

CORONERS AND JUSTICE ACT 2009

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 3 - Criminal evidence, investigations and procedure

Chapter 1: Anonymity in investigations

Section 76: Investigation anonymity orders

417. *Subsection (1)* defines an investigation anonymity order. An investigation anonymity order is an order made by a justice of the peace, in relation to a person specified in the order, prohibiting the disclosure of any information that (a) identifies the specified person as a person who is or was able or willing to assist a qualifying criminal investigation specified in the order, or (b) that might enable the specified person to be identified as such a person. The order applies to the officers and others involved in the investigation, and indeed to anybody else, including the specified person. The purpose of the order is to prevent disclosure of information relating to the identity of an individual who is or was able or willing to assist a qualifying criminal investigation, and thus to protect an informant from harm and to provide reassurance to a reluctant informant that his or her identity will be protected by a court order.
418. *Subsection (3)* provides that an investigation anonymity order is not contravened if a person discloses information identifying the specified person, or which might enable the specified person to be identified, as someone who is or was able or willing to assist a specified qualifying criminal investigation, if the person disclosing the information does not know and has no reason to suspect that an order is in force.
419. *Subsection (4)* provides that an investigation anonymity order is not contravened if a person discloses information which might enable the specified person to be identified as someone who is or was able or willing to assist a specified qualifying criminal investigation, if the person disclosing the information does not know, and has no reason to suspect, that the information might enable the specified person to be so identified.
420. *Subsections (5) and (6)* provide that an investigation anonymity order is not contravened if a person ("A") discloses the fact that an investigation anonymity order has been made to another person ("B"), where A knows that B is aware that the informant for whose benefit the order was made is or was able or willing to help with an investigation.
421. *Subsection (7)* provides that an investigation anonymity order is not contravened where disclosure of information is to a person who is involved in the specified qualifying criminal investigation or in the prosecution of an offence to which the investigation relates, and the disclosure is made for the purposes of the investigation or prosecution.
422. *Subsection (8)* provides that an investigation anonymity order is not contravened where disclosure is required by any enactment or rule of law, or where required by a court order. However, *subsection (9)* provides that a person may not rely on subsection (8) in

a case where (a) it might have been determined that the person was required or permitted to withhold the information but (b) the person disclosed the information without there having been a determination as to whether the person was required or permitted to withhold the information. The effect of subsection (9) on subsection (8) is to limit the protection based on being obliged to disclose to cases where there is no exception to that obligation and cases where an exception that could have applied to protect the informant (such as public interest immunity) has been raised.

423. *Subsection (10)* provides that disclosing information in contravention of an investigation anonymity order is a criminal offence. A person who is guilty of this offence is liable to imprisonment and/or a fine. On summary conviction the maximum term of imprisonment is 12 months (or, in Northern Ireland, six months). Following conviction on indictment, the maximum term of imprisonment is five years. However, *subsections (3) to (8)* set out the circumstances in which an order will not be contravened.
424. *Subsection (13)* defines the term “specified” as meaning specified in the investigation anonymity order.