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STATUTORY INSTRUMENTS

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**2024 No. 62**

**The Criminal Procedure (Amendment) Rules 2024**

**Amendments to the Criminal Procedure Rules**

**12.** In Part 47 (Investigation orders and warrants)—

(a) in rule 47.4 (Section 2: investigation orders; When this Section applies)—

(i) in paragraph (f), for “a further” substitute “an”,

(ii) at the end of paragraph (f) omit “and”,

(iii) in paragraph (g), for “a further” substitute “an”,

(iv) after paragraph (g) insert—

“(h) for the purposes of an investigation to which Part 1 of the National Security Act 2023(1) applies, a Crown Court judge can make—

(i) an order for the production of, or for giving access to, material, or for a statement of its location, under paragraphs 3 and 4 of Schedule 2 to the 2023 Act, or

(ii) an explanation order, under paragraph 10 of that Schedule; and

(i) for the purposes of an investigation to which Part 1 of the National Security Act 2023 applies, a Crown Court judge can make, and the Crown Court can vary or discharge—

(i) a disclosure order, under paragraphs 2 and 5 of Schedule 3 to the 2023 Act,

(ii) a customer information order, under paragraphs 1 and 4 of Schedule 4 to that Act, or

(iii) an account monitoring order, under paragraphs 1 and 3 of Schedule 5 to that Act.”,

(v) in the note to the rule, in the first paragraph, at the end of sub-paragraph (b)(ii) insert “or seized under a warrant”,

(vi) in the note to the rule, in the first paragraph, in each of sub-paragraphs (f) and (g) for “a further information order requiring a person to provide information” substitute “an information order requiring a person to provide information (i)” and at the end of each sub-paragraph insert “, or (ii) to assist in analysis by the National Crime Agency or by a financial intelligence unit outside the UK”,

(vii) in the note to the rule, in the first paragraph, after sub-paragraph (g) insert—

“(h) *for the purposes of an investigation under the National Security Act 2023—*

(i) *an order requiring a person to produce, give access to, or state the location of confidential material within the meaning of that Act,*

- (ii) *an explanation order, requiring a person to explain material obtained under a production, etc. order or seized under a warrant,*
  - (iii) *a disclosure order, requiring a person to provide information or documents, or to answer questions,*
  - (iv) *a customer information order, requiring a financial institution to provide information about an account holder,*
  - (v) *an account monitoring order, requiring a financial institution to provide specified information, for a specified period, about an account held at that institution.”,*
- (viii) in the note to the rule, in the seventh paragraph, renumber sub-paragraph (g) as (h) and after sub-paragraph (f) insert—
- “(g) *an investigation for the purposes of the civil recovery provisions of the 2002 Act(2) into the derivation of cryptoassets, or into whether such assets are intended to be used in unlawful conduct (‘a cryptoasset investigation’);”*,
- (ix) in the note to the rule, in the eighth paragraph, in sub-paragraph (b) for “or an exploitation proceeds investigation” substitute “an exploitation proceeds investigation or a cryptoasset investigation”, and
- (x) in the note to the rule, in the last paragraph, at the end of sub-paragraph (b) omit “and”, at the end of sub-paragraph (c) insert “and”, and after sub-paragraph (c) insert—
- “(d) *paragraph 16 of Schedule 2 , paragraph 6 of Schedule 3, paragraph 5 of Schedule 4 and paragraph 4 of Schedule 5 to the National Security Act 2023.”;*
- (b) in rule 47.5 (Section 2: investigation orders; Exercise of court’s powers), at the end of paragraph (2)(b)(i) insert “or paragraph 17(5) of Schedule 2 to the National Security Act 2023”;
- (c) in rule 47.9 (Section 2: investigation orders; Application to punish for contempt of court)
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- (i) at the end of paragraph (1)(f) omit “or”,
  - (ii) after paragraph (1)(g) insert—
    - “(h) *a production order made under paragraph 3 or 4 of Schedule 2 to the National Security Act 2023; or*
    - (i) *an account monitoring order made under paragraph 1 of Schedule 5 to the National Security Act 2023.”;*
  - (iii) in the first paragraph of the note to the rule, after “articles 12(6) and 34(5) of the Proceeds of Crime Act 2002 (External Investigations) Order 2014(3);” insert “paragraph 8 of Schedule 2 and paragraph 5 of Schedule 5 to the National Security Act 2023;”, and
  - (iv) after the last paragraph of the note to the rule insert—
 

*“Disobedience to an explanation order, to a disclosure order or to a customer information order under the National Security Act 2003 is an offence: see paragraph 11 of Schedule 2, paragraph 7 of Schedule 3 and paragraph 6 of Schedule 4 to the Act.”;*

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(2) 2002 c. 29.  
 (3) S.I. 2014/1893.

- (d) for the cross-heading “Orders under the Terrorism Act 2000” after rule 47.10 (Application for a production order under the Police and Criminal Evidence Act 1984) substitute “Orders under the Terrorism Act 2000 and the National Security Act 2023”;
- (e) for rule 47.11 (Application for an order under the Terrorism Act 2000) substitute—

**“Application for an order under the Terrorism Act 2000 or the National Security Act 2023**

**47.11.**—(1) This rule applies where an applicant wants the court to make one of the orders to which rule 47.4(b), (c), (h) or (i) refers.

(2) As well as complying with rule 47.6 (Application for order: general rules)—

- (a) an application for an order to which rule 47.4(b) or (c) refers must—
  - (i) specify the offence under investigation, and
  - (ii) explain how the investigation constitutes a terrorist investigation or terrorist financing investigation, as appropriate, within the meaning of the Terrorism Act 2000(4);
- (b) an application for an order to which rule 47.4(h) or (i) refers must briefly describe the relevant act under investigation or the relevant investigation taking place; and
- (c) the application must—
  - (i) identify any respondent, and
  - (ii) give the information required by whichever of rules 47.12 to 47.16 applies.

*[Note. ‘Terrorist investigation’ is defined by section 32 of the Terrorism Act 2000(5), ‘terrorist financing investigation’ by paragraph 4 of Schedule 5A to the 2000 Act(6) and ‘terrorist property’ by section 14 of the 2000 Act.*

*‘Relevant act’ is defined by paragraph 1(2) of Schedule 2 to the National Security Act 2023. In summary, such an act is (i) an offence of espionage, sabotage or foreign interference in elections, (ii) conduct preparatory to such an offence, and (iii) acts or threats involving serious violence, the endangering of life or the creation of a serious risk to public health or safety where those acts or threats are carried out for a foreign power, or at the instigation or with the assistance of such a power.*

*The other investigations to which this rule applies are described in paragraph 1 of each of Schedules 3, 4 and 5 of the National Security Act 2023. Each concerns ‘foreign power threat activity’ as defined in section 33 of the Act.]”;*

- (f) in rule 47.12 (Content of application for a production etc. order under the Terrorism Act 2000)—
  - (i) for the heading and numbered paragraphs of the rule substitute—

**“Content of application for a production etc. order under the Terrorism Act 2000 or the National Security Act 2023**

**47.12.**—(1) As well as complying with rules 47.6 and 47.11, an applicant who wants the court to make an order under paragraph 5 of Schedule 5 to the

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(4) 2000 c. 11.

(5) 2000 c. 11; section 32 was amended by section 37 of the Terrorism Act 2006 (c. 11).

(6) 2000 c. 11; Schedule 5A was inserted by section 58 of, and paragraph 3 of Schedule 2 to, the Criminal Finances Act 2017 (c. 22).

Terrorism Act 2000(7) for the production of, or for giving access to, material, or for a statement of its location, must—

- (a) identify the material sought;
- (b) explain why the applicant thinks the material is—
  - (i) in the respondent’s possession, custody or power, or
  - (ii) expected to come into existence and then to be in the respondent’s possession, custody or power within 28 days of the order;
- (c) explain—
  - (i) how the material consists of or includes excluded material or special procedure material (or, if not yet in existence, will do so), and
  - (ii) why the material is not expected to include items subject to legal privilege.

(2) An applicant who wants the court to make an order under paragraph 5(5) of Schedule 5 to the 2000 Act to grant entry in aid of a production order must—

- (a) specify the premises to which entry is sought; and
- (b) explain why the order is needed.

(3) As well as complying with rules 47.6 and 47.11, an applicant who wants the court to make an order under paragraph 3 or paragraph 4 of Schedule 2 to the National Security Act 2023(8) for the production of, or for giving access to, material, or for a statement of its location must—

- (a) identify the material sought;
- (b) explain the grounds for suspecting that the material is—
  - (i) in the respondent’s possession, custody or control, or
  - (ii) expected to come into existence and then to be in the respondent’s possession, custody or control within 28 days of the order;
- (c) explain the grounds for suspecting that the material—
  - (i) consists of or includes confidential material (or, if not yet in existence, will do so), but
  - (ii) does not (or will not) include items subject to legal privilege;
- (d) explain the grounds for suspecting that—
  - (i) if the material is in existence, it is likely to be evidence that a relevant act has been, or is about to be, committed, or
  - (ii) it will be such evidence if the material is likely to come into existence and then to be in the respondent’s possession, custody or power within 28 days of the order;

(4) In each case the application must explain the grounds for believing that—

- (a) the material is likely to be of substantial value, whether by itself or with other material, to the investigation; and

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(7) 2000 c. 11; paragraph 5 of Schedule 5 was amended by section 41 of the Criminal Finances Act 2017 (c. 22).

(8) 2023 c. 32.

- (b) it is in the public interest for the material to be produced, or for the applicant to be given access to it, having regard to—
    - (i) the benefit likely to accrue to the investigation if it is obtained, and
    - (ii) the circumstances in which the respondent has the material, or is expected to have it.
  - (5) In each case the applicant must propose—
    - (a) the terms of the order sought, and
    - (b) the period within which it should take effect.”,
- (ii) in the note to the rule, in the first paragraph, after “paragraphs 5 to 9 of Schedule 5 to the Terrorism Act 2000” insert “and paragraphs 3 to 7 of Schedule 2 to the National Security Act 2023”,
- (iii) in the note to the rule, in the second paragraph, after “The applicant for a production, etc. order” insert “under Schedule 5 to the 2000 Act”,
- (iv) in the note to the rule, after the third paragraph, insert—

*“The applicant for a production, etc. order under Schedule 2 to the National Security Act 2023 must be a constable investigating the commission, or anticipated commission, of a relevant act. Under paragraphs 3 and 4 of Schedule 2 to the 2023 Act a production order may impose on a specified person a requirement to produce confidential material to a constable, or to identify the location of such material, or to notify a named constable of the receipt of such material, comparably with those of a requirement imposed under the 2000 Act, described above.*

*Under paragraph 17 of Schedule 2 to the 2023 Act, ‘confidential material’ means—*

  - (a) *material created or acquired for the purposes of journalism which is held in confidence or which the sender of that material to someone else intends the intended recipient to hold in confidence;*
  - (b) *items subject to legal privilege within the meaning of section 10 of the Police and Criminal Evidence Act 1984(9); and*
  - (c) *excluded material and special procedure material within the meaning of sections 11 and 14 of the Police and Criminal Evidence Act 1984(10), other than journalistic material.”, and*
- (v) in the note to the rule, in the last paragraph, for “notifies the applicant” substitute “gives notice”;
- (g) in rule 47.13 (Content of application for a disclosure order or further information order under the Terrorism Act 2000)—
  - (i) for the heading to the rule substitute “Content of application for a disclosure order or information order under the Terrorism Act 2000 or the National Security Act 2023”,
  - (ii) for paragraph (1) substitute—

“(1) As well as complying with rules 47.6 and 47.11, an applicant who wants the court to make a disclosure order must—

    - (a) explain, as applicable, the grounds for suspecting that—

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(9) 1984 c. 60.

(10) 1984 c. 60; section 14 was amended by sections 1177 and 1184 of, and paragraph 193 of Schedule 1 to, the Corporation Tax Act 2010 (c. 4).

- (i) a person has committed an offence under any of sections 15 to 18 of the Terrorism Act 2000<sup>(11)</sup>,
  - (ii) property specified in the application is terrorist property within the meaning of section 14 of the 2000 Act, or
  - (iii) money or other property specified in the application is relevant property within the meaning of paragraph 1 of Schedule 3 to the National Security Act 2023;
- (b) describe in general terms the information that the applicant wants a person to provide;
- (c) explain the grounds for believing that—
- (i) information which may be provided is likely to be of substantial value, whether or not by itself, to the investigation, and
  - (ii) it is in the public interest for the information to be provided, having regard to the benefit likely to accrue to the investigation if it is obtained; and
- (d) propose the terms of the order.”,
- (iii) in paragraphs (2), (3), (4) and (5) for “a further” substitute “an” in each place it occurs,
- (iv) renumber paragraph (2)(f) as (2)(g),
- (v) for paragraph (2)(e) substitute—
- “(e) where the information sought is to assist the National Crime Agency to conduct analysis for the purposes of the Agency’s criminal intelligence function so far as that relates to terrorist financing—
- (i) explain how the information would assist the Agency to conduct that analysis,
  - (ii) demonstrate that the applicant has had regard to the code of practice under section 22F of the 2000 Act<sup>(12)</sup>, and
  - (iii) explain why it is reasonable in all the circumstances for the information to be provided;
- (f) where the information sought is to assist a financial intelligence unit in a country outside the United Kingdom to conduct analysis concerned with terrorist financing, following a request by that unit to the National Crime Agency—
- (i) explain how the information is likely to be of substantial value to that financial intelligence unit in carrying out that analysis,
  - (ii) demonstrate that the applicant has had regard to the code of practice under section 22F of the 2000 Act, and
  - (iii) explain why it is reasonable in all the circumstances for the information to be provided; and”
- (vi) for the note to the rule substitute—

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<sup>(11)</sup> 2000 c. 11; section 17A was inserted by section 42 of the Counter-Terrorism and Security Act 2015 (c. 6).

<sup>(12)</sup> 2000 c. 11; section 22F was inserted by section 186 of the Economic Crime and Corporate Transparency Act 2023 (c. 56).

*“[Note. See sections 22B, 22D, 22E and 22F of, and Schedule 5A to, the Terrorism Act 2000(13)and Schedule 3 to the National Security Act 2023 .*

*The applicant for a disclosure order must be—*

- (a) under the 2000 Act, a constable or a counter-terrorism financial investigator who is, or who is authorised to apply by, a police officer of at least the rank of superintendent;*
- (b) under the 2023 Act, a police officer of at least the rank of superintendent, a constable authorised by an officer of at least the rank of superintendent, the Director General of the National Crime Agency, or an officer of that Agency authorised by or on behalf of the Director General.*

*Under section 22B(12) of the 2000 Act—*

- (a) the applicant for an information order to which paragraph (2)(c) or (d) refers must be ‘a law enforcement officer’, as defined by section 22B(14), who is, or who is authorised to apply by, a ‘senior law enforcement officer’, defined by section 22B(14) as a police officer of at least the rank of superintendent, the Director General of the National Crime Agency or an officer of that Agency authorised by the Director General for that purpose; and*
- (b) the applicant for an information order to which paragraph (2)(e) or (f) refers must be the Director General of the National Crime Agency or an officer of that Agency authorised by the Director General for that purpose.*

*Section 14 of the 2000 Act defines terrorist property as money or other property which is likely to be used for the purposes of terrorism; proceeds of the commission of terrorism; and proceeds of acts carried out for the purposes of terrorism. Sections 15 to 18 of the Act create offences of fund raising for the purposes of terrorism; use or possession of property for the purposes of terrorism; funding terrorism; making an insurance payment in response to a terrorist demand; and facilitating the retention or control of terrorist property.*

*Paragraph 1 of Schedule 3 to the 2023 Act(14) defines ‘relevant property’ as money or other property which is likely to be used for the purposes of foreign power threat activity (as defined by section 33 of the Act) or proceeds of involvement in such activity.*

*A disclosure order—*

- (a) cannot require a person to—*
  - (i) answer any question, provide any information or produce any document or other material which the person would be entitled to refuse to answer, provide or produce on grounds of legal professional privilege in the High Court, or*
  - (ii) produce excluded material; but*
- (b) can require a lawyer to provide a client’s name and address.*

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**(13)** 2000 c. 11; sections 22B, 22D and 22E were inserted by section 37 of the Criminal Finances Act 2017 (c. 22) and section 22B was amended by section 186 of the Economic Crime and Corporate Transparency Act 2023 (c. 56). Schedule 5A was inserted by paragraph 3 of Schedule 2 to that Act.

**(14)** 2023 c. 32.

*Under section 21A of the 2000 Act(15) a person engaged in a business in the regulated sector commits an offence where the conditions listed in that section are met and that person does not disclose, in the manner required by that section, knowledge or a suspicion that another person has committed or attempted to commit an offence under any of sections 15 to 18 in Part III of the Act. Part III of the Act also contains other disclosure provisions.*

*Under section 22B(6A) and (6B) of the 2000 Act the analysis to assist in which information may be sought may be (i) operational analysis of information that is relevant to a terrorist financing or suspected terrorist financing (defined by section 22B(14) as an act which constitutes an offence under any of sections 15 to 18 of the Act, or under a provision corresponding with an offence under any of those sections), or (ii) strategic analysis identifying trends or patterns in the conduct of terrorist financing, or systemic deficiencies or vulnerabilities which have been, are being or are likely to be, exploited for the purposes of terrorist financing. Section 1 of the Crime and Courts Act 2013(16) confers functions on the National Crime Agency, including the ‘criminal intelligence function’ defined by section 1(5) of that Act.*

*Under section 22E of the 2000 Act an information order does not confer the right to require information which a person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in the High Court.]”;*

- (h) for rule 47.14 (Content of application for an explanation order under the Terrorism Act 2000) substitute—

**“Content of application for an explanation order under the Terrorism Act 2000 or the National Security Act 2023**

**47.14.** As well as complying with rules 47.6 and 47.11, an applicant who wants the court to make an explanation order must—

- (a) identify the material that the applicant wants the respondent to explain; and
- (b) propose the terms of the order.

*[Note. See paragraph 13 of Schedule 5 to the Terrorism Act 2000(17) and paragraph 10 of Schedule 2 to the National Security Act 2023. The applicant for an explanation order may be a constable or, where the application concerns material produced to a counter-terrorism financial investigator, such an investigator.*

*An explanation order—*

- (a) *cannot require a person to disclose any information which the person would be entitled to refuse to disclose on grounds of legal professional privilege in the High Court; but*
- (b) *can require a lawyer to provide a client’s name and address.]”;*

- (i) for rule 47.15 (Content of application for a customer information order under the Terrorism Act 2000) substitute—

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(15) 2000 c. 11; section 21A was inserted by section 3 of, and paragraph 5 of Schedule 2 to, the Anti-terrorism, Crime and Security Act 2001 (c. 24) and amended by regulation 2 of, and paragraph 3 of Schedule 1 to, S.I. 2007/3398, section 59 of, and paragraph 128 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15) and section 61 of, and paragraph 72 of Schedule 8 to, the Crime and Courts Act 2013 (c. 22).

(16) 2013 c. 22.

(17) 2000 c. 11; paragraph 13 of Schedule 5 was amended by section 65 of, and paragraph 9 of Schedule 4 to, the Courts Act 2003 (c. 39) and section 41(3)(d) of the Criminal Finances Act 2017 (c. 22).



**“Content of application for a customer information order under the Terrorism Act 2000 or the National Security Act 2023**

**47.15.** As well as complying with rules 47.6 and 47.11, an applicant who wants the court to make a customer information order must—

- (a) specify the person in respect of whom customer information is sought;
- (b) explain, as applicable—
  - (i) why the order is desirable for the purposes of a terrorist investigation to trace terrorist property within the meaning of the Terrorism Act 2000, or
  - (ii) why the order is sought for the purposes of an investigation into foreign power threat activity within the meaning of the National Security Act 2023;
- (c) explain how the order will enhance the effectiveness of the investigation; and
- (d) propose the terms of the order.

*[Note. See Schedule 6 to the Terrorism Act 2000 and Schedule 4 to the National Security Act 2023. The applicant for a customer information order must be—*

- (a) under the 2000 Act, a police officer of at least the rank of superintendent;*
- (b) under the 2023 Act, a police officer of at least the rank of superintendent, a constable authorised by an officer of at least the rank of superintendent, the Director General of the National Crime Agency, or an officer of that Agency authorised by or on behalf of the Director General.*

*‘Customer information’ is defined by paragraph 7 of Schedule 6 to the 2000 Act and paragraph 8 of Schedule 4 to the 2023 Act, each incorporating section 364 of the Proceeds of Crime Act 2002(18). In summary, such information is whether the individual or corporation named in the order holds or has held an account at the respondent financial institution and, if so, the details listed in section 364 of the 2002 Act.*

*‘Terrorist property’ is defined by section 14 of the 2000 Act.]”;*

- (j) for rule 47.16 (Content of application for an account monitoring order under the Terrorism Act 2000) substitute—

**“Content of application for an account monitoring order under the Terrorism Act 2000 or the National Security Act 2023**

**47.16.** As well as complying with rules 47.6 and 47.11, an applicant who wants the court to make an account monitoring order must—

- (a) specify—
  - (i) the person in respect of whose account or accounts information is sought,
  - (ii) the information sought,
  - (iii) the period during which the applicant wants the respondent to provide that information (to a maximum of 90 days), and
  - (iv) where, when and in what manner the applicant wants the respondent to provide that information;
- (b) explain, as applicable—

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(18) 2002 c. 29; section 364 was amended by section 107 of the Serious Organised Crime and Police Act 2005 (c. 15) and S.I. 2009/1941.

- (i) why the order is desirable for the purposes of a terrorist investigation to trace terrorist property within the meaning of the Terrorism Act 2000, or
- (ii) why the order is sought for the purposes of an investigation into foreign power threat activity within the meaning of the National Security Act 2023;
- (c) explain how the order will enhance the effectiveness of the investigation; and
- (d) propose the terms of the order.

*[Note. See Schedule 6A to the Terrorism Act 2000(19) and Schedule 5 to the National Security Act 2023(20). The applicant for an account monitoring order must be—*

- (a) *under the 2000 Act, a police officer or a counter-terrorism financial investigator;*
- (b) *under the 2023 Act, a constable or an officer of the National Crime Agency.*

*‘Terrorist property’ is defined by section 14 of the 2000 Act.]’;*

- (k) in rule 47.20 (Content of application for a disclosure order or further information order under the Proceeds of Crime Act 2002)—
  - (i) in the heading to the rule omit “further”,
  - (ii) in paragraphs (2), (3), (4) and (5) for “a further” substitute “an” in each place it occurs,
  - (iii) renumber paragraph (2)(f) as (2)(g),
  - (iv) for paragraph (2)(e) substitute—
    - “(e) where the information sought is to assist the National Crime Agency to conduct analysis for the purposes of the Agency’s criminal intelligence function so far as that relates to money laundering—
      - (i) explain how the information would assist the Agency to conduct that analysis,
      - (ii) demonstrate that the applicant has had regard to the code of practice under section 339ZL of the 2002 Act(21), and
      - (iii) explain why it is reasonable in all the circumstances for the information to be provided;
    - (f) where the information sought is to assist a financial intelligence unit in a country outside the United Kingdom to conduct analysis concerned with money laundering, following a request by that unit to the National Crime Agency—
      - (i) explain how the information is likely to be of substantial value to that financial intelligence unit in carrying out that analysis,
      - (ii) demonstrate that the applicant has had regard to the code of practice under section 339ZL of the 2002 Act, and
      - (iii) explain why it is reasonable in all the circumstances for the information to be provided; and”,
  - (v) in the note to the rule, in the first paragraph after “339ZK” insert “, 339ZL”,
  - (vi) in the note to the rule, for the fourth paragraph substitute—

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(19) 2000 c. 11; Schedule 6A was inserted by section 3 of, and paragraph 1 of Schedule 2 to, the Anti-terrorism, Crime and Security Act 2001 (c. 24).

(20) 2023 c. 32.

(21) 2002 c. 29; section 339ZL was inserted by section 185 of the Economic Crime and Corporate Transparency Act 2023 (c. 56).

*“Under section 339ZH(1), (12) of the 2002 Act(22) the applicant for an information order must be the Director General of the National Crime Agency or an officer of that Agency authorised by the Director General for that purpose.”, and*

(vii) at the end of the note to the rule insert—

*“Under section 339ZH(6A) and (6B) of the 2002 Act the analysis to assist in which information may be sought may be (i) operational analysis of information that is relevant to money laundering or suspected money laundering, or (ii) strategic analysis identifying trends or patterns in the conduct of money laundering, or systemic deficiencies or vulnerabilities which have been, are being or are likely to be, exploited for the purposes of money laundering. Section 1 of the Crime and Courts Act 2013 confers functions on the National Crime Agency, including the ‘criminal intelligence function’ defined by section 1(5) of that Act.*

*Under section 339ZK of the 2002 Act(23) an information order does not confer the right to require information which a person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in the High Court.”;*

(l) in rule 47.24 (Section 3: investigation warrants; When this Section applies)—

(i) at the end of paragraph (a)(i) omit “or”,

(ii) after paragraph (a)(ii) insert—

*“(iii) paragraph 1 of Schedule 5 to the Terrorism Act 2000(24), or*

*(iv) paragraph 2 of Schedule 2 to the National Security Act 2023;”;*

(iii) at the end of paragraph (c) omit “and”,

(iv) for paragraph (d) substitute—

*“(d) a Crown Court judge can issue a warrant under—*

*(i) paragraph 9 of Schedule 2 to the National Security Act 2023, or*

*(ii) paragraph 13 of that Schedule; and*

*(e) a court to which these Rules apply can issue a warrant to search for and seize articles or persons under a power not listed in paragraphs (a) to (d).”;*

(v) in the note to the rule, in the first paragraph for sub-paragraph (f) substitute—

*“(f) under the National Security Act 2023—*

*(i) a warrant authorising entry to, and the search of, premises for material sought for the purposes of an investigation to which Schedule 2 to that Act applies,*

*(ii) a warrant authorising the retention of confidential journalistic material seized under the authority of a senior police officer;*

*(g) under these and other Acts, comparable warrants.”, and*

(vi) in the note to the rule, in the sixth paragraph omit “Circuit or Crown Court”, at the end of sub-paragraph (c) omit “and”, at the end of sub-paragraph (d) insert “and” and after sub-paragraph (d) insert—

*“(e) paragraph 16 of Schedule 2 to the National Security Act 2023.”;*

(22) 2002 c. 29; section 339ZH was inserted by section 12 of the Criminal Finances Act 2017 (c. 22) and amended by section 185 of the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(23) 2002 c. 29; section 339ZK was inserted by section 12 of the Criminal Finances Act 2017 (c. 22) and amended by section 185 of the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(24) 2000 c. 11; paragraph 1 of Schedule 5 was amended by section 26 of the Terrorism Act 2006 (c. 11).

- (m) in rule 47.27 (Information to be included in a warrant)—
  - (i) for paragraph (1)(c)(i) substitute—
    - “(i) the documents, electronic devices, or kinds of devices, or other material, or persons to be sought, and”, and
    - (ii) in paragraph (3) omit “, by signature, initial, or otherwise.”;
- (n) for rule 47.31 (Application for warrant under paragraph 11 of Schedule 5 to the Terrorism Act 2000) substitute—

**“Application for warrant under Schedule 5 to the Terrorism Act 2000 or Schedule 2 to the National Security Act 2023**

**47.31.**—(1) This rule applies where an applicant wants a judge or justice of the peace, as applicable—

- (a) to issue a search warrant or warrants under—
  - (i) paragraph 1 or paragraph 11 of Schedule 5 to the Terrorism Act 2000<sup>(25)</sup>, or
  - (ii) paragraph 2 or paragraph 9 of Schedule 2 to the National Security Act 2023<sup>(26)</sup>; or
- (b) to issue a warrant for the retention of confidential journalistic material seized by order made under paragraph 15 of Schedule 5 to the Terrorism Act 2000<sup>(27)</sup> or paragraph 12 of Schedule 2 to the National Security Act 2023 (urgent cases: seizure of confidential material under the authority of a senior police officer) under, as applicable—
  - (i) paragraph 15A of Schedule 5 to the Terrorism Act 2000<sup>(28)</sup>, or
  - (ii) paragraph 13 of Schedule 2 to the National Security Act 2023.

(2) As well as complying with rule 47.26, on an application for a search warrant the application must—

- (a) specify the offence or relevant act under investigation and, as applicable, either—
  - (i) explain how the investigation constitutes a terrorist investigation within the meaning of the 2000 Act, or
  - (ii) explain the grounds for suspecting that a relevant act within the meaning of the 2023 Act has been, or is about to be, committed;
- (b) so far as practicable, identify the material sought and if that material may be stored in an electronic device or devices—
  - (i) so far as practicable, describe each device or kind of device sought, and
  - (ii) explain the grounds for suspecting that the material may be stored there;
- (c) in relation to premises which the applicant can specify—
  - (i) specify each set of premises to be searched, and

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(25) 2000 c. 11; paragraph 11 of Schedule 5 was amended by section 26 of the Terrorism Act 2006 (c. 11) and section 82 of the Deregulation Act 2015 (c. 20). It is further amended by section 65 of, and paragraph 9 of Schedule 4 to, the Courts Act 2003 (c. 39), with effect from a date to be appointed.

(26) 2023 c. 32.

(27) 2000 c. 11; paragraph 15 of Schedule 5 was amended by sections 50 to 55 and 68 of, and paragraphs 71, 83 and 109 of Schedule 1 to, the Criminal Justice and Police Act 2001 (c. 16), section 280 of, and paragraph 55 of Schedule 26 to, the Criminal Justice Act 2003 (c. 44) and paragraph 2 of Schedule 17 to the National Security Act 2023 (c. 32).

(28) 2000 c. 11; paragraph 15A of Schedule 5 was inserted by paragraph 2 of Schedule 17 to the National Security Act 2023 (c. 32).

- (ii) in respect of each set of premises, explain the grounds for believing (where the application is under Schedule 5 to the 2000 Act) or suspecting (where the application is under Schedule 2 to the 2023 Act) that material sought is on those premises;
  - (d) in relation to premises at least some of which the applicant cannot specify—
    - (i) identify the person who occupies or controls the premises,
    - (ii) explain why it is not reasonably practicable to specify all the premises which that person occupies or controls which might need to be searched,
    - (iii) specify as many sets of premises as is reasonably practicable, and
    - (iv) in respect of each set of premises, whether specified or not, explain the grounds for believing (where the application is under Schedule 5 to the 2000 Act) or suspecting (where the application is under Schedule 2 to the 2023 Act) that material sought is on those premises;
  - (e) in relation to any set of premises which the applicant wants to be searched on more than one occasion—
    - (i) explain why it is necessary to search on more than one occasion in order to achieve the purpose for which the applicant wants the court to issue the warrant, and
    - (ii) specify any proposed maximum number of occasions; and
  - (f) in relation to any set of premises which the applicant wants to be searched by the officers executing the warrant with other persons authorised by the court—
    - (i) identify those other persons, by function or description, and
    - (ii) explain why those persons are required.
- (3) Where the grounds of an application for a search warrant are those listed in paragraph 1 of Schedule 5 to the 2000 Act (terrorist investigation; application to a justice of the peace), the application must explain—
- (a) the grounds for believing that—
    - (i) the material sought does not consist of or include excluded material, special procedure material or items subject to legal privilege,
    - (ii) the material is likely to be of substantial value to a terrorist investigation (whether by itself, or together with other material), and
    - (iii) the material must be seized in order to prevent it from being concealed, lost, damaged, altered or destroyed; and
  - (b) why the issue of a warrant is likely to be necessary in the circumstances of the case, unless the application—
    - (i) is made by a police officer of at least the rank of superintendent, and
    - (ii) does not relate to residential premises.
- (4) Where the grounds of an application for a search warrant are those listed in paragraph 2 of Schedule 2 to the 2023 Act (relevant act investigation; application to a justice of the peace), the application must explain the grounds for suspecting that the material sought—
- (a) is likely to be evidence that a relevant act has been, or is about to be, committed; and
  - (b) does not consist of or include confidential material.

(5) Where the grounds of an application for a search warrant are those listed in paragraphs 11 and 12(1) of Schedule 5 to the 2000 Act<sup>(29)</sup> or paragraph 9(2) of the 2023 Act (non-compliance with a production, etc. order; application to a judge) the application must—

- (a) identify the order and describe its terms; and
- (b) specify the date on which it was served.

(6) Where the grounds of an application for a search warrant are those listed in paragraphs 11 and 12(2) to (4) of Schedule 5 to the 2000 Act (terrorist investigation; application to a judge), the application must explain the grounds for believing that—

- (a) the material sought consists of or includes excluded material or special procedure material but does not include items subject to legal privilege;
- (b) the material is likely to be of substantial value to a terrorist investigation (whether by itself, or together with other material); and
- (c) it is not appropriate to make an order under paragraph 5 of Schedule 11 to the 2000 Act in relation to the material because—
  - (i) it is not practicable to communicate with any person entitled to produce the material,
  - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to premises to which the application for the warrant relates, or
  - (iii) a terrorist investigation may be seriously prejudiced unless a constable can secure immediate access to the material.

(7) Where the grounds of an application for a search warrant are those listed in paragraph 9(3) of Schedule 2 to the 2023 Act (relevant act investigation; application to a judge), the application must—

- (a) explain the grounds for suspecting that the material sought—
  - (i) is likely to be evidence that a relevant act has been, or is about to be, committed, and
  - (ii) consists of or includes confidential material but does not include items subject to legal privilege;
- (b) explain the grounds for believing that the material is likely to be of substantial value, whether by itself or with other material, to an investigation into whether a relevant act has been, or is about to be, committed;
- (c) explain the grounds for believing that it is in the public interest for the material to be obtained having regard to—
  - (i) the benefit likely to accrue to the investigation if it is obtained, and
  - (ii) the circumstances in which the respondent has any of the material; and
- (d) explain how any one or more of the following applies—
  - (i) it is not practicable to communicate with any person entitled to grant entry to those premises,
  - (ii) it is not practicable to communicate with any person entitled to grant access to the material,

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<sup>(29)</sup> 2000 c. 11; paragraph 12 of Schedule 5 was amended by section 26 of the Terrorism Act 2006 (c. 11). It is further amended by section 65 of, and paragraph 9 of Schedule 4 to, the Courts Act 2003 (c. 39), with effect from a date to be appointed.

(iii) the investigation may be seriously prejudiced unless a constable can secure immediate access to the material.

(8) Where the application is for a warrant for the retention of confidential journalistic material under paragraph 15A of Schedule 5 to the 2000 Act or under paragraph 13 of Schedule 2 to the 2023 Act, as well as complying with rule 47.26 the application must—

- (a) be made as soon as reasonably practicable after the confidential journalistic material is seized;
- (b) describe the circumstances of the seizure;
- (c) specify the offence or relevant act under investigation and, as applicable, either—
  - (i) explain how the investigation constitutes a terrorist investigation within the meaning of the 2000 Act, or
  - (ii) explain the grounds for suspecting that a relevant act within the meaning of the 2023 Act has been, or is about to be, committed;
- (d) explain the grounds for believing that the confidential journalistic material seized is likely to be of substantial value, whether by itself or with other material, to the investigation;
- (e) explain the grounds for believing that it is in the public interest for that material to be retained having regard to the benefit likely to accrue to the investigation if it is retained;
- (f) explain to what conditions, if any, the applicant proposes that the retention of the material should be made subject, if the court issues a warrant; and
- (g) explain whether, if the court declines to issue a warrant, the applicant proposes that the material should be—
  - (i) returned to the person from whom it was seized, or
  - (ii) destroyed.

*[Note. Under paragraph 1 of Schedule 5 to the Terrorism Act 2000, where the conditions listed in that paragraph are fulfilled a constable may apply to a justice of the peace for a warrant authorising a search for material, other than excluded material or special procedure material, on specified premises or on any premises of a specified person. Under paragraph 2 of Schedule 2 to the National Security Act 2023, where the conditions listed in that paragraph are fulfilled a constable may apply to a justice of the peace for a warrant authorising a search for material, other than confidential material. Under paragraphs 11 and 12 of Schedule 5 to the 2000 Act a constable may apply to a Circuit judge for such a warrant in respect of excluded or special procedure material. Under paragraph 9 of Schedule 2 to the 2023 Act, a constable may apply to a Crown Court judge for a warrant in respect of confidential material. No such warrant authorises the seizure of items subject to legal privilege.*

*Under paragraph 4 of Schedule 5 to the 2000 Act, ‘legal privilege’, ‘excluded material’ and ‘special procedure material’ mean the same as under sections 10, 11 and 14 of the Police and Criminal Evidence Act 1984(30).*

*Under paragraph 15 of Schedule 5 to the 2000 Act, ‘confidential journalistic material’ means material which is excluded material by virtue of section 11(1)(c) of the Police and*

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(30) 1984 c. 60; section 14 was amended by sections 1177 and 1184 of, and paragraph 193 of Schedule 1 to, the Corporation Tax Act 2010 (c. 4).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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*Criminal Evidence Act 1984 (journalistic material which a person holds in confidence and which consists of documents or records other than documents).*

*Under paragraph 17 of Schedule 2 to the 2023 Act, ‘confidential material’ means—*

- (a) material created or acquired for the purposes of journalism which is held in confidence or which the sender of that material to someone else intends the intended recipient to hold in confidence (‘confidential journalistic material’);*
- (b) items subject to legal privilege within the meaning of section 10 of the Police and Criminal Evidence Act 1984; and*
- (c) excluded material and special procedure material within the meaning of sections 11 and 14 of the Police and Criminal Evidence Act 1984, other than journalistic material.*

*Under section 16(3) of the 1984 Act(31), entry and search under a warrant must be within 3 months from the date of its issue.*

*See also the code of practice for the search of premises issued under section 66 of the 1984 Act(32).]”;* and

- (o) amend the table of contents correspondingly.*

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**(31)** 1984 c. 60; section 16(3) was amended by section 114 of the Serious Organised Crime and Police Act 2005 (c. 15).

**(32)** 1984 c. 60; section 66 was amended by section 57 of the Criminal Justice and Court Services Act 2000 (c. 43), section 110 and Part 2 of Schedule 17 to the Serious Organised Crime and Police Act 2005 (c. 15) and section 120 of, and paragraph 21 of Schedule 9 to, the Protection of Freedoms Act 2012 (c. 9).