



# Ivory Act 2018

## 2018 CHAPTER 30

### *Powers of entry, search and seizure*

#### **14 Power to stop and search persons**

- (1) This section applies where a police or customs officer has reasonable grounds to suspect that a person has committed, or is committing, a relevant offence.
- (2) The officer may—
  - (a) search the person for relevant evidence;
  - (b) stop and detain the person for the purposes of the search.
- (3) The powers conferred by this section may be exercised in any place to which the officer lawfully has access (whether or not it is a place to which the public has access).
- (4) In this Act—
  - “police or customs officer” means—
    - (a) a constable,
    - (b) a designated customs official, or
    - (c) a designated NCA officer authorised by the Director General of the National Crime Agency (whether generally or specifically) to exercise the powers of a police or customs officer under this Act;
  - “relevant evidence” means evidence that a relevant offence has been committed;
  - “relevant offence” means—
    - (a) an offence in connection with an exemption certificate or with registration under section 10, or
    - (b) an offence under section 12.

#### **15 Power to stop and search vehicles**

- (1) This section applies where—
  - (a) a police or customs officer has reasonable grounds to suspect that there is relevant evidence in a vehicle, and

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- (b) the vehicle is not a dwelling.
- (2) The officer may at any time—
  - (a) enter the vehicle and search it for relevant evidence;
  - (b) stop and detain the vehicle for the purposes of entering and searching it.
- (3) Where—
  - (a) a police or customs officer has stopped a vehicle under this section, and
  - (b) the officer considers that it would be impracticable to search the vehicle in the place where it has stopped,the officer may require the vehicle to be taken to another place to enable the vehicle to be searched.
- (4) A police or customs officer may require—
  - (a) any person travelling in a vehicle, or
  - (b) the registered keeper of a vehicle,to provide any help and facilities, with respect to matters under the person's control, that the officer considers would facilitate the exercise of a power conferred by this section.
- (5) The powers conferred by this section may be exercised in any place to which the officer lawfully has access (whether or not it is a place to which the public has access).
- (6) In this section “vehicle” does not include any vessel or aircraft (as to which, see section 16).
- (7) For provisions conferring additional powers on police or customs officers to enter and search vehicles, see section 17.

## **16 Power to board and search vessels and aircraft**

- (1) This section applies where—
  - (a) a police or customs officer has reasonable grounds to suspect that there is relevant evidence in or on any vessel or aircraft, and
  - (b) the vessel or aircraft is not a dwelling.
- (2) The officer may at any time—
  - (a) board the vessel or aircraft;
  - (b) search it for relevant evidence.
- (3) For the purposes of exercising the power conferred by subsection (2), the officer may require a vessel or aircraft—
  - (a) to stop, or
  - (b) to do anything else that would facilitate the boarding of that or any other vessel or aircraft.
- (4) A police or customs officer who has boarded a vessel or aircraft may, for the purposes of disembarking from the vessel or aircraft, require that or any other vessel or aircraft—
  - (a) to stop, or
  - (b) to do anything else that would enable the officer to disembark from the vessel or aircraft.

- (5) A police or customs officer may require any person on board a vessel or aircraft to provide any help and facilities, with respect to matters under that person's control, that the officer considers would facilitate the exercise of a power conferred by this section.
- (6) The powers conferred by this section may be exercised in any place to which the officer lawfully has access (whether or not it is a place to which the public has access).
- (7) For provision conferring additional powers on police or customs officers to enter and search vessels and aircraft, see section 17.

## **17 Warrants authorising entry and search of premises**

- (1) Where a justice is satisfied that the requirements in subsection (5) are met in relation to any premises, the justice may issue a warrant (a "search warrant") authorising a police or customs officer—
  - (a) to enter the premises;
  - (b) to search them for relevant evidence.
- (2) A search warrant may be issued only on the application of—
  - (a) a police or customs officer, in England and Wales or Northern Ireland;
  - (b) a police or customs officer or a procurator fiscal, in Scotland.
- (3) A police or customs officer may apply for a search warrant only if the officer is a senior officer or is authorised by a senior officer to make the application.  
  
In this subsection "senior officer" means—
  - (a) a constable of at least the rank of inspector;
  - (b) a designated customs official of at least the grade of senior officer;
  - (c) a designated NCA officer of grade 3 or above.
- (4) A search warrant may be either—
  - (a) a warrant that relates only to premises specified in the warrant (a "specific-premises warrant"), or
  - (b) in the case of a warrant issued in England and Wales or Northern Ireland, a warrant that relates to any premises occupied or controlled by a person specified in the warrant (an "all-premises warrant").
- (5) The requirements of this subsection are met in relation to premises if there are reasonable grounds to suspect that—
  - (a) there are items on the premises that are relevant evidence, and
  - (b) in a case where the premises are specified in the application, any of the conditions in subsection (6) is met.
- (6) The conditions referred to in subsection (5)(b) are—
  - (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
  - (b) that it is not practicable to communicate with any person entitled to grant access to the items;
  - (c) that entry to the premises is unlikely to be granted unless a warrant is produced;

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- (d) that the purpose of entry may be frustrated or seriously prejudiced unless a police or customs officer arriving at the premises can secure immediate entry to them.
- (7) In this Act “premises” includes any place and, in particular, includes—
  - (a) a vehicle, vessel or aircraft;
  - (b) a tent or moveable structure.

## **18 Further provision about search warrants**

- (1) An application for a search warrant must be supported—
  - (a) in England and Wales, by an information in writing;
  - (b) in Scotland, by evidence on oath;
  - (c) in Northern Ireland, by a complaint on oath.
- (2) A person applying for a search warrant must answer on oath any question that the justice hearing the application asks the person.

In the case of an application made by a procurator fiscal, that requirement may be met by a police or customs officer.
- (3) A search warrant may be executed by any police or customs officer.
- (4) A search warrant may authorise persons to accompany any police or customs officer who is executing it if the justice issuing the warrant is satisfied that their presence is likely to be helpful to the search.
- (5) A person authorised under subsection (4) to accompany a police or customs officer may exercise any power conferred by sections 17 to 25 that the officer may exercise as a result of the warrant.

But the person may exercise such a power only in the company of, and under the supervision of, a police or customs officer.
- (6) Unless giving notice would be likely to frustrate or seriously prejudice the purpose of a search—
  - (a) reasonable efforts must be made to give notice of an application for a search warrant to persons who might be affected by it;
  - (b) a search warrant does not authorise entry to premises unless 48 hours’ notice of the intended entry is given to the occupier or some other appropriate person who is responsible for the premises.
- (7) Schedule 2 contains further provision about—
  - (a) applications for search warrants made in England and Wales or Northern Ireland;
  - (b) search warrants issued in England and Wales or Northern Ireland.
- (8) An entry on or search of premises under a search warrant issued in England and Wales or Northern Ireland is unlawful if it does not comply with the provisions of Part 3 of that Schedule (execution of search warrants).

## **19 Powers of examination etc**

- (1) This section applies where a police or customs officer is exercising a power of search conferred by section 15, 16 or 17 in relation to any premises.
- (2) The officer may carry out any examination or measurement of anything on the premises that the officer thinks is or may be relevant evidence.
- (3) The officer may break open any container or other locked thing if satisfied that it is necessary to do so for the purpose of—
  - (a) determining whether a relevant offence has been committed, or
  - (b) investigating a relevant offence.
- (4) The officer may require any person on the premises to provide any help or facilities, with respect to matters under the person's control, that the officer considers would facilitate the exercise of—
  - (a) a power of search conferred on the officer by section 15, 16 or 17, or
  - (b) a power conferred on the officer by this section.
- (5) Nothing in this section confers any power to search a person.

## **20 Power to require production of documents etc**

- (1) This section applies where a police or customs officer is exercising a power of search conferred by section 15, 16 or 17 in relation to any premises.
- (2) The officer may require any person on the premises to produce any document or record in the person's possession or control that the officer thinks is or is likely to be relevant to—
  - (a) the question whether a relevant offence has been committed, or
  - (b) the investigation of a relevant offence.
- (3) A reference in this section to the production of a document includes a reference to the production of—
  - (a) a hard copy of information recorded otherwise than in hard copy form, or
  - (b) information in a form from which a hard copy can be readily obtained.
- (4) For the purposes of this section—
  - (a) information is recorded in "hard copy form" if it is recorded in a paper copy or similar form capable of being read (and references to "hard copy" have a corresponding meaning);
  - (b) information can be read only if—
    - (i) it can be read with the naked eye, or
    - (ii) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

## **21 Powers of seizure etc**

- (1) A police or customs officer who is exercising the power of search conferred by section 14 may seize and detain anything found in the course of the search.
- (2) A police or customs officer who is exercising a power of search conferred by section 15, 16 or 17 in relation to any premises may—

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- (a) seize and detain or remove any item found on the premises;
  - (b) take copies of or extracts from any document or record found on the premises.
- (3) An officer to whom a document or record has been produced in response to a requirement imposed under section 20 may—
- (a) seize and detain or remove that document or record;
  - (b) take copies of or extracts from that document or record.
- In this subsection “document” includes anything falling within paragraph (a) or (b) of section 20(3).
- (4) The powers under this section may be exercised only—
- (a) for the purposes of determining whether a relevant offence has been committed, or
  - (b) in relation to an item that the officer concerned reasonably believes to be relevant evidence.
- (5) Nothing in this section confers power on an officer to seize an item that is an excluded item (see section 24).

## **22 Accredited civilian officers: powers of entry**

- (1) An accredited civilian officer may on giving reasonable notice—
- (a) enter premises that the accredited civilian officer reasonably thinks may be used in connection with dealing in ivory (including any item that is made of ivory or has ivory in it) for the purpose of assessing compliance with the provisions of this Act, or
  - (b) enter premises on which the officer has reasonable grounds to suspect that there is relevant evidence.
- (2) In this Act “accredited civilian officer” means an officer of the Secretary of State who is authorised by the Secretary of State for the purposes of this Act.
- (3) A notice under this section must—
- (a) be in writing,
  - (b) be given to the occupier of the premises,
  - (c) set out the purpose of the proposed entry, and
  - (d) explain the effect of section 28 (offences of obstruction).
- (4) The requirement in subsection (3)(b) may be complied with by delivering or leaving the notice at the premises or sending it there by post.
- (5) This section—
- (a) does not authorise the entry into premises used wholly or mainly as a dwelling;
  - (b) authorises entry only at a reasonable time.

## **23 Other powers of accredited civilian officers**

- (1) This section applies where—
- (a) an accredited civilian officer enters premises under section 22, or
  - (b) an accredited civilian officer who is lawfully on premises has reasonable grounds to suspect that there is relevant evidence on those premises.

- (2) The officer may carry out any examination or measurement of anything on the premises that the officer thinks is or may be relevant evidence.
- (3) The officer may require any person on the premises to produce any document or record in the person's possession or control that the officer thinks is or is likely to be relevant to—
  - (a) the question whether a relevant offence has been committed, or
  - (b) the investigation of a relevant offence.
- (4) The officer may—
  - (a) seize and detain or remove any item found on the premises;
  - (b) take copies of or extracts from any document or record found on the premises.
- (5) An officer to whom a document or record has been produced in response to a requirement under subsection (3) may—
  - (a) seize and detain or remove the document or record;
  - (b) take copies of or extracts from the document or record.
- (6) The powers under subsections (4) and (5) may be exercised only—
  - (a) for the purposes of determining whether a relevant offence has been committed, or
  - (b) in relation to an item that the officer concerned reasonably believes to be relevant evidence.
- (7) The officer may require any person on the premises to provide any help or facilities, with respect to matters under the persons's control, that the officer considers would facilitate the exercise of a power conferred on the officer by this section.
- (8) This section—
  - (a) does not confer power to search a person;
  - (b) does not confer power to seize an item that is an excluded item (see section 24).
- (9) Subsections (3) and (4) of section 20 apply for the purposes of this section as they apply for the purposes of that one.

## **24 Excluded items**

- (1) This section sets out what is meant by “excluded items” for the purposes of sections 21 and 23.
- (2) In England and Wales “excluded items” means—
  - (a) items subject to legal privilege, within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
  - (b) excluded material within the meaning of that Act (see section 11 of that Act);
  - (c) special procedure material within the meaning of that Act (see section 14 of that Act).
- (3) In Scotland “excluded items” means items in respect of which a claim to confidentiality of communications could be maintained in legal proceedings.
- (4) In Northern Ireland “excluded items” means—

- (a) items subject to legal privilege within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 12 of that Order);
- (b) excluded material within the meaning of that Order (see Article 13 of that Order);
- (c) special procedure material within the meaning of that Order (see Article 16 of that Order).

## 25 Further provision about seizure under section 21 or 23

- (1) Where—
  - (a) any items that an officer wishes to seize and remove are in a container, and
  - (b) the officer reasonably considers that it would facilitate the seizure and removal of the items if they remained in the container for that purpose,any power to seize and remove the items conferred on the officer by section 21 or 23 includes power to seize and remove the container.
- (2) If a container is seized under this section, reasonable efforts must be made to return it to—
  - (a) the person from whom it was seized, or
  - (b) (if different) a person to whom it belongs.
- (3) Subsection (2) does not apply—
  - (a) if the container appears to be of negligible value,
  - (b) if it is not practicable for the container to be returned, or
  - (c) while the container is or may be needed for use as evidence at a trial for an offence.
- (4) If, in the opinion of the officer concerned, it is not for the time being practicable for the officer to seize and remove any item, the officer may require—
  - (a) the person from whom the item is to be seized, or
  - (b) where the officer is exercising a power of search conferred by sections 15 to 17 in relation to any premises, any person on the premises,to secure that the item is not removed or otherwise interfered with until the officer is able to seize and remove it.

## 26 Notices and records in relation to seized items

- (1) This section applies where an officer, or a person accompanying an officer, seizes an item under section 21 or 23.
- (2) When the item is seized, the officer must make reasonable efforts to give a written notice to each of the following persons—
  - (a) in the case of an item seized from a person, the person from whom the item was seized;
  - (b) in the case of an item seized from premises, any person who appears to the officer to be the occupier of the premises or otherwise to be in charge of the premises;
  - (c) if the officer thinks that the item may belong to any person not falling within paragraph (a) or (b), that other person.



A person falling within any of paragraphs (a) to (c) is referred to in this section as an “affected person”.

- (3) If—
  - (a) the item is seized from premises, and
  - (b) at the time of the seizure it is not reasonably practicable to give a notice to an affected person,the officer must leave a copy of the notice in a prominent place on the premises.
- (4) The notice must—
  - (a) state what has been seized and the reason for its seizure;
  - (b) specify any offence that the officer suspects has been committed;
  - (c) explain the effect of sections 29, 30 and 32.
- (5) The officer must make a record of what has been seized.
- (6) If a person who appears to the officer concerned to be an affected person asks for a copy of that record, the officer must provide a copy of it to that person within a reasonable time.

## **27 Powers of entry, search and seizure: supplementary provision**

- (1) An officer who is exercising, or is about to exercise, a power conferred by section 14, 15, 16 or 22 must—
  - (a) give his or her name, and
  - (b) if not a constable in uniform, produce documentary evidence that he or she is authorised to exercise the power,if asked to do so by a person entitled to make the request.
- (2) The persons entitled to make the request are—
  - (a) in the case of a power exercisable in relation to an individual, that individual;
  - (b) in the case of a power exercisable in relation to a vehicle, vessel or aircraft, a person in charge of that vehicle, vessel or aircraft;
  - (c) in the case of a power exercisable in relation to premises, an occupier of those premises who is on the premises.
- (3) An officer need not comply with subsection (1) if it is not reasonably practicable to do so.
- (4) An officer may use reasonable force, if necessary, for the purpose of exercising a power conferred on the officer by sections 14 to 25.
- (5) A person authorised under section 18(4) to accompany an officer may use reasonable force, if necessary, for the purpose of exercising a power conferred by sections 17 to 25.
- (6) The powers conferred on an officer by any of sections 14 to 25 do not affect any powers exercisable by the officer apart from those sections.

**28 Offences of obstruction etc**

- (1) A person commits an offence if, without reasonable excuse, the person intentionally obstructs an officer in the performance of any of the officer's functions under sections 14 to 25.
- (2) A person commits an offence if—
  - (a) the person fails without reasonable excuse to comply with a requirement reasonably made, or a direction reasonably given, by an officer in the exercise of a power conferred by sections 15 to 25, or
  - (b) the person prevents another person from complying with any such requirement or direction.
- (3) A reference in this section to an officer includes a reference to a person authorised under section 18(4) to accompany a police or customs officer.
- (4) A person who commits an offence under this section is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding six months or a fine (or both);
  - (b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale (or both).