

## Chapter 41 – Index

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### 41. Searching premises

PACE Code of Practice B covers the searching of premises and must be adhered to whenever a search is conducted. Most searches of premises (except under the arrangements set out in chapter 31.1) will be made with a police officer who will conduct the search and apply the provisions of the PACE codes accordingly.

Exceptionally, an IO not operating under the arrangements set out in chapter 31.1 may wish to search premises when a police officer is not present. Such a search should only be conducted with the consent of the person entitled to grant entry to the premises. To avoid any disputes, the consent must be obtained in writing on form ISCP2. A search should only be carried out if the IO is satisfied that the person who consents is in a position to give such consent. If the search is of premises which are rented, every reasonable effort must be made to secure the consent of the tenant/occupier.

Before seeking consent, an IO must;

- ◆ show his warrant card by way of identification;
- ◆ state the purpose of the proposed search and its extent (the information should be as specific as possible, particularly as regards the articles or persons being sought and the part of the premises to be searched); and
- ◆ clearly inform the person concerned that he is not obliged to give consent and that anything seized may be produced as evidence.

If at the time consent is sought, the person is not suspected of an offence, the IO must tell him that. An IO must not continue to search if the consent is withdrawn before the search is completed.

## **41.1 Conduct of a search**

Any search of premises with consent should be restricted to the extent necessary to locate the declared object of the search. Searches should be conducted with due consideration for the property and privacy of the occupier and with no more disturbance than is necessary. A search must not continue once the object is achieved or you are satisfied that the object sought is not on the premises. If the occupier wishes to ask a friend, neighbour or other person to witness the search, then allow him to do so.

## **41.2. Search warrant safeguards**

The entry or search of premises under a warrant issued under the 1971 Act is unlawful unless it complies with section 28J and 28K of the 1971 Act. Section 28J replicates the safeguards in section 15 of PACE and specifies the information which must be provided to the justice of the peace or sheriff when applying for a warrant. For applicable sections of PACE Code of Practice B see Schedule 1 to the Immigration (PACE Codes of Practice) Direction 2000.

## **41.3. Seizure of property**

IOs conducting enforcement enquiries not operating under the arrangements outlined in chapter 31.1 are not designated to use powers of seizure and any documents or other items that you take must have been provided voluntarily by their owner. Obtain written confirmation of such voluntary provision and issue a receipt on ISCP1 for any items retained.

## **41.4. Record of a search**

If you conduct a search with consent, record the following details on form ISCP2 and place on the port file:

- ◆ the address of the premises;
- ◆ the date, time and duration of the search;
- ◆ a copy of the consent;

- ◆ the names of the officers who conducted the search;
- ◆ the names of persons encountered on the premises if known; and
- ◆ whether any articles were removed from the premises and the owner's signed agreement to their removal.

For procedures following the execution of a warrant, see chapter 34.5.