



Extradition Act 2003

2003 CHAPTER 41

PART 4

POLICE POWERS

Warrants and orders

156 Search and seizure warrants

- (1) A justice of the peace may, on an application made to him by a constable, issue a search and seizure warrant if he is satisfied that the requirements for the issue of a search and seizure warrant are fulfilled.
- (2) The application for a search and seizure warrant must state that—
 - (a) the extradition of a person specified in the application is sought under Part 1 or Part 2;
 - (b) the warrant is sought in relation to premises specified in the application;
 - (c) the warrant is sought in relation to material, or material of a description, specified in the application;
 - (d) that material, or material of that description, is believed to be on the premises.
- (3) If the application states that the extradition of the person is sought under Part 1, the application must also state that the person is accused in a category 1 territory specified in the application of the commission of an offence—
 - (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 64.
- (4) If the application states that the extradition of the person is sought under Part 2, the application must also state that the person is accused in a category 2 territory specified in the application of the commission of an offence—
 - (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 137.
- (5) A search and seizure warrant is a warrant authorising a constable—

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- (a) to enter and search the premises specified in the application for the warrant, and
 - (b) to seize and retain any material found there which falls within subsection (6).
- (6) Material falls within this subsection if—
- (a) it would be likely to be admissible evidence at a trial in the relevant part of the United Kingdom for the offence specified in the application for the warrant (on the assumption that conduct constituting that offence would constitute an offence in that part of the United Kingdom), and
 - (b) it does not consist of or include items subject to legal privilege, excluded material or special procedure material.
- (7) The relevant part of the United Kingdom is the part of the United Kingdom where the justice of the peace exercises jurisdiction.
- (8) The requirements for the issue of a search and seizure warrant are that there are reasonable grounds for believing that—
- (a) the offence specified in the application has been committed by the person so specified;
 - (b) the person is in the United Kingdom or is on his way to the United Kingdom;
 - (c) the offence is an extradition offence within the meaning given by section 64 (if subsection (3) applies) or section 137 (if subsection (4) applies);
 - (d) there is material on premises specified in the application which falls within subsection (6);
 - (e) any of the conditions referred to in subsection (9) is satisfied.
- (9) The conditions are—
- (a) that it is not practicable to communicate with a person entitled to grant entry to the premises;
 - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with a person entitled to grant access to the material referred to in subsection (8)(d);
 - (c) that entry to the premises will not be granted unless a warrant is produced;
 - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (10) The preceding provisions of this section apply to Scotland with these modifications—
- (a) in subsections (1) and (7) for “justice of the peace” substitute “sheriff”;
 - (b) in subsection (1) for “constable” substitute “procurator fiscal”;
 - (c) for “search and seizure warrant” substitute “warrant to search”;
 - (d) in subsection (6)(b) omit the words “, excluded material or special procedure material”;
 - (e) subsections (8)(e) and (9) are omitted.

157 Production orders

- (1) A judge may, on an application made to him by a constable, make a production order if he is satisfied that the requirements for the making of a production order are fulfilled.
- (2) The application for a production order must state that—

- (a) the extradition of a person specified in the application is sought under Part 1 or Part 2;
 - (b) the order is sought in relation to premises specified in the application;
 - (c) the order is sought in relation to material, or material of a description, specified in the application;
 - (d) the material is special procedure material or excluded material;
 - (e) a person specified in the application appears to be in possession or control of the material.
- (3) If the application states that the extradition of the person is sought under Part 1, the application must also state that the person is accused in a category 1 territory specified in the application of the commission of an offence—
- (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 64.
- (4) If the application states that the extradition of the person is sought under Part 2, the application must also state that the person is accused in a category 2 territory specified in the application of the commission of an offence—
- (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 137.
- (5) A production order is an order either—
- (a) requiring the person the application for the order specifies as appearing to be in possession or control of special procedure material or excluded material to produce it to a constable (within the period stated in the order) for him to take away, or
 - (b) requiring that person to give a constable access to the special procedure material or excluded material within the period stated in the order.
- (6) The period stated in a production order must be a period of 7 days starting with the day on which the order is made, unless it appears to the judge by whom the order is made that a longer period would be appropriate.
- (7) Production orders have effect as if they were orders of the court.
- (8) In this section “judge”—
- (a) in England and Wales, means a circuit judge;
 - (b) in Northern Ireland, means a Crown Court judge.

158 Requirements for making of production order

- (1) These are the requirements for the making of a production order.
- (2) There must be reasonable grounds for believing that—
- (a) the offence specified in the application has been committed by the person so specified;
 - (b) the person is in the United Kingdom or is on his way to the United Kingdom;
 - (c) the offence is an extradition offence within the meaning given by section 64 (if section 157(3) applies) or section 137 (if section 157(4) applies);
 - (d) there is material which consists of or includes special procedure material or excluded material on premises specified in the application;

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- (e) the material would be likely to be admissible evidence at a trial in the relevant part of the United Kingdom for the offence specified in the application (on the assumption that conduct constituting that offence would constitute an offence in that part of the United Kingdom).
- (3) The relevant part of the United Kingdom is the part of the United Kingdom where the judge exercises jurisdiction.
- (4) It must appear that other methods of obtaining the material—
 - (a) have been tried without success, or
 - (b) have not been tried because they were bound to fail.
- (5) It must be in the public interest that the material should be produced or that access to it should be given.

159 Computer information

- (1) This section applies if any of the special procedure material or excluded material specified in an application for a production order consists of information stored in any electronic form.
- (2) If the order is an order requiring a person to produce the material to a constable for him to take away, it has effect as an order to produce the material in a form—
 - (a) in which it can be taken away by him;
 - (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (3) If the order is an order requiring a person to give a constable access to the material, it has effect as an order to give him access to the material in a form—
 - (a) in which it is visible and legible, or
 - (b) from which it can readily be produced in a visible and legible form.

160 Warrants: special procedure material and excluded material

- (1) A judge may, on an application made to him by a constable, issue a warrant under this section if he is satisfied that—
 - (a) the requirements for the making of a production order are fulfilled, and
 - (b) the further requirement for the issue of a warrant under this section is fulfilled.
- (2) The application for a warrant under this section must state that—
 - (a) the extradition of a person specified in the application is sought under Part 1 or Part 2;
 - (b) the warrant is sought in relation to premises specified in the application;
 - (c) the warrant is sought in relation to material, or material of a description, specified in the application;
 - (d) the material is special procedure material or excluded material.
- (3) If the application states that the extradition of the person is sought under Part 1, the application must also state that the person is accused in a category 1 territory specified in the application of the commission of an offence—
 - (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 64.

- (4) If the application states that the extradition of the person is sought under Part 2, the application must also state that the person is accused in a category 2 territory specified in the application of the commission of an offence—
 - (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 137.
- (5) A warrant under this section authorises a constable to enter and search the premises specified in the application for the warrant and—
 - (a) to seize and retain any material found there which falls within subsection (6) and which is special procedure material, if the application for the warrant states that the warrant is sought in relation to special procedure material;
 - (b) to seize and retain any material found there which falls within subsection (6) and which is excluded material, if the application for the warrant states that the warrant is sought in relation to excluded material.
- (6) Material falls within this subsection if it would be likely to be admissible evidence at a trial in the relevant part of the United Kingdom for the offence specified in the application for the warrant (on the assumption that conduct constituting that offence would constitute an offence in that part of the United Kingdom).
- (7) The relevant part of the United Kingdom is the part of the United Kingdom where the judge exercises jurisdiction.
- (8) The further requirement for the issue of a warrant under this section is that any of these conditions is satisfied—
 - (a) it is not practicable to communicate with a person entitled to grant entry to the premises;
 - (b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with a person entitled to grant access to the material referred to in section 158(2)(d);
 - (c) the material contains information which is subject to a restriction on disclosure or an obligation of secrecy contained in an enactment (including one passed after this Act) and is likely to be disclosed in breach of the restriction or obligation if a warrant is not issued.
- (9) In this section “judge”—
 - (a) in England and Wales, means a circuit judge;
 - (b) in Northern Ireland, means a Crown Court judge.