



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8

INVESTIGATIONS

CHAPTER 2

ENGLAND AND WALES AND NORTHERN IRELAND

Search and seizure warrants

352 Search and seizure warrants

- (1) A judge may, on an application made to him by an appropriate officer, issue a search and seizure warrant if he is satisfied that either of the requirements for the issuing of the warrant is fulfilled.
- (2) The application for a search and seizure warrant must state that—
 - (a) a person specified in the application is subject to a confiscation investigation or a money laundering investigation, or
 - (b) property specified in the application is subject to a civil recovery investigation.
- (3) The application must also state—
 - (a) that the warrant is sought for the purposes of the investigation;
 - (b) that the warrant is sought in relation to the premises specified in the application;
 - (c) that the warrant is sought in relation to material specified in the application, or that there are reasonable grounds for believing that there is material falling within section 353(6), (7) or (8) on the premises.
- (4) A search and seizure warrant is a warrant authorising an appropriate person—
 - (a) to enter and search the premises specified in the application for the warrant, and

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- (b) to seize and retain any material found there which is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the application is made.
- (5) An appropriate person is—
- (a) a constable or a customs officer, if the warrant is sought for the purposes of a confiscation investigation or a money laundering investigation;
 - (b) a named member of the staff of the Agency, if the warrant is sought for the purposes of a civil recovery investigation.
- (6) The requirements for the issue of a search and seizure warrant are—
- (a) that a production order made in relation to material has not been complied with and there are reasonable grounds for believing that the material is on the premises specified in the application for the warrant, or
 - (b) that section 353 is satisfied in relation to the warrant.

353 Requirements where production order not available

- (1) This section is satisfied in relation to a search and seizure warrant if—
- (a) subsection (2) applies, and
 - (b) either the first or the second set of conditions is complied with.
- (2) This subsection applies if there are reasonable grounds for suspecting that—
- (a) in the case of a confiscation investigation, the person specified in the application for the warrant has benefited from his criminal conduct;
 - (b) in the case of a civil recovery investigation, the property specified in the application for the warrant is recoverable property or associated property;
 - (c) in the case of a money laundering investigation, the person specified in the application for the warrant has committed a money laundering offence.
- (3) The first set of conditions is that there are reasonable grounds for believing that—
- (a) any material on the premises specified in the application for the warrant is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought,
 - (b) it is in the public interest for the material to be obtained, having regard to the benefit likely to accrue to the investigation if the material is obtained, and
 - (c) it would not be appropriate to make a production order for any one or more of the reasons in subsection (4).
- (4) The reasons are—
- (a) that it is not practicable to communicate with any person against whom the production order could be made;
 - (b) that it is not practicable to communicate with any person who would be required to comply with an order to grant entry to the premises;
 - (c) that the investigation might be seriously prejudiced unless an appropriate person is able to secure immediate access to the material.
- (5) The second set of conditions is that—
- (a) there are reasonable grounds for believing that there is material on the premises specified in the application for the warrant and that the material falls within subsection (6), (7) or (8),

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- (b) there are reasonable grounds for believing that it is in the public interest for the material to be obtained, having regard to the benefit likely to accrue to the investigation if the material is obtained, and
 - (c) any one or more of the requirements in subsection (9) is met.
- (6) In the case of a confiscation investigation, material falls within this subsection if it cannot be identified at the time of the application but it—
 - (a) relates to the person specified in the application, the question whether he has benefited from his criminal conduct or any question as to the extent or whereabouts of his benefit from his criminal conduct, and
 - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7) In the case of a civil recovery investigation, material falls within this subsection if it cannot be identified at the time of the application but it—
 - (a) relates to the property specified in the application, the question whether it is recoverable property or associated property, the question as to who holds any such property, any question as to whether the person who appears to hold any such property holds other property which is recoverable property, or any question as to the extent or whereabouts of any property mentioned in this paragraph, and
 - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (8) In the case of a money laundering investigation, material falls within this subsection if it cannot be identified at the time of the application but it—
 - (a) relates to the person specified in the application or the question whether he has committed a money laundering offence, and
 - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (9) The requirements are—
 - (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (b) that entry to the premises will not be granted unless a warrant is produced;
 - (c) that the investigation might be seriously prejudiced unless an appropriate person arriving at the premises is able to secure immediate entry to them.
- (10) An appropriate person is—
 - (a) a constable or a customs officer, if the warrant is sought for the purposes of a confiscation investigation or a money laundering investigation;
 - (b) a member of the staff of the Agency, if the warrant is sought for the purposes of a civil recovery investigation.

354 Further provisions: general

- (1) A search and seizure warrant does not confer the right to seize privileged material.
- (2) Privileged material is any material which a person would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court.
- (3) A search and seizure warrant does not confer the right to seize excluded material.

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355 Further provisions: confiscation and money laundering

- (1) This section applies to—
 - (a) search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, and
 - (b) powers of seizure under them.
- (2) In relation to such warrants and powers, the Secretary of State may make an order which applies the provisions to which subsections (3) and (4) apply subject to any specified modifications.
- (3) This subsection applies to the following provisions of the Police and Criminal Evidence Act 1984 (c. 60)—
 - (a) section 15 (search warrants -safeguards);
 - (b) section 16 (execution of warrants);
 - (c) section 21 (access and copying);
 - (d) section 22 (retention).
- (4) This subsection applies to the following provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))—
 - (a) Article 17 (search warrants -safeguards);
 - (b) Article 18 (execution of warrants);
 - (c) Article 23 (access and copying);
 - (d) Article 24 (retention).

356 Further provisions: civil recovery

- (1) This section applies to search and seizure warrants sought for the purposes of civil recovery investigations.
- (2) An application for a warrant may be made ex parte to a judge in chambers.
- (3) A warrant may be issued subject to conditions.
- (4) A warrant continues in force until the end of the period of one month starting with the day on which it is issued.
- (5) A warrant authorises the person it names to require any information which is held in a computer and is accessible from the premises specified in the application for the warrant, and which the named person believes relates to any matter relevant to the investigation, to be produced in a form—
 - (a) in which it can be taken away, and
 - (b) in which it is visible and legible.
- (6) If—
 - (a) the Director gives written authority for members of staff of the Agency to accompany the person a warrant names when executing it, and
 - (b) a warrant is issued,the authorised members have the same powers under it as the person it names.
- (7) A warrant may include provision authorising a person who is exercising powers under it to do other things which—
 - (a) are specified in the warrant, and

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- (b) need to be done in order to give effect to it.
- (8) Copies may be taken of any material seized under a warrant.
- (9) Material seized under a warrant may be retained for so long as it is necessary to retain it (as opposed to copies of it) in connection with the investigation for the purposes of which the warrant was issued.
- (10) But if the Director has reasonable grounds for believing that—
 - (a) the material may need to be produced for the purposes of any legal proceedings, and
 - (b) it might otherwise be unavailable for those purposes,it may be retained until the proceedings are concluded.