



# Misuse of Drugs Act 1971

## 1971 CHAPTER 38

### *Law enforcement and punishment of offences*

#### **23 Powers to search and obtain evidence.**

- (1) A constable or other person authorised in that behalf by a general or special order of the Secretary of State (or in Northern Ireland either of the Secretary of State or the Ministry of Home Affairs for Northern Ireland) shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.
- (2) If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any regulations [<sup>F1</sup>or orders] made thereunder, the constable may—
  - (a) search that person, and detain him for the purpose of searching him;
  - (b) search any vehicle or vessel in which the constable suspects that the drug may be found, and for that purpose require the person in control of the vehicle or vessel to stop it;
  - (c) seize and detain, for the purposes of proceedings under this Act, anything found in the course of the search which appears to the constable to be evidence of an offence under this Act.

In this subsection “vessel” includes a hovercraft within the meaning of the <sup>M1</sup>Hovercraft Act 1968; and nothing in this subsection shall prejudice any power of search or any power to seize or detain property which is exercisable by a constable apart from this subsection.

- (3) If a justice of the peace (or in Scotland a justice of the peace, a magistrate or a sheriff) is satisfied by information on oath that there is reasonable ground for suspecting—
  - (a) that any controlled drugs are, in contravention of this Act or of any regulations [<sup>F2</sup>or orders] made thereunder, in the possession of a person on any premises;or

*Changes to legislation: There are currently no known outstanding effects for the Misuse of Drugs Act 1971, Section 23. (See end of Document for details)*

- (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence under this Act, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside the United Kingdom, an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorising any constable <sup>F3</sup>... at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein and, if there is reasonable ground for suspecting that an offence under this Act has been committed in relation to any controlled drugs found on the premises or in the possession of any such persons, or that a document so found is such a document as is mentioned in paragraph (b) above, to seize and detain those drugs or that document, as the case may be.

[<sup>F4</sup>(3A) The powers conferred by subsection (1) above shall be exercisable also for the purposes of the execution of Part II of the Criminal Justice (International Co-operation) Act 1990 <sup>F5</sup>... [<sup>F6</sup>or Article 47 of the Proceeds of Crime (Northern Ireland) Order 1996] and subsection (3) above (excluding paragraph (a)) shall apply also to offences under section 12 or 13 of that Act [<sup>F7</sup>of 1990], taking references in those provisions to controlled drugs as references to scheduled substances within the meaning of that Part.]

- (4) A person commits an offence if he—
- (a) intentionally obstructs a person in the exercise of his powers under this section; or
  - (b) conceals from a person acting in the exercise of his powers under subsection (1) above any such books, documents, stocks or drugs as are mentioned in that subsection; or
  - (c) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his power under that subsection.

<sup>F8</sup>(5) .....

#### Textual Amendments

- F1** Words in s. 23(2) inserted (15.11.2011) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 17 para. 15(2)**; S.I. 2011/2515, art. 3(g)
- F2** Words in s. 23(3)(a) inserted (15.11.2011) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 17 para. 15(3)**; S.I. 2011/2515, art. 3(g)
- F3** Words in s. 23(3) repealed (12.11.2009) by Policing and Crime Act 2009 (c. 26), ss. 111(2), 116(5)(c), **Sch. 8 Pt. 12**
- F4** S. 23(3A) inserted (1.7.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), s. 23(4); S.I. 1991/1072, art. 2, **Sch. Pt. II**
- F5** Words in s. 23(3A) repealed (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/120, art. 2, **Sch.** (with arts. 34) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F6** Words in s. 23(3A) inserted (25.8.1996) by S.I. 1996/1299 (N.I. 9), art. 57(1), **Sch. 3 para. 2**
- F7** Words in s. 23(3A) inserted (3.2.1995) by 1994 c. 37, s. 65, **Sch. 1 para. 4(b)**
- F8** S. 23(5) repealed (12.11.2009) by Policing and Crime Act 2009 (c. 26), ss. 111(3), 116(5)(c), **Sch. 8 Pt. 12**

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**Changes to legislation:** There are currently no known outstanding effects for the Misuse of Drugs Act 1971, Section 23. (See end of Document for details)

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**Modifications etc. (not altering text)**

- C1** Functions of Ministry of Home Affairs for Northern Ireland transferred to Department of Health and Social Services for Northern Ireland by S.R. & O. (N.I.) 1973 No. 504, art. 5, **Sch. 2 Pt. I**
- C2** S. 23(1)(3) extended (with modifications) (6.10.1993) by S.I. 1993/2166, **reg. 8(2)**.
- C3** S. 23(1)(3) extended (with modifications) (7.3.2008) by Controlled Drugs (Drug Precursors) (Community External Trade) Regulations 2008 (S.I. 2008/296), regs. 1(1), **10**
- C4** S. 23(1)(3) extended (with modifications) (7.3.2008) by Controlled Drugs (Drug Precursors) (Intra-Community Trade) Regulations 2008 (S.I. 2008/295), regs. 1(1), **8**
- C5** S. 23(2)(3) powers of seizure extended (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), ss. 50, 138(2), **Sch. 1 para. 14** (with ss. 52-54, 68); S.I. 2003/708, art. 2(a)
- C6** S. 23(2)(3) powers of seizure extended (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), ss. 51, 138(2), **Sch. 1 para. 77** (with ss. 52-54, 68); S.I. 2003/708, art. 2(a)
- C7** S. 23(3)(3A) modified by 2002 c. 30, Sch. 4 para. 16B (as inserted (E.W.) (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 8 para. 14**; S.I. 2005/1521, art. 3(1)(i))
- C8** S. 23(3)(3A) modified by 2003 c. 6, Sch. 2 para. 2B (as inserted (N.I.) (22.4.2007) by The Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)), art. 1(3), **Sch. 1 para. 2**)
- C9** S. 23(3) extended (with modifications) (7.3.2008) by Controlled Drugs (Drug Precursors) (Intra-Community Trade) Regulations 2008 (S.I. 2008/295), regs. 1(1), **8**

**Marginal Citations**

- M1** 1968 c. 59.

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