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| NOTICE OF APPLICATION FOR A PRODUCTION ORDERUNDER THE PROCEEDS OF CRIME ACT 2002, ETC.*(Criminal Procedure Rules, rr.47.6, 47.17, 47.18 & 47.19; ss.345 & 347, Proceeds of Crime Act 2002; articles 6 & 8, Proceeds of Crime Act 2002 (External Investigations) Order 2014)* |
| To: ………………………………………………………………………………………...……. (respondent)of: ………………………………………………………………….……………………...……. (address)This notice is given by ………………………………………………...…….……… (name of applicant)of ………..…………………………………...…….……… (name of police force or investigating agency)Applicant’s address: …………………………………………...…….……………………………...…Email address: …………………………………………...…….………………………………………Contact telephone number(s): …………………………………………………………………………….… For the purposes of [a confiscation investigation] [a money laundering investigation] [a detained cash investigation] [a detained property investigation] [a frozen funds investigation] [a cryptoasset investigation] [an external investigation], I am applying to a judge at …….………. Crown Court at …….……………………….………. (address) for an order requiring you to [produce to me for me to take away] [give me access to]:I intend to satisfy the court that the requirements of [section 346 of the Proceeds of Crime Act 2002[[1]](#footnote-1)] [article 6 of the Proceeds of Crime Act 2002 (External Investigations) Order 2014] are met. |
| Important informationIT IS AN OFFENCE to prejudice an investigation by disclosing information about it or by interfering with documents that may be relevant. The maximum penalty on summary conviction is 6 months’ imprisonment or a fine or both, and on conviction on indictment 5 years’ imprisonment or a fine or both. YOU MUST NOT therefore falsify, conceal, destroy or otherwise dispose of relevant documents, or disclose information liable to prejudice this investigation.You may make representations to the court about my application in writing, or at a hearing, or both.If you want to make written representations, make sure that the court receives them, and I receive a copy, within 2 business days of you receiving this notice.[[2]](#footnote-2)Unless you tell me that you are content for the court to deal with my application in your absence, a hearing will be arranged. I shall give you notice of when that hearing will be. Please let me know within 2 business days of receiving this notice if you do NOT want a court hearing.If you want to discuss this notice, please contact me (see above).  |

**Computer information: section 349, Proceeds of Crime Act 2002**

Where material ordered to be produced consists of information contained in a computer then the order has effect as an order to produce that material in a form in which it is visible and legible and, if applicable, in which it can be taken away.

**Requirements for making a production order: section 346, Proceeds of Crime Act 2002**

The court must be satisfied that there are reasonable grounds for suspecting that—

(a) in the case of a confiscation investigation, the person subject to the investigation has benefited from that person’s criminal conduct;

(b) in the case of a money laundering investigation, the person subject to the investigation has committed a money laundering offence; or

(c) in the case of a detained cash investigation, a detained property investigation, a frozen funds investigation or a cryptoasset investigation the property involved was obtained through unlawful conduct, or is intended to be used in unlawful conduct.

The court must be satisfied that there are reasonable grounds for believing that—

(a) the person the application specifies as appearing to be in possession or control of the material so specified is in possession or control of it;

(b) the material is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and

(c) it is in the public interest for the material to be produced or for access to it to be given, having regard to—

(i) the benefit likely to accrue to the investigation if the material is obtained, and

(ii) the circumstances under which the person the application specifies as appearing to be in possession or control of the material holds it.

**Legal professional privilege and excluded material: section 348, Proceeds of Crime Act 2002**

A production order does not require a person to produce, or give access to, material which the person would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court.

A production order does not require a person to produce, or give access to, ‘excluded material’, which means—

(a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which that person holds in confidence;

(b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence;

(c) journalistic material which a person holds in confidence and which consists—

(i) of documents; or

(ii) of records other than documents.

A person holds material other than journalistic material in confidence if that person holds it subject to an express or implied undertaking to hold it in confidence, or subject to a restriction on disclosure or an obligation of secrecy contained in an Act.

A person holds journalistic material in confidence if that person holds it subject to any such undertaking, restriction or obligation, and it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

‘Personal records’ means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating—

(a) to that person’s physical or mental health;

(b) to spiritual counselling or assistance given or to be given to that person; or

(c) to counselling or assistance given or to be given to that person, for the purposes of his or her personal welfare, by any voluntary organisation or by any individual who—

(i) by reason of office or occupation has responsibilities for that welfare; or

(ii) by reason of an order of a court has responsibilities for that person’s supervision.

**Time for compliance: section 345, Proceeds of Crime Act 2002**

A production order requires production of, or access to, material within 7 days of the date of the order unless the court specifies a different period.

1. The requirements are listed on the back of this notice. [↑](#footnote-ref-1)
2. ‘Business day’ means any day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday, Easter Monday or a bank holiday. [↑](#footnote-ref-2)