

2003 No. 174

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984 and Police and Criminal Evidence (Northern Ireland) Order 1989) Order 2003

Made - - - - - *29th January 2003*

Laid before Parliament *3rd February 2003*

Coming into force - - *24th February 2003*

The Secretary of State, in exercise of the power conferred on him by section 355 of the Proceeds of Crime Act 2002(a), hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984 and Police and Criminal Evidence (Northern Ireland) Order 1989) Order 2003 and shall come into force on 24th February 2003.

Application of section 15 of the Police and Criminal Evidence Act 1984

2.—(1) Section 15 of the Police and Criminal Evidence Act 1984(b) (search warrants—safeguards) applies to search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

(a) for subsection (1), there is substituted—

“(1) This section and section 16 have effect in relation to the issue to an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) of a search and seizure warrant under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation and an entry on or search of premises under such a warrant is unlawful unless the warrant complies with this section and is executed in accordance with section 16”;

(b) in subsection (2), for “a constable”, there is substituted “an appropriate officer”;

(c) in subsection (2), paragraph (b) is omitted;

(d) in subsection (2), paragraph (c) is omitted;

(e) in subsection (3), the words “and supported by an information in writing” are omitted;

(f) in subsection (4), for “constable”, there is substituted “appropriate officer”;

(g) in subsection (4), the words “justice of the peace or” are omitted;

(h) in subsection (6), for sub-paragraph (iii) of paragraph (a), there is substituted—

(a) 2002 c. 29.

(b) 1984 c. 60.

- “(iii) the statutory power under which it is issued and, unless the judge orders otherwise, an indication of the nature of the investigation in respect of which it is issued; and”;
- (i) in subsection (6), at the beginning of paragraph (b), there is inserted “in the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with),”;
- (j) in subsection (6)(b), for “articles or persons”, there is substituted “material”.

Application of section 16 of the Police and Criminal Evidence Act 1984

3.—(1) Section 16(a) of the Police and Criminal Evidence Act 1984 (execution of warrants) applies to search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) subsection (1) is omitted;
- (b) in subsection (2), for “Such a warrant”, there is substituted “A search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002”;
- (c) in subsection (2), for “constable”, there is substituted “appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (d) for “the constable”, in each subsequent place where it occurs, there is substituted “the appropriate person”;
- (e) for “a constable”, in each subsequent place where it occurs, there is substituted “an appropriate person”;
- (f) at the beginning of subsection (9), there is inserted “In the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with),”;
- (g) in subsection (9)(a), for “articles or persons sought were”, there is substituted “material sought was”;
- (h) in subsection (9)(b), for “articles were seized, other than articles which were”, there is substituted “material was seized, other than material which was”;
- (i) for sub-paragraphs (i) and (ii) of subsection (10), there is substituted “to an officer of the court at which it was issued.”;
- (j) for paragraphs (a) and (b) of subsection (11), there is substituted “by an officer of the court at which it was issued.”.

Application of section 21 of the Police and Criminal Evidence Act 1984

4.—(1) Section 21 of the Police and Criminal Evidence Act 1984 (access and copying) applies to powers of seizure under search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) in subsection (1), for “A constable”, there is substituted, “An appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (b) in subsection (1), for “in the exercise of a power conferred by any enactment, including an enactment contained in an Act passed after this Act,”, there is substituted “under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation”;
- (c) in subsection (2), for “officer”, there is substituted “appropriate person”;
- (d) in subsection (3), for “a constable” where first occurring, there is substituted, “an appropriate person”;
- (e) in subsection (3)(b), for “the police”, there is substituted “the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;

(a) Section 16 was amended by section 90 of and Schedule 13 to the Access to Justice Act 1999 (c. 22).

- (f) in subsection (3)(b), the words “for the purpose of investigating an offence” are omitted;
- (g) in subsection (3), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (h) in subsection (3), for “a constable” in the second place where it occurs, there is substituted “an appropriate officer”;
- (i) in subsection (4), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (j) in subsection (4)(a), for “a constable”, there is substituted “an appropriate officer”;
- (k) in subsection (5), for “A constable”, there is substituted “An appropriate person”;
- (l) in subsection (8), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (m) in subsection (8)(b), the words “other than the offence for the purposes of investigating which the thing was seized” are omitted;
- (n) in subsection (8)(c), after “criminal proceedings”, there is inserted “(including proceedings related to the making of a confiscation order)”.

Application of section 22 of the Police and Criminal Evidence Act 1984

5.—(1) Section 22(a) of the Police and Criminal Evidence Act 1984 (retention) applies to powers of seizure under search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) in subsection (1), for “a constable” where first occurring, there is substituted “an appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (b) in subsection (1), for “a constable” in the second place where it occurs, there is substituted “an appropriate person”;
- (c) in subsection (1), for “following a requirement made by virtue of section 19 or 20 above”, there is substituted “under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation”;
- (d) in subsection (1), after “retained”, there is inserted “by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (e) in subsection (2), for “criminal investigation”, there is substituted “confiscation investigation or money laundering investigation”;
- (f) after subsection (2)(a)(i), the word “or” is omitted;
- (g) after subsection (2)(a)(ii), the word “and” is omitted;
- (h) after subsection (2)(a)(ii), there is inserted—
 - “(iii) for use as evidence in proceedings relating to the making of a confiscation order under the Drug Trafficking Offences Act 1986(b), Part VI of the Criminal Justice Act 1988(c), Part I of the Drug Trafficking Act 1994(d) or Part 2 of the Proceeds of Crime Act 2002; or
 - (iv) for forensic examination or for investigation in connection with a confiscation investigation or money laundering investigation; and”;
- (i) subsections (3), (5) and (6) are omitted.

Application of article 17 of the Police and Criminal Evidence (Northern Ireland) Order 1989

6.—(1) Article 17 of the Police and Criminal Evidence (Northern Ireland) Order 1989(e) (search warrants—safeguards) applies to search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(a) Section 22 was amended by section 169 of and Schedule 14 to the Immigration and Asylum Act 1999 (c. 33).
 (b) 1986 c. 32.
 (c) 1988 c. 33.
 (d) 1994 c. 37.
 (e) S.I. 1989/1341 (N.I. 12).

(2) The modifications are that—

(a) for paragraph (1), there is substituted—

“(1) This article and article 18 have effect in relation to the issue to an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) of a search and seizure warrant under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation and an entry on or search of premises under such a warrant is unlawful unless the warrant complies with this article and is executed in accordance with article 18.”;

(b) in paragraph (2), for “a constable”, there is substituted “an appropriate officer”;

(c) in paragraph (2), sub-paragraph (b) is omitted;

(d) in paragraph (2), sub-paragraph (c) is omitted;

(e) in paragraph (3), the words “supported by a complaint in writing and” are omitted;

(f) in paragraph (4), for “constable”, there is substituted “appropriate officer”;

(g) in paragraph (4), the words “justice of the peace or” are omitted;

(h) in paragraph (6), for sub-paragraph (iii) of sub-paragraph (a), there is substituted—

“(iii) the statutory power under which it is issued and, unless the judge orders otherwise, an indication of the nature of the investigation in respect of which it is issued; and”;

(i) in paragraph (6), at the beginning of sub-paragraph (b), there is inserted “in the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with),”;

(j) in paragraph (6)(b), for “articles or persons”, there is substituted “material”;

(k) in paragraph (8), the words “justice of the peace or” are omitted.

Application of article 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989

7.—(1) Article 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (execution of warrants) applies to search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

(a) paragraph (1) is omitted;

(b) in paragraph (2) for “Such a warrant”, there is substituted “A search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002”;

(c) in paragraph (2), for “constable”, there is substituted “appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;

(d) for “the constable”, in each subsequent place where it occurs, there is substituted “the appropriate person”;

(e) for “a constable”, in each subsequent place where it occurs, there is substituted “an appropriate person”;

(f) at the beginning of paragraph (9), there is inserted “In the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with),”;

(g) in paragraph (9)(a), for “articles or persons sought were”, there is substituted “material sought was”;

(h) in paragraph (9)(b), for “articles were seized, other than articles which were”, there is substituted “material was seized, other than material which was”;

(i) in paragraph (10), for “clerk of petty sessions for the petty sessions district in which the premises are situated”, there is substituted “chief clerk for the county court division in which the property is situated”.

Application of article 23 of the Police and Criminal Evidence (Northern Ireland) Order 1989

8.—(1) Article 23 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (access and copying) applies to powers of seizure under search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

- (2) The modifications are that—
- (a) in paragraph (1) for “A constable”, there is substituted, “An appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
 - (b) in paragraph (1), for “in the exercise of a power conferred by any statutory provision, including a statutory provision passed or made after the making of this Order,”, there is substituted “under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation”;
 - (c) in paragraph (2), for “constable”, there is substituted “appropriate person”;
 - (d) in paragraph (3), for “a constable” where first occurring, there is substituted, “an appropriate person”;
 - (e) in paragraph (3)(b), for “the police”, there is substituted “the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
 - (f) in paragraph (3)(b), the words “for the purpose of investigating an offence” are omitted;
 - (g) in paragraph (3), before “officer in charge of the investigation”, there is inserted “appropriate”;
 - (h) in paragraph (3), for “a constable” in the second place where it occurs, there is substituted “an appropriate officer”;
 - (i) in paragraph (4), before “officer in charge of the investigation”, there is inserted “appropriate”;
 - (j) in paragraph (4)(a), for “a constable”, there is substituted “an appropriate officer”;
 - (k) in paragraph (5), for “A constable”, there is substituted “An appropriate person”;
 - (l) in paragraph (8), before “officer in charge of the investigation”, there is inserted “appropriate”;
 - (m) in paragraph (8)(b), the words “other than the offence for the purposes of investigating which the thing was seized” are omitted;
 - (n) in paragraph (8)(c), after “criminal proceedings”, there is inserted “(including proceedings related to the making of a confiscation order)”.

Application of article 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989

9.—(1) Article 24(a) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (retention) applies to powers of seizure under search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

- (2) The modifications are that—
- (a) in paragraph (1), for “a constable” where first occurring, there is substituted “an appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
 - (b) in paragraph (1), for “a constable” in the second place where it occurs, there is substituted “an appropriate person”;
 - (c) in paragraph (1), for “following a requirement made by virtue of Article 21 or 22”, there is substituted “under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation”;
 - (d) in paragraph (1), after “retained”, there is inserted “by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;

(a) Article 24 was amended by section 74 of and Schedule 4 to the Police (Northern Ireland) Act 1998 (c. 32) and section 169 of and Schedule 14 to the Immigration and Asylum Act 1999 (c. 33).

- (e) in paragraph (2), for “criminal investigation”, there is substituted “confiscation investigation or money laundering investigation”;
- (f) after paragraph (2)(a)(i), the word “or” is omitted;
- (g) after paragraph (2)(a)(ii), the word “and” is omitted;
- (h) after paragraph (2)(a)(ii), there is inserted—
 - “(iii) for use as evidence in proceedings relating to the making of a confiscation order under the Criminal Justice (Confiscation) (Northern Ireland) Order 1990^(a), the Proceeds of Crime (Northern Ireland) Order 1996^(b) or Part 4 of the Proceeds of Crime Act 2002; or
 - (iv) for forensic examination or for investigation in connection with a confiscation investigation or money laundering investigation; and”;
- (i) paragraphs (3), (5) and (6) are omitted.

10. For ease of reference—

- (a) sections 15, 16, 21 and 22 of the Police and Criminal Evidence Act 1984, as modified by articles 2 to 5 of this Order, are set out in Schedule 1 to this Order; and
- (b) articles 17, 18, 23 and 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989, as modified by articles 6 to 9 of this Order, are set out in Schedule 2 to this Order.

Home Office
29th January 2003

Bob Ainsworth
Parliamentary Under-Secretary of State

^(a) S.I. 1990/2588 (N.I. 17).
^(b) S.I. 1996/1299 (N.I. 9).

SECTIONS 15, 16, 21 AND 22 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984, AS MODIFIED

Search warrants—safeguards

15.—(1) This section and section 16 have effect in relation to the issue to an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) of a search and seizure warrant under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation and an entry on or search of premises under such a warrant is unlawful unless it complies with this section and is executed in accordance with section 16.

- (2) Where an appropriate officer applies for any such warrant, it shall be his duty—
- (a) to state—
 - (i) the ground on which he makes the application; and
 - (ii) the enactment under which the warrant would be issued;
 - (b) . . . ;
 - (c)
- (3) An application for such a warrant shall be made *ex parte*.
- (4) The appropriate officer shall answer on oath any question that the judge hearing the application asks him.
- (5) A warrant shall authorise an entry on one occasion only.
- (6) A warrant—
- (a) shall specify—
 - (i) the name of the person who applies for it;
 - (ii) the date on which it is issued;
 - (iii) the statutory power under which it is issued and, unless the judge orders otherwise, an indication of the nature of the investigation in respect of which it is issued; and
 - (iv) the premises to be searched; and
 - (b) in the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with), shall identify, so far as is practicable, the material to be sought.
- (7) Two copies shall be made of a warrant.
- (8) The copies shall be clearly certified as copies.

Execution of warrants

16.—(1) . . .

(2) A search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 may authorise persons to accompany any appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002) who is executing it.

- (3) Entry and search under a warrant must be within one month from the date of its issue.
- (4) Entry and search under a warrant must be at a reasonable hour unless it appears to the appropriate person executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.
- (5) Where the occupier of premises which are to be entered and searched is present at the time when an appropriate person seeks to execute a warrant to enter and search them, the appropriate person—
- (a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is an appropriate person;
 - (b) shall produce the warrant to him; and
 - (c) shall supply him with a copy of it.
- (6) Where—
- (a) the occupier of such premises is not present at the time when an appropriate person seeks to execute such a warrant; but
 - (b) some other person who appears to the appropriate person to be in charge of the premises is present, subsection (5) above shall have effect as if any reference to the occupier were a reference to that other person.

(7) If there is no person present who appears to the appropriate person to be in charge of the premises, he shall leave a copy of the warrant in a prominent place on the premises.

(8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(9) In the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made but not complied with), an appropriate person executing a warrant shall make an endorsement on it stating—

(a) whether the material sought was found; and

(b) whether any material was seized, other than material which was sought.

(10) A warrant which—

(a) has been executed; or

(b) has not been executed within the time authorised for its execution,

shall be returned to an officer of the court at which it was issued.

(11) A warrant which is returned under subsection (10) above shall be retained for 12 months from its return by an officer of the court at which it was issued.

(12) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, he shall be allowed to do so.

Access and copying

21.—(1) An appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002) who seizes anything under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation shall, if so requested by a person showing himself—

(a) to be the occupier of premises on which it was seized; or

(b) to have had custody or control of it immediately before the seizure,

provide that person with a record of what he seized.

(2) The appropriate person shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to subsection (8) below, if a request for permission to be granted access to anything which—

(a) has been seized by an appropriate person; and

(b) is retained by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002),

is made to the appropriate officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an appropriate officer.

(4) Subject to subsection (8) below, if a request for a photograph or copy of any such thing is made to the appropriate officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized, or by someone acting on behalf of such a person, the officer shall—

(a) allow the person who made the request access to it under the supervision of an appropriate officer for the purpose of photographing or copying it; or

(b) photograph or copy it, or cause it to be photographed or copied.

(5) An appropriate person may also photograph or copy, or have photographed or copied, anything which he has power to seize, without a request being made under subsection (4) above.

(6) Where anything is photographed or copied under subsection (4)(b) above, the photograph or copy shall be supplied to the person who made the request.

(7) The photograph or copy shall be so supplied within a reasonable time from the making of the request.

(8) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the appropriate officer in charge of the investigation for the purposes of which it was seized has reasonable grounds for believing that to do so would prejudice—

(a) that investigation;

(b) the investigation of an offence; or

(c) any criminal proceedings (including proceedings related to the making of a confiscation order) which may be brought as a result of—

(i) the investigation of which he is in charge; or

(ii) any such investigation as is mentioned in paragraph (b) above.

Retention

22.—(1) Subject to subsection (4) below, anything which has been seized by an appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002) or taken away by an appropriate person under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation may be retained by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) so long as is necessary in all the circumstances.

- (2) Without prejudice to the generality of subsection (1) above—
- (a) anything seized for the purposes of a confiscation investigation or money laundering investigation may be retained, except as provided by subsection (4) below,—
 - (i) for use as evidence at a trial for an offence;
 - (ii) for forensic examination or for investigation in connection with an offence;
 - (iii) for use as evidence in proceedings relating to the making of a confiscation order under the Drug Trafficking Offences Act 1986, Part VI of the Criminal Justice Act 1988, Part I of the Drug Trafficking Act 1994 or Part 2 of the Proceeds of Crime Act 2002; or
 - (iv) for forensic examination or for investigation in connection with a confiscation investigation or money laundering investigation; and
 - (b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.
- (3) . . .
- (4) Nothing may be retained for either of the purposes mentioned in subsection (2)(a) above if a photograph or copy would be sufficient for that purpose.
- (5) . . .
- (6) . . .

SCHEDULE 2

Article 10

ARTICLES 17, 18, 23 AND 24 OF THE POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989, AS MODIFIED

Search warrants—safeguards

17.—(1) This article and article 18 have effect in relation to the issue to an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) of a search and seizure warrant under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation and an entry on or search of premises under such a warrant is unlawful unless the warrant complies with this article and is executed in accordance with article 18.

- (2) Where an appropriate officer applies for any such warrant, it shall be his duty—
- (a) to state—
 - (i) the ground on which he makes the application; and
 - (ii) the statutory provision under which the warrant would be issued;
 - (b) . . . ;
 - (c)
- (3) An application for such a warrant shall be substantiated on oath.
- (4) The appropriate officer shall answer any question that the judge hearing the application asks him.
- (5) A warrant shall authorise an entry on one occasion only.
- (6) A warrant—
- (a) shall specify—
 - (i) the name of the person who applies for it;
 - (ii) the date on which it is issued;
 - (iii) the statutory provision under which it is issued and, unless the judge orders otherwise, an indication of the nature of the investigation in respect of which it is issued; and
 - (iv) the premises to be searched; and

- (b) in the case of a warrant which issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with) shall identify, so far as is practicable, the material to be sought.
- (7) Two copies shall be made of a warrant.
- (8) The copies shall be clearly certified as copies by the judge who issues the warrant.

Execution of warrants

18.—(1) . . .

(2) A search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 may authorise persons to accompany any appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002) who is executing it.

(3) Entry and search under a warrant must be within one month from the date of its issue.

(4) Entry and search under a warrant must be at a reasonable hour unless it appears to the appropriate person executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.

(5) Where the occupier of premises which are to be entered and searched is present at the time when an appropriate person seeks to execute a warrant to enter and search them, the appropriate person—

- (a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is an appropriate person;
- (b) shall produce the warrant to him; and
- (c) shall supply him with a certified copy of it.

(6) Where—

- (a) the occupier of such premises is not present at the time when an appropriate person seeks to execute such a warrant; but
- (b) some other person who appears to the appropriate person to be in charge of the premises is present,

paragraph (5) shall have effect as if any reference to the occupier were a reference to that other person.

(7) If there is no person present who appears to the appropriate person to be in charge of the premises, he shall leave or affix a copy of the warrant in a prominent place on the premises.

(8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(9) In the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with), an appropriate person executing a warrant shall make an endorsement on it stating—

- (a) whether the material sought was found; and
- (b) whether any material was seized, other than material which was sought.

(10) A warrant which—

- (a) has been executed; or
- (b) has not been executed within the time authorised for its execution,

shall be returned to the chief clerk for the county court division in which the property is situated.

(11) A warrant which is returned under paragraph (10) shall be retained for 12 months from its return.

(12) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, he shall be allowed to do so.

Access and copying

23.—(1) An appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002) who seizes anything under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation shall, if so requested by a person showing himself—

- (a) to be the occupier of premises on which it was seized; or
- (b) to have had custody or control of it immediately before the seizure,

provide that person with a record of what he seized.

(2) The appropriate person shall provide the record within a reasonable time from the making of the request for it.

- (3) Subject to paragraph (8), if a request for permission to be granted access to anything which—
 - (a) has been seized by an appropriate person; and
 - (b) is retained by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002),

is made to the appropriate officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an appropriate officer.

(4) Subject to paragraph (8), if a request for a photograph or copy of any such thing is made to the appropriate officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized, or by someone acting on behalf of such a person, the officer shall—

- (a) allow the person who made the request access to it under the supervision of an appropriate officer for the purpose of photographing or copying it; or
- (b) photograph or copy it, or cause it to be photographed or copied.

(5) An appropriate person may also photograph or copy, or have photographed or copied, anything which he has power to seize, without a request being made under paragraph (4).

(6) Where anything is photographed or copied under paragraph (4)(b), the photograph or copy shall be supplied to the person who made the request.

(7) The photograph or copy shall be so supplied within a reasonable time from the making of the request.

(8) There is no duty under this Article to grant access to, or to supply a photograph or copy of, anything if the appropriate officer in charge of the investigation for the purposes of which it was seized has reasonable grounds for believing that to do so would prejudice—

- (a) that investigation;
- (b) the investigation of an offence; or
- (c) any criminal proceedings (including proceedings related to the making of a confiscation order) which may be brought as a result of—
 - (i) the investigation of which he is in charge; or
 - (ii) any such investigation as is mentioned in sub-paragraph (b).

Retention

24.—(1) Subject to paragraph (4), anything which has been seized by an appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002) or taken away by an appropriate person under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation may be retained by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) so long as is necessary in all the circumstances.

(2) Without prejudice to the generality of paragraph (1)—

- (a) anything seized for the purposes of a confiscation investigation or money laundering investigation may be retained, except as provided by paragraph (4)—
 - (i) for use as evidence at a trial for an offence;
 - (ii) for forensic examination or for investigation in connection with an offence;
 - (iii) for use as evidence in proceedings relating to the making of a confiscation order under the Criminal Justice (Confiscation) (Northern Ireland) Order 1990, the Proceeds of Crime (Northern Ireland) Order 1996 or Part 4 of the Proceeds of Crime Act 2002; or
 - (iv) for forensic examination or for investigation in connection with a confiscation investigation or money laundering investigation; and
- (b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.

(3) . . .

(4) Nothing may be retained for either of the purposes mentioned in paragraph (2)(a) if a photograph or copy would be sufficient for that purpose.

(5) . . .

(6) . . .

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies, with specified modifications, certain provisions of the Police and Criminal Evidence Act 1984 and the Police and Criminal Evidence (Northern Ireland) Order 1989 to search and seizure warrants sought under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation and powers of seizure under them.

£2.50

© Crown copyright 2003

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0121 2/2003 130121 19585

ISBN 0-11-044840-5



9 780110 448404