

Changes to legislation: There are currently no known outstanding effects for the Ivory Act 2018, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 18

SEARCH WARRANTS: ENGLAND AND WALES AND NORTHERN IRELAND

PART 1

PRELIMINARY

Application of this Schedule

- 1 This Schedule applies to—
- (a) applications for search warrants made in England and Wales or Northern Ireland;
 - (b) search warrants issued in England and Wales or Northern Ireland.

Commencement Information

I1 Sch. 2 para. 1 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

Interpretation

- 2 In this Schedule—
- “senior officer” means—
- (a) a constable of at least the rank of inspector;
 - (b) a designated customs official of at least the grade of senior officer;
 - (c) a designated NCA officer of grade 3 or above;
- “specific-premises warrant” and “all-premises warrant” have the meaning given by section 17(4).

Commencement Information

I2 Sch. 2 para. 2 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

PART 2

SEARCH WARRANTS: APPLICATIONS AND SAFEGUARDS

Applications for warrants

- 3 (1) A person applying for a search warrant must—
- (a) state that the application is made under section 17 of this Act;

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- (b) specify the matters set out in sub-paragraph (2) or (3) (as the case may be);
 - (c) state what are the grounds for suspecting that relevant evidence is on the premises;
 - (d) specify the offence to which the evidence relates.
- (2) A person who is applying for a specific-premises warrant must specify each set of premises that it is desired to enter and search.
- (3) A person who is applying for an all-premises warrant must—
- (a) specify as many of the sets of premises that it is desired to enter and search as it is reasonably practicable to specify;
 - (b) specify the person who is in occupation or control of those premises and any other premises that it is desired to enter and search;
 - (c) explain why it is necessary to search more premises than those specified under paragraph (a);
 - (d) explain why it is not reasonably practicable to specify all the premises that it is desired to enter and search.
- (4) A person who is applying for a search warrant authorising entry and search on more than one occasion must also state—
- (a) the ground on which the person applies for such a warrant;
 - (b) whether the person seeks a warrant authorising an unlimited number of entries, or (if not) the maximum number of entries desired.

Commencement Information

I3 Sch. 2 para. 3 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

Safeguards in connection with power of entry conferred by warrant

- 4 A search warrant authorises entry on one occasion only, unless it specifies that it authorises multiple entries.

Commencement Information

I4 Sch. 2 para. 4 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

- 5 A search warrant must—
- (a) specify the name of the person who applied for it;
 - (b) specify the date on which it is issued;
 - (c) state that the warrant is issued under section 17 of this Act;
 - (d) specify each set of premises to be searched, or (in the case of an all-premises warrant) the person who is in occupation or control of premises to be searched, together with any premises to be searched that are under the person's occupation or control and can be specified;
 - (e) specify the offence to which the relevant evidence relates.

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I5 Sch. 2 para. 5 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

- 6 (1) Two copies must be made of a search warrant that specifies only one set of premises and does not authorise multiple entries.
- (2) As many copies as are reasonably required may be made of any other kind of search warrant.
- (3) The copies must be clearly certified as copies.

Commencement Information

I6 Sch. 2 para. 6 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

PART 3

EXECUTION OF SEARCH WARRANTS

Warrant to be executed within one month

- 7 Entry and search under a search warrant must be within the period of one month starting with the date of its issue.

Commencement Information

I7 Sch. 2 para. 7 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

All-premises warrants

- 8 (1) In the case of an all-premises warrant, premises that are not specified in the warrant may be entered and searched only if a senior officer has authorised them to be entered.
- (2) An authorisation under sub-paragraph (1) must be in writing.

Commencement Information

I8 Sch. 2 para. 8 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

Search of premises more than once

- 9 (1) Premises may be entered or searched for the second or a subsequent time under a search warrant authorising multiple entries only if a senior officer has authorised that entry to the premises.
- (2) An authorisation under sub-paragraph (1) must be in writing.

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Commencement Information

I9 Sch. 2 para. 9 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

Time of search

- 10 Entry and search under a search warrant must be at a reasonable hour unless it appears to the officer executing it that the purpose of a search may be frustrated or seriously prejudiced on an entry at a reasonable hour.

Commencement Information

I10 Sch. 2 para. 10 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

Evidence of authority etc

- 11 (1) Where the occupier of premises to be entered and searched under a search warrant is present at the time when a police or customs officer seeks to execute the warrant, the following requirements must be satisfied—
- (a) the occupier must be told the officer's name;
 - (b) if not a constable in uniform, the officer must produce to the occupier documentary evidence that the officer is a police or customs officer;
 - (c) the officer must produce the warrant to the occupier and supply the occupier with a copy of it.
- (2) Where the occupier of premises to be entered and searched under a search warrant is not present at the time when a police or customs officer seeks to execute the warrant—
- (a) if some other person who appears to the officer to be in charge of the premises is present, sub-paragraph (1) has effect as if a reference to the occupier were a reference to that other person;
 - (b) if not, the officer must leave a copy of the warrant in a prominent place on the premises.

Commencement Information

I11 Sch. 2 para. 11 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

Extent of search

- 12 A search under a search warrant may only be a search to the extent required for the purpose for which the warrant was issued.

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I12 Sch. 2 para. 12 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

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Securing premises after entry

- 13 A police or customs officer who enters premises under a search warrant must take reasonable steps to ensure that when the officer leaves the premises they are as secure as they were before the officer entered.

Commencement Information

I13 Sch. 2 para. 13 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

Return and retention of warrant

- 14 (1) A search warrant must be returned to the appropriate person (see sub-paragraph (2))
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- (a) when the warrant has been executed, or
- (b) on or before the expiry of the period of one month starting with the date of its issue, if the warrant is—
- (i) a specific-premises warrant that has not been executed,
- (ii) an all-premises warrant, or
- (iii) a warrant authorising multiple entries.
- (2) The appropriate person is—
- (a) in the case of a warrant issued in England and Wales, the designated officer for the local justice area in which the justice of the peace was acting when issuing the warrant;
- (b) in the case of a warrant issued in Northern Ireland, the clerk of petty sessions.
- (3) The appropriate person must retain a search warrant returned under sub-paragraph (1) until the end of the period of 12 months starting with the date of its return.
- (4) If during that period the occupier of premises to which the search warrant relates asks to inspect it, the occupier must be allowed to do so.

Commencement Information

I14 Sch. 2 para. 14 in force at 6.6.2022 by S.I. 2022/288, reg. 4(e) (with reg. 5)

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