|  |
| --- |
| APPLICATION FOR SEARCH WARRANT*(Criminal Procedure Rules, rr.47.26 & 47.34; section 23, Misuse of Drugs Act 1971)* |
| See the notes for guidance (‘GN’) at the end of this form. Use this form **ONLY** for a search warrant application under **section 23, Misuse of Drugs Act 1971**.GN1 There are different forms for applications under (i) section 8, Police and Criminal Evidence Act 1984 (PACE), (ii) section 26, Theft Act 1968, (iii) section 2, Criminal Justice Act 1987, (iv) PACE Schedule 1, paragraph 12, (v) Terrorism Act 2000 Schedule 5, paragraph 11, (vi) section 352, Proceeds of Crime Act 2002, (vii) section 160, Extradition Act 2003 and (viii) other powers to which sections 15 and 16 of PACE apply.Application to a magistrates’ courtThis is an application by ……………………………………………...…….……… (name of applicant)of …………………………………………...…….……… (name of police force or investigating agency)Applicant’s address:GN2………………………………………...…….……………………………...…Email address: …………………………………………...…….………………………………………Phone: Mobile:**I am** **a constable** [ ]  or another person authorised to apply for a search warrantGN3 [ ]  |
| Arrangements for hearing the applicationI estimate that the court should allow …………….… (time) to read this application and …………….… (time) for the hearing.GN4I expect any warrant issued to be executed on ……...…. (planned date) at …... (planned time).GN4Under section 23(3) of the Misuse of Drugs Act 1971 a search or searches must take place **within one month of the issue of the warrant**.My application [does] [does not][[1]](#footnote-1) include confidential information in a separate document.GN4 |
| **1. Complete the boxes above and boxes 1 to 7 below.** If you use an electronic version of this form, the boxes will expand.GN1 If you use a paper version and need more space, you may attach extra sheets.2. Complete the declaration in box 8 and the authorisation in box 9.3. Attach the draft warrant(s) you are asking the court to issue.4. Send or deliver a copy of the completed form and draft warrant(s) to the court.GN4 You may send them by secure email. Make sure the court knows if the application is urgent. Your time estimates will help the court to allow enough time to prepare for the hearing.  |
| **1) The power to search.**GN3If you are not a constable, what legislation allows you to make this application? |
| **2) The investigation.**What are you investigating and why do you think that the offence or offences under investigation has/have been committed? This information will help the court to decide whether there is reasonable ground for suspecting either (i) that controlled drugs are in the possession of a person on premises in contravention of the Misuse of Drugs Act 1971, or regulations or orders under the Act, or (ii) that a document is in the possession of a person on premises which document relates to, or is connected with, a transaction or dealing, or intended transaction or dealing, which was, or would be if carried out, an offence under the Act or under a corresponding law in force in a place outside the U.K. |
| **3) The drugs or document(s) sought.** Under section 23, Misuse of Drugs Act 1971 the court can only authorise a search for drugs or documents, not other items.GN5 & 6(a) What are you looking for? Identify what you are looking for in as much detail as practicable.(b) If any document that you are looking for may be stored on an electronic device:(i) what device(s) or description(s) of device (e.g. server; desktop; laptop; tablet; mobile phone; removable storage; etc.) are you looking for? Give as much detail as practicable.(ii) why do you believe that the document(s) is/are likely to be stored there?(c) If any document that you are looking for, including any document stored electronically, may consist of or include items subject to legal privilege, what arrangements will you make to sift it?GN6 & 7 |
| 4) Premises to be searched.GN8 Use this box if you are applying for a search warrant in respect of one set of premises which you can specify. If you are applying for warrants in respect of more than one set of premises which you can specify, use this box for the first set of premises then tick here [ ]  and complete the table at the end of this form for the others. You must attach a draft warrant for each set of premises.(a) Address or other description of the premises:(b) Why do you suspect that the drugs or document(s) you are looking for is/are on those premises? Your explanation usually should include:* the type of premises (e.g. commercial, residential) and the outcome of any previous search of the premises during the last year, and
* the expected occupier(s), whether any is suspected of involvement in the offence(s) under investigation, whether any has a criminal record, and whether special arrangements for any may be needed under PACE Code B and College of Policing guidance.
 |
| 5) Search on more than one occasion. Use this box only if you are applying for the court’s authority to search premises on more than one occasion. Under section 23(3) of the Misuse of Drugs Act 1971 the search or searches must take place within one month of the issue of the warrant.(a) Which premises do you want to search on more than one occasion? List them.(b) Why is it necessary to search on more than one occasion in order to achieve the purpose for which the court issues the warrant?(c) How many times do you want to be able to search those premises? Specify any maximum number of occasions, or state ‘unlimited’. |
| 6) Search with additional persons. Use this box only if you are applying for the court’s authority to conduct the search with people who are not constables and who are not otherwise authorised by law to take part in searching for and seizing anything to which the warrant relates.(a) Which other persons do you want to take part in the search? Identify those people by function or description (e.g. scientists, IT experts, accountants). You do not need to identify anyone who will be present only as an observer.(b) Why do you want those people to take part in the search? |
| 7) Duty of disclosure.GN8 See also the declaration in box 7.Is there anything of which you are aware that might reasonably be considered capable of undermining any of the grounds of this application, or which for some other reason might affect the court’s decision? Include anything that reasonably might call into question the credibility of information you have received, and explain why you have decided that that information still can be relied upon. |
| 8) DeclarationTo the best of my knowledge and belief:(a) this application discloses all the information that is material to what the court must decide, including anything that might reasonably be considered capable of undermining any of the grounds of the application, and(b) the content of this application is true.I undertake to inform the court if information that might reasonably be considered capable of undermining any of the grounds of this application comes to my knowledge after a search warrant is issued but before the search takes place.Signed:GN1……………………...……………………………………….………………………… [applicant]Date: …………………………. Time: …………………………. |
| 9) AuthorisationI have reviewed this application.To the best of my knowledge and belief this application discloses all the information that is material to what the court must decide, including anything that might reasonably be considered capable of undermining any of its grounds,I am satisfied that making this application is a necessary and proportionate step to take in this investigation,I am satisfied that the applicant will be able to answer the court’s questions.I authorise the applicant to present this application to the court.Authorising officer’s name: ...………………………………...…………...………………………………….Rank or grade: ………………………………………...…………...………………………………………….Signed:GN1…………………….…………………………………….…………………… [authorising officer]Date: …………………………. Time: …………………………. |
| DecisionI heard this application today.The applicant satisfied me about his or her entitlement to make the application.The applicant confirmed on oath or affirmation the declaration in box 8.The applicant gave me additional information, the essence of which was:[[2]](#footnote-2)I [issued] [refused to issue] [a warrant] [warrants] because:[[3]](#footnote-3)Signed: ………………………………………...…………………………………………………………...…Name: ………………………………………...…………...…... [Justice of the Peace] [District Judge (Magistrates’ Court)]Date: …………………………. Time: …………………………. |

**List of specified premises to be searched.** See box 4. Use the table on this and the next page if you are applying for the issue of warrants in respect of more than one specified set of premises.

**In column (a)**, give the address or other description of the premises. **In column (b)**, explain why you believe that the drugs / documents you are looking for are on those premises.

|  |  |
| --- | --- |
| **(a) Address or description of premises** | **(b) Reasons for suspecting that drugs / document(s) are on those premises** |
| (1) |  |
| (2) |  |
| (3) |  |
| (4) |  |
| **(a) Address or description of premises** | **(b) Reasons for suspecting that drugs / document(s) are on those premises** |
| (5) |  |
| (6) |  |
| (7) |  |
| (8) |  |
| (9) |  |

**Notes for Guidance**

**Before you fill in this form**, read PACE Code B[[4]](#footnote-4) and the College of Policing guidance[[5]](#footnote-5).

**1. Use of this form**

Use this form ONLY for an application for a search warrant under section 23, Misuse of Drugs Act 1971. This form collects the information required by that section of that Act. There are different forms for applications under (i) section 8, Police and Criminal Evidence Act 1984 (PACE), (ii) section 26, Theft Act 1968, (iii) section 2, Criminal Justice Act 1987, (iv) PACE Schedule 1, paragraph 12, (v) Terrorism Act 2000 Schedule 5, paragraph 11, (vi) section 352, Proceeds of Crime Act 2002, (vii) section 160, Extradition Act 2003 and (viii) other powers to which sections 15 and 16 of PACE apply.

If an electronic version of this form is used, instead of a signature it may be authenticated electronically (e.g. by sending it from an email address recognisable to the recipient): see Criminal Procedure Rules, rule 5.3. Forms for use with the Rules are at: <https://www.gov.uk/guidance/criminal-procedure-rules-forms#other-proceedings>.

**2. Applicant’s contact details**

The court may need to contact the applicant urgently. In choosing the address and telephone number(s) to give, applicants should be aware that details entered in this application form may be disclosed in subsequent legal proceedings, unless the court orders them to be withheld.

**3. Status of the applicant**

The applicant must satisfy the court about his or her entitlement to make the application. Officers of some other investigating authorities can apply for and execute warrants to enter, search and seize as if they were constables, under the legislation which applies to them. Examples include members of the National Crime Agency designated with the powers of a constable, and officers of HM Revenue and Customs.

**4. Making an application; time estimate; hearing**

An application must be made to the court address for the applicant’s area given by HM Courts and Tribunals Service, unless it is one that must be heard by the Chief Magistrate.

Electronic service of the application, by email to a secure inbox, is more secure than paper and is strongly preferred. Use a format (for example Word, rather than pdf) that allows you to complete or amend the application and which allows the court to amend the draft warrant if required.

If the application includes details that you think should be withheld in any subsequent legal proceedings, set out those details in a separate document marked as confidential to the court and in that document explain why you think that those details ought not be seen by anyone other than the court: see rules 5.10(9) and 47.26(4) of the Criminal Procedure Rules.

If an application is very sensitive, special arrangements can be made. Consult the justices’ legal adviser.

The court needs a realistic estimate of how long to allow for reading and hearing the application. A straightforward application to search one set of premises usually will need about 30 minutes. If in doubt, consult the justices’ legal adviser.

To help assess the urgency of the application compared with others, the court also needs to know when it is expected that the warrant will be executed.

The hearing will usually take place by telephone: see Criminal Procedure Rules, rule 47.25(2). The justices’ legal adviser will give you the telephone number and a secure code when you apply. The conversation may be recorded.

At the hearing the applicant will be required to take an oath or affirm: see Criminal Procedure Rules, rule 47.25(4).

**5. The drugs or document(s) sought**

Under section 23(3), Misuse of Drugs Act 1971[[6]](#footnote-6) a justice of the peace can issue a warrant that authorises a constable to search specified premises if there is reasonable ground for suspecting either (i) that controlled drugs are in the possession of a person on the premises in contravention of the Misuse of Drugs Act 1971, or regulations or orders under the Act, or (ii) that a document is in the possession of a person on the premises which document relates to, or is connected with, a transaction or dealing, or intended transaction or dealing, which was, or would be if carried out, an offence under the Act or under a corresponding law in force in a place outside the U.K. The warrant authorises the constable (i) to seize and detain any such drugs if there is reasonable ground for suspecting that an offence has been committed under the Act in relation to those drugs, and (ii) to seize and detain any such document. Under section 23(3) of the Act the court can only issue a warrant to search for drugs or documents, not for other items.

The applicant must explain what the search is for in as much detail as practicable. A corresponding description must be entered in the draft warrant for the court (and the applicant must take care that the words used in the warrant can be understood without reference to the rest of the application).

The search may be unlawful if the warrant does not sufficiently identify the drugs or document(s) for which it authorises search, or if it leaves their identification to the discretion of those who conduct the search.

**6. Other powers to search, seize and sift**

Under section 23(2) of the Misuse of Drugs Act 1971, without needing a warrant a constable has power to detain and search a person or vehicle for controlled drugs if the constable has reasonable grounds to suspect that the person is in possession of such a drug in contravention of the Misuse of Drugs Act 1971, or regulations or orders under the Act. The constable may seize and detain anything found in the course of the search which appears to be evidence of an offence under the Act.

Under section 19 of PACE:[[7]](#footnote-7)

1. a constable who is lawfully on any premises may seize anything which the constable has reasonable grounds for believing has been obtained in consequence of the commission of an offence, or which is evidence in relation to an offence which the constable is investigating or any other offence, and in either case it is necessary to seize it to prevent it being concealed, lost, damaged, altered or destroyed.
2. a constable may require any information which is stored in any electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form.
3. no power of seizure conferred on a constable under any enactment authorises the seizure of an item which the constable exercising the power has reasonable grounds for believing to be subject to legal privilege.

Under section 50 of the Criminal Justice and Police Act 2001,[[8]](#footnote-8) if a person executing a search warrant (a) finds something which he or she has reasonable grounds to believe may be, or may contain, something for which that person has authority to search under the warrant, and (b) it is not reasonably practicable there and then to determine whether that is so; then that person can seize so much of what he or she has found as it is necessary to remove to enable that to be determined.

Under that same section, if such a person (a) finds something which he or she would be entitled to seize under the warrant but for its being comprised in something which he or she is not entitled to seize, and (b) it is not reasonably practicable there and then to separate the seizable property from the other property; then that person can seize both the seizable and the other property.

**7. Premises to be searched**

Under section 23(3) of the Misuse of Drugs Act 1971 the search or searches must take place **within one month of the issue of the warrant**.

The applicant must describe the premises in as much detail as needed to define the geographical extent of the search authorised by the court. A corresponding description must be entered in the draft warrant for the court. If only part of a building is to be searched, a plan may be helpful. If you are applying for warrants in respect of more than one set of specified premises you must attach a draft warrant for each.

**8. Duty of disclosure**

Information that might undermine any of the grounds of the application must be included in the application, or the court’s authority for the search may be ineffective. The court will not necessarily refuse to issue a warrant in every case in which there is information that undermines the grounds of the application.

The applicant must identify for the court information that comes from a source that cannot be tested (for example, a report from an anonymous informant), and must explain why that information is thought to be credible. Sensitive information may be set out in a separate document: Criminal Procedure Rules, rule 47.26(4) (and see guidance note 4 above).

The applicant must inform the court if there is anything else that might influence the court’s decision to issue a warrant and which is not the subject of any other question in this application form. This may include whether there is any unusual feature of the investigation or of any potential prosecution – for example, might the investigation result in a private prosecution?

October 2021

1. Delete as applicable. [↑](#footnote-ref-1)
2. Delete if not applicable. [↑](#footnote-ref-2)
3. Delete as applicable, and give brief reasons for your decision. [↑](#footnote-ref-3)
4. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903811/pace-code-b-2013.pdf> [↑](#footnote-ref-4)
5. <https://www.app.college.police.uk/app-content/investigations/investigative-strategies/search-powers-and-obtaining-and-executing-search-warrants/> [↑](#footnote-ref-5)
6. <https://www.legislation.gov.uk/ukpga/1971/38/section/23>. [↑](#footnote-ref-6)
7. <https://www.legislation.gov.uk/ukpga/1984/60/section/19>. [↑](#footnote-ref-7)
8. <https://www.legislation.gov.uk/ukpga/2001/16/section/50>. [↑](#footnote-ref-8)