



# Drug Trafficking Act 1994

## 1994 CHAPTER 37

### PART IV

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Investigations into drug trafficking*

#### **55 Order to make material available.**

- (1) A constable may, for the purpose of an investigation into drug trafficking, apply to a Circuit judge for an order under subsection (2) below in relation to particular material or material of a particular description.
- (2) If on such an application the judge is satisfied that the conditions in subsection (4) below are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall—
  - (a) produce it to a constable for him to take away, or
  - (b) give a constable access to it,within such period as the order may specify.

This subsection has effect subject to section 59(11) of this Act.

- (3) The period to be specified in an order under subsection (2) above shall be seven days unless it appears to the judge that a longer or shorter period would be appropriate in the particular circumstances of the application.
- (4) The conditions referred to in subsection (2) above are—
  - (a) that there are reasonable grounds for suspecting that a specified person has carried on <sup>F1</sup>... drug trafficking;
  - (b) that there are reasonable grounds for suspecting that the material to which the application relates—
    - (i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made; and

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- (ii) does not consist of or include items subject to legal privilege or excluded material; and
- (c) that there are reasonable grounds for believing that it is in the public interest, having regard—
  - (i) to the benefit likely to accrue to the investigation if the material is obtained, and
  - (ii) to the circumstances under which the person in possession of the material holds it,
 that the material should be produced or that access to it should be given.
- (5) Where the judge makes an order under subsection (2)(b) above in relation to material on any premises he may, on the application of a constable, order any person who appears to him to be entitled to grant entry to the premises to allow a constable to enter the premises to obtain access to the material.
- (6) An application under subsection (1) or (5) above may be made ex parte to a judge in chambers.
- (7) Provision may be made by [<sup>F2</sup>Criminal Procedure Rules] as to—
  - (a) the discharge and variation of orders under this section; and
  - (b) proceedings relating to such orders.
- (8) An order of a Circuit judge under this section shall have effect as if it were an order of the Crown Court.
- (9) Where the material to which an application under subsection (1) above relates consists of information contained in a computer—
  - (a) an order under subsection (2)(a) above shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
  - (b) an order under subsection (2)(b) above shall have effect as an order to give access to the material in a form in which it is visible and legible.
- (10) An order under subsection (2) above—
  - (a) shall not confer any right to production of, or access to, items subject to legal privilege or excluded material;
  - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise; and
  - (c) may be made in relation to material in the possession of an authorised government department;
 and in this subsection “authorised government department” means a government department which is an authorised department for the purposes of the Crown <sup>M1</sup> Proceedings Act 1947.

#### Textual Amendments

- F1** Words in s. 55(4)(a) repealed (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), Sch. 11 para. 25(2)(b), [Sch. 12](#); [S.I. 2003/120](#), art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)
- F2** Words in s. 55(7) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 364](#); [S.I. 2004/2066](#), art. 2(c)(xvii) (with art. 3)

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**Modifications etc. (not altering text)**

- C1** S. 55 applied (with modifications) (E.W.) (1.1.1997) by [S.I. 1996/2880, arts. 3\(2\), 4-6, Sch. 1](#)  
S. 55 modified (E.W.) (1.1.1997) by [S.I. 1996/2880, art. 3\(2\), Sch. 3](#)

**Marginal Citations**

- M1** 1947 c. 44.

**56 Authority for search.**

- (1) A constable may, for the purpose of an investigation into drug trafficking, apply to a Circuit judge for a warrant under this section in relation to specified premises.
- (2) On such application the judge may issue a warrant authorising a constable to enter and search the premises if the judge is satisfied—
  - (a) that an order made under section 55 of this Act in relation to material on the premises has not been complied with;
  - (b) that the conditions in subsection (3) below are fulfilled; or
  - (c) that the conditions in subsection (4) below are fulfilled.
- (3) The conditions referred to in subsection (2)(b) above are—
  - (a) that there are reasonable grounds for suspecting that a specified person has carried on <sup>F3</sup>... drug trafficking;
  - (b) that the conditions in subsection (4)(b) and (c) of section 55 of this Act are fulfilled in relation to any material on the premises; and
  - (c) that it would not be appropriate to make an order under that section in relation to the material because—
    - (i) it is not practicable to communicate with any person entitled to produce the material;
    - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or
    - (iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a constable could secure immediate access to the material.
- (4) The conditions referred to in subsection (2)(c) above are—
  - (a) that there are reasonable grounds for suspecting that a specified person has carried on <sup>F4</sup>... drug trafficking;
  - (b) that there are reasonable grounds for suspecting that there is on the premises material relating to the specified person or to drug trafficking which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised; and
  - (c) that—
    - (i) it is not practicable to communicate with any person entitled to grant entry to the premises;
    - (ii) entry to the premises will not be granted unless a warrant is produced; or

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(iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a constable arriving at the premises could secure immediate entry to them.

(5) Where a constable has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege and excluded material, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.

#### Textual Amendments

- F3** Words in s. 56(3)(a) repealed (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 25\(2\)\(b\)](#), [Sch. 12](#); [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)
- F4** Words in s. 56(4)(a) repealed (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 25\(2\)\(b\)](#), [Sch. 12](#); [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

#### Modifications etc. (not altering text)

- C2** S. 56 applied (with modifications) (E.W.) (1.1.1997) by [S.I. 1996/2880](#), arts. 3(2), 4-6, [Sch. 1](#)  
S. 56 modified (E.W.) (1.1.1997) by [S.I. 1996/2880](#), art. 3(2), [Sch. 3](#)
- C3** S. 56(5): Power of seizure extended (*prosp.*) by 2001 c. 16, ss. 50, 52-54, 68, 138(2), [Sch. 1 Pt. 1 para. 59](#)  
S. 56(5) modified (*prosp.*) by 2001 c. 16, ss. 55, 57(3), 68, 138(2), [Sch. 1 Pt.3 para. 108](#)
- C4** S. 56(5) powers of seizure extended (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), ss. 50, 138(2), [Sch. 1 para. 59](#) (with ss. 52-54, 68); [S.I. 2003/708](#), art. 2(a)
- C5** S. 56(5) modified (1.4.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), ss. 55, 138(2), [Sch. 1 para. 108](#) (with ss. 57(3), 68); [S.I. 2003/708](#), art. 2(a)

## 57 Provisions supplementary to sections 55 and 56.

- (1) For the purposes of sections 21 and 22 of the Police <sup>M2</sup>and Criminal Evidence Act 1984 (access to, and copying and retention of, seized material)—
- an investigation into drug trafficking shall be treated as if it were an investigation of or in connection with an offence; and
  - material produced in pursuance of an order under section 55(2)(a) of this Act shall be treated as if it were material seized by a constable.
- (2) In sections 55 and 56 of this Act “excluded material”, “items subject to legal privilege” and “premises” have the same meaning as in the 1984 Act.

#### Modifications etc. (not altering text)

- C6** S. 57 applied (with modifications) (E.W.) (1.1.1997) by [S.I. 1996/2880](#), arts. 3(2), 4-6, [Sch. 1](#)  
S. 57 modified (E.W.) (1.1.1997) by [S.I. 1996/2880](#), art. 3(2), [Sch. 3](#)

#### Marginal Citations

- M2** 1984 c. 60.

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**58 Offence of prejudicing investigation.**

- (1) Where, in relation to an investigation into drug trafficking—
  - (a) an order under section 55 of this Act has been made or has been applied for and has not been refused, or
  - (b) a warrant under section 56 of this Act has been issued,a person is guilty of an offence if, knowing or suspecting that the investigation is taking place, he makes any disclosure which is likely to prejudice the investigation.
- (2) In proceedings against a person for an offence under this section, it is a defence to prove—
  - (a) that he did not know or suspect that the disclosure was likely to prejudice the investigation; or
  - (b) that he had lawful authority or reasonable excuse for making the disclosure.
- (3) Nothing in subsection (1) above makes it an offence for a professional legal adviser to disclose any information or other matter—
  - (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or
  - (b) to any person—
    - (i) in contemplation of, or in connection with, legal proceedings; and
    - (ii) for the purpose of those proceedings.
- (4) Subsection (3) above does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

**Modifications etc. (not altering text)**

- C7 S. 58 applied (with modifications) (E.W.) (1.1.1997) by S.I. 1996/2880, arts. 3(2), 4-6, **Sch. 1**  
S. 58 modified (E.W.) (1.1.1997) by S.I. 1996/2880, art. 3(2), **Sch. 3**

**59 Disclosure of information held by government departments.**

- <sup>F5</sup>(1) .....
- <sup>F5</sup>(2) .....
- <sup>F5</sup>(3) .....
- <sup>F5</sup>(4) .....
- <sup>F5</sup>(5) .....
- <sup>F5</sup>(6) .....
- <sup>F5</sup>(7) .....
- <sup>F5</sup>(8) .....

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<sup>F5</sup>(9) .....

<sup>F5</sup>(10) .....

(11) <sup>F6</sup>... in the case of material in the possession of an authorised government department, an order under section 55(2) of this Act may require any officer of the department (whether named in the order or not) who may for the time being be in possession of the material concerned to comply with it, and such an order shall be served as if the proceedings were civil proceedings against the department.

(12) The person on whom such an order is served—

- (a) shall take all reasonable steps to bring it to the attention of the officer concerned; and
- (b) if the order is not brought to that officer's attention within the period [<sup>F7</sup>specified in an order under section 55(2)], shall report the reasons for the failure to the court;

and it shall also be the duty of any other officer of the department in receipt of the order to take such steps as are mentioned in paragraph (a) above.

(13) In this section “authorised government department” means a government department which is an authorised department for the purposes of the Crown <sup>M3</sup> Proceedings Act 1947.

#### Extent Information

**E1** S. 59 extends to England and Wales only except that s. 59(10)-(13) extend also to Scotland.

#### Textual Amendments

**F5** S. 59(1)-(10) repealed (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\), s. 458\(1\), Sch. 11 para. 25\(2\)\(c\), Sch. 12](#); [S.I. 2003/120, art. 2, Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

**F6** Words in s. 59(11) repealed (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\), s. 458\(1\), Sch. 11 para. 25\(2\)\(c\), Sch. 12](#); [S.I. 2003/120, art. 2, Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

**F7** Words in s. 59(12)(b) substituted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\), s. 458\(1\), Sch. 11 para. 25\(3\)](#); [S.I. 2003/120, art. 2, Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

#### Modifications etc. (not altering text)

**C8** S. 59 applied (with modifications) (E.W.) (1.1.1997) by [S.I. 1996/2880, arts. 3\(2\), 4-6, Sch. 1](#)  
S. 59 modified (E.W.) (1.1.1997) by [S.I. 1996/2880, art. 3\(2\), Sch. 3](#)

#### Marginal Citations

**M3** 1947 c. 44.

### [<sup>F8</sup>59A Construction of sections 55 to 59

- (1) This section has effect for the purposes of sections 55 to 59.
- (2) A reference to a constable includes a reference to a customs officer.

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- (3) A customs officer is a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979 (c. 2).
- (4) Drug trafficking means doing or being concerned in any of the following (whether in England and Wales or elsewhere)—
- (a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the Misuse of Drugs Act 1971 or a corresponding law;
  - (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law;
  - (c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;
  - (d) manufacturing or supplying a scheduled substance within the meaning of section 12 of the Criminal Justice (International Co-operation) Act 1990 where the manufacture or supply is an offence under that section or would be such an offence if it took place in England and Wales;
  - (e) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 19 of that Act.
- (5) In this section “corresponding law” has the same meaning as in the Misuse of Drugs Act 1971.]

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**Textual Amendments**

- F8** S. 59A inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 25\(4\)](#); [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60(6A)(aa) inserted by [2003 c. 44 Sch. 36 para. 12\(3\)](#)
- s. 60(6A)(aa) words substituted by [2015 c. 2 Sch. 11 para. 15\(3\)](#) (This amendment not applied to legislation.gov.uk. The text prospectively inserted by 2003 c. 44, Sch. 36 para. 12 has not yet been brought into force and therefore cannot be substituted.)