



Criminal Justice Act 2003

2003 CHAPTER 44

PART 10

RETRIAL FOR SERIOUS OFFENCES

Investigations

86 Urgent investigative steps

- (1) Section 85 does not prevent an officer from taking any action for the purposes of an investigation if—
 - (a) the action is necessary as a matter of urgency to prevent the investigation being substantially and irrevocably prejudiced,
 - (b) the requirements of subsection (2) are met, and
 - (c) either—
 - (i) the action is authorised under subsection (3), or
 - (ii) the requirements of subsection (5) are met.
- (2) The requirements of this subsection are met if—
 - (a) there has been no undue delay in applying for consent under section 85(2),
 - (b) that consent has not been refused, and
 - (c) taking into account the urgency of the situation, it is not reasonably practicable to obtain that consent before taking the action.
- (3) An officer of the rank of superintendent or above may authorise the action if—
 - (a) he is satisfied that new evidence has been obtained which would be relevant to an application under section 76(1) or (2) in respect of the qualifying offence to which the investigation relates, or
 - (b) he has reasonable grounds for believing that such new evidence is likely to be obtained as a result of the investigation.
- (4) An authorisation under subsection (3) must—
 - (a) if reasonably practicable, be given in writing;

Status: Point in time view as at 06/06/2023.

Changes to legislation: Criminal Justice Act 2003, Section 86 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) otherwise, be recorded in writing by the officer giving it as soon as is reasonably practicable.
- (5) The requirements of this subsection are met if—
- (a) there has been no undue delay in applying for authorisation under subsection (3),
 - (b) that authorisation has not been refused, and
 - (c) taking into account the urgency of the situation, it is not reasonably practicable to obtain that authorisation before taking the action.
- (6) Where the requirements of subsection (5) are met, the action is nevertheless to be treated as having been unlawful unless, as soon as reasonably practicable after the action is taken, an officer of the rank of superintendent or above certifies in writing that he is satisfied that, when the action was taken—
- (a) new evidence had been obtained which would be relevant to an application under section 76(1) or (2) in respect of the qualifying offence to which the investigation relates, or
 - (b) the officer who took the action had reasonable grounds for believing that such new evidence was likely to be obtained as a result of the investigation.

Commencement Information

- II** S. 86 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 5](#) (subject to [art. 2\(2\), Sch. 2](#))

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