

Powers of Entry etc. Bill [HL]

[AS AMENDED IN COMMITTEE]

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[AS AMENDED IN COMMITTEE]

TO

Regulate powers of entry and powers in relation to documents; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Interpretation

In this Act—

“authorised person” means a person authorised by the Minister responsible for the enforcement of an Act or instrument containing powers, and

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“powers” means the powers listed in section 2.

2 Powers regulated by this Act

This Act regulates the exercise of powers of—

(a) entry, for the purposes of ascertaining—

(i) whether an offence has been committed, or

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(ii) whether the provisions of an Act of Parliament, or of an item of secondary legislation, have been complied with,

(b) examination, production and seizure of objects, documents and electronic records,

(c) compulsion in relation to the production of documents.

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3 Exercise of existing powers

The powers contained in the Acts and instruments listed in the Schedule to this Act shall be exercised subject to sections 5 to 10 of this Act.

4 Powers: general limitations

Any powers contained in any Act or instrument passed after the coming into force of this Act shall be exercised subject to sections 5 to 10 of this Act, unless the Act or instrument provides to the contrary.

5 Limitations on powers of entry

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- (1) No power of entry shall be exercised unless –
 - (a) the requirements of subsection (2) have been satisfied, or
 - (b) the entry is necessary to avert danger to life or property.
- (2) The requirements are that –
 - (a) the entry has been authorised by an order of a judge or magistrate in accordance with subsections (3) and (4),
 - (b) the order has been shown to the person having control of the premises,
 - (c) the person having control of the premises has agreed that the entry should take place.
- (3) An order under subsection (2)(a) may only be made following an application by an authorised person. 15
- (4) An application by an authorised person shall be supported by evidence, on oath, that the person reasonably believes that –
 - (a) an offence may have been committed, or
 - (b) that there has been a breach of the provisions of the relevant Act or instrument. 20

6 Times when entry may take place

Unless otherwise specified in an order of a court or a magistrate –

- (a) no power of entry shall be exercised on a bank holiday or other nationally recognised public holiday, and
- (b) no entry shall take place except –
 - (i) between 8am and 6pm on Mondays to Fridays,
 - (ii) between 8am and 1pm on Saturdays.

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7 Number of persons permitted to enter premises

The maximum number of persons who may enter premises shall be four, including the authorised person, unless the order provides otherwise.

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8 Declaration of identity

The authorised person shall, upon entry of any premises, inform the occupier of the premises of –

- (a) the authorised person's identity,
- (b) the identity of all other persons making the entry, and
- (c) the reason for the entry.

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9 Production of documents etc.

- (1) No power compelling the production of documents or electronic records (“documents etc.”) shall be exercised unless the requirements of subsection (2) have been satisfied.
- (2) The requirements are that—
 - (a) the power is exercised subject to an order of a judge or magistrate issued following an application in accordance with subsection (3),
 - (b) the order shall fix a deadline for the production of the documents etc. which shall be no earlier than 5pm on the seventh working day following the making of the order,
 - (c) the documents etc. shall be produced at the place of business or residence of the person on whom the order is served,
 - (d) the order shall state the period of time for which the documents etc. will be held.
- (3) An order under subsection (2)(a) may only be made following an application by an authorised person.
- (4) An application under subsection (3) shall be supported by evidence, on oath, that the authorised person reasonably believes that the production of the documents etc. is necessary pursuant to the provisions of the relevant Act or instrument.

10 Seizure of documents

- (1) No seizure of documents etc. shall take place without an order under subsection (6).
- (2) Before applying for an order under subsection (6) the authorised person shall notify the person having charge of the documents etc. that the documents etc. are required.
- (3) The notification under subsection (2) shall state the reason why the documents etc. are required, and shall specify the relevant Act or instrument.
- (4) The notification shall inform the person having charge of the documents etc. that he may provide electronic or paper copies of them to the authorised person; and shall specify—
 - (a) the latest date and time for the provision of such copies, and
 - (b) the place where the copies shall be provided.
- (5) If the copies of the documents etc. are provided in accordance with subsection (4), no order for seizure may be made.
- (6) If copies of the documents etc. are not provided in accordance with subsection (4), an authorised person may apply to a judge or magistrate for an order permitting seizure of documents etc.
- (7) The application shall be supported by evidence from the authorised person, on oath, that the seizure is necessary pursuant to the provisions of the relevant Act or instrument.

11 Saving

Nothing in this Act shall apply to the issue or execution of warrants in connection with indictable offences, including terrorist offences.

12 Short title, commencement and extent

- (1) This Act shall be cited as the Powers of Entry etc. Act 2010. 5
- (2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.
- (3) This Act extends to—
 - (a) England and Wales,
 - (b) Scotland, and
 - (c) Northern Ireland. 10

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To regulate powers of entry and powers in relation to documents; and for connected purposes.

Lord Selsdon

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