



# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 2

#### POWERS OF SEIZURE

##### *Remedies and safeguards*

#### **59 Application to the appropriate judicial authority**

- (1) This section applies where anything has been seized in exercise, or purported exercise, of a relevant power of seizure.
- (2) Any person with a relevant interest in the seized property may apply to the appropriate judicial authority, on one or more of the grounds mentioned in subsection (3), for the return of the whole or a part of the seized property.
- (3) Those grounds are—
  - (a) that there was no power to make the seizure;
  - (b) that the seized property is or contains an item subject to legal privilege that is not comprised in property falling within section 54(2);
  - (c) that the seized property is or contains any excluded material or special procedure material which—
    - (i) has been seized under a power to which section 55 applies;
    - (ii) is not comprised in property falling within section 55(2) or (3); and
    - (iii) is not property the retention of which is authorised by section 56;
  - (d) that the seized property is or contains something seized under section 50 or 51 which does not fall within section 53(3);and subsections (5) and (6) of section 55 shall apply for the purposes of paragraph (c) as they apply for the purposes of that section.
- (4) Subject to subsection (6), the appropriate judicial authority, on an application under subsection (2), shall—

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Section 59. (See end of Document for details)*

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- (a) if satisfied as to any of the matters mentioned in subsection (3), order the return of so much of the seized property as is property in relation to which the authority is so satisfied; and
  - (b) to the extent that that authority is not so satisfied, dismiss the application.
- (5) The appropriate judicial authority—
- (a) on an application under subsection (2),
  - (b) on an application made by the person for the time being having possession of anything in consequence of its seizure under a relevant power of seizure, or
  - (c) on an application made—
    - (i) by a person with a relevant interest in anything seized under section 50 or 51, and
    - (ii) on the grounds that the requirements of section 53(2) have not been or are not being complied with,
 may give such directions as the authority thinks fit as to the examination, retention, separation or return of the whole or any part of the seized property.
- (6) On any application under this section, the appropriate judicial authority may authorise the retention of any property which—
- (a) has been seized in exercise, or purported exercise, of a relevant power of seizure, and
  - (b) would otherwise fall to be returned,
- if that authority is satisfied that the retention of the property is justified on grounds falling within subsection (7).
- (7) Those grounds are that (if the property were returned) it would immediately become appropriate—
- (a) to issue, on the application of the person who is in possession of the property at the time of the application under this section, a warrant in pursuance of which, or of the exercise of which, it would be lawful to seize the property; or
  - (b) to make an order under—
    - (i) paragraph 4 of Schedule 1 to the 1984 Act,
    - (ii) paragraph 4 of Schedule 1 to the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)),
    - (iii) section 20BA of the Taxes Management Act 1970 (c. 9),<sup>F1</sup>...
    - (iv) paragraph 5 of Schedule 5 to the Terrorism Act 2000 (c. 11), [<sup>F2</sup>or
    - (v) paragraph 3 of Schedule 2 to the National Security Act 2023,]
 under which the property would fall to be delivered up or produced to the person mentioned in paragraph (a).
- (8) Where any property which has been seized in exercise, or purported exercise, of a relevant power of seizure has parts (“part A” and “part B”) comprised in it such that—
- (a) it would be inappropriate, if the property were returned, to take any action such as is mentioned in subsection (7) in relation to part A,
  - (b) it would (or would but for the facts mentioned in paragraph (a)) be appropriate, if the property were returned, to take such action in relation to part B, and
  - (c) in all the circumstances, it is not reasonably practicable to separate part A from part B without prejudicing the use of part B for purposes for which it is lawful to use property seized under the power in question,

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the facts mentioned in paragraph (a) shall not be taken into account by the appropriate judicial authority in deciding whether the retention of the property is justified on grounds falling within subsection (7).

(9) If a person fails to comply with any order or direction made or given by a judge of the Crown Court in exercise of any jurisdiction under this section—

- (a) the authority may deal with him as if he had committed a contempt of the Crown Court; and
- (b) any enactment relating to contempt of the Crown Court shall have effect in relation to the failure as if it were such a contempt.

(10) The relevant powers of seizure for the purposes of this section are—

- (a) the powers of seizure conferred by sections 50 and 51;
- (b) each of the powers of seizure specified in Parts 1 and 2 of Schedule 1; and
- (c) any power of seizure (not falling within paragraph (a) or (b)) conferred on a constable by or under any enactment, including an enactment passed after this Act.

(11) References in this section to a person with a relevant interest in seized property are references to—

- (a) the person from whom it was seized;
- (b) any person with an interest in the property; or
- (c) any person, not falling within paragraph (a) or (b), who had custody or control of the property immediately before the seizure.

(12) For the purposes of subsection (11)(b), the persons who have an interest in seized property shall, in the case of property which is or contains an item subject to legal privilege, be taken to include the person in whose favour that privilege is conferred.

[<sup>F3</sup>(13) Criminal Procedure Rules may make provision about proceedings under this section on an application to a judge of the Crown Court in England and Wales.]

#### Textual Amendments

- F1** Word in s. 59(7)(b)(iii) omitted (20.12.2023) by virtue of [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), **Sch. para. 21(3)(a)**
- F2** S. 59(7)(b)(v) and word 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(3)(b)**
- F3** S. 59(13) inserted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), ss. **82(5)**, 115(7); S.I. 2015/994, art. 6(o)

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Section 59.