

EXTRADITION ACT 2003

EXPLANATORY NOTES

TERRITORIAL APPLICATION: WALES

Part 4

Police Powers

Section 160: Warrants: special procedure material and excluded material

456. This section sets out the procedure for the application for and issue of a search and seizure warrant relating to special procedure material or excluded material in an extradition case.
457. *Subsection (1)* gives a judge (see *subsection (9)*) the power to issue such a warrant, on the application of a police constable, if he is satisfied that the conditions for issuing a production order and the necessary additional conditions are met. These additional conditions are described below.
458. Under *subsection (2)* the application is required to state that the warrant is sought in connection with the extradition of a person under this Act. It must also specify the premises and the special procedure material or excluded material for which the warrant is sought. In addition, the application must state that the person is accused of a specified extradition offence in a specified category 1 or category 2 territory (*subsections (3) and (4)*).
459. *Subsection (5)* states that a warrant under this section authorises a constable to enter and search the specified premises in question. He may seize and retain any relevant special procedure material and/or excluded material if the application states that the warrant is sought in relation to such material. Material is relevant if it could be used as evidence in a trial in the United Kingdom for the specified offence in question (*subsections (6) and (7)*).
460. In addition, one of the conditions in *subsection (8)* must apply. These are:
- that it is not practicable to communicate with someone who is entitled to allow entry to the premises;
 - that it is not practicable to communicate with a person entitled to give access to the material in question; or
 - that the material includes information classified as restricted or secret by statute and that it is likely to be disclosed in breach of that classification.
461. *Subsection (9)* explains that, for the purposes of this section, "judge" refers to a circuit judge in England and Wales and a Crown Court judge in Northern Ireland.