
STATUTORY INSTRUMENTS

2015 No. 1490

The Criminal Procedure Rules 2015

PART 33

CONFISCATION AND RELATED PROCEEDINGS

SEIZURE AND DETENTION PROCEEDINGS

Application for approval to seize property or to search

33.28.—(1) This rule applies where an officer who is entitled to apply wants the approval of a magistrates' court, under section 47G of the Proceeds of Crime Act 2002(1)—

- (a) to seize property, under section 47C of that Act(2);
 - (b) to search premises or a person or vehicle for property to be seized, under section 47D, 47E or 47F of that Act(3).
- (2) Such an officer must—
- (a) apply in writing; and
 - (b) serve the application on the court officer.
- (3) The application must—
- (a) explain—
 - (i) the applicant's entitlement to apply, and
 - (ii) how the proposed seizure meets the conditions prescribed by sections 47B, 47C and, if applicable, 47D, 47E or 47F of the 2002 Act(4);
 - (b) if applicable, specify any premises, person or vehicle to be searched;
 - (c) attach any material on which the applicant relies; and
 - (d) propose the terms in which the applicant wants the court to give its approval.
- (4) The court—
- (a) must determine the application—
 - (i) at a hearing, which must be in private unless the court otherwise directs, and
 - (ii) in the applicant's presence;
 - (b) may consider an application made orally instead of in writing.

(1) 2002 c. 29; section 47G was inserted by section 55 of the Policing and Crime Act 2009 (c. 26) and amended by section 55 of, and paragraphs 14 and 17 of Schedule 21 to, the Crime and Courts Act 2013 (c. 22). It is further amended by section 13 of the Serious Crime Act 2015 (c. 9), with effect from a date to be appointed.

(2) 2002 c. 29; section 47C was inserted by section 55 of the Policing and Crime Act 2009 (c. 26) and amended by section 55 of, and paragraphs 14 and 16 of Schedule 21 to, the Crime and Courts Act 2013 (c. 22).

(3) 2002 c. 29; sections 47D, 47E and 47F were inserted by section 55 of the Policing and Crime Act 2009 (c. 26).

(4) 2002 c. 29; section 47B was inserted by section 55 of the Policing and Crime Act 2009 (c. 26) It is amended by section 13 of the Serious Crime Act 2015 (c. 9), with effect from a date to be appointed.

[Note. Under section 47C of the Proceeds of Crime Act 2002, if any of the conditions listed in section 47B of the Act are met then one of the officers listed in section 47A may seize property other than cash or exempt property, as defined in the section, if that officer has reasonable grounds for suspecting that—

- (a) the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against a defendant; or*
- (b) the value of the property may otherwise be diminished as a result of conduct by the defendant or any other person.*

Under sections 47D, 47E and 47F of the 2002 Act, such an officer may search premises, a person or a vehicle, respectively, for such property, on the conditions listed in those sections.

By sections 47C(6), 47D(2), 47E(4), 47F(6) and 47G of the 2002 Act, such an officer may seize property, and may search for it, only with the approval of a magistrates' court or, if that is impracticable, the approval of a senior officer (as defined by section 47G), unless in the circumstances it is not practicable to obtain the approval of either.]

Application to extend detention period

33.29.—(1) This rule applies where an officer who is entitled to apply, or the prosecutor, wants a magistrates' court to make an order, under section 47M of the Proceeds of Crime Act 2002⁽⁵⁾, extending the period for which seized property may be detained.

- (2) Such an officer or prosecutor must—
 - (a) apply in writing; and
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) any person whom the applicant believes would be affected by an order.
- (3) The application must—
 - (a) specify—
 - (i) the property to be detained, and
 - (ii) whether the applicant wants it to be detained for a specified period or indefinitely;
 - (b) explain—
 - (i) the applicant's entitlement to apply, and
 - (ii) how the proposed detention meets the conditions prescribed by section 47M of the 2002 Act;
 - (c) attach any material on which the applicant relies; and
 - (d) propose the terms of the order.
- (4) The court—
 - (a) must determine the application—
 - (i) at a hearing, which must be in private unless the court otherwise directs, and
 - (ii) in the applicant's presence;
 - (b) may—
 - (i) consider an application made orally instead of in writing,

(5) [2002 c. 29](#); section 47M was inserted by section 55 of the Policing and Crime Act [2009 \(c. 26\)](#) and amended by section 55 of, and paragraphs 14 and 18 of Schedule 21 to, the Crime and Courts Act [2013 \(c. 22\)](#).

- (ii) require service of the application on the court officer after it has been heard, instead of before.
- (5) If the court extends the period for which the property may be detained, the applicant must—
 - (a) notify any person affected by the order who was absent when it was made; and
 - (b) serve on the court officer a list of those so notified.

[Note. Under section 47M of the Proceeds of Crime Act 2002, one of the officers listed in that section, or the prosecutor, may apply to a magistrates' court for an order extending the period of 48 hours for which, under section 47J of the Act(6), property seized under section 47C may be detained.

On an application to which this rule applies, hearsay evidence within the meaning of section 1(2) of the Civil Evidence Act 1995 is admissible: see section 47Q of the 2002 Act(7).]

Application to vary or discharge order for extended detention

33.30.—(1) This rule applies where an officer who is entitled to apply, the prosecutor, or a person affected by an order to which rule 33.29 applies, wants a magistrates' court to vary or discharge that order, under section 47N of the Proceeds of Crime Act 2002(8).

- (2) Such a person must—
 - (a) apply in writing; and
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) as appropriate, the applicant for the order, or any person affected by the order.
- (3) The application must—
 - (a) specify the order and the property detained;
 - (b) explain—
 - (i) the applicant's entitlement to apply,
 - (ii) why it is appropriate for the order to be varied or discharged,
 - (iii) if applicable, on what grounds the court must discharge the order;
 - (c) attach any material on which the applicant relies;
 - (d) if applicable, propose the terms of any variation; and
 - (e) ask for a hearing, if the applicant wants one, and explain why it is needed.
- (4) A person who wants to make representations about the application must—
 - (a) serve the representations on—
 - (i) the court officer, and
 - (ii) the applicant;
 - (b) do so as soon as reasonably practicable after service of the application;
 - (c) attach any material on which that person relies; and
 - (d) ask for a hearing, if that person wants one, and explain why it is needed.
- (5) The court—

(6) 2002 c. 29; section 47J was inserted by section 55 of the Policing and Crime Act 2009 (c. 26).

(7) 2002 c. 29; section 47Q was inserted by section 55 of the Policing and Crime Act 2009 (c. 26).

(8) 2002 c. 29; section 47N was inserted by section 55 of the Policing and Crime Act 2009 (c. 26).

- (a) must not determine the application unless the applicant and each person on whom it was served—
 - (i) is present, or
 - (ii) has had an opportunity to attend or to make representations;
- (b) subject to that, may determine the application—
 - (i) at a hearing (which must be in private unless the court otherwise directs), or without a hearing,
 - (ii) in the absence of any party to the application.

[Note. Under section 47N of the Proceeds of Crime Act 2002, one of the officers listed in section 47M of the Act, the prosecutor, or a person affected by an order under section 47M, may apply to a magistrates' court for the order to be varied or discharged. Section 47N(3) lists the circumstances in which the court must discharge such an order.

On an application to which this rule applies, hearsay evidence within the meaning of section 1(2) of the Civil Evidence Act 1995 is admissible: see section 47Q of the 2002 Act.]

Appeal about property detention decision

33.31.—(1) This rule applies where—

- (a) on an application under rule 33.29 for an order extending the period for which property may be detained—
 - (i) a magistrates' court decides not to make such an order, and
 - (ii) an officer who is entitled to apply for such an order, or the prosecutor, wants to appeal against that decision to the Crown Court under section 47O(1) of the Proceeds of Crime Act 2002⁽⁹⁾;
 - (b) on an application under rule 33.30 to vary or discharge an order under rule 33.29—
 - (i) a magistrates' court determines the application, and
 - (ii) a person who is entitled to apply under that rule wants to appeal against that decision to the Crown Court under section 47O(2) of the 2002 Act.
- (2) The appellant must serve an appeal notice—
- (a) on the Crown Court officer and on any other party;
 - (b) not more than 21 days after the magistrates' court's decision, or, if applicable, service of notice under rule 33.29(5).
- (3) The appeal notice must—
- (a) specify the decision under appeal;
 - (b) where paragraph (1)(a) applies, explain why the detention period should be extended;
 - (c) where paragraph (1)(b) applies, propose the order that the appellant wants the court to make, and explain why.
- (4) Rule 34.11 (Constitution of the Crown Court) applies on such an appeal.

[Note. Under section 47O of the Proceeds of Crime Act 2002, one of those entitled to apply for an order under section 47M of that Act (extension of detention of property) may appeal against a refusal to make an order, and one of those entitled to apply for the variation or discharge of such an order, under section 47N of that Act, may appeal against the decision on such an application.

⁽⁹⁾ 2002 c. 29; section 47O was inserted by section 55 of the Policing and Crime Act 2009 (c. 26).

On an appeal to which this rule applies, hearsay evidence within the meaning of section 1(2) of the Civil Evidence Act 1995 is admissible: see section 47Q of the 2002 Act.]