

POLICE AND CRIMINAL EVIDENCE ACT 1984

PART II

POWERS OF ENTRY, SEARCH AND SEIZURE

8. Power of justice of the peace to authorise entry and search of premises

(1) If on an application made by a constable a justice of the peace is satisfied that there are reasonable grounds for believing-

- (a) that a serious arrestable offence has been committed; and
 - (b) that there is material on premises specified in the application which is likely to be of substantial value ... to the investigation of the offence; and
 - (c) that the material is likely to be relevant evidence; and
 - (d) that it does not consist of or include items subject to legal privilege ...; and
 - (e) that any of the conditions specified in subsection (3) below applies,
- he may issue a warrant authorising a constable to enter and search the premises.

(2) A constable may seize and retain anything for which a search has been authorised under subsection (1) above.

(3) The conditions mentioned in subsection (1)(e) above are-

- (a) that it is not practicable to communicate with any 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 any person entitled to grant access to the evidence;
- (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.

15. Search warrants safeguards

(1) This section and section 16 below have effect in relation to the issue to constables under any enactment, including an enactment contained in an Act passed after this Act, of warrants to enter and search premises; and an entry on or search of premises under a warrant is unlawful unless it complies with this section and section 16 below.

(2) Where a constable 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) to specify the premises which it is desired to enter and search; and
- (c) to identify, so far as is practicable, the articles or persons to be sought.

(3) An application for such a warrant shall be made ex parte and supported by an information in writing.

(4) The constable shall answer on oath any question that the justice of the peace or 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; and
 - (iii) the enactment under which it is issued; and

- (iv) the premises to be searched; and
- (b) shall identify, so far as is practicable, the articles or persons to be sought.

16. Execution of warrants

- (1) A warrant to enter and search premises may be executed by any constable.
- (2) Such a warrant may authorise persons to accompany any constable 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 constable 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 a constable seeks to execute a warrant to enter and search them, the constable-
 - (a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a constable;
 - (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 a constable seeks to execute such a warrant; but
 - (b) some other person who appears to the constable 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 constable 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) A constable executing a warrant shall make an endorsement on it stating-
 - (a) whether the articles or persons sought were found; and
 - (b) whether any articles were seized, other than articles which were sought.

Entry and search without search warrant

17. Entry for purpose of arrest etc.

- (1) Subject to the following provisions of this section, and without prejudice to any other enactment, a constable may enter and search any premises for the purpose-
 - (a) of executing-
 - (i) a warrant of arrest issued in connection with or arising out of criminal proceedings; or
 - (ii) a warrant of commitment issued under section 76 of the Magistrates' Courts Act 1980;
 - (b) if arresting a person for an arrestable offence;
 - (c) if arresting a person for an offence under-
 - (i) section 1 (prohibition of uniforms in connection with political objects) ... of the Public Order Act 1936;

- (ii) any enactment contained in sections 6 to 8 or 10 of the Criminal Law Act 1977 (offences relating to entering and remaining on property);
- (iii) section 4 of the Public Order Act 1986 (fear or provocation of violence);
- (d) of recapturing a person who is unlawfully at large and whom he is pursuing; or
- (e) if saving life or limb or preventing serious damage to property.

(2) Except for the purpose specified in paragraph (e) of subsection (1) above, the powers of entry and search conferred by this section-

- (a) are only exercisable if the constable has reasonable grounds for believing that the person whom he is seeking is on the premises; and
- (b) are limited, in relation to premises consisting of two or more separate dwellings, to powers to enter and search
 - (i) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling; and
 - (ii) any such dwelling in which the constable has reasonable grounds for believing that the person whom he is seeking may be.

(3) The powers of entry and search conferred by this section are only exercisable for the purposes specified in subsection (1)(c)(ii) above by a constable in uniform.

(4) The power of search conferred by this section is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.

(5) Subject to subsection (6) below, all the rules of common law under which a constable has power to enter premises without a warrant are hereby abolished.

(6) Nothing in subsection (5) above affects any power of entry to deal with or prevent a breach of the peace.

18. Entry and search after arrest

(1) Subject to the following provisions of this section, a constable may enter and search any premises occupied or controlled by a person who is under arrest for an arrestable offence, if he has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates-

- (a) to that offence; or
- (b) to some other arrestable offence which is connected with or similar to that offence.

(2) A constable may seize and retain anything for which he may search under subsection

(1) above.

(3) The power to search conferred by subsection (1) above is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence.

(4) Subject to subsection (5) below, the powers conferred by this section may not be exercised unless an officer of the rank of inspector or above has authorised them in writing.

(5) A constable may conduct a search under subsection (1) above-

- (a) before taking the person to a police station; and
 - (b) without obtaining an authorisation under subsection (4) above,
- if the presence of that person at a place other than a police station is necessary for the effective investigation of the offence.

(6) If a constable conducts a search by virtue of subsection (5) above, he shall inform an officer of the rank of inspector or above that he has made the search as soon as practicable after he has made it.

(7) An officer who-

- (a) authorised a search; or
 - (b) is informed of a search under subsection (6) above, shall make a record in writing-
 - (i) of the ground for the search; and
 - (ii) of the nature of the evidence that was sought.
- (8) If the person who was in occupation or control of the premises at the time of the search is in police detention at the time the record is to be made, the officer shall make the record as part of his custody record.

Seizure etc.

19. General power of seizure etc.

- (1) The powers conferred by subsections (2), (3) and (4) below are exercisable by a constable who is lawfully on any premises.
- (2) The constable may seize anything which is on the premises if he has reasonable grounds for believing-
- (a) that it has been obtained in consequence of the commission of an offence; and
 - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (3) The constable may seize anything which is on the premises if he has reasonable grounds for believing-
- (a) that it is evidence in relation to an offence which he is investigating or any other offence; and
 - (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.
- (4) The constable may require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible if he has reasonable grounds for believing-
- (a) that-
 - (i) it is evidence in relation to an offence which he is investigating or any other offence; or
 - (ii) it has been obtained in consequence of the commission of an offence; and
 - (b) that it is necessary to do so in order to prevent it being concealed, lost, tampered with or destroyed.
- (5) The powers conferred by this section are in addition to any power otherwise conferred.
- (6) No power of seizure conferred on a constable under any enactment (including an enactment contained in an Act passed after this Act) is to be taken to authorise the seizure of an item which the constable exercising the power has reasonable grounds for believing to be subject to legal privilege.