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| NOTICE OF APPLICATION FOR A MORATORIUM EXTENSION ORDERUNDER THE PROCEEDS OF CRIME ACT 2002*(Criminal Procedure Rules, r.47.61; s.336A, Proceeds of Crime Act 2002)* |
| To: …………………………………...……. [(as the person who made the relevant disclosure)] [a person who appears to have an interest in the relevant property] 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): …………………………………………………………………………….… I am applying to a judge at …….………. Crown Court at …….……………………….………. (address) for an order extending the moratorium period under section 336A of the Proceeds of Crime Act 2002 (the “2002 Act”).I intend to satisfy the court that the requirements of section 336A(1) of the 2002 Act[[1]](#footnote-1) are met.[I am applying for the application to be determined at a hearing [on ……………. (date)], which will be in private unless the court otherwise directs.][I am applying to the Crown Court to exclude you [and anyone representing you] from [a part/some parts of] the hearing.][I am applying for the application to be determined without a hearing.][I am applying for the application to be determined in your absence.][[2]](#footnote-2)[I am applying to the court for an order that specified information upon which I intend to rely will be withheld from you, [and anyone representing you].[[3]](#footnote-3) |
| 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.*If you are applying for the application to be determined at a hearing:*[You may make representations to the court about my application in writing, or at a hearing, or both.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 are applying for the application to be determined without a hearing:*[You may make representations to the court about my application in writing.]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.[[4]](#footnote-4)If you want to discuss this notice, please contact me (see above).  |

**Requirements for making a moratorium extension order: section 336A(1), Proceeds of Crime Act 2002**

The court must be satisfied that—

(a) an investigation is being carried out in relation to a relevant disclosure (but has not been completed),

(b) the investigation is being conducted diligently and expeditiously,

(c) further time is needed for conducting the investigation, and

(d) it is reasonable in all the circumstances for the moratorium period to be extended.

**Requirements for an application to be determined in the absence of the respondent: Criminal procedure Rule 47.63(3)**

The court must not determine such an application in the absence of a respondent unless—

(a) the absentee has had at least 2 business das in which to make representations; or

(b) the court is satisfied that-

(i) the applicant cannot identify or contact the absentee;

(ii) it would prejudice the investigation if the absentee were present,

(iii) it would prejudice the investigation to adjourn or postpone the application so as to allow the absentee to attend, or

(iv) the absentee has waived the opportunity to attend.

**Requirements for withholding specified information from an interested person and their representatives: section 336B(5), Proceeds of Crime Act 2002**

The court must be satisfied that that there are reasonable grounds to believe that if the specified information were disclosed—

(a) evidence of an offence would be interfered with or harmed,

(b) the gathering of information about the possible commission of an offence would be interfered with,

(c) a person would be interfered with or physically injured,

(d) the recovery of property under the Act would be hindered, or

(e) national security would be put at risk.

**Notes for guidance for applicants**

**Contents of these notes** Page

Using this form 3

How to use this form 4

**Using this form:**

This form is to notify all ‘respondents’ of an application for an order to extend the moratorium period under rule 47.62 of the Criminal Procedure Rules (CrimPR) and section 336A of the Proceeds of Crime Act 2002 (POCA). Sections 327 to 329 of POCA provide that a person commits an offence if the person knows or suspects (or has reasonable grounds to know or suspect) that a person is engaged in money laundering. “Money laundering” means an act involving criminal property which constitutes an offence under sections 327 to 329 of POCA. The person does not commit these offences if an authorised disclosure under section 338 POCA is made to a constable, a customs officer or a nominated officer, and the person in the regulated sector has appropriate consent (see sections 335 and 336 of POCA) to do the “prohibited act”. A “prohibited act” means an act mentioned in section 327(1), 328(1) or 329(1) (as the case may be).

If appropriate consent is refused within 7 days of the disclosure above, and “the moratorium period” expires, the person within the regulated sector must be treated as having the appropriate consent. The “moratorium period” means:

(a) the period of 31 days starting with the day on which the person making an authorised disclosure receives notice that consent to the doing of a prohibited act is refused;

(b) the period of 31 days starting with the day on which the nominated officer is given notice that consent to the doing of a prohibited act is refused; or

(c) any such period as extended or further extended by virtue of a previous order under section 336A of POCA (power of court to extend the moratorium period), or in accordance with any provision of section 336C of POCA (extension of moratorium period pending determination of proceedings).

Under s.336A of POCA a judge can order that the moratorium period can be extended for up to 31 days if satisfied that—

(a) an investigation is being carried out in relation to a relevant disclosure (but has not been completed),

(b) the investigation is being conducted diligently and expeditiously,

(c) further time is needed for conducting the investigation, and

(d) it is reasonable in all the circumstances for the moratorium period to be extended.

The court can grant further extensions to the moratorium period, but section 336A(7) POCA provides that the moratorium period cannot be extended for a period of more than 186 days (in total) beginning with the day after the end of the 31 day period mentioned in section 335(6) or (as the case may be) section 336(8).

Rule 47.61 CrimPR provides that an applicant for an order to extend the moratorium period must

(a) apply in writing before the date on which the moratorium period otherwise would end;

(b) demonstrate that the applicant is entitled to apply as a senior officer within the meaning of section 336D of the Proceeds of Crime Act 2002;

(c) serve the application on the court officer;

(d) serve notice on each respondent that an application has been made; and

(e) serve the application on each respondent to such extent, if any, as the court directs.

Notice is to be served (unless grounds can be made out) on all those who made the disclosure and those who appear to have an interest in the property in question.

How to use this form:

1. **Complete the fields within the notice form (please note, this form can be amended for different respondents).** Delete words in square brackets that do not apply. If you need more space, you may attach extra sheets.
2. **Send or deliver a copy of the completed form to the person who made the relevant disclosure and/or a person with an interest in the relevant property.**
1. The requirements for a moratorium extension order are listed on the back of this notice. [↑](#footnote-ref-1)
2. The requirements for an application to be determined in the respondent’s absence are listed on the back of this notice. [↑](#footnote-ref-2)
3. The requirements for an order withholding information from an interested person and/or anyone representing such person are listed on the back of this notice. [↑](#footnote-ref-3)
4. ‘Business day’ means any day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday, Easter Monday or a bank holiday. [↑](#footnote-ref-4)