

Offences in relation to entry and search of premises and provisions catering for certain contingencies concerning designated officers

789. (1) A person shall be guilty of a category 2 offence if that person—

(a) obstructs the exercise of a right of entry or search conferred by a search warrant issued under section 787;

(b) obstructs the exercise of a right conferred by a search warrant issued under section 787 to seize and retain material information (13));

(c) fails to comply with a requirement under section 787 (2)(c) or gives a name, address or occupation that is false or misleading; or

(d) fails to comply with a requirement under section 787 (7)(b).

(2) If, at any time after a search warrant has been issued under section 787 —

(a) the designated officer named therein (including any designated officer who is named therein by reason of any prior application under this subsection)—

(i) has ceased to be an officer of the Director (by reason of death, retirement, resignation, dismissal, reassignment or any other cause), or

(ii) is otherwise unable to perform his or her functions (by reason of absence from duty, illness, incapacity or any other cause),

or

(b) the Director has reasonable grounds for apprehending that any of the circumstances referred to in paragraph (a) is likely to arise,

then another designated officer may apply to a judge of the District Court for an order under subsection (3).

(3) On the hearing of an application under subsection (2) the judge of the District Court may, if—

(a) the judge is satisfied that it is appropriate to do so, and

(b) the date to be specified under paragraph (ii) will fall during the period of validity of the warrant (11)),

make an order directing that the search warrant be endorsed so as to—

(i) substitute the name of another designated officer (the “new officer”) for the name of the designated officer who was expressed to have been authorised under the search warrant immediately prior to the making of the order (the “previous officer”), and

(ii) specify the time and date from which that substitution is to take effect.

(4) Where an order under subsection (3) is made then, with effect from the time on the date endorsed pursuant to paragraph (ii) of that subsection—

(a) the search warrant shall continue in full force and effect, but shall operate to authorise the new officer to execute the warrant as fully as if he or she had been the designated officer named in the warrant when it was first issued,

(b) the search warrant shall no longer operate to authorise the previous officer to execute the warrant (but without prejudice to the validity of anything done previously thereunder by that officer), and

(c) the order shall operate to—

(i) relieve the previous officer from any duties to which he or she had been subject under section 788 (4), (5) or (6) (but without prejudice to the validity of anything done previously thereunder by that officer), and

(ii) impose upon the new officer any duties under section 788 (4), (5) or (6) that have not yet been fully discharged.

(5) If—

(a) the period of validity of a search warrant issued under section 787 (11)) has expired, and

(b) either of the conditions specified in subsection (2)(a) or (b) is satisfied,

then a designated officer may apply to a judge of the District Court for an order providing for each of the matters referred to in subsections (3) and (4), other than those relating to the conferral or removal of the power of execution, and, on the making of such an application, the judge of the District Court may make such an order accordingly and subsections (3) and (4) shall apply for that purpose with any necessary modifications.

(6) For the purpose of subsection (5), subsection (2)(a) shall apply as if for “(including any designated officer who is named therein by reason of any prior application under this subsection)” there were substituted “(including any designated officer who is named therein by reason of any prior application under this subsection or subsection (5))”.

(7) An application under subsection (2) or (5) may, if a judge of the District Court directs, be heard otherwise than in public.