

SCHEDULES

SCHEDULE 7

TERRORIST INVESTIGATIONS

PART I

ENGLAND, WALES AND NORTHERN IRELAND

Order for production of excluded or special procedure material

- 3 (1) A constable may, for the purposes of a terrorist investigation, apply to a Circuit judge for an order under sub-paragraph (2) below in relation to particular material or material of a particular description, being material consisting of or including excluded material or special procedure material.
- (2) If on such an application the judge is satisfied that the material consists of or includes such material as is mentioned in sub-paragraph (1) above, that it does not include items subject to legal privilege and that the conditions in sub-paragraph (5) below are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall—
- (a) produce it to a constable for him to take away; or
 - (b) give a constable access to it,
- within such period as the order may specify and if the material is not in that person's possession (and will not come into his possession within that period) to state to the best of his knowledge and belief where it is.
- (3) An order under sub-paragraph (2) above may relate to material of a particular description which is expected to come into existence or become available to the person concerned in the period of twenty-eight days beginning with the date of the order; and an order made in relation to such material shall require that person to notify a named constable as soon as possible after the material comes into existence or becomes available to that person.
- (4) The period to be specified in an order under sub-paragraph (2) above shall be seven days from the date of the order or, in the case of an order made by virtue of sub-paragraph (3) above, from the notification to the constable unless it appears to the judge that a longer or shorter period would be appropriate in the particular circumstances of the application.
- (5) The conditions referred to in sub-paragraph (2) above are—
- (a) that a terrorist investigation is being carried out and that there are reasonable grounds for believing that the material is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purposes of which the application is made; and

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- (b) that there are reasonable grounds for believing that it is in the public interest, having regard—
 - (i) to the benefit likely to accrue to the investigation if the material is obtained; and
 - (ii) to the circumstances under which the person in possession of the material holds it,that the material should be produced or that access to it should be given.
 - (6) Where the judge makes an order under sub-paragraph (2)(b) above in relation to material on any premises he may, on the application of a constable, order any person who appears to him to be entitled to grant entry to the premises to allow a constable to enter the premises to obtain access to the material.
 - (7) In Northern Ireland the power to make an order under this paragraph shall be exercised by a county court judge.
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- (1) Provision may be made by Crown Court Rules as to—
 - (a) the discharge and variation of orders under paragraph 3 above; and
 - (b) proceedings relating to such orders.
 - (2) The following provisions shall have effect pending the coming into force of Crown Court Rules under sub-paragraph (1) above—
 - (a) an order under paragraph 3 above may be discharged or varied by a Circuit judge on a written application made to the appropriate officer of the Crown Court by any person subject to the order;
 - (b) unless a Circuit judge otherwise directs on grounds of urgency, the applicant shall, not less than forty-eight hours before making the application, send a copy of it and a notice in writing of the time and place where the application is to be made to the constable on whose application the order to be discharged or varied was made or on any other constable serving in the same police station.
 - (3) An order of a Circuit judge under paragraph 3 above shall have effect as if it were an order of the Crown Court.
 - (4) Where the material to which an application under that paragraph relates consists of information contained in a computer—
 - (a) an order under sub-paragraph (2)(a) of that paragraph shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
 - (b) an order under sub-paragraph (2)(b) of that paragraph shall have effect as an order to give access to the material in a form in which it is visible and legible.
 - (5) An order under paragraph 3 above—
 - (a) shall not confer any right to production of, or access to, items subject to legal privilege;
 - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise.
 - (6) An order may be made under paragraph 3 above in relation to material in the possession of a government department which is an authorised government department for the purposes of the Crown Proceedings Act 1947; and any such order (which shall be served as if the proceedings were civil proceedings against the department) may require any officer of the department, whether named in the order

or not, who may for the time being be in possession of the material concerned to comply with it.

- (7) In the application of this paragraph to Northern Ireland for references to a Circuit judge there shall be substituted references to a county court judge and for references to a government department or authorised government department there shall be substituted references to a Northern Ireland department or authorised Northern Ireland department.