



# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 2

#### POWERS OF SEIZURE

##### *Additional powers of seizure*

#### **50 Additional powers of seizure from premises**

(1) Where—

- (a) a person who is lawfully on any premises finds anything on those premises that he has reasonable grounds for believing may be or may contain something for which he is authorised to search on those premises,
- (b) a power of seizure to which this section applies or the power conferred by subsection (2) would entitle him, if he found it, to seize whatever it is that he has grounds for believing that thing to be or to contain, and
- (c) in all the circumstances, it is not reasonably practicable for it to be determined, on those premises—
  - (i) whether what he has found is something that he is entitled to seize, or
  - (ii) the extent to which what he has found contains something that he is entitled to seize,

that person's powers of seizure shall include power under this section to seize so much of what he has found as it is necessary to remove from the premises to enable that to be determined.

(2) Where—

- (a) a person who is lawfully on any premises finds anything on those premises ("the seizable property") which he would be entitled to seize but for its being comprised in something else that he has (apart from this subsection) no power to seize,
- (b) the power under which that person would have power to seize the seizable property is a power to which this section applies, and

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- (c) in all the circumstances it is not reasonably practicable for the seizable property to be separated, on those premises, from that in which it is comprised, that person's powers of seizure shall include power under this section to seize both the seizable property and that from which it is not reasonably practicable to separate it.
- (3) The factors to be taken into account in considering, for the purposes of this section, whether or not it is reasonably practicable on particular premises for something to be determined, or for something to be separated from something else, shall be confined to the following—
- (a) how long it would take to carry out the determination or separation on those premises;
  - (b) the number of persons that would be required to carry out that determination or separation on those premises within a reasonable period;
  - (c) whether the determination or separation would (or would if carried out on those premises) involve damage to property;
  - (d) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation; and
  - (e) in the case of separation, whether the separation—
    - (i) would be likely, or
    - (ii) if carried out by the only means that are reasonably practicable on those premises, would be likely,
 

to prejudice the use of some or all of the separated seizable property for a purpose for which something seized under the power in question is capable of being used.
- (4) Section 19(6) of the 1984 Act and Article 21(6) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (powers of seizure not to include power to seize anything that a person has reasonable grounds for believing is legally privileged) shall not apply to the power of seizure conferred by subsection (2).
- (5) This section applies to each of the powers of seizure specified in Part 1 of Schedule 1.
- (6) Without prejudice to any power conferred by this section to take a copy of any document, nothing in this section, so far as it has effect by reference to the power to take copies of documents under section 28(2)(b) of the Competition Act 1998 (c. 41), shall be taken to confer any power to seize any document.

## **51 Additional powers of seizure from the person**

- (1) Where—
- (a) a person carrying out a lawful search of any person finds something that he has reasonable grounds for believing may be or may contain something for which he is authorised to search,
  - (b) a power of seizure to which this section applies or the power conferred by subsection (2) would entitle him, if he found it, to seize whatever it is that he has grounds for believing that thing to be or to contain, and
  - (c) in all the circumstances it is not reasonably practicable for it to be determined, at the time and place of the search—
    - (i) whether what he has found is something that he is entitled to seize, or
    - (ii) the extent to which what he has found contains something that he is entitled to seize,

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that person's powers of seizure shall include power under this section to seize so much of what he has found as it is necessary to remove from that place to enable that to be determined.

(2) Where—

- (a) a person carrying out a lawful search of any person finds something (“the seizable property”) which he would be entitled to seize but for its being comprised in something else that he has (apart from this subsection) no power to seize,
- (b) the power under which that person would have power to seize the seizable property is a power to which this section applies, and
- (c) in all the circumstances it is not reasonably practicable for the seizable property to be separated, at the time and place of the search, from that in which it is comprised,

that person's powers of seizure shall include power under this section to seize both the seizable property and that from which it is not reasonably practicable to separate it.

(3) The factors to be taken into account in considering, for the purposes of this section, whether or not it is reasonably practicable, at the time and place of a search, for something to be determined, or for something to be separated from something else, shall be confined to the following—

- (a) how long it would take to carry out the determination or separation at that time and place;
- (b) the number of persons that would be required to carry out that determination or separation at that time and place within a reasonable period;
- (c) whether the determination or separation would (or would if carried out at that time and place) involve damage to property;
- (d) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation; and
- (e) in the case of separation, whether the separation—
  - (i) would be likely, or
  - (ii) if carried out by the only means that are reasonably practicable at that time and place, would be likely,

to prejudice the use of some or all of the separated seizable property for a purpose for which something seized under the power in question is capable of being used.

(4) Section 19(6) of the 1984 Act and Article 21(6) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (powers of seizure not to include power to seize anything a person has reasonable grounds for believing is legally privileged) shall not apply to the power of seizure conferred by subsection (2).

(5) This section applies to each of the powers of seizure specified in Part 2 of Schedule 1.

## **52 Notice of exercise of power under s. 50 or 51**

(1) Where a person exercises a power of seizure conferred by section 50, it shall (subject to subsections (2) and (3)) be his duty, on doing so, to give to the occupier of the premises a written notice—

- (a) specifying what has been seized in reliance on the powers conferred by that section;

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- (b) specifying the grounds on which those powers have been exercised;
  - (c) setting out the effect of sections 59 to 61;
  - (d) specifying the name and address of the person to whom notice of an application under section 59(2) to the appropriate judicial authority in respect of any of the seized property must be given; and
  - (e) specifying the name and address of the person to whom an application may be made to be allowed to attend the initial examination required by any arrangements made for the purposes of section 53(2).
- (2) Where it appears to the person exercising on any premises a power of seizure conferred by section 50—
- (a) that the occupier of the premises is not present on the premises at the time of the exercise of the power, but
  - (b) that there is some other person present on the premises who is in charge of the premises,
- subsection (1) of this section shall have effect as if it required the notice under that subsection to be given to that other person.
- (3) Where it appears to the person exercising a power of seizure conferred by section 50 that there is no one present on the premises to whom he may give a notice for the purposes of complying with subsection (1) of this section, he shall, before leaving the premises, instead of complying with that subsection, attach a notice such as is mentioned in that subsection in a prominent place to the premises.
- (4) Where a person exercises a power of seizure conferred by section 51 it shall be his duty, on doing so, to give a written notice to the person from whom the seizure is made—
- (a) specifying what has been seized in reliance on the powers conferred by that section;
  - (b) specifying the grounds on which those powers have been exercised;
  - (c) setting out the effect of sections 59 to 61;
  - (d) specifying the name and address of the person to whom notice of any application under section 59(2) to the appropriate judicial authority in respect of any of the seized property must be given; and
  - (e) specifying the name and address of the person to whom an application may be made to be allowed to attend the initial examination required by any arrangements made for the purposes of section 53(2).
- (5) The Secretary of State may by regulations made by statutory instrument, after consultation with the Scottish Ministers [<sup>F1</sup>and the Department of Justice in Northern Ireland] , provide that a person who exercises a power of seizure conferred by section 50 shall be required to give a notice such as is mentioned in subsection (1) of this section to any person, or send it to any place, described in the regulations.
- (6) Regulations under subsection (5) may make different provision for different cases.
- (7) A statutory instrument containing regulations under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F1** Words in s. 52(5) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 14 para. 46\(2\)](#) (with arts. 28-31)

**Changes to legislation:**

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