



Knives Act 1997

1997 CHAPTER 21

Supplementary powers

5 Supplementary powers of entry, seizure and retention.

- (1) If, on an application made by a constable, a justice of the peace or sheriff is satisfied that there are reasonable grounds for suspecting—
 - (a) that a person (“the suspect”) has committed an offence under section 1 in relation to knives of a particular description, and
 - (b) that knives of that description and in the suspect’s possession or under his control are to be found on particular premises,the justice or sheriff may issue a warrant authorising a constable to enter those premises, search for the knives and seize and remove any that he finds.
- (2) If, on an application made by a constable, a justice of the peace or sheriff is satisfied that there are reasonable grounds for suspecting—
 - (a) that a person (“the suspect”) has committed an offence under section 2 in relation to particular material, and
 - (b) that publications consisting of or containing that material and in the suspect’s possession or under his control are to be found on particular premises,the justice or sheriff may issue a warrant authorising a constable to enter those premises, search for the publications and seize and remove any that he finds.
- (3) A constable, in the exercise of his powers under a warrant issued under this section, may if necessary use reasonable force.
- (4) Any knives or publications which have been seized and removed by a constable under a warrant issued under this section may be retained until the conclusion of proceedings against the suspect.
- (5) For the purposes of this section, proceedings in relation to a suspect are concluded if—
 - (a) he is found guilty and sentenced or otherwise dealt with for the offence;
 - (b) he is acquitted;
 - (c) proceedings for the offence are discontinued; or

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(d) it is decided not to prosecute him.

(6) In this section “premises” includes any place and, in particular, any vehicle, vessel, aircraft or hovercraft and any tent or movable structure.

Modifications etc. (not altering text)

- C1** S. 5(2) powers of seizure extended (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), ss. 50, 138(2), [Sch. 1 paras. 63](#) (with ss. 52-54, 68); S.I. 2003/708, art. 2(a)
- C2** S. 5(4) applied (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), ss. 57(1)(I), 138(2) (with s. 57(4)); S.I. 2003/708, art. 2(a)

6 Forfeiture of knives and publications.

- (1) If a person is convicted of an offence under section 1 in relation to a knife of a particular description, the court may make an order for forfeiture in respect of any knives of that description—
- (a) seized under a warrant issued under section 5; or
 - (b) in the offender’s possession or under his control at the relevant time.
- (2) If a person is convicted of an offence under section 2 in relation to particular material, the court may make an order for forfeiture in respect of any publications consisting of or containing that material which—
- (a) have been seized under a warrant issued under section 5; or
 - (b) were in the offender’s possession or under his control at the relevant time.
- (3) The court may make an order under subsection (1) or (2)—
- (a) whether or not it also deals with the offender in respect of the offence in any other way; and
 - (b) without regard to any restrictions on forfeiture in any enactment.
- (4) In considering whether to make an order, the court must have regard—
- (a) to the value of the property; and
 - (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).
- (5) In this section “relevant time”—
- (a) in relation to a person convicted in England and Wales or Northern Ireland of an offence under section 1 or 2, means the time of his arrest for the offence or of the issue of a summons in respect of it;
 - (b) in relation to a person so convicted in Scotland, means the time of his arrest for the offence or of his being cited as an accused in respect of it.

7 Effect of a forfeiture order.

- (1) An order under section 6 (a “forfeiture order”) operates to deprive the offender of his rights, if any, in the property to which it relates.
- (2) The property to which a forfeiture order relates must be taken into the possession of the police (if it is not already in their possession).

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- (3) The court may, on an application made by a person who—
 - (a) claims property to which a forfeiture order applies, but
 - (b) is not the offender from whom it was forfeited,make an order (a “recovery order”) for delivery of the property to the applicant if it appears to the court that he owns it.
- (4) An application to a sheriff must be made in such manner as may be prescribed by act of adjournal.
- (5) No application may be made after the end of the period of 6 months beginning with the date on which the forfeiture order was made.
- (6) No application may succeed unless the claimant satisfies the court—
 - (a) that he had not consented to the offender having possession of the property; or
 - (b) that he did not know, and had no reason to suspect, that the offence was likely to be committed.
- (7) If a person has a right to recover property which is in the possession of another in pursuance of a recovery order, that right—
 - (a) is not affected by the making of the recovery order at any time before the end of the period of 6 months beginning with the date on which the order is made; but
 - (b) is lost at the end of that period.
- (8) The Secretary of State may make regulations, in relation to property forfeited under this section, for disposing of the property and dealing with the proceeds in cases where—
 - (a) no application has been made before the end of the period of 6 months beginning with the date on which the forfeiture order was made; or
 - (b) no such application has succeeded.
- (9) The regulations may also provide for investing money and auditing accounts.
- (10) In this section, “application” means an application under subsection (3).

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