

Status: Point in time view as at 15/09/2020.

Changes to legislation: Police and Criminal Evidence Act 1984, Cross Heading: Making of orders by circuit judge is up to date with all changes known to be in force on or before 16 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

SPECIAL PROCEDURE

Modifications etc. (not altering text)

- C1** Ss. 8, 9, 15, 16, 17(1)(b)(2) (4), 18-20, 21, 22(1)-(4), 28, 29, 30(1)-(4)(a)(5)-(11), 31, 32(1)-(9), 34(1)-(5), 35, 36, 37, 39, 40-44, 50, 51(d), 52, 54, 55, 64(1)-(4)(5)(6), Sch. 1 applied with modifications by [S.I. 1985/1800](#), [arts. 3-11](#), [Schs. 1, 2](#)
- C1** Sch. 1 extended (10.6.1991) by [Criminal Justice \(International Co-operation\) Act 1990](#) (c. 5, SIF 39:1), [s. 7\(1\)](#); [S.I. 1991/1072](#), [art. 2](#), [Sch. Pt. I](#)
Sch. 1 extended (17.5.1996) by [S.I. 1996/1296](#), [art. 16\(1\)](#).
Sch. 1: power to apply conferred (30.9.2003) by [2001 c. 19](#), [ss. 6\(2\), 39\(2\)](#) (with [s. 16\(7\)](#)); [S.I. 2003/2268](#), [art. 2](#)
- C1** Sch. 1 applied (with modifications) (2.12.2002) by [Police Reform Act 2002](#) (c. 30), [s. 38](#), [Sch. 4 para. 17\(a\)\(b\)](#); [S.I. 2002/2750](#), [art. 2\(a\)\(ii\)\(d\)](#)
Sch. 1 applied (with modifications) (14.10.2002) by [The Police and Criminal Evidence Act 1984 \(Department of Trade and Industry Investigations\) Order 2002](#) (S.I. 2002/2326), [arts. 3, 4](#)
- C1** Sch. 1 incorporated (16.5.2008) by [The London Gateway Port Harbour Empowerment Order 2008](#) (S.I. 2008/1261), [art. 52](#)
- C1** Sch. 1 applied (with modifications) (25.6.2013) by [The Police and Criminal Evidence Act 1984 \(Application to immigration officers and designated customs officials in England and Wales\) Order 2013](#) (S.I. 2013/1542), [arts. 1, 3\(2\)-\(4\)](#), [Sch. 1](#) (with [arts. 4-11](#))
- C1** Sch. 1 applied (with modifications) (25.6.2013) by [The Police and Criminal Evidence Act 1984 \(Application to immigration officers and designated customs officials in England and Wales\) Order 2013](#) (S.I. 2013/1542), [arts. 1, 12\(2\)-\(4\)](#), [Sch. 2](#) (with [arts. 13-31](#))
- C1** Sch. 1 applied (with modifications) (30.4.2017) by [The Police and Criminal Evidence Act 1984 \(Application to Labour Abuse Prevention Officers\) Regulations 2017](#) (S.I. 2017/520), [regs. 1, 2, 3\(e\)](#), [Sch.](#)
- C1** Sch. 1 applied (with modifications) (1.4.2018) by [The Welsh Revenue Authority \(Powers to Investigate Criminal Offences\) Regulations 2018](#) (S.I. 2018/400), [regs. 1\(2\), 3\(1\)\(3\)](#), [Sch.](#) (with [regs. 4-8](#))

Making of orders by circuit judge

- 1 If on an application made by a constable a circuit judge is satisfied that one or other of the sets of access conditions is fulfilled, he may make an order under paragraph 4 below.
- 2 The first set of access conditions is fulfilled if—
 - (a) there are reasonable grounds for believing—
 - (i) that [F¹an indictable offence] has been committed;
 - (ii) that there is material which consists of special procedure material or includes special procedure material and does not also include

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- excluded material on premises specified in the application [^{F2}, or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);]
- (iii) that the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and
- (iv) that the material is likely to be relevant evidence;
- (b) other methods of obtaining the material—
- (i) have been tried without success; or
- (ii) have not been tried because it appeared that they were bound to fail; and
- (c) it is in the public interest, having regard—
- (i) to the benefit likely to accrue to the investigation if the material is obtained; and
- (ii) to the circumstances under which the person in possession of the material holds it,
- that the material should be produced or that access to it should be given.

Textual Amendments

- F1** Words in Sch. 1 para. 2(a)(i) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 111, 178, [Sch. 7 Pt. 3 para. 43\(13\)](#); S.I. 2005/3495, [art. 2\(1\)\(m\)](#)
- F2** Words in Sch. 1 para. 2(a)(ii) added (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 113\(11\)](#), 178; S.I. 2005/3495, [art. 2\(1\)\(n\)](#)

- 3 The second set of access conditions is fulfilled if—
- (a) there are reasonable grounds for believing that there is material which consists of or includes excluded material or special procedure material on premises specified in the application [^{F3}, or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify);]
- (b) but for section 9(2) above a search of [^{F4}such premises] for that material could have been authorised by the issue of a warrant to a constable under an enactment other than this Schedule; and
- (c) the issue of such a warrant would have been appropriate.

Textual Amendments

- F3** Words in Sch. 1 para. 3(a) added (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 113\(11\)](#), 178; S.I. 2005/3495, [art. 2\(1\)\(n\)](#)
- F4** Words in Sch. 1 para. 3(b) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 113\(12\)](#), 178; S.I. 2005/3495, [art. 2\(1\)\(n\)](#)

- 4 An order under this paragraph is an order that the person who appears to the circuit judge to be in possession of the material to which the application relates shall—

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- (a) produce it to a constable for him to take away; or
- (b) give a constable access to it,

not later than the end of the period of seven days from the date of the order or the end of such longer period as the order may specify.

- 5 Where the material consists of information [^{F5}stored in any electronic form]—
- (a) an order under paragraph 4(a) above shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible [^{F6}or from which it can readily be produced in a visible and legible form]; and
 - (b) an order under paragraph 4(b) above shall have effect as an order to give a constable access to the material in a form in which it is visible and legible.

Textual Amendments

- F5** Words in Sch. 1 para. 5 substituted (1.4.2003) by 2001 c. 16, ss. 70, 138(2), Sch. 2 Pt. 2 para. 14(a); S.I. 2003/708, art. 2(k)
- F6** Words in Sch. 1 para. 5(a) inserted (1.4.2003) by 2001 c. 16, ss. 70, 138(2), Sch. 2 Pt. 2 para. 14(b); S.I. 2003/708, art. 2(k)

- 6 For the purposes of sections 21 and 22 above material produced in pursuance of an order under paragraph 4(a) above shall be treated as if it were material seized by a constable.

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