



Criminal Justice and Police Act 2001

2001 CHAPTER 16

PART 2

POWERS OF SEIZURE

Return or retention of seized property

55 Obligation to return excluded and special procedure material

- (1) If, at any time after a seizure of anything has been made in exercise of a power to which this section applies—
- (a) it appears to the person for the time being having possession of the seized property in consequence of the seizure that the property—
 - (i) is excluded material or special procedure material, or
 - (ii) has any excluded material or any special procedure material comprised in it,
 - (b) its retention is not authorised by section 56, and
 - (c) in a case where the material is comprised in something else which has been lawfully seized, it is not comprised in property falling within subsection (2) or (3),

it shall be the duty of that person to secure that the item is returned as soon as reasonably practicable after the seizure.

- (2) Property in which any excluded material or special procedure material is comprised falls within this subsection if—
- (a) the whole or a part of the rest of the property is property for which the person seizing it had power to search when he made the seizure but is not property the return of which is required by this section or section 54; and
 - (b) in all the circumstances, it is not reasonably practicable for that material to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part

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of it, for purposes for which (disregarding that material) its use, if retained, would be lawful.

(3) Property in which any excluded material or special procedure material is comprised falls within this subsection if—

- (a) the whole or a part of the rest of the property is property the retention of which is authorised by section 56; and
- (b) in all the circumstances, it is not reasonably practicable for that material to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that material) its use, if retained, would be lawful.

(4) This section applies (subject to subsection (5)) to each of the powers of seizure specified in Part 3 of Schedule 1.

(5) In its application to the powers of seizure conferred by—

- (a)
- (b) section 56(5) of the Drug Trafficking Act 1994 (c. 37),^{F1} . . .
- (c) Article 51(5) of the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996 1299 (N.I. 6)),^{F2} and
- (d) section 352(4) of the Proceeds of Crime Act 2002,]

this section shall have effect with the omission of every reference to special procedure material.

(6) In this section, except in its application to—

- (a) the power of seizure conferred by section 8(2) of the 1984 Act,
- (b) the power of seizure conferred by Article 10(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)),
- (c) each of the powers of seizure conferred by the provisions of paragraphs 1 and 3 of Schedule 5 to the Terrorism Act 2000 (c. 11), and
- (d) the power of seizure conferred by paragraphs 15 and 19 of Schedule 5 to that Act of 2000, so far only as the power in question is conferred by reference to paragraph 1 of that Schedule,

“special procedure material” means special procedure material consisting of documents or records other than documents.

^{F3}(7) In relation to the powers of seizure mentioned in subsection (8), this section (and section 59(3)(c)) have effect as if—

- (a) references to excluded material or special procedure material were to confidential material within the meaning of Part 1 of Schedule 2 to the National Security Act 2023, but not including items subject to legal privilege, and
- (b) subsection (6) of this section did not apply.

(8) The powers of seizure referred to in subsection (7) are the powers conferred by—

- (a) paragraph 2 of Schedule 2 to the National Security Act 2023, and
- (b) paragraph 12 of that Schedule, so far as conferred by reference to paragraph 2 of that Schedule.]

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Textual Amendments

- F1** Word in s. 55(5) omitted (24.2.2003) and repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 457, 458(1)(3), [Sch. 11 para. 40\(2\)](#), [Sch. 12](#); S.I. 2003/120, [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-7](#) (as amended by 2003/333, [art. 14](#))) and S.I. 2003/333, [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-13](#) (as amended by S.I. 2003/531, [arts. 3, 4](#)))
- F2** S. 55(5)(d) and word inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458, [Sch. 11 para. 40\(2\)](#); S.I. 2003/120, [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in [arts. 3-7](#) (as amended by 2003/333, [art. 14](#)))
- F3** S. 55(7)(8) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023](#) (S.I. 2023/1386), reg. 1(2), [Sch. para. 21\(2\)](#)

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