for the purposes of section 8(7) of, or paragraph 14(5) of the Schedule to, the Act.

Application generally

39.—(1) An application for a warrant must state that no judicial officer has refused to issue a warrant based on another application that is in substance the same.

(2) If the Regulator applies for a warrant (whether the application is made under this Part or under section 8(5) of the Act), he must—

(a) state in the application—

(i) the ground on which he makes the application;

(ii) whether the application is made under this Part or under section 8(5) of the Act; and

(b) specify in the application—

(i) each set of premises which it is desired to enter and search; and

(ii) so far as is practicable, the material to be sought.

(3) An application is to be made *ex parte* and supported by an information in writing.

(4) When applying for a warrant, the Regulator must have regard as far as possible to the relevant provisions of any code issued under section 66 of the Police and Criminal Evidence Act 1984(2) in relation to searches of premises.

Issue of warrants generally

40.—(1) A judicial officer may, on application by the Regulator, issue a warrant authorising an officer of the Regulator to enter and search premises (being one or more sets of premises specified in the application) if the judicial officer is satisfied—

- (a) that a ground specified in regulation 34 or 37, as the case requires, for application for the issue of a warrant has been made out;
- (b) that the material to be sought does not consist of or include—
 - (i) items subject to legal privilege;
 - (ii) excluded material; or
 - (iii) special procedure material; and
- (c) that at least one of the conditions set out in paragraph (2) applies in relation to each set of premises.

(2) The conditions referred to in paragraph (1)(c) 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 material;
- (c) that entry to the premises will not be granted unless a warrant is produced;
- (d) that the purpose of a search may be frustrated or seriously prejudiced unless an officer of the Regulator arriving at the premises can secure immediate entry to them.

(3) A judicial officer must not issue a warrant in response to an application unless he is satisfied that no judicial officer has refused to issue a warrant based on another application that is in substance the same.

Search warrants—form

41.—(1) A warrant—

- (a) must set out—
 - (i) the name of the officer of the Regulator who applied for it; and
 - (ii) the date on which it was issued;
- (b) must specify each set of premises to be searched;
- (c) must specify, so far as is practicable, the material sought; and
- (d) must state that it was issued under section 8(5) of the Act or regulation 40, as the case may be.

(2) The appropriate number of copies of the warrant must be made.

(3) For the purposes of paragraph (2), the appropriate number of copies is—

- (a) in the case of a warrant that specifies only one set of premises, two; and

(2) 1984 c. 60. Section 66 amended by the Criminal Justice and Court Services Act 2000 (c. 43), ss 57(1), (4); and the Serious Organised Crime and Police Act 2005 (c. 15), ss 110(3)(a), 110(3)(b), 174(2) and Sch 17, Pt 2

- (b) in the case of a warrant that specifies two or more sets of premises, one more than the number of sets of premises specified.
- (4) The copies must be clearly certified as copies.

Execution of warrants

42.—(1) Any officer of the Regulator who is authorised to execute search warrants may execute a warrant to enter and search premises.

- (2) Entry and search under a warrant must be within three months from the date of its issue.
- (3) Entry and search under a warrant must be at a reasonable hour.
- (4) A warrant authorises entry on only one occasion.
- (5) A warrant authorises a search of premises only to the extent required for the purpose for which the warrant was issued.
- (6) When executing a warrant, an officer of the Regulator must have regard as far as possible to the relevant provisions of any code issued under section 66 of the Police and Criminal Evidence Act 1984(3) in relation to searches of premises.
- (7) If the occupier of premises which are to be entered and searched is present when an officer of the Regulator seeks to execute a warrant to enter and search them, the officer—
 - (a) must identify himself to the occupier and show the occupier documentary evidence that he is an officer of the Regulator;
 - (b) must show the warrant to the occupier; and
 - (c) must give the occupier a copy of it.
- (8) If the occupier of such premises is not present when an officer of the Regulator seeks to execute a warrant, but a person who appears to the officer to be in charge of the premises is present, paragraph (7) has effect as if each reference to the occupier were a reference to that other person.
- (9) If there is no person present at the premises who appears to the officer of the Regulator to be in charge of them, the officer must leave a copy of the warrant in a prominent place on the premises.
- (10) The officer of the Regulator who executes a warrant must make an endorsement on it stating—
 - (a) whether any of the material sought was found; and
 - (b) whether anything was copied.
- (11) In the case of a warrant that authorises entry to and search of two or more sets of premises, the officer of the Regulator who executes the warrant—
 - (a) must make a separate endorsement in accordance with paragraph (10) for each set of premises entered and searched; and
 - (b) must specify in each endorsement the premises to which it relates.

Copying of documents

43.—(1) The officer of the Regulator who executes a warrant may take a copy of any record for which the warrant authorises a search.

- (2) The officer may require any information that is stored in electronic form, and is accessible from the premises, to be produced in a form—
 - (a) in which it can be copied; and

- (b) in which it is visible and legible, or from which it can readily be produced in a visible and legible form;

if he has reasonable grounds for believing that it is a record for which the warrant authorises a search.

(3) However, nothing in this regulation authorises an officer of the Regulator to take a copy of anything that the officer has reasonable grounds for believing to be—

- (a) an item subject to legal privilege;
- (b) excluded material; or
- (c) special procedure material.

Record to be given of records copied

44. If—

- (a) an officer of the Regulator copies a record for which a warrant authorises a search; and
- (b) a person shows himself—
 - (i) to be the occupier of premises on which the record was found; or
 - (ii) to have had custody or control of it; and
- (c) the person asks the officer to give him a record of what was copied;

the officer must do so within a reasonable time.

Retention of copies

45.—(1) A copy made of a record for which a search was authorised by a warrant may be retained for as long as is necessary in all the circumstances.

(2) Without prejudice to the generality of paragraph (1), a copy made for the purposes of an investigation may be retained for use as evidence—

- (a) if the investigation is in relation to an offence, at a trial for the offence; and
- (b) if the investigation is in relation to an alleged or suspected failure to comply with a condition of authorisation, before the Tribunal in proceedings in relation to the failure.