
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for various provisions of the Police and Criminal Evidence Act 1984 (“the 1984 Act”) and the Criminal Justice and Police Act 2001 (“the 2001 Act”) to be applied to the investigation of offences conducted by the Welsh Revenue Authority (“WRA”).

Regulation 3(1) introduces the Schedule to these Regulations which specifies the provisions of the 1984 Act which are to be applied to investigations conducted by WRA, subject to certain modifications. The applicable provisions of the 1984 Act contained in the Schedule consist of—

- (a) a power to apply for and obtain a warrant from a justice of the peace to authorise the entry and search of premises (section 8 of the 1984 Act);
- (b) a power to obtain access to “excluded material” or “special procedure material” (defined in Part 2 of the 1984 Act), subject to obtaining a warrant from a judge in accordance with the procedure in Schedule 1 to the 1984 Act (section 9 of the 1984 Act);
- (c) various safeguards in relation to an application for a warrant and the execution of searches (sections 15 and 16 of the 1984 Act);
- (d) a power to seize relevant items found during the course of a search (section 19 of the 1984 Act);
- (e) the extension of the seizure powers to require information contained in an electronic format to be produced during the course of a search (section 20 of the 1984 Act);
- (f) a power which enables WRA to copy information which has been seized during the course of a search, and accompanying rights for the owners of property seized during the course of a search (section 21 of the 1984 Act);
- (g) a power to retain anything seized during the course of a search (section 22 of the 1984 Act);
- (h) a requirement for WRA to notify in writing a person interviewed in relation to an offence when a decision is taken to conclude the investigation (section 60B of the 1984 Act); and
- (i) a requirement for WRA to have regard to the codes of practice issued under section 66 of the 1984 Act when conducting a relevant investigation.

Regulation 3(2) provides that the provisions contained in Part 2 of the 2001 Act (which, among other things, provide for additional powers of seizure) also apply when WRA conducts a relevant investigation.

Regulation 3(3) makes general provision in relation to the application of the provisions of the 1984 Act and the 2001 Act. The effect of this paragraph is to provide for the general substitution of “constable”, “police officer” and “the police” with “WRA” in applying the provisions of the 1984 Act and the 2001 Act.

Regulation 3(4) provides that the provisions of the 1984 Act which are not specified in the Schedule are to apply so far as they relate to the provisions specified in the Schedule. For example, the definition of “excluded material” in section 11 of the 1984 Act is to apply to define “excluded material” in relation to a search conducted by WRA in reliance of a warrant issued under paragraph 12 of Schedule 1 to the 1984 Act.

Regulation 4 provides that a person exercising a function conferred on WRA by these Regulations may use reasonable force, if necessary, in the exercise of that function.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 5 provides that WRA may search a person found on a premises which is the subject of a search by WRA in reliance of a warrant issued under section 8 of, or paragraph 12 of Schedule 1 to, the 1984 Act, provided that WRA has reasonable cause to believe that the person is in possession of material which is likely to be of substantial value to the investigation.

Regulation 6 modifies section 16(3A) and (3B) of the 1984 Act to the extent that a person may not enter or search a premises not specified in an all premises warrant, or enter or search a premises on a second or subsequent occasion unless that person has been authorised in writing by a person of at least civil service Grade 7 (or equivalent).

Regulation 7 modifies section 77(3) of the 1984 Act, which makes provision in relation to the treatment of confessions made by a person with a learning disability. The modification made by regulation 7 ensures that an “independent person” cannot be a person exercising a function conferred by these Regulations on WRA.

Regulation 8 provides that the functions conferred on WRA by these Regulations may only be exercised by a person who has been authorised in writing by WRA to conduct relevant investigations.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff CF10 3NQ.