



Proceeds of Crime (Scotland) Act 1995

1995 CHAPTER 43

PART I

CONFISCATION OF THE PROCEEDS OF CRIME

Investigation and disclosure of information

19 Authority for search.

- (1) The procurator fiscal may, for the purpose of an investigation into whether a person has benefited from the commission of an offence to which this Part of this Act applies and as to the amount of that benefit, apply to the sheriff for a warrant under this section in relation to specified premises.
- (2) On such application the sheriff may issue a warrant authorising a constable to enter and search the premises if the sheriff is satisfied—
 - (a) that an order made under section 18 of this Act in relation to material on the premises has not been complied with; or
 - (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 benefited from the commission of an offence to which this Part of this Act applies; and
 - (b) that the conditions in section 18(4)(b) and (c) 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; or

Status: Point in time view as at 01/04/1996. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Proceeds of Crime (Scotland) Act 1995, Section 19. (See end of Document for details)

- (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 purposes 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 benefited from the commission of an offence to which this Part of this Act applies; and
 - (b) that there are reasonable grounds for suspecting that there is on the premises material relating to the specified person, or to the question whether that person has so benefited or the amount of that benefit, 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; or
 - (ii) entry to the premises will not be granted unless a warrant is produced; or
 - (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, 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.
- (6) Subsection (10) of section 18 of this Act shall apply for the purposes of this section as it applies for the purposes of that section.

Modifications etc. (not altering text)

C1 [S. 19](#) restricted (28.7.1998) by [1998 c. 35, s. 14\(3\)\(b\)](#); [S.I. 1998/1858, art. 2](#)

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