
STATUTORY INSTRUMENTS

2011 No. 1709

The Criminal Procedure Rules 2011

PART 6

INVESTIGATION ORDERS

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*SECTION 1: UNDERSTANDING AND APPLYING THIS PART***When this Part applies**

6.1.—(1) Sections 2 and 3 of this Part apply where, for the purposes of a terrorist investigation—

(a) a Circuit judge can make, vary or discharge—

- (i) an order for the production of, or for giving access to, material, or for a statement of its location, under paragraphs 5 and 10 of Schedule 5 to the Terrorism Act 2000(1),
- (ii) an explanation order, under paragraphs 10 and 13 of Schedule 5 to the 2000 Act(2),
- (iii) a customer information order, under paragraphs 1 and 4 of Schedule 6 to the 2000 Act(3);

(b) a Circuit judge can make, and the Crown Court can vary or discharge, an account monitoring order, under paragraphs 2 and 4 of Schedule 6A to the 2000 Act(4).

(2) Sections 2 and 4 of this Part apply where, for the purposes of a confiscation investigation or a money laundering investigation, a Crown Court judge can make, and the Crown Court can vary or discharge—

(a) a production order, under sections 345 and 351 of the Proceeds of Crime Act 2002(5);

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- (1) 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. Paragraph 10 of Schedule 5 was amended by section 109(1) of, and paragraph 389 of Schedule 8 to, the Courts Act 2003 (c. 39) and 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 13 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.
 - (3) 2000 c. 11; paragraph 1 of Schedule 6 was amended by section 3 of, and paragraph 6 of Schedule 2 to, the Anti-terrorism, Crime and Security Act 2001 (c. 24). Paragraph 4 of Schedule 6 was amended by section 109(1) of, and paragraph 390 of Schedule 8 to, the Courts Act 2003 (c. 39).
 - (4) 2000 c. 11; Schedule 6A was inserted by section 3 of, and paragraph 1(1) and (3) of Part 1 of Schedule 2 to, the Anti-terrorism, Crime and Security Act 2001 (c. 24).
 - (5) 2002 c. 29; section 345 was amended by section 75 of the Serious Crime Act 2007 (c. 27). Section 351 was amended by sections 74 and 77 of, and paragraphs 103 and 104 of Schedule 8 and paragraphs 1 and 6 of Schedule 10 to, the Serious Crime Act 2007 (c. 27).

- (b) an order to grant entry, under sections 347 and 351 of the 2002 Act;
 - (c) a disclosure order, under sections 357 and 362 of the 2002 Act(6);
 - (d) a customer information order, under sections 363 and 369 of the 2002 Act(7);
 - (e) an account monitoring order, under sections 370 and 375 of the 2002 Act(8).
- (3) Rule 6.5 and Section 5 of this Part apply where—
- (a) a justice of the peace can make or discharge an investigation anonymity order, under sections 76 and 80(1) of the Coroners and Justice Act 2009(9);
 - (b) a Crown Court judge can determine an appeal against—
 - (i) a refusal of such an order, under section 79 of the 2009 Act,
 - (ii) a decision on an application to discharge such an order, under section 80(6) of the 2009 Act.

[Note. In outline, the orders to which these rules apply are—

- (a) *under the Terrorism Act 2000—*
 - (i) *an order requiring a person to produce, give access to, or state the location of material sought in a terrorist investigation,*
 - (ii) *an explanation order, requiring a person to explain material obtained under a production, etc. order,*
 - (iii) *a customer information order, requiring a financial institution to provide information about an account holder,*
 - (iv) *an account monitoring order, requiring a financial institution to provide specified information, for a specified period, about an account held at that institution;*
- (b) *under the Proceeds of Crime Act 2002—*
 - (i) *a production order, requiring a person to produce or give access to material sought in a confiscation or money laundering investigation,*
 - (ii) *an order to grant entry, requiring a person to allow entry to premises so that a production order can be enforced,*
 - (iii) *a disclosure order, requiring a person to provide information or documents, or to answer questions,*
 - (iv) *a customer information order, requiring a financial institution to provide information about an account holder,*
 - (v) *an account monitoring order, requiring a financial institution to provide specified information, for a specified period, about an account held at that institution.*
- (c) *under the Coroners and Justice Act 2009, an investigation anonymity order, prohibiting the disclosure of information that identifies, or might identify, a specified person as someone who is, or was, willing to assist the investigation of an offence of murder or manslaughter caused by a gun or knife.*

(6) 2002 c. 29; section 357 was amended by sections 74 and 77 of, and paragraphs 103 and 108 of Schedule 8 and paragraphs 1 and 10 of Schedule 10 to, the Serious Crime Act 2007 (c. 27). Section 362 was amended by section 74 of, and paragraphs 103 and 110 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(7) 2002 c. 29; section 363 was amended by section 77 of, and paragraphs 1 and 11 of Schedule 10 to, the Serious Crime Act 2007 (c. 27). Section 369 was amended by section 74 of, and paragraphs 103 and 111 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(8) 2002 c. 29; section 370 was amended by section 77 of, and paragraphs 1 and 12 of Schedule 10 to, the Serious Crime Act 2007 (c. 27). Section 375 was amended by section 74 of, and paragraphs 103 and 112 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(9) 2009 c. 25.

For all the relevant terms under which these orders can be made, see the provisions listed in rule 6.1.

When the relevant provisions of the Courts Act 2003 come into force, a District Judge (Magistrates' Courts) will have the same powers as a Circuit judge under the Terrorism Act 2000.

Under section 8 of the Senior Courts Act 1981(10), a High Court judge, a Circuit judge, a Recorder and a District Judge (Magistrates' Courts) each may act as a Crown Court judge.

As well as governing procedure on an application to the Crown Court, under the following provisions rules may govern the procedure on an application to an individual judge—

- (a) *paragraph 10 of Schedule 5, paragraph 4 of Schedule 6 and paragraph 5 of Schedule 6A to the Terrorism Act 2000; and*
- (b) *sections 351, 362, 369 and 375 of the Proceeds of Crime Act 2002.*

Under the Terrorism Act 2000 and under the Proceeds of Crime Act 2002, in some circumstances an individual judge can issue a warrant to search for and seize material. Applications for such warrants are not subject to these rules.]

Meaning of 'court', 'applicant' and 'respondent'

6.2. In this Part—

- (a) a reference to the 'court' includes a reference to any justice of the peace or judge who can exercise a power to which this Part applies;
- (b) 'applicant' means any person who can apply for an order to which this Part applies; and
- (c) 'respondent' means a person against whom such an order is sought or made.

SECTION 2: GENERAL RULES

Exercise of court's powers

6.3.—(1) The court must determine an application for an order—

- (a) at a hearing (which will be in private unless the court otherwise directs); and
- (b) in the applicant's presence.

(2) The court must not determine such an application in the absence of the respondent or any other person affected, unless—

- (a) the absentee has had at least 2 business days in which to make representations; or
- (b) the court is satisfied that—
 - (i) the applicant cannot identify or contact the absentee,
 - (ii) it would prejudice the investigation if the absentee were present, or
 - (iii) it would prejudice the investigation to adjourn or postpone the application so as to allow the absentee to attend.

(3) The court may determine an application to vary or discharge an order—

- (a) at a hearing (which will be in private unless the court otherwise directs), or without a hearing; and
- (b) in the absence of—

(10) 1981 c. 54; section 8 was amended by sections 65 and 109 of, and paragraph 259 of Schedule 8 to, the Courts Act 2003 (c. 39). The Act's title was amended by section 59(5) of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).

- (i) the applicant,
- (ii) the respondent,
- (iii) any other person affected by the order.

Court's power to vary requirements under this Part

- 6.4.**—(1) The court may—
- (a) shorten or extend (even after it has expired) a time limit under this Part;
 - (b) dispense with a requirement for service under this Part (even after service was required); and
 - (c) consider an application made orally instead of in writing.
- (2) A person who wants an extension of time must—
- (a) apply when serving the application for which it is needed; and
 - (b) explain the delay.

Custody of documents

- 6.5.** Unless the court otherwise directs, the court officer may—
- (a) keep a written application; or
 - (b) arrange for the whole or any part to be kept by some other appropriate person, subject to any conditions that the court may impose.

SECTION 3: ORDERS UNDER THE TERRORISM ACT 2000

[Note. The rules in Section 2 (general rules) also apply.]

Application for an order under the Terrorism Act 2000

- 6.6.**—(1) This rule applies where an applicant wants the court to make one of the orders listed in rule 6.1(1).
- (2) The applicant must—
- (a) apply in writing;
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) the respondent (unless the court otherwise directs);
 - (c) identify the respondent;
 - (d) give the information required by whichever of rules 6.7 to 6.10 applies; and
 - (e) serve any order made on the respondent.

[Note. Under rules 6.3 and 6.4, the court may—

- (a) exercise its powers in a respondent's absence; and*
- (b) dispense with a requirement for service.*

Under rule 6.12, an applicant may withhold information from material that is served on a respondent.]

Content of application for a production etc. order

6.7. As well as complying with rule 6.6, an applicant who wants the court to make an order for the production of, or 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) likely to be so 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.

[Note. See paragraphs 5 to 9 of Schedule 5 to the Terrorism Act 2000. The applicant for a production, etc. order must be a constable.

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 likely to have the material within 28 days, 7 days from the date the respondent notifies the applicant of its receipt.]*

Content of application for an explanation order

6.8. As well as complying with rule 6.6, an applicant who wants the court to make an explanation order must—

- (a) identify the material that the applicant wants the respondent to explain;
- (b) confirm that the explanation is not expected to infringe legal privilege; and
- (c) propose—
 - (i) the terms of the order, and
 - (ii) the period within which it should take effect, if 7 days from the date of the order would not be appropriate.

[Note. See paragraph 13 of Schedule 5 to the Terrorism Act 2000. The applicant for an explanation order must be a constable.

An explanation order can require a lawyer to provide a client’s name and address.]

Content of application for a customer information order

6.9. As well as complying with rule 6.6, an applicant who wants the court to make a customer information order must—

- (a) explain why it is desirable for the purposes of the investigation to trace property said to be terrorist property within the meaning of the Terrorism Act 2000;
- (b) explain why the order will enhance the effectiveness of the investigation; and
- (c) propose the terms of the order.

[Note. See Schedule 6 to the Terrorism Act 2000. The applicant for a customer information order must be a police officer of at least the rank of superintendent.

‘Customer information’ is defined by paragraph 7 of Schedule 6 to the 2000 Act. ‘Terrorist property’ is defined by section 14 of the Act.]

Content of application for an account monitoring order

6.10. As well as complying with rule 6.6, an applicant who wants the court to make an account monitoring order must—

- (a) specify—
 - (i) the information sought,
 - (ii) the period during which the applicant wants the respondent to provide that information (to a maximum of 90 days), and
 - (iii) where, when and in what manner the applicant wants the respondent to provide that information;
- (b) explain why it is desirable for the purposes of the investigation to trace property said to be terrorist property within the meaning of the Terrorism Act 2000;
- (c) explain why the order will enhance the effectiveness of the investigation; and
- (d) propose the terms of the order.

[Note. See Schedule 6A to the Terrorism Act 2000. The applicant for an account monitoring order must be a police officer.

‘Terrorist property’ is defined by section 14 of the Act.]

Application to vary or discharge an order

6.11.—(1) This rule applies where one of the following wants the court to vary or discharge an order listed in rule 6.1(1)—

- (a) an applicant;
 - (b) the respondent; or
 - (c) a person affected by the order.
- (2) That applicant, respondent or person affected must—
- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) the respondent, applicant, or any person known to be affected, as applicable;
 - (c) explain why it is appropriate for the order to be varied or discharged;
 - (d) propose the terms of any variation; and

- (e) ask for a hearing, if one is wanted, and explain why it is needed.

Application containing information withheld from a respondent or other person

6.12.—(1) This rule applies where—

- (a) an applicant serves on a respondent or other person an application for one of the orders listed in rule 6.1(1), or for the variation or discharge of such an order; and
- (b) the application includes information that the applicant thinks ought not be revealed to that recipient.

(2) The applicant must—

- (a) omit that information from the part of the application that is served on the respondent or other person;
- (b) mark the other part, to show that it is only for the court; and
- (c) in that other part, explain why the applicant has withheld it.

(3) A hearing of an application to which this rule applies may take place, wholly or in part, in the absence of the respondent and any other person.

(4) At a hearing of an application to which this rule applies—

- (a) the general rule is that the court will receive, in the following sequence—
- (i) representations first by the applicant and then by the respondent and any other person, in the presence of them all, and then
- (ii) further representations by the applicant, in the others' absence; but
- (b) the court may direct other arrangements for the hearing.

Application to punish for contempt of court

6.13.—(1) This rule applies where a person is accused of disobeying—

- (a) a production etc. order made under paragraph 5 of Schedule 5 to the Terrorism Act 2000;
- (b) an explanation order made under paragraph 13 of that Schedule; or
- (c) an account monitoring order made under paragraph 2 of Schedule 6A to that Act.

(2) An applicant who wants the court to exercise its power to punish that person for contempt of court must comply with the rules in Part 62 (Contempt of court).

[Note. The Crown Court has power to punish for contempt of court a person who disobeys its order. See paragraphs 10(1) and 13(5) of Schedule 5, and paragraph 6(1) of Schedule 6A, to the Terrorism Act 2000, and section 45 of the Senior Courts Act 1981(11).

Disobedience to an explanation order or to a customer information order is an offence: see paragraph 14 of Schedule 5, and paragraph 1(3) of Schedule 6, to the 2000 Act.]

SECTION 4: ORDERS UNDER THE PROCEEDS OF CRIME ACT 2002

[Note. The rules in Section 2 (general rules) also apply.]

(11) 1981 c. 54. The Act's title was amended by section 59(5) of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).

Application for an order under the Proceeds of Crime Act 2002

6.14.—(1) This rule applies where an applicant wants the court to make one of the orders listed in rule 6.1(2).

(2) The applicant must—

- (a) apply in writing;
- (b) serve the application on—
 - (i) the court officer, and
 - (ii) the respondent (unless the court otherwise directs);
- (c) identify—
 - (i) the respondent, and
 - (ii) the person the subject of the confiscation or money laundering investigation;
- (d) explain why the applicant thinks the person under investigation has—
 - (i) benefited from criminal conduct, in the case of a confiscation investigation, or
 - (ii) committed a money laundering offence, in the case of a money laundering investigation;
- (e) give the additional information required by whichever of rules 6.15 to 6.19 applies; and
- (f) serve any order made on each respondent.

[Note. Under rules 6.3 and 6.4, the court may—

- (a) exercise its powers in a respondent's absence; and*
- (b) dispense with a requirement for service.*

Under rule 6.21, an applicant may withhold information from material that is served on a respondent.

See also the code of practice for those exercising functions as officers and investigators issued under section 377 of the 2002 Act(12), and the code of practice for prosecutors and others issued under section 377A of that Act(13).]

Content of application for a production order

6.15. As well as complying with rule 6.14, an applicant who wants the court to make an order for the production of, or access to, material, must—

- (a) describe that material;
- (b) explain why the applicant thinks the material is in the respondent's possession or control;
- (c) confirm that none of the material is—
 - (i) expected to be subject to legal privilege, or
 - (ii) excluded material;
- (d) explain why the material is likely to be of substantial value to the investigation;
- (e) 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

(12) 2002 c. 29; section 377 was amended by section 74 of, and paragraphs 103 and 114 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(13) 2002 c. 29; section 377A was inserted by section 74 of, and paragraphs 103 and 115 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

- (ii) the circumstances in which the respondent has the material; and
- (f) propose—
 - (i) the terms of the order, and
 - (ii) the period within which it should take effect, if 7 days from the date of the order would not be appropriate.

[Note. See sections 345 to 350 of the Proceeds of Crime Act 2002(14). Under those provisions—

- (a) ‘excluded material’ means the same as under section 11 of the Police and Criminal Evidence Act 1984; and
- (b) ‘legal privilege’ is defined by section 348 of the 2002 Act.

The applicant for a production order must be an ‘appropriate officer’ as defined by section 378(1), (4) and (5) of the 2002 Act(15).]

Content of application for an order to grant entry

6.16. An applicant who wants the court to make an order to grant entry 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 section 347 of the Proceeds of Crime Act 2002. The applicant for an order to grant entry must be an ‘appropriate officer’ as defined by section 378(1), (4) and (5) of the Act.

An order to grant entry may be made only in aid of a production order.]

Content of application for a disclosure order

6.17. As well as complying with rule 6.14, an applicant who wants the court to make a disclosure order must—

- (a) describe in general terms the information that the applicant wants the respondent to provide;
- (b) confirm that none of the information is—
 - (i) expected to be subject to legal privilege, or
 - (ii) excluded material;
- (c) explain why the information is likely to be of substantial value to the investigation;
- (d) explain why 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
- (e) propose the terms of the order.

[Note. See sections 357, 358 and 361 of the Proceeds of Crime Act 2002(16). The applicant for a disclosure order must be a ‘relevant authority’ as defined by section 357(7). In relation to a

(14) 2002 c. 29; sections 345 and 346 were amended by section 75 of the Serious Crime Act 2007 (c. 27), and section 350 was amended by section 77 of, and paragraphs 1 and 5 of Schedule 10 to, the Serious Crime Act 2007 (c. 27).

(15) 2002 c. 29; section 378 was amended by section 59 of, and paragraphs 168 and 175 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15) and sections 74, 77 and 80 of, and paragraphs 103 and 116 of Schedule 8, and paragraphs 1 and 13 of Schedule 10 to, the Serious Crime Act 2007 (c. 27).

(16) 2002 c. 29; section 357 was amended by section 74 and 77 of, and paragraphs 103 and 108 of Schedule 8 and paragraphs 1 and 10 of Schedule 10 to, the Serious Crime Act 2007 (c. 27) and section 361 was amended by section 74 of, and paragraphs 103 and 109 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

confiscation investigation, under section 357(2A) the applicant must have been asked to apply by an 'appropriate officer' as defined by section 378(1), (4) and (5) of the 2002 Act.

Under section 357(2) of the 2002 Act, a disclosure order may not be made in relation to a money laundering investigation.

A disclosure order can require a lawyer to provide a client's name and address.]

Content of application for a customer information order

6.18. As well as complying with rule 6.14, an applicant who wants the court to make a customer information order must—

- (a) explain why customer information about the person under investigation is likely to be of substantial value to that investigation;
- (b) explain why 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
- (c) propose the terms of the order.

[Note. See sections 363, 364, 365 and 368 of the Proceeds of Crime Act 2002(17). The applicant for a customer information order must be an 'appropriate officer' as defined by section 378(1), (4) and (5) of the Act.

'Customer information' is defined by section 364 of the 2002 Act.]

Content of application for an account monitoring order

6.19. As well as complying with rule 6.14, an applicant who wants the court to make an account monitoring order for the provision of account information must—

- (a) specify—
 - (i) the information sought,
 - (ii) the period during which the applicant wants the respondent to provide that information (to a maximum of 90 days), and
 - (iii) when and in what manner the applicant wants the respondent to provide that information;
- (b) explain why the information is likely to be of substantial value to the investigation;
- (c) explain why 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.

[Note. See sections 370, 371 and 374 of the Proceeds of Crime Act 2002(18). The applicant for an account monitoring order must be an 'appropriate officer' as defined by section 378(1), (4) and (5) of the Act.

'Account information' is defined by section 370 of the 2002 Act.]

(17) 2002 c. 29; section 363 was amended by section 77 of, and paragraphs 1 and 11 of Schedule 10 to, the Serious Crime Act 2007 (c. 27). Section 364 was amended by section 107 of the Serious Crime Act 2007 (c. 27) and article 2(1) of and paragraph 196 of Schedule 1 to, S.I. 2009/1941.

(18) 2002 c. 29; section 370 was amended by section 77 of, and paragraphs 1 and 12 of Schedule 10 to, the Serious Crime Act 2007 (c. 27).

Application to vary or discharge an order

6.20.—(1) This rule applies where one of the following wants the court to vary or discharge an order listed in rule 6.1(2)—

- (a) an applicant;
 - (b) the respondent; or
 - (c) a person affected by the order.
- (2) That applicant, respondent or person affected must—
- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) the respondent, applicant, or any person known to be affected, as applicable;
 - (c) explain why it is appropriate for the order to be varied or discharged;
 - (d) propose the terms of any variation; and
 - (e) ask for a hearing, if one is wanted, and explain why it is needed.

Application containing information withheld from a respondent or other person

6.21.—(1) This rule applies where—

- (a) an applicant serves on a respondent or other person an application for one of the orders listed in rule 6.1(2), or for the variation or discharge of such an order; and
 - (b) the application includes information that the applicant thinks ought not be revealed to that recipient.
- (2) The applicant must—
- (a) omit that information from the part of the application that is served on the respondent or other person;
 - (b) mark the other part, to show that it is only for the court; and
 - (c) in that other part, explain why the applicant has withheld it.
- (3) A hearing of an application to which this rule applies may take place, wholly or in part, in the absence of the respondent and any other person.
- (4) At a hearing of an application to which this rule applies—
- (a) the general rule is that the court will receive, in the following sequence—
 - (i) representations first by the applicant and then by the respondent and any other person, in the presence of them all, and then
 - (ii) further representations by the applicant, in the others' absence; but
 - (b) the court may direct other arrangements for the hearing.

Application to punish for contempt of court

6.22.—(1) This rule applies where a person is accused of disobeying—

- (a) a production order made under section 345 of the Proceeds of Crime Act 2002(19); or
- (b) an account monitoring order made under section 370 of that Act.

(19) 2002 c. 29; section 345 was amended by section 75 of the Serious Crime Act 2007 (c. 27).

(2) An applicant who wants the court to exercise its power to punish that person for contempt of court must comply with the rules in Part 62 (Contempt of court).

[Note. The Crown Court has power to punish for contempt of court a person who disobeys its order. See sections 351(7) and 375(6) of the Proceeds of Crime Act 2002, and section 45 of the Senior Courts Act 1981.

Disobedience to a disclosure order or to a customer information order is an offence: see sections 359 and 366 of the 2002 Act.

Under section 342 of the 2002 Act, subject to the exceptions for which that section provides it is an offence to make a disclosure likely to prejudice an investigation or to interfere with documents relevant to it.]

SECTION 5: ORDERS UNDER THE CORONERS AND JUSTICE ACT 2009

[Note. Rule 6.5 (custody of documents) also applies.]

Exercise of court's powers

6.23.—(1) The court may determine an application for an investigation anonymity order, and any appeal against the refusal of such an order—

- (a) at a hearing (which will be in private unless the court otherwise directs); or
- (b) without a hearing.

(2) The court must determine an application to discharge an investigation anonymity order, and any appeal against the decision on such an application—

- (a) at a hearing (which will be in private unless the court otherwise directs); and
- (b) in the presence of the person specified in the order, unless—
 - (i) that person applied for the discharge of the order,
 - (ii) that person has had an opportunity to make representations, or
 - (iii) the court is satisfied that it is not reasonably practicable to communicate with that person.

(3) The court may consider an application or an appeal made orally instead of in writing.

Application for an investigation anonymity order

6.24.—(1) This rule applies where an applicant wants a magistrates' court to make an investigation anonymity order.

(2) The applicant must—

- (a) apply in writing;
- (b) serve the application on the court officer;
- (c) identify the person to be specified in the order, unless—
 - (i) the applicant wants the court to determine the application at a hearing, or
 - (ii) the court otherwise directs;
- (d) explain how the proposed order meets the conditions prescribed by section 78 of the Coroners and Justice Act 2009(20);
- (e) say if the applicant intends to appeal should the court refuse the order;

- (f) attach any material on which the applicant relies; and
 - (g) propose the terms of the order.
- (3) At any hearing of the application, the applicant must—
- (a) identify to the court the person to be specified in the order, unless—
 - (i) the applicant has done so already, or
 - (ii) the court otherwise directs; and
 - (b) unless the applicant has done so already, inform the court if the applicant intends to appeal should the court refuse the order.

[Note. See section 77 of the Coroners and Justice Act 2009.]

Application to discharge an investigation anonymity order

6.25.—(1) This rule applies where one of the following wants a magistrates' court to discharge an investigation anonymity order—

- (a) an applicant; or
 - (b) the person specified in the order.
- (2) That applicant or the specified person must—
- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
 - (b) serve the application on—
 - (i) the court officer, and as applicable
 - (ii) the applicant for the order, and
 - (iii) the specified person;
 - (c) explain—
 - (i) what material circumstances have changed since the order was made, or since any previous application was made to discharge it, and
 - (ii) why it is appropriate for the order to be discharged; and
 - (d) attach—
 - (i) a copy of the order, and
 - (ii) any material on which the applicant relies.
- (3) A party must inform the court if that party intends to appeal should the court discharge the order.

[Note. See section 80 of the Coroners and Justice Act 2009.]

Appeal

6.26.—(1) This rule applies where one of the following ('the appellant') wants to appeal to the Crown Court—

- (a) the applicant for an investigation anonymity order, where a magistrates' court has refused to make the order;
 - (b) a party to an application to discharge such an order, where a magistrates' court has decided that application.
- (2) The appellant must—
- (a) serve on the Crown Court officer a copy of the application to the magistrates' court; and

(b) where the appeal concerns a discharge decision, notify each other party, not more than 21 days after the decision against which the appellant wants to appeal.

(3) The Crown Court must hear the appeal without justices of the peace.

[Note. See sections 79 and 80(6) of the Coroners and Justice Act 2009, and section 74 of the Senior Courts Act 1981(21).]

(21) 1981 c. 54; section 74 was amended by sections 79 and 106 of, and Table (4) of Part V of Schedule 15 to, the Access to Justice Act 1999 (c. 22), article 3 of, and paragraphs 11 and 12 of the Schedule to S.I. 2004/2035 and section 15 of, and paragraphs 114 and 133 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4). The Act's title was amended by section 59(5) of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4).