



Extradition Act 2003

2003 CHAPTER 41

PART 4

POLICE POWERS

Warrants and orders

156 Search and seizure warrants

- (1) A justice of the peace may, on an application made to him by a constable, issue a search and seizure warrant if he is satisfied that the requirements for the issue of a search and seizure warrant are fulfilled.
- (2) The application for a search and seizure warrant must state that—
 - (a) the extradition of a person specified in the application is sought under Part 1 or Part 2;
 - (b) the warrant is sought in relation to premises specified in the application;
 - (c) the warrant is sought in relation to material, or material of a description, specified in the application;
 - (d) that material, or material of that description, is believed to be on the premises.
- (3) If the application states that the extradition of the person is sought under Part 1, the application must also state that the person is accused in a category 1 territory specified in the application of the commission of an offence—
 - (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 64.
- (4) If the application states that the extradition of the person is sought under Part 2, the application must also state that the person is accused in a category 2 territory specified in the application of the commission of an offence—
 - (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 137.
- (5) A search and seizure warrant is a warrant authorising a constable—

Status: This is the original version (as it was originally enacted).

- (a) to enter and search the premises specified in the application for the warrant, and
 - (b) to seize and retain any material found there which falls within subsection (6).
- (6) Material falls within this subsection if—
- (a) it would be likely to be admissible evidence at a trial in the relevant part of the United Kingdom for the offence specified in the application for the warrant (on the assumption that conduct constituting that offence would constitute an offence in that part of the United Kingdom), and
 - (b) it does not consist of or include items subject to legal privilege, excluded material or special procedure material.
- (7) The relevant part of the United Kingdom is the part of the United Kingdom where the justice of the peace exercises jurisdiction.
- (8) The requirements for the issue of a search and seizure warrant are that there are reasonable grounds for believing that—
- (a) the offence specified in the application has been committed by the person so specified;
 - (b) the person is in the United Kingdom or is on his way to the United Kingdom;
 - (c) the offence is an extradition offence within the meaning given by section 64 (if subsection (3) applies) or section 137 (if subsection (4) applies);
 - (d) there is material on premises specified in the application which falls within subsection (6);
 - (e) any of the conditions referred to in subsection (9) is satisfied.
- (9) The conditions are—
- (a) that it is not practicable to communicate with a person entitled to grant entry to the premises;
 - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with a person entitled to grant access to the material referred to in subsection (8)(d);
 - (c) that entry to the premises will not be granted unless a warrant is produced;
 - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (10) The preceding provisions of this section apply to Scotland with these modifications—
- (a) in subsections (1) and (7) for “justice of the peace” substitute “sheriff”;
 - (b) in subsection (1) for “constable” substitute “procurator fiscal”;
 - (c) for “search and seizure warrant” substitute “warrant to search”;
 - (d) in subsection (6)(b) omit the words “, excluded material or special procedure material”;
 - (e) subsections (8)(e) and (9) are omitted.

157 Production orders

- (1) A judge may, on an application made to him by a constable, make a production order if he is satisfied that the requirements for the making of a production order are fulfilled.
- (2) The application for a production order must state that—

- (a) the extradition of a person specified in the application is sought under Part 1 or Part 2;
 - (b) the order is sought in relation to premises specified in the application;
 - (c) the order is sought in relation to material, or material of a description, specified in the application;
 - (d) the material is special procedure material or excluded material;
 - (e) a person specified in the application appears to be in possession or control of the material.
- (3) If the application states that the extradition of the person is sought under Part 1, the application must also state that the person is accused in a category 1 territory specified in the application of the commission of an offence—
- (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 64.
- (4) If the application states that the extradition of the person is sought under Part 2, the application must also state that the person is accused in a category 2 territory specified in the application of the commission of an offence—
- (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 137.
- (5) A production order is an order either—
- (a) requiring the person the application for the order specifies as appearing to be in possession or control of special procedure material or excluded material to produce it to a constable (within the period stated in the order) for him to take away, or
 - (b) requiring that person to give a constable access to the special procedure material or excluded material within the period stated in the order.
- (6) The period stated in a production order must be a period of 7 days starting with the day on which the order is made, unless it appears to the judge by whom the order is made that a longer period would be appropriate.
- (7) Production orders have effect as if they were orders of the court.
- (8) In this section “judge”—
- (a) in England and Wales, means a circuit judge;
 - (b) in Northern Ireland, means a Crown Court judge.

158 Requirements for making of production order

- (1) These are the requirements for the making of a production order.
- (2) There must be reasonable grounds for believing that—
- (a) the offence specified in the application has been committed by the person so specified;
 - (b) the person is in the United Kingdom or is on his way to the United Kingdom;
 - (c) the offence is an extradition offence within the meaning given by section 64 (if section 157(3) applies) or section 137 (if section 157(4) applies);
 - (d) there is material which consists of or includes special procedure material or excluded material on premises specified in the application;

Status: This is the original version (as it was originally enacted).

- (e) the material would be likely to be admissible evidence at a trial in the relevant part of the United Kingdom for the offence specified in the application (on the assumption that conduct constituting that offence would constitute an offence in that part of the United Kingdom).
- (3) The relevant part of the United Kingdom is the part of the United Kingdom where the judge exercises jurisdiction.
- (4) It must appear that other methods of obtaining the material—
 - (a) have been tried without success, or
 - (b) have not been tried because they were bound to fail.
- (5) It must be in the public interest that the material should be produced or that access to it should be given.

159 Computer information

- (1) This section applies if any of the special procedure material or excluded material specified in an application for a production order consists of information stored in any electronic form.
- (2) If the order is an order requiring a person to produce the material to a constable for him to take away, it has effect as an order to produce the material in a form—
 - (a) in which it can be taken away by him;
 - (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (3) If the order is an order requiring a person to give a constable access to the material, it has effect as an order to give him access to the material in a form—
 - (a) in which it is visible and legible, or
 - (b) from which it can readily be produced in a visible and legible form.

160 Warrants: special procedure material and excluded material

- (1) A judge may, on an application made to him by a constable, issue a warrant under this section if he is satisfied that—
 - (a) the requirements for the making of a production order are fulfilled, and
 - (b) the further requirement for the issue of a warrant under this section is fulfilled.
- (2) The application for a warrant under this section must state that—
 - (a) the extradition of a person specified in the application is sought under Part 1 or Part 2;
 - (b) the warrant is sought in relation to premises specified in the application;
 - (c) the warrant is sought in relation to material, or material of a description, specified in the application;
 - (d) the material is special procedure material or excluded material.
- (3) If the application states that the extradition of the person is sought under Part 1, the application must also state that the person is accused in a category 1 territory specified in the application of the commission of an offence—
 - (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 64.

- (4) If the application states that the extradition of the person is sought under Part 2, the application must also state that the person is accused in a category 2 territory specified in the application of the commission of an offence—
 - (a) which is specified in the application, and
 - (b) which is an extradition offence within the meaning given by section 137.
- (5) A warrant under this section authorises a constable to enter and search the premises specified in the application for the warrant and—
 - (a) to seize and retain any material found there which falls within subsection (6) and which is special procedure material, if the application for the warrant states that the warrant is sought in relation to special procedure material;
 - (b) to seize and retain any material found there which falls within subsection (6) and which is excluded material, if the application for the warrant states that the warrant is sought in relation to excluded material.
- (6) Material falls within this subsection if it would be likely to be admissible evidence at a trial in the relevant part of the United Kingdom for the offence specified in the application for the warrant (on the assumption that conduct constituting that offence would constitute an offence in that part of the United Kingdom).
- (7) The relevant part of the United Kingdom is the part of the United Kingdom where the judge exercises jurisdiction.
- (8) The further requirement for the issue of a warrant under this section is that any of these conditions is satisfied—
 - (a) it is not practicable to communicate with a person entitled to grant entry to the premises;
 - (b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with a person entitled to grant access to the material referred to in section 158(2)(d);
 - (c) the material contains information which is subject to a restriction on disclosure or an obligation of secrecy contained in an enactment (including one passed after this Act) and is likely to be disclosed in breach of the restriction or obligation if a warrant is not issued.
- (9) In this section “judge”—
 - (a) in England and Wales, means a circuit judge;
 - (b) in Northern Ireland, means a Crown Court judge.

Search and seizure without warrant

161 Entry and search of premises for purposes of arrest

- (1) This section applies if a constable has power to arrest a person under an extradition arrest power.
- (2) A constable may enter and search any premises for the purpose of exercising the power of arrest if he has reasonable grounds for believing that the person is on the premises.
- (3) The power to search conferred by subsection (2) is exercisable only to the extent that is reasonably required for the purpose of exercising the power of arrest.

Status: This is the original version (as it was originally enacted).

- (4) A constable who has entered premises in exercise of the power conferred by subsection (2) may seize and retain anything which is on the premises if he has reasonable grounds for believing—
 - (a) that it has been obtained in consequence of the commission of an offence or it is evidence in relation to an offence, and
 - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (5) An offence includes an offence committed outside the United Kingdom.
- (6) If the premises contain 2 or more separate dwellings, the power conferred by subsection (2) is a power to enter and search only—
 - (a) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other dwelling comprised in the premises, and
 - (b) any dwelling comprised in the premises in which the constable has reasonable grounds for believing that the person may be.

162 Entry and search of premises on arrest

- (1) This section applies if a person has been arrested under an extradition arrest power at a place other than a police station.
- (2) A constable may enter and search any premises in which the person was at the time of his arrest or immediately before his arrest if he has reasonable grounds for believing—
 - (a) if the person has not been convicted of the relevant offence, that there is on the premises evidence (other than items subject to legal privilege) relating to the relevant offence;
 - (b) in any case, that there is on the premises evidence (other than items subject to legal privilege) relating to the identity of the person.
- (3) The relevant offence is the offence—
 - (a) referred to in the Part 1 warrant, if the arrest was under a Part 1 warrant;
 - (b) in respect of which the constable has reasonable grounds for believing that a Part 1 warrant has been or will be issued, if the arrest was under section 5;
 - (c) in respect of which extradition is requested, if the arrest was under a warrant issued under section 71;
 - (d) of which the person is accused, if the arrest was under a provisional warrant.
- (4) The power to search conferred by subsection (2)—
 - (a) if the person has not been convicted of the relevant offence, is a power to search for evidence (other than items subject to legal privilege) relating to the relevant offence;
 - (b) in any case, is a power to search for evidence (other than items subject to legal privilege) relating to the identity of the person.
- (5) The power to search conferred by subsection (2) is exercisable only to the extent that it is reasonably required for the purpose of discovering evidence in respect of which the power is available by virtue of subsection (4).
- (6) A constable may seize and retain anything for which he may search by virtue of subsections (4) and (5).

- (7) A constable who has entered premises in exercise of the power conferred by subsection (2) may seize and retain anything which is on the premises if he has reasonable grounds for believing—
- (a) that it has been obtained in consequence of the commission of an offence or it is evidence in relation to an offence, and
 - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (8) An offence includes an offence committed outside the United Kingdom.
- (9) If the premises contain 2 or more separate dwellings, the power conferred by subsection (2) is a power to enter and search only—
- (a) any dwelling in which the arrest took place or in which the person was immediately before his arrest, and
 - (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwelling comprised in the premises.

163 Search of person on arrest

- (1) This section applies if a person has been arrested under an extradition arrest power at a place other than a police station.
- (2) A constable may search the person if he has reasonable grounds for believing that the person may present a danger to himself or others.
- (3) A constable may search the person if he has reasonable grounds for believing that the person may have concealed on him anything—
- (a) which he might use to assist him to escape from lawful custody;
 - (b) which might be evidence relating to an offence or to the identity of the person.
- (4) The power to search conferred by subsection (3)—
- (a) is a power to search for anything falling within paragraph (a) or (b) of that subsection;
 - (b) is exercisable only to the extent that is reasonably required for the purpose of discovering such a thing.
- (5) The powers conferred by subsections (2) and (3)—
- (a) do not authorise a constable to require a person to remove any of his clothing in public, other than an outer coat, jacket or gloves;
 - (b) authorise a search of a person's mouth.
- (6) A constable searching a person in exercise of the power conferred by subsection (2) may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.
- (7) A constable searching a person in exercise of the power conferred by subsection (3) may seize and retain anything he finds if he has reasonable grounds for believing—
- (a) that the person might use it to assist him to escape from lawful custody;
 - (b) that it is evidence of an offence or of the identity of the person or has been obtained in consequence of the commission of an offence.
- (8) An offence includes an offence committed outside the United Kingdom.

- (9) Nothing in this section affects the power conferred by section 43 of the Terrorism Act 2000 (c. 11).

164 Entry and search of premises after arrest

- (1) This section applies if a person has been arrested under an extradition arrest power.
- (2) A constable may enter and search any premises occupied or controlled by the person if the constable has reasonable grounds for suspecting—
- (a) if the person has not been convicted of the relevant offence, that there is on the premises evidence (other than items subject to legal privilege) relating to the relevant offence;
 - (b) in any case, that there is on the premises evidence (other than items subject to legal privilege) relating to the identity of the person.
- (3) The relevant offence is the offence—
- (a) referred to in the Part 1 warrant, if the arrest was under a Part 1 warrant;
 - (b) in respect of which the constable has reasonable grounds for believing that a Part 1 warrant has been or will be issued, if the arrest was under section 5;
 - (c) in respect of which extradition is requested, if the arrest was under a warrant issued under section 71;
 - (d) of which the person is accused, if the arrest was under a provisional warrant.
- (4) The power to search conferred by subsection (2)—
- (a) if the person has not been convicted of the relevant offence, is a power to search for evidence (other than items subject to legal privilege) relating to the relevant offence;
 - (b) in any case, is a power to search for evidence (other than items subject to legal privilege) relating to the identity of the person.
- (5) The power to search conferred by subsection (2) is exercisable only to the extent that it is reasonably required for the purpose of discovering evidence in respect of which the power is available by virtue of subsection (4).
- (6) A constable may seize and retain anything for which he may search by virtue of subsections (4) and (5).
- (7) A constable who has entered premises in exercise of the power conferred by subsection (2) may seize and retain anything which is on the premises if he has reasonable grounds for believing—
- (a) that it has been obtained in consequence of the commission of an offence or it is evidence in relation to an offence, and
 - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (8) An offence includes an offence committed outside the United Kingdom.
- (9) The powers conferred by subsections (2) and (6) may be exercised only if a police officer of the rank of inspector or above has given written authorisation for their exercise.
- (10) But the power conferred by subsection (2) may be exercised without authorisation under subsection (9) if—

- (a) it is exercised before the person arrested is taken to a police station, and
- (b) the presence of the person at a place other than a police station is necessary for the effective exercise of the power to search.

(11) Subsections (9) and (10) do not apply to Scotland.

165 Additional seizure powers

- (1) The Criminal Justice and Police Act 2001 (c. 16) is amended as follows.
- (2) In Part 1 of Schedule 1 (powers of seizure to which section 50 of that Act applies) at the end add—

“Extradition Act 2003 (c. 41)

73D The powers of seizure conferred by sections 156(5), 160(5), 161(4), 162(6) and (7) and 164(6) and (7) of the Extradition Act 2003 (seizure in connection with extradition).”

- (3) In Part 2 of Schedule 1 (powers of seizure to which section 51 of that Act applies) at the end add—

“Extradition Act 2003 (c. 41)

83A The powers of seizure conferred by section 163(6) and (7) of the Extradition Act 2003 (seizure in connection with extradition).”

Treatment following arrest

166 Fingerprints and samples

- (1) This section applies if a person has been arrested under an extradition arrest power and is detained at a police station.
- (2) Fingerprints may be taken from the person only if they are taken by a constable—
 - (a) with the appropriate consent given in writing, or
 - (b) without that consent, under subsection (4).
- (3) A non-intimate sample may be taken from the person only if it is taken by a constable—
 - (a) with the appropriate consent given in writing, or
 - (b) without that consent, under subsection (4).
- (4) Fingerprints or a non-intimate sample may be taken from the person without the appropriate consent only if a police officer of at least the rank of inspector authorises the fingerprints or sample to be taken.

167 Searches and examination

- (1) This section applies if a person has been arrested under an extradition arrest power and is detained at a police station.

Status: This is the original version (as it was originally enacted).

- (2) If a police officer of at least the rank of inspector authorises it, the person may be searched or examined, or both, for the purpose of facilitating the ascertainment of his identity.
- (3) An identifying mark found on a search or examination under this section may be photographed—
 - (a) with the appropriate consent, or
 - (b) without the appropriate consent, if that consent is withheld or it is not practicable to obtain it.
- (4) The only persons entitled to carry out a search or examination, or take a photograph, under this section are—
 - (a) constables;
 - (b) persons designated for the purposes of this section by the appropriate police officer.
- (5) A person may not under this section—
 - (a) carry out a search or examination of a person of the opposite sex;
 - (b) take a photograph of any part of the body (other than the face) of a person of the opposite sex.
- (6) An intimate search may not be carried out under this section.
- (7) Ascertaining a person's identity includes showing that he is not a particular person.
- (8) Taking a photograph includes using a process by means of which a visual image may be produced; and photographing a person must be construed accordingly.
- (9) Mark includes features and injuries and a mark is an identifying mark if its existence in a person's case facilitates the ascertainment of his identity.
- (10) The appropriate police officer is—
 - (a) in England and Wales, the chief officer of police for the police area in which the police station in question is situated;
 - (b) in Northern Ireland, the Chief Constable of the Police Service of Northern Ireland.

168 Photographs

- (1) This section applies if a person has been arrested under an extradition arrest power and is detained at a police station.
- (2) The person may be photographed—
 - (a) with the appropriate consent, or
 - (b) without the appropriate consent, if that consent is withheld or it is not practicable to obtain it.
- (3) A person proposing to take a photograph of a person under this section—
 - (a) may for the purpose of doing so require the removal of any item or substance worn on or over the whole or any part of the head or face of the person to be photographed, and
 - (b) if the requirement is not complied with may remove the item or substance himself.

- (4) The only persons entitled to take a photograph under this section are—
 - (a) constables;
 - (b) persons designated for the purposes of this section by the appropriate police officer.
- (5) Taking a photograph includes using a process by means of which a visual image may be produced; and photographing a person must be construed accordingly.
- (6) The appropriate police officer is—
 - (a) in England and Wales, the chief officer of police for the police area in which the police station in question is situated;
 - (b) in Northern Ireland, the Chief Constable of the Police Service of Northern Ireland.

169 Evidence of identity: England and Wales

- (1) The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.
- (2) In section 54A (searches and examination to ascertain identity) at the end insert—

“(13) Nothing in this section applies to a person arrested under an extradition arrest power.”
- (3) In section 61 (fingerprinting) at the end insert—

“(10) Nothing in this section applies to a person arrested under an extradition arrest power.”
- (4) In section 63 (non-intimate samples) at the end insert—

“(11) Nothing in this section applies to a person arrested under an extradition arrest power.”
- (5) In section 64A (photographing of suspects etc.) at the end insert—

“(7) Nothing in this section applies to a person arrested under an extradition arrest power.”
- (6) In section 65 (interpretation of Part 5) after the definition of “appropriate consent” insert—

““extradition arrest power” means any of the following—

 - (a) a Part 1 warrant (within the meaning given by the Extradition Act 2003) in respect of which a certificate under section 2 of that Act has been issued;
 - (b) section 5 of that Act;
 - (c) a warrant issued under section 71 of that Act;
 - (d) a provisional warrant (within the meaning given by that Act).”

170 Evidence of identity: Northern Ireland

- (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/ 1341 (N.I. 12)) is amended as follows.
- (2) In Article 55A (searches and examination to ascertain identity) at the end insert—

Status: This is the original version (as it was originally enacted).

“(13) Nothing in this Article applies to a person arrested under an extradition arrest power.”

(3) In Article 61 (fingerprinting) at the end insert—

“(10) Nothing in this Article applies to a person arrested under an extradition arrest power.”

(4) In Article 63 (non-intimate samples) at the end insert—

“(12) Nothing in this Article applies to a person arrested under an extradition arrest power.”

(5) In Article 64A (photographing of suspects etc.) at the end insert—

“(7) Nothing in this Article applies to a person arrested under an extradition arrest power.”

(6) In Article 53 (interpretation) after the definition of “drug trafficking” and “drug trafficking offence” insert—

““extradition arrest power” means any of the following—

- (a) a Part 1 warrant (within the meaning given by the Extradition Act 2003) in respect of which a certificate under section 2 of that Act has been issued;
- (b) section 5 of that Act;
- (c) a warrant issued under section 71 of that Act;
- (d) a provisional warrant (within the meaning given by that Act).”

171 Other treatment and rights

(1) This section applies in relation to cases where a person—

- (a) is arrested under an extradition arrest power at a police station;
- (b) is taken to a police station after being arrested elsewhere under an extradition arrest power;
- (c) is detained at a police station after being arrested under an extradition arrest power.

(2) In relation to those cases the Secretary of State may by order apply the provisions mentioned in subsections (3) and (4) with specified modifications.

(3) The provisions are these provisions of the Police and Criminal Evidence Act 1984 (c. 60)—

- (a) section 54 (searches of detained persons);
- (b) section 55 (intimate searches);
- (c) section 56 (right to have someone informed when arrested);
- (d) section 58 (access to legal advice).

(4) The provisions are these provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))—

- (a) Article 55 (searches of detained persons);
- (b) Article 56 (intimate searches);
- (c) Article 57 (right to have someone informed when arrested);

- (d) Article 59 (access to legal advice).

Delivery of seized property

172 Delivery of seized property

- (1) This section applies to—
- (a) anything which has been seized or produced under this Part, or
 - (b) anything which has been seized under section 50 or 51 of the Criminal Justice and Police Act 2001 (c. 16) in reliance on a power of seizure conferred by this Part.
- (2) A constable may deliver any such thing to a person who is or is acting on behalf of an authority if the constable has reasonable grounds for believing that the authority—
- (a) is an authority of the relevant territory, and
 - (b) has functions such that it is appropriate for the thing to be delivered to it.
- (3) If the relevant seizure power was a warrant issued under this Part, or the thing was produced under an order made under this Part, the relevant territory is the category 1 or category 2 territory specified in the application for the warrant or order.
- (4) If the relevant seizure power was section 161(4), 162(6) or (7), 163(6) or (7) or 164(6) or (7), the relevant territory is—
- (a) the territory in which the Part 1 warrant was issued, in a case where the applicable extradition arrest power is a Part 1 warrant in respect of which a certificate under section 2 has been issued;
 - (b) the territory in which a constable has reasonable grounds for believing that a Part 1 warrant has been or will be issued, in a case where the applicable extradition arrest power is section 5;
 - (c) the territory to which a person’s extradition is requested, in a case where the applicable extradition arrest power is a warrant issued under section 71;
 - (d) the territory in which a person is accused of the commission of an offence or has been convicted of an offence, in a case where the applicable extradition arrest power is a provisional warrant.
- (5) The applicable extradition arrest power is—
- (a) the extradition arrest power under which a constable had a power of arrest, if the relevant seizure power was section 161(4);
 - (b) the extradition arrest power under which a person was arrested, if the relevant seizure power was section 162(6) or (7), 163(6) or (7) or 164(6) or (7).
- (6) The relevant seizure power is—
- (a) the power under which the thing was seized, or
 - (b) the power in reliance on which the thing was seized under section 50 or 51 of the Criminal Justice and Police Act 2001 (c. 16).
- (7) Subsection (1)(a) applies to Scotland with the insertion after “Part” of “(so far as it applies to Scotland) or for the purposes of this Act (as it so applies) by virtue of any enactment or rule of law”.
- (8) Subsection (2) applies to Scotland with the substitution of “procurator fiscal” for “constable”.

Status: This is the original version (as it was originally enacted).

- (9) In subsection (7) “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

Codes of practice

173 Codes of practice

- (1) The Secretary of State must issue codes of practice in connection with—
- (a) the exercise of the powers conferred by this Part;
 - (b) the retention, use and return of anything seized or produced under this Part;
 - (c) access to and the taking of photographs and copies of anything so seized or produced;
 - (d) the retention, use, disclosure and destruction of fingerprints, a sample or a photograph taken under this Part.
- (2) If the Secretary of State proposes to issue a code of practice under this section he must—
- (a) publish a draft of the code;
 - (b) consider any representations made to him about the draft;
 - (c) if he thinks it appropriate, modify the draft in the light of any such representations.
- (3) The Secretary of State must lay the code before Parliament.
- (4) When he has done so he may bring the code into operation by order.
- (5) The Secretary of State may revise the whole or any part of a code issued under this section and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.
- (6) A failure by a constable to comply with a provision of a code issued under this section does not of itself make him liable to criminal or civil proceedings.
- (7) A code issued under this section is admissible in evidence in proceedings under this Act and must be taken into account by a judge or court in determining any question to which it appears to the judge or the court to be relevant.
- (8) If the Secretary of State publishes a draft code of practice in connection with a matter specified in subsection (1) before the date on which this section comes into force—
- (a) the draft is as effective as one published under subsection (2) on or after that date;
 - (b) representations made to the Secretary of State about the draft before that date are as effective as representations made to him about it after that date;
 - (c) modifications made by the Secretary of State to the draft in the light of any such representations before that date are as effective as any such modifications made by him on or after that date.

General

174 Interpretation

- (1) Subsections (2) to (8) apply for the purposes of this Part.
- (2) Each of these is an extradition arrest power—
 - (a) a Part 1 warrant in respect of which a certificate under section 2 has been issued;
 - (b) section 5;
 - (c) a warrant issued under section 71;
 - (d) a provisional warrant.
- (3) “Excluded material”—
 - (a) in England and Wales, has the meaning given by section 11 of the 1984 Act;
 - (b) in Northern Ireland, has the meaning given by Article 13 of the 1989 Order.
- (4) “Items subject to legal privilege”—
 - (a) in England and Wales, has the meaning given by section 10 of the 1984 Act;
 - (b) in Scotland, has the meaning given by section 412 of the 2002 Act;
 - (c) in Northern Ireland, has the meaning given by Article 12 of the 1989 Order.
- (5) “Premises”—
 - (a) in England and Wales, has the meaning given by section 23 of the 1984 Act;
 - (b) in Scotland, has the meaning given by section 412 of the 2002 Act;
 - (c) in Northern Ireland, has the meaning given by Article 25 of the 1989 Order.
- (6) “Special procedure material”—
 - (a) in England and Wales, has the meaning given by section 14 of the 1984 Act;
 - (b) in Northern Ireland, has the meaning given by Article 16 of the 1989 Order.
- (7) The expressions in subsection (8) have the meanings given—
 - (a) in England and Wales, by section 65 of the 1984 Act;
 - (b) in Northern Ireland, by Article 53 of the 1989 Order.
- (8) The expressions are—
 - (a) appropriate consent;
 - (b) fingerprints;
 - (c) intimate search;
 - (d) non-intimate sample.
- (9) The 1984 Act is the Police and Criminal Evidence Act [1984 \(c. 60\)](#).
- (10) The 1989 Order is the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)).
- (11) The 2002 Act is the Proceeds of Crime Act [2002 \(c. 29\)](#).

Status: This is the original version (as it was originally enacted).

175 Customs officers

The Treasury may by order provide for any provision of this Part which applies in relation to police officers or persons arrested by police officers to apply with specified modifications in relation to customs officers or persons arrested by customs officers.

176 Service policemen

The Secretary of State may by order provide for any provision of this Part which applies in relation to police officers or persons arrested by police officers to apply with specified modifications in relation to service policemen or persons arrested by service policemen.