

Entry and search of premises

787. (1) A judge of the District Court may issue a search warrant under this section if satisfied by information on oath laid by a designated officer that there are reasonable grounds for suspecting that any material information is to be found on any premises (including a dwelling).

(2) A search warrant issued under this section shall be expressed and operate to authorise a named designated officer (the “officer”), accompanied by such other persons as the officer thinks necessary, at any time or times within the period of validity of the warrant, on production of the warrant if so requested, to—

(a) enter the named premises, if necessary by force;

(b) search the premises;

(c) require any person found on the premises to—

(i) give to the officer his or her name, home address and occupation; and

(ii) produce to the officer any material information that is in the custody or possession of that person;

(d) seize and retain any material information found on the premises or in the custody or possession of any person found on the premises; and

(e) take any other steps that appear to the officer to be necessary for preserving or preventing interference with material information.

(3) Without prejudice to subsection (4), where—

(a) the officer finds anything at, or in the custody or possession of any person found on, the premises named in the warrant that the officer has reasonable grounds for believing may be or may contain material information, and

(b) it is not reasonably practicable for a determination to be made on the premises—

(i) whether what he or she has found is something that he or she is entitled to seize under the warrant (whether as mentioned in subsection (2)(d) or (4)), or

(ii) the extent to which what he or she has found contains something that he or she is entitled to seize under the warrant in either of those cases,

the officer's powers of seizure under the warrant shall include power to seize so much of what he or she has found as it is necessary to remove from the premises to enable that to be determined (referred to

subsequently in this section as an “extended power of seizure”).

(4) Where—

(a) the officer finds anything at, or in the custody or possession of any person found on, the premises named in the warrant being a book, document or other thing constituting material information (referred to subsequently in this section as “seizable information”) which he or she would be entitled to seize but for its being comprised in something else that he or she has (apart from this subsection) no power to seize, and

(b) it is not reasonably practicable for the seizable information to be separated, on those premises, from that in which it is comprised,

the officer's powers of seizure shall include power to seize both the seizable information and that from which it is not reasonably practicable to separate it (also referred to subsequently in this section as an “extended power of seizure”).

(5) Where, for the purposes of subsection (3) or (4), an issue arises as to either of the following matters, namely:

(a) whether or not it is reasonably practicable on particular premises for something to be determined;
or

(b) whether or not it is reasonably practicable on particular premises for something to be separated from something else,

the issue shall be decided by reference solely to the following matters:

(i) how long it would take to carry out the determination or separation on those premises;

(ii) the number of persons that would be required to carry out that determination or separation on those premises within a reasonable period;

(iii) whether the determination or separation would (or would if carried out on those premises) involve damage to property;

(iv) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation;

(v) the costs of carrying out the determination or separation on those premises as against the costs of carrying out the determination or separation in another place (being a place in which the Director can show it would be appropriate to do the thing concerned and in which the Director intends to arrange, or does arrange, for the thing to be done); and

(vi) in the case of separation, whether the separation—

(I) would be likely, or

(II) if carried out by the only means that are reasonably practicable on those premises, would be likely,

to prejudice the use of some or all of the separated seizable information for a purpose for which something seized under the warrant is capable of being used.

(6) Section 788 supplements subsections (3) to (5) and, in particular, as regards the making of arrangements for the storage of, and access to, things seized by virtue of an exercise of the extended power of seizure and for the maintenance of confidentiality as regards any confidential matter comprised in such a thing so seized.

(7) The officer may—

(a) operate any computer at the place that is being searched or cause any such computer to be operated by a person accompanying the officer; and

(b) require any person at that place who appears to the officer to be in a position to facilitate access to the information held in any such computer or that can be accessed by the use of that computer—

(i) to give to the officer any password necessary to operate it;

(ii) otherwise to enable the officer to examine the information accessible by the computer in a form in which the information is visible and legible; and

(iii) to produce the information in a form in which it can be removed and in which it is, or can be made, visible and legible.

(8) The power to issue a warrant under this section is in addition to and not in substitution for any other power to issue a warrant for the search of any place or person.

(9) The period of validity of a warrant shall be 30 days after the date of its issue but that period of validity may be extended in accordance with subsections (10) and (11).

(10) The officer may, during the period of validity of a warrant (including such period as previously extended under subsection (11)), apply to a judge of the District Court for an order extending the period of validity of the warrant and such an application shall be grounded upon information on oath laid by the officer stating, by reference to the purpose or purposes for which the warrant was issued, the reasons why he or she considers the extension to be necessary.

(11) If the judge of the District Court is satisfied that there are reasonable grounds for believing, having regard to that information so laid, that further time is needed so that the purpose or purposes for which the warrant was issued can be fulfilled, the judge may make an order extending the period of validity of the warrant by such period as, in the opinion of the judge, is appropriate and just; where such an order

is made, the judge shall cause the warrant to be suitably endorsed to indicate its extended period of validity.

(12) Nothing in the preceding subsections prevents a judge of the District Court from issuing, on foot of a fresh application made under subsection (1), a further search warrant under this section in relation to the same premises.

(13) In this section—

“computer” includes a personal organiser or any other electronic means of information storage or retrieval;

“computer at the place that is being searched” includes any other computer, whether at the place being searched or at any other place, that is lawfully accessible by means of that computer;

“designated officer” means the Director or a duly authorised officer of the Director;

“material information” means—

(a) any books or documents production of which has been required under—

(i) any of the provisions applied by section 765, namely sections 750 and 752 to 759; or

(ii) any of sections 767 and 778 to 780;

and which have not been produced in compliance with that requirement; or

(b) any books, documents or other things (including a computer) which the designated officer has reasonable grounds for believing may provide evidence of or be related to the commission of an offence under this Act.

(14) Notwithstanding the repeal of section 68 (2) of the Investment Funds, Companies and Miscellaneous Provisions Act 2005, the saving in that provision concerning section 20(3) of the Act of 1990 is not affected.