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STATUTORY INSTRUMENTS

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**2020 No. 759**

**The Criminal Procedure Rules 2020**

**PART 47**

**INVESTIGATION ORDERS AND WARRANTS**

*ORDERS UNDER THE PROCEEDS OF CRIME ACT 2002*

**Content of application for a production order under the Proceeds of Crime Act 2002**

**47.18.** As well as complying with rules 47.6 and 47.17, an applicant who wants the court to make an order for the production of, or for giving 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
  - (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(1) and articles 6 to 11 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014(2). 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.*

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(1) 2002 c. 29; sections 345 and 346 were amended by section 75 of the Serious Crime Act 2007 (c. 27), section 169 of, and paragraphs 1, 6 and 7 of Schedule 19 to, the Coroners and Justice Act 2009 (c. 25) and section 49 of, and paragraphs 1, 4 and 5 of Schedule 19 to, the Crime and Courts Act 2013 (c. 22). Section 350 was amended by section 77 of, and paragraphs 1 and 5 of Schedule 10 to, the Serious Crime Act 2007 (c. 27), section 169 of, and paragraphs 1 and 8 of Schedule 19 to, the Coroners and Justice Act 2009 (c. 25) and sections 66 and 112 of, and Schedule 8 to, the Policing and Crime Act 2009 (c. 26).

(2) S.I. 2014/1893.

*A Crown Court judge may make a production order for the purposes of a confiscation investigation, a money laundering investigation, a detained cash investigation, a detained property investigation or a frozen funds investigation.*

*The applicant for a production order must be an 'appropriate officer' as defined by section 378(1), (4) and (5) of the 2002 Act<sup>(3)</sup> and article 2(1) of the 2014 Order.*

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

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(3) 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).