
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 47

INVESTIGATION ORDERS AND WARRANTS

*[^{F1}SECTION 10J: ORDERS FOR ACCESS TO ELECTRONIC DATA
UNDER THE CRIME (OVERSEAS PRODUCTION ORDERS) ACT 2019*

When this Section applies

[^{F1}47.63].—(1) This Section applies where the Crown Court can make an overseas production order under section 1 of the Crime (Overseas Production Orders) Act 2019⁽¹⁾.

(2) In this Section, a reference to a person affected by such an order includes a person by whom or on whose behalf there is stored any journalistic data specified or described in the application for that order.

[Note. Under section 1 of the Crime (Overseas Production Orders) Act 2019, on an application by an appropriate officer (defined by section 2 of the Act) a Crown Court judge may order a person (in these rules, ‘the respondent’) to produce or give access to electronic data (by section 3, ‘data stored electronically’), other than excepted such data, where, among other criteria listed in sections 1 and 4 of the Act, the judge is satisfied that—

- (a) *there are reasonable grounds for believing that—*
 - (i) *an indictable offence has been committed and proceedings in respect of the offence have been instituted or the offence is being investigated, or*
 - (ii) *the order is sought for the purposes of a terrorist investigation within the meaning of the Terrorism Act 2000; and*
- (b) *there are reasonable grounds for believing that the respondent operates in, or is based in, a country or territory outside the United Kingdom which is a party to, or which participates in, a designated international co-operation arrangement.*

Section 3 of the 2019 Act defines ‘excepted electronic data’ as data stored electronically that is (a) an item subject to legal privilege, or (b) a personal record within the meaning of section 3(7) (medical, etc. records) which (i) was created in circumstances giving rise to a continuing obligation of confidence to an individual who can be identified from that record, or (ii) is held subject to a restriction on disclosure, or an obligation of secrecy, contained in an enactment. Where the respondent against whom an overseas production order is sought is a telecommunications operator, within the meaning of the Investigatory Powers Act 2016, ‘excepted electronic data’ also includes communications data within the meaning of the 2016 Act [^{F2}unless that communications data is comprised in, included as part of, attached to or logically associated with the electronic data sought]. Where the investigation in aid of which an overseas production

(1) 2019 c. 5.

Changes to legislation: There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Section 47.63. (See end of Document for details)

order is sought is a terrorist investigation other than a terrorist financing investigation within the meaning of the Terrorism Act 2000, 'excepted electronic data' does not include a confidential personal record.

Section 12 of the Act defines 'journalistic data' as electronic data that (a) was created or acquired for the purposes of journalism and (b) is stored by or on behalf of a person who created or acquired it for those purposes.]

Textual Amendments

- F1** Rule 47.66 renumbered as rule 47.63 (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **27(o)** (with rule 3)
- F2** Words in rule 47.63 inserted (3.10.2022) by [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), rules 2, **24(b)**

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Section 47.63.