

COPYRIGHT, ETC. AND TRADE MARKS (OFFENCES AND ENFORCEMENT) ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Sections 2 and 6

7. **Section 2** applies the existing provisions in section 109 of Part I of the Copyright, Designs and Patents Act 1988 allowing the police to obtain search warrants to all the offences in section 107(1) and (2), including those only triable in the magistrates' courts. The equivalent provision in section 200 of Part II of the 1988 Act is applied to all the offences in section 198(1) by this section. Equivalent search warrant provisions are introduced by section 2 for the offences in section 297A of Part VII of the 1988 Act.
8. These provisions are in addition to any powers available to the police as a result of the Police and Criminal Evidence Act 1984 (PACE), but should ensure that there are no impediments to a full investigation of offending behaviour in the areas indicated which could still remain if PACE alone were to apply. The existing search warrant provisions in sections 109 and 200 allow a justice of the peace (or in Scotland, a sheriff or justice of the peace) to grant a warrant where information/evidence on oath leaves him satisfied that there are reasonable grounds for believing that an offence has been or is about to be committed and there is evidence of this on the premises.
9. Powers of seizure of evidence that an offence has been or is about to be committed that are already provided in section 109(4) where a warrant obtained under that section is executed are also introduced by section 2 into section 200 and the new search warrant provision relating to the offences in section 297A.
10. **Section 6** introduces search warrant and seizure provisions corresponding to those that are introduced or amended by section 2 for Parts I, II and VII of the Copyright, Designs and Patents Act 1988 for the offences in section 92 of the Trade Marks Act 1994 relating to counterfeit goods and articles for making them. This section also extends to the Isle of Man, since the Trade Marks Act 1994 also does.