
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 47

INVESTIGATION ORDERS AND WARRANTS

ORDERS UNDER THE TERRORISM ACT 2000

Content of application for a production etc. order under the Terrorism Act 2000

47.12.—(1) As well as complying with rules 47.6 and 47.11, an applicant who wants the court to make an order for the production of, or for giving access to, material, or for a statement of its location, must—

- (a) describe that material;
- (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 how the material constitutes or contains excluded material or special procedure material;
- (d) confirm that none of the material is expected to be subject to legal privilege;
- (e) explain why the material is likely to be of substantial value to the investigation;
- (f) explain why 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; and
- (g) propose—
 - (i) the terms of the order, and
 - (ii) the period within which it should take effect.

(2) An applicant who wants the court to make an order to grant entry in aid of a production order must—

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

[Note. See paragraphs 5 to 9 of Schedule 5 to the Terrorism Act 2000(1). The applicant for a production, etc. order must be an ‘appropriate officer’ as defined by paragraph 5(6) of that Schedule. Where the applicant is a counter-terrorism financial investigator the application must be for the purposes of an investigation relating to ‘terrorist property’ as defined by section 14 of the 2000 Act. Under paragraphs 5 and 7 of Schedule 5 to that Act a production order may require a specified person—

- (a) to produce to an appropriate officer within a specified period for seizure and retention any material which that person has in his or her possession, custody or power and to which the application relates; to give an appropriate officer access to any such material within a specified period; and to state to the best of that person’s knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his or her possession, custody or power within the period specified; or*
- (b) where such material is expected to come into existence within the period of 28 days beginning with the date of the order, to notify a named appropriate officer as soon as is reasonably practicable after any material to which the application relates comes into that person’s possession, custody or power, and then to produce that material to an appropriate officer; to give an appropriate officer access to it; and to state to the best of that person’s knowledge and belief the location of material to which the application relates if it is not in, and it will not come into, his or her possession, custody or power within that period of 28 days.*

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.

The period within which an order takes effect must be specified in the order and, unless the court otherwise directs, must be—

- (a) where the respondent already has the material, 7 days from the date of the order; or*
- (b) where the respondent is expected to have the material within 28 days, 7 days from the date the respondent notifies the applicant of its receipt.*

The Practice Direction sets out forms of application, notice and order for use in connection with this rule.]

(1) 2000 c. 11; paragraphs 5, 6 and 7 of Schedule 5 were amended by section 65 of, and paragraph 9 of Schedule 4 to, the Courts Act 2003 (c. 39) and section 41 of the Criminal Finances Act 2017 (c. 22).