

SCHEDULE 1

EXCLUDED AND SPECIAL PROCEDURE MATERIAL

Making of orders by judge advocates

1. If on an application made by a service policeman a judge advocate is satisfied that one or other of the sets of access conditions is fulfilled, he may make an order under paragraph 5.
2. The first set of access conditions is fulfilled if—
 - (a) there are reasonable grounds for believing—
 - (i) that a relevant offence has been committed;
 - (ii) that on relevant residential premises specified in the application there is material which consists of special procedure material or includes special procedure material and does not also include excluded material;
 - (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.
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 relevant residential premises specified in the application;
 - (b) but for section 9(2) of PACE a search of the premises for that material could have been authorised by the issue of a warrant to a constable under any of the enactments specified in paragraph 4 in a case in which—
 - (i) the specified premises were in England; and
 - (ii) the offence in respect of which the warrant was sought was committed in England; and
 - (c) the issue of such a warrant would have been appropriate.
4. The enactments referred to in paragraph 3(b) are—
 - (a) section 9 of the Official Secrets Act 1911⁽¹⁾;
 - (b) section 26 of the Theft Act 1968⁽²⁾; and
 - (c) section 4 of the Biological Weapons Act 1974⁽³⁾.

(1) 1911 c. 28.

(2) 1968 c. 60.

(3) 1974 c. 6.

Status: This is the original version (as it was originally made).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

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

- (a) produce it to a service policeman for him to take away, or
- (b) give a service policeman 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.

6. Where the material consists of information stored in any electronic form—

- (a) an order under paragraph 5(a) 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 or from which it can readily be produced in a visible and legible form; and
- (b) an order under paragraph 5(b) shall have effect as an order to give a service policeman access to the material in a form in which it is visible and legible.

7. For the purposes of articles 16 and 17 material produced in pursuance of an order under paragraph 5(a) shall be treated as if it were material seized by a service policeman.