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STATUTORY INSTRUMENTS

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**2018 No. 132**

**The Criminal Procedure (Amendment) Rules 2018**

**Amendments to the Criminal Procedure Rules 2015**

**20.** In Part 47 (Investigation orders and warrants)—

(a) in rule 47.4 (When this Section applies)—

(i) after paragraph (e) insert—

“(f) a magistrates’ court can make a further information order under section 22B of the Terrorism Act 2000(1) in connection with—

(i) an investigation into whether a person is involved in the commission of an offence under any of sections 15 to 18 of the 2000 Act(2),

(ii) determining whether such an investigation should be started, or

(iii) identifying terrorist property or its movement or use;

(g) a magistrates’ court can make a further information order under section 339ZH of the Proceeds of Crime Act 2002(3) in connection with—

(i) an investigation into whether a person is engaged in money laundering,

(ii) determining whether such an investigation should be started, or

(iii) an investigation into money laundering by an authority in a country outside the United Kingdom.”, and

(ii) in the first paragraph of the note to the rule, after sub-paragraph (e) insert—

“(f) *under the Terrorism Act 2000, a further information order requiring a person to provide information related to a matter arising from a disclosure under section 21A of that Act(4) (Failure to disclose: regulated sector) or under the law of a country outside the United Kingdom which corresponds with Part III of that Act (Terrorist property);*

(g) *under the Proceeds of Crime Act 2002, a further information order requiring a person to provide information related to a matter arising from a disclosure under Part 7 of that Act (Money laundering) or under the law of a country outside the United Kingdom which corresponds with that Part of that Act.*”;

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(1) 2000 c. 11; section 22B is inserted by section 37 of the Criminal Finances Act 2017 (c. 22), with effect from a date to be appointed.

(2) 2000 c. 11; section 17A was inserted by section 42 of the Counter-Terrorism and Security Act 2015 (c. 6).

(3) 2002 c. 29; section 339ZH is inserted by section 12 of the Criminal Finances Act 2017 (c. 22), with effect from a date to be appointed.

(4) 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).

- (b) in rule 47.9 (Application to punish for contempt of court), at the end of the note to the rule insert—

*“If a person fails to comply with a further information order under the Terrorism Act 2000 or under the Proceeds of Crime Act 2002 the magistrates’ court may order that person to pay an amount not exceeding £5,000, which order may be enforced as if the sum due had been adjudged to be paid by a conviction: see section 22B(8), (9) of the Terrorism Act 2000 and section 339ZH((8), (9) of the Proceeds of Crime Act 2002.”;*

- (c) in rule 47.13 (Content of application for a disclosure order under the Terrorism Act 2000)

(i) for the heading to the rule substitute “Content of application for a disclosure order or further information order under the Terrorism Act 2000”,

(ii) the existing text becomes paragraph (1),

(iii) after paragraph (1) insert—

“(2) As well as complying with rule 47.6, an applicant who wants the court to make a further 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<sup>(5)</sup>, and

(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 (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>(6)</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

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(5) 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 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.

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

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;
- (e) confirm that none of the information is expected to be subject to legal privilege; and
- (f) propose the terms of the order, including—
- (i) how the respondent must provide the information required, and
  - (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 a further information order.
- (4) Paragraph (5) applies where a party to an application for a further 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 21 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 a further information order.
- (6) Rule 34.11 (Constitution of the Crown Court) applies on such an appeal.”, and
- (iv) for the note to the rule substitute—

*“[Note. See sections 22B, 22D and 22E of, and Schedule 5A to, the Terrorism Act 2000(7).*

*Under paragraph 9(6) of Schedule 5A to the 2000 Act the applicant for a disclosure order must be an ‘appropriate officer’, as defined by paragraph 5, who is, or who is authorised to apply by, a police officer of at least the rank of superintendent.*

*Under section 22B(12) of the 2000 Act the applicant for a further information order 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.*

*Section 14 of the 2000 Act(8) defines terrorist property as money or other property which is likely to be used for the purposes of terrorism; proceeds of the commission*

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(7) 2000 c. 11; sections 22B, 22D and 22E are inserted by section 37 to the Criminal Finances Act 2017 (c. 22), with effect from dates to be appointed. Schedule 5A is inserted by Schedule 2 to the Criminal Finances Act 2017 (c. 22), with effect from a date to be appointed.

(8) 2000 c. 11.

*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.*

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

*Under section 21A of the 2000 Act(9) 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.*

*The Practice Direction sets out forms of application, notice and order for use in connection with this rule.]”;*

- (d) in rule 47.20 (Content of application for a disclosure order under the Proceeds of Crime Act 2002)—
- (i) for the heading to the rule substitute “Content of application for a disclosure order or further information order under the Proceeds of Crime Act 2002”,
  - (ii) the existing text becomes paragraph (1),
  - (iii) after paragraph (1) insert—
    - “(2) As well as complying with rule 47.6, an applicant who wants the court to make a further 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 9 to the Proceeds of Crime Act 2002(10), and
      - (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 under Part 7 of the Proceeds of Crime Act 2002 (Money laundering), explain—
      - (i) how the information sought relates to a matter arising from that disclosure,

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(9) 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).

(10) 2002 c. 29; Part 1 of Schedule 9 was substituted by articles 2 and 3 of S.I. 2007/3287 and amended by sections 183 and 237 of, and paragraph 2 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 3 of S.I. 2011/2701, article 3 of S.I. 2012/1534, article 3 of S.I. 2012/2299, regulation 46 of, and paragraph 41 of Schedule 2 to, S.I. 2013/3115, section 151 of, and paragraph 81 of Schedule 4 to, the Co-operative and Community Benefit Societies Act 2014 (c. 14), regulation 59 of, and paragraph 23 of Schedule 1 to, S.I. 2015/575, regulation 14 of S.I. 2016/680, regulation 2 of, and paragraph 13 of the Schedule to, S.I. 2017/80, regulation 109 of, and paragraph 6 of Schedule 7 to, S.I. 2017/692 and regulation 50 of, and paragraph 7 of Schedule 4 to, S.I. 2017/701.

- (ii) how the information would assist in investigating whether a person is engaged in money laundering or in determining whether an investigation of that kind should be started, 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 7 of the 2002 Act, and an authority in that country which investigates money laundering 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;
- (e) confirm that none of the information is expected to be subject to legal privilege; and
- (f) propose the terms of the order, including—
  - (i) how the respondent must provide the information required, and
  - (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 a further information order.
- (4) Paragraph (5) applies where a party to an application for a further 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 21 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 a further information order.
- (6) Rule 34.11 (Constitution of the Crown Court) applies on such an appeal.”, and
- (iv) for the note to the rule substitute—

*“[Note. See sections 339ZH, 339ZJ, 339ZK, 357, 358 and 361 of the Proceeds of Crime Act 2002(11) and articles 16, 17 and 20 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014(12).*

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(11) 2002 c. 29; sections 339ZH, 339ZJ and 339ZK are inserted by section 12 of the Criminal Finances Act 2017 (c. 22), with effect from dates to be appointed. 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 169 of, and paragraphs 1 and 13 of Schedule 19 to, the Coroners and Justice Act 2009 (c. 25), sections 15, 49 and 55 of, and paragraphs 108 and 139 of Schedule 8, paragraphs 1 and 8 of Schedule 19 and paragraphs 14 and 34 of Schedule 21 to, the Crime and Courts Act 2013 (c. 22) and article 3 of, and paragraphs 19 and 27 of Schedule 2 to, SI 2014/834. It is further amended by section 7(2) of, and paragraph 51 of Schedule 5 to, the Criminal Finances Act 2017 (c. 22), with effect from dates to be appointed. Section 358 was amended by section 169 of, and paragraphs 1 and 14 of Schedule 19 to, the Coroners and Justice Act 2009 (c. 25) and section 49(a) of, and paragraphs 1 and 9 of Schedule 19 to, the Crime and Courts Act 2013 (c. 22). It is further amended by section 7(3) of the Criminal Finances Act 2017 (c. 22), with effect from a date to be appointed. Section 361 was amended by section 74 of, and paragraphs 103 and 109 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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*Where the 2002 Act applies, a Crown Court judge may make a disclosure order for the purposes of a confiscation investigation or a money laundering investigation.*

*The applicant for a disclosure order must be a ‘relevant authority’ as defined by section 357(7) of the 2002 Act, or an ‘appropriate officer’ as defined by article 2(1) of the 2014 Order where the Order applies. Under section 362(6) of the Act(13), a relevant authority who under section 357(7) is an ‘appropriate officer’ (as defined by section 378(1), (4) and (5)(14)) may apply only if that person is, or is authorised to do so by, a ‘senior appropriate officer’ (as defined by section 378(2)).*

*Under section 339ZH(1), (12) the applicant for a further information order must be the Director General of the National Crime Agency or an officer of that Agency authorised by the Director General for that purpose.*

*A disclosure order can require a lawyer to provide a client’s name and address.*

*Under sections 330, 331 and 332 in Part 7 of the 2002 Act(15) a person engaged in a business in the regulated sector commits an offence where the conditions listed in any of those sections are met and that person does not disclose, in the manner required by the relevant section, knowledge or a suspicion that another person is engaged in money laundering.*

*The Practice Direction sets out forms of application, notice and order for use in connection with this rule.]”;*

- (e) in the note to rule 47.33 (Application for warrant under section 160 of the Extradition Act 2003), omit “The Practice Direction sets out forms of application and warrant for use in connection with this rule.”;
- (f) in the note to rule 47.62 (When this Section applies) for “rule 47.61” substitute “rule 47.64”; and
- (g) amend the table of contents correspondingly.

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(12) S.I. 2014/1893.

(13) 2002 c. 29; section 362 was amended by section 74 of, and paragraphs 103 and 110 of Schedule 8 to, the Serious Crime Act 2007 (c. 27), section 169 of, and paragraphs 1 and 15 of Schedule 19 to, the Coroners and Justice Act 2009 (c. 25) and section 15 of, and paragraphs 108 and 140 of Schedule 8 to, the Crime and Courts Act 2013 (c. 22). It is further amended by section 7(4) of the Criminal Finances Act 2017 (c. 22), with effect from a date to be appointed.

(14) 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), 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), sections 15, 49 and 55 of, and paragraphs 108 and 144 of Schedule 8 and paragraphs 1, 24, 27, 29 and 30 of Schedule 19 to, the Crime and Courts Act 2013 (c. 22) and section 224 of, and paragraphs 1 and 18 of Schedule 48 to, the Finance Act 2013 (c. 29). It is further amended by paragraph 25 of Schedule 1, and paragraph 59 of Schedule 5, to the Criminal Finances Act 2017 (c. 22), with effect from dates to be appointed.

(15) 2002 c. 29; section 330 was amended by sections 102, 104, 105, 106 and 174 of, and Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15), article 2 of S.I. 2006/308, regulation 3 of, and paragraphs 1 and 2 of Schedule 2 to, S.I. 2007/3398 and section 15 of, and paragraphs 108 and 129 of Schedule 8 to, the Crime and Courts Act 2013 (c. 22). Section 331 was amended by sections 102 and 104 of the Serious Organised Crime and Police Act 2005 (c. 15) and section 15 of, and paragraphs 108 and 130 of Schedule 8 to, the Crime and Courts Act 2013 (c. 22). Section 332 was amended by sections 102 and 104 of the Serious Organised Crime and Police Act 2005 (c. 15) and section 15 of, and paragraphs 108 and 131 of Schedule 8 to, the Crime and Courts Act 2013 (c. 22).