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Below is the case law referred to:

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Misuse of Drugs Act Searches

Section 23 of the Misuse of Drugs Act is entitled "**powers to search and obtain evidence**". The section requires you to have reasonable grounds to suspect that a person is in possession of controlled drugs. It does not specify that you can only search for drugs.

Section 23(2)(c) provides the power to "**seize and detain, for the purposes of proceedings under this Act, anything found in the course of this search, which appears to the constable to be evidence of an offence under this Act.**"

Being concerned in the supply and offering to supply, are both offences under this Act, and the evidence used to prosecute such offences goes far beyond mere possession of drugs. As demonstrated across thousands of prosecutions, mobile telephone evidence is incredibly important.

Handset IMEI's are regularly utilised as evidence for such offences. This is most commonly utilised in telephone attribution; placing a telephone number being used to illegally sell drugs in the hands of the offender over an extended period. The digital content of the handset may also contain evidence of drugs supply, such as an advertising message to his/her customer base.

Recording these IMEI numbers, or indeed recording any evidence from within the handset, would therefore be for the purpose of proceedings under this Act.

This appears to be in line with the provisions of **s19 PACE 1984**, which allows for the seizure of items that you suspect may be evidence of an offence, even if it was not the item originally sought. *19(4) The constable may require any information which is stored in 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, if he has reasonable grounds for believing -*

(a) that -

(i) it is evidence in relation to an offence which he is investigating or any other offence; or

(ii) it has been obtained in consequence of the commission of an offence; and

(b) that it is necessary to do so in order to prevent it being concealed, lost, tampered with or destroyed

There is also supporting case law in respect of seizing articles:

Ghani v Jones ([1969] 3 All ER 1700) states that police officers can take an article when no person has been arrested or charged if:

1. There are reasonable grounds for believing an offence has been committed.
2. There are reasonable grounds for believing the article is either fruit of the crime, the instrument by which the crime is committed, or is material evidence to prove the commission of the crime
3. Police officers must have reasonable grounds to believe the person in possession of it has committed the crime, is implicated in it, or is an accessory to it.
4. The police must not keep the article any longer than is reasonably necessary to complete the enquiry.

Elias vs Pasmore ([1934] 2 KB 164) states that the right and duty of the police to prosecute offenders prevails over the claimant's right of ownership.

The drafting of the Misuse of Drugs Act took place prior to the existence of electronic data. What is clear, however, is that lawmakers considered written records as importance evidence when prosecuting under this Act. The digitisation of such material should not exempt investigators from capturing this evidence. Indeed, pharmacies and other legitimate businesses subject to this Act store their records electronically for review and are not compelled to maintain paper records.