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STATUTORY INSTRUMENTS

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**2020 No. 759**

**The Criminal Procedure Rules 2020**

**PART 47**

**INVESTIGATION ORDERS AND WARRANTS**

*[<sup>F1</sup>ORDERS UNDER THE TERRORISM ACT 2000 AND THE NATIONAL SECURITY ACT 2023]*

**[<sup>F1</sup>Content of application for a disclosure order or information order under the Terrorism Act 2000 or the National Security Act 2023]**

**47.13.**—[<sup>F2</sup>(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—
  - (i) a person has committed an offence under any of sections 15 to 18 of the Terrorism Act 2000,
  - (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.]

(2) As well as complying with rule 47.6, an applicant who wants the court to make [<sup>F3</sup>an] information order must—

- (a) identify the respondent from whom the information is sought and explain—
  - (i) whether the respondent is the person who made the disclosure to which the information relates or is otherwise carrying on a business in the regulated sector within the meaning of Part 1 of Schedule 3A to the 2000 Act(1), and

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(1) 2000 c. 11; Part 1 of Schedule 3A was inserted by section 3 of, and paragraph 5 of Schedule 2 to, the Anti-terrorism, Crime and Security Act 2001 (c. 24), substituted by article 2 of S.I. 2007/3288 and amended by articles 3 and 6 of, and paragraph 25 of Schedule 1 to, S.I. 2008/948, sections 183 and 237 of, and paragraph 1 of Schedule 18 and Part 29 of Schedule 25 to, the Localism Act 2011 (c. 20), regulation 79 of, and paragraph 3 of Schedule 4 to, S.I. 2011/99, article 2 of S.I. 2011/2701, article 2 of S.I. 2012/2299, article 2 of S.I. 2012/1534, regulation 46 of, and paragraph 40 of Schedule 2 to, S.I. 2013/3115, section 151 of, and paragraph 73 of Schedule 4 to, the Co-operative and Community Benefit Societies Act 2014 (c. 14), regulation 59 of, and paragraph 21 of Schedule 1 to, S.I. 2015/575, regulation 12 of S.I. 2016/680, regulation 2 of, and paragraph 11 of

- (ii) why the applicant thinks that the information is in the possession, or under the control, of the respondent;
- (b) specify or describe the information that the applicant wants the respondent to provide;
- (c) where the information sought relates to a disclosure of information by someone under section 21A of the 2000 Act<sup>(2)</sup> (Failure to disclose: regulated sector), explain—
  - (i) how the information sought relates to a matter arising from that disclosure,
  - (ii) how the information would assist in investigating whether a person is involved in the commission of an offence under any of sections 15 to 18 of that Act<sup>(3)</sup>, or in determining whether an investigation of that kind should be started, or in identifying terrorist property or its movement or use, and
  - (iii) why it is reasonable in all the circumstances for the information to be provided;
- (d) where the information sought relates to a disclosure made under a requirement of the law of a country outside the United Kingdom which corresponds with Part III of the 2000 Act (Terrorist property), and an authority in that country which investigates offences corresponding with sections 15 to 18 of that Act has asked the National Crime Agency for information in connection with that disclosure, explain—
  - (i) how the information sought relates to a matter arising from that disclosure,
  - (ii) why the information is likely to be of substantial value to the authority that made the request in determining any matter in connection with the disclosure, and
  - (iii) why it is reasonable in all the circumstances for the information to be provided;
- [<sup>F4</sup>(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, 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]
- [<sup>F5</sup>(g)] propose the terms of the order, including—
  - (i) how the respondent must provide the information required, and

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the Schedule to, [S.I. 2017/80](#), regulation 109 of, and paragraph 4 of Schedule 7 to, [S.I. 2017/692](#) and regulation 50 of, and paragraph 6 of Schedule 4 to, [S.I. 2017/701](#).

(2) [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 paragraphs 1 and 3 of Schedule 1 to, [S.I. 2007/3398](#), section 59 of, and paragraphs 125 and 128 of, the Serious Organised Crime and Police Act 2005 ([c. 15](#)) and section 15 of, and paragraphs 67 and 72 of Schedule 8 to, the Crime and Courts Act 2013 ([c. 22](#)).

(3) [2000 c. 11](#); section 17A was inserted by section 42 of the Counter-Terrorism and Security Act 2015 ([c. 6](#)).

(ii) the date by which the information must be provided.

(3) Rule 47.8 (Application to vary or discharge an order) does not apply to [F6] information order.

(4) Paragraph (5) applies where a party to an application for [F7] information order wants to appeal to the Crown Court from the decision of the magistrates' court.

(5) The appellant must—

(a) serve an appeal notice—

(i) on the Crown Court officer and on the other party,

(ii) not more than 15 business days after the magistrates' court's decision; and

(b) in the appeal notice, explain, as appropriate, why the Crown Court should (as the case may be) make, discharge or vary [F8] information order.

(6) Rule 34.11 (Constitution of the Crown Court) applies on such an appeal.

[F9] [Note. See sections 22B, 22D, 22E and 22F of, and Schedule 5A to, the Terrorism Act 2000 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 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.

*Under section 21A of the 2000 Act 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 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.]]*

#### Textual Amendments

- F1** Rule 47.13 heading substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(i\)](#)
- F2** Rule 47.13(1) substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(ii\)](#)
- F3** Word in rule 47.13(2) substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(iii\)](#)
- F4** Rule 47.13(2)(e)(f) substituted for rule 47.13(2)(e) (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(v\)](#)
- F5** Rule 47.13(2)(f) renumbered as rule 47.13(2)(g) (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(iv\)](#)
- F6** Word in rule 47.13(3) substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(iii\)](#)
- F7** Word in rule 47.13(4) substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(iii\)](#)
- F8** Word in rule 47.13(5) substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(iii\)](#)
- F9** Rule 47.13 Note substituted (1.4.2024) by [The Criminal Procedure \(Amendment\) Rules 2024 \(S.I. 2024/62\)](#), rules 1, [12\(g\)\(vi\)](#)

#### Commencement Information

- I1** Rule 47.13 in force at 5.10.2020, see Preamble

**Changes to legislation:**

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Section 47.13.