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STATUTORY INSTRUMENTS

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**2020 No. 759**

**The Criminal Procedure Rules 2020**

**PART 47**

**INVESTIGATION ORDERS AND WARRANTS**

*SECTION 3: INVESTIGATION WARRANTS*

**Application for warrant under paragraph 11 of Schedule 5 to the Terrorism Act 2000**

**47.31.**—(1) This rule applies where an applicant wants a Circuit judge to issue a warrant or warrants under paragraph 11 of Schedule 5 to the Terrorism Act 2000<sup>(1)</sup>.

(2) As well as complying with rule 47.26, the application must—

- (a) specify the offence under investigation;
- (b) explain how the investigation constitutes a terrorist investigation within the meaning of the Terrorism Act 2000;
- (c) so far as practicable, identify the material sought (and see paragraph (4));
- (d) specify the premises to be searched (and see paragraph (5)); and
- (e) state whether the applicant wants other persons to accompany the officers executing the warrant or warrants (and see paragraph (6)).

(3) Where the applicant relies on an assertion that a production order made under paragraph 5 of Schedule 5 to the 2000 Act<sup>(2)</sup> in respect of material on the premises has not been complied with—

- (a) the application must—
  - (i) identify that order and describe its terms, and
  - (ii) specify the date on which it was served; but
- (b) the application need not comply with paragraphs (4) or (5)(b).

(4) In relation to the material sought, unless paragraph (3) applies the application must explain the grounds for believing that—

- (a) the material 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—

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(1) 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.

(2) 2000 c. 11; paragraph 5 of Schedule 5 is 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.

- (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.
- (5) In relation to the premises which the applicant wants to be searched, the application must—
- (a) specify—
    - (i) where paragraph (3) applies, the respondent and any premises to which the production order referred, or
    - (ii) in any other case, one or more sets of premises, or any premises occupied or controlled by a specified person (which may include one or more specified sets of premises);
  - (b) unless paragraph (3) applies, in relation to premises which the applicant wants to be searched but cannot specify, explain why—
    - (i) it is necessary to search any premises occupied or controlled by the specified person, and
    - (ii) it is not reasonably practicable to specify all the premises which that person occupies or controls which might need to be searched; and
  - (c) explain the grounds for believing that material sought is on those premises.
- (6) 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, the application must—
- (a) identify those other persons, by function or description; and
  - (b) explain why those persons are required.

*[Note. Under paragraph 11 of Schedule 5 to the Terrorism Act 2000, where the conditions listed in that paragraph and in paragraph 12 of that Schedule(3) are fulfilled a constable may apply to a Circuit judge for a warrant authorising a search for material consisting of excluded material or special procedure material on specified premises or on the premises of a specified person.*

*Under section 16(3) of the 1984 Act, 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.*

*The Practice Direction sets out forms of application and warrant for use in connection with this rule.]*

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(3) 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.