

CRIMINAL JUSTICE AND POLICE ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Powers of seizure

Outline of proposals

Section 55: Obligation to return excluded and special procedure material

171. This section contains similar provisions to section 54 but relating to special procedure and excluded material as defined in PACE. Excluded material includes journalistic material and personal records which are held in confidence. Special procedure material includes confidential material created in the course of a business and journalistic material provided neither is excluded material. PACE gives special procedure material and excluded material a number of different protections and section 55 is similarly designed to give this type of material additional protection whenever it would have had such protection in the relevant underlying power of seizure listed in Schedule 1. Section 55 does not apply where the underlying power of seizure is found in legislation such as the Financial Services and Markets Act 2000 or the Criminal Justice Act 1987 as they do not give special protection to special procedure and excluded material. Some pieces of legislation only give protection to excluded material and not special procedure material. *Subsection (5)* ensures that where the powers in those pieces of legislation are being exercised, or where the powers in section 50 and 51 are being exercised in reliance on those powers, the protections given by this section only apply to excluded material. In legislation enacted prior to PACE protection is only given to special procedure material consisting of documents or records other than documents. For that legislation *subsection (6)* ensures that this section similarly only protects such material.
172. **Part 3** of Schedule 1 is a list of powers of seizure conferred by various legislation to which section 55 will apply.