
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 47

INVESTIGATION ORDERS AND WARRANTS

*SECTION 8: ORDERS FOR ACCESS TO DOCUMENTS,
ETC. UNDER THE CRIMINAL APPEAL ACT 1995*

When this Section applies

47.54. This Section applies where the Crown Court can order a person to give the Criminal Cases Review Commission access to a document or other material under section 18A of the Criminal Appeal Act 1995(1).

[Note. Under section 18A of the Criminal Appeal Act 1995, on an application by the Criminal Cases Review Commission the court may order that the Commission be given access to a document or material in a person's possession or control if the court thinks that that document or material may assist the Commission in the exercise of any of their functions.]

Commencement Information

II Rule 47.54 in force at 5.10.2020, see Preamble

Exercise of court's powers

47.55.—(1) Subject to paragraphs (2), (3) and (4), the court may determine an application by the Criminal Cases Review Commission for an order—

- (a) at a hearing (which must be in private unless the court otherwise directs), or without a hearing; and
 - (b) in the absence of—
 - (i) the Commission,
 - (ii) the respondent, and
 - (iii) any other person affected by the order.
- (2) The court must not determine such an application in the Commission's absence if—
- (a) the Commission asks for a hearing; or
 - (b) it appears to the court that the application is so complex or serious as to require the court to hear the Commission.

(1) 1995 c. 35; section 18A was inserted by section 1 of the Criminal Cases Review Commission (Information) Act 2016 (c. 17).

- (3) The court must not determine such an application in the absence of any respondent or 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 Commission cannot identify or contact the absentee,
 - (ii) it would prejudice the exercise of the Commission’s functions to adjourn or postpone the application so as to allow the absentee to attend, or
 - (iii) the absentee has waived the opportunity to attend.
- (4) The court must not determine such an application in the absence of any respondent who, if the order sought by the Commission were made, would be required to produce or give access to journalistic material, unless that respondent has waived the opportunity to attend.
- (5) The court officer must arrange for the court to hear such an application no sooner than 2 business days after it was served, unless—
- (a) the court directs that no hearing need be arranged; or
 - (b) the court gives other directions for the hearing.
- (6) The court must not determine an application unless satisfied that sufficient time has been allowed for it.
- (7) If the court so directs, the parties to an application may attend a hearing by live link ^{F1}....
- (8) The court must not make an order unless an officer of the Commission states, in writing or orally, that to the best of that officer’s knowledge and belief—
- (a) the application discloses all the information that is material to what the court must decide; and
 - (b) the content of the application is true.
- (9) Where the statement required by paragraph (8) is made orally—
- (a) the statement must be on oath or affirmation, unless the court otherwise directs; and
 - (b) the court must arrange for a record of the making of the statement.
- (10) The court may shorten or extend (even after it has expired) a time limit under this Section.

Textual Amendments

- F1** Words in rule 47.55(7) omitted (15.8.2022) by virtue of [The Criminal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/815\)](#), [rules 2\(j\)](#), [24\(a\)\(iii\)](#)

Commencement Information

- I2** Rule 47.55 in force at 5.10.2020, see Preamble

Application for an order for access

- 47.56.**—(1) Where the Criminal Cases Review Commission wants the court to make an order for access to a document or other material, the Commission must—
- (a) apply in writing and serve the application on the court officer;
 - (b) give the court an estimate of how long the court should allow—
 - (i) to read the application and prepare for any hearing, and
 - (ii) for any hearing of the application;

- (c) attach a draft order in the terms proposed by the Commission; and
 - (d) serve the application and draft order on the respondent.
- (2) The application must—
- (a) identify the respondent;
 - (b) describe the document, or documents, or other material sought;
 - (c) explain the reasons for thinking that—
 - (i) what is sought is in the respondent’s possession or control, and
 - (ii) access to what is sought may assist the Commission in the exercise of any of their functions; and
 - (d) explain the Commission’s proposals for—
 - (i) the manner in which the respondent should give access, and
 - (ii) the period within which the order should take effect.
- (3) The Commission must serve any order made on the respondent.

[Note. Under section 18A(3) of the Criminal Appeal Act 1995, the court may give directions for the manner in which access to a document or other material must be given, and may direct that the Commission must be allowed to take away such a document or material, or to make copies. Under section 18A(4) of the Act, the court may direct that the respondent must not destroy, damage or alter a document or other material before the direction is withdrawn by the court.]

Commencement Information

I3 Rule 47.56 in force at 5.10.2020, see Preamble

Application containing information withheld from a respondent or other person

- 47.57.**—(1) This rule applies where—
- (a) the Criminal Cases Review Commission serves an application under rule 47.56 (Application for an order for access); and
 - (b) the application includes information that the Commission thinks ought not be revealed to a recipient.
- (2) The Commission must—
- (a) omit that information from the part of the application that is served on that recipient;
 - (b) mark the other part, to show that it is only for the court; and
 - (c) in that other part, explain why the Commission has withheld it from that recipient.
- (3) A hearing of an application to which this rule applies may take place, wholly or in part, in the absence of that recipient and any other person.
- (4) At a hearing of an application to which this rule applies—
- (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the Commission and then by the other parties, in the presence of them all, and then
 - (ii) further representations by the Commission, in the others’ absence; but
 - (b) the court may direct other arrangements for the hearing.

Changes to legislation: There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Cross Heading: SECTION 8: ORDERS FOR ACCESS TO DOCUMENTS, ETC. UNDER THE CRIMINAL APPEAL ACT 1995. (See end of Document for details)

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Commencement Information

I4 Rule 47.57 in force at 5.10.2020, see Preamble

Application to punish for contempt of court

47.58.—(1) This rule applies where a person is accused of disobeying an order for access made under section 18A of the Criminal Appeal Act 1995.

(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 48 (Contempt of court).

[Note. The Crown Court has power to punish for contempt of court a person who disobeys its order: See section 45 of the Senior Courts Act 1981(2).]

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Commencement Information

I5 Rule 47.58 in force at 5.10.2020, see Preamble

(2) 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).

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020,
Cross Heading: SECTION 8: ORDERS FOR ACCESS TO DOCUMENTS, ETC. UNDER THE
CRIMINAL APPEAL ACT 1995.