



# Crime (Overseas Production Orders) Act 2019

## 2019 CHAPTER 5

### *Supplementary*

#### **12 Notice of application for order: journalistic data**

- (1) This section applies to an application for an overseas production order if there are reasonable grounds for believing that the electronic data specified or described in the application consists of or includes journalistic data.
- (2) “Journalistic data” means electronic data that—
  - (a) was created or acquired for the purposes of journalism, and
  - (b) is stored by or on behalf of a person who created or acquired it for the purposes of journalism.
- (3) Where this section applies, notice of the application must be served on—
  - (a) the person against whom the overseas production order is sought, and
  - (b) if different, the person by whom, or on whose behalf, the journalistic data is stored.
- (4) But a judge may direct that notice of an application need not be served on a person falling within subsection (3)(b) if the judge is satisfied that—
  - (a) serving notice on the person would prejudice the investigation of an indictable offence or a terrorist investigation, or
  - (b) it is not reasonably practicable to establish the person’s identity or to make contact with the person so as to enable service to be effected.
- (5) Where a person (“R”) receives electronic data from another person (“S”) and S intends R to use the data for the purposes of journalism, R is to be taken to have acquired the data for those purposes.
- (6) For the purposes of this section—

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*Status: This is the original version (as it was originally enacted).*

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- (a) electronic data is not to be regarded as having been created or acquired for the purposes of journalism if it was created or acquired with the intention of furthering a criminal purpose, and
  - (b) electronic data which a person intends to be used to further such a purpose is not to be regarded as intended to be used for the purposes of journalism.
- (7) In determining for the purposes of subsection (6) whether or not a purpose is a criminal purpose, crime is to be taken to mean conduct which—
- (a) constitutes one or more criminal offences under the law of a part of the United Kingdom, or
  - (b) is, or corresponds to, conduct which, if it all took place in a particular part of the United Kingdom, would constitute one or more criminal offences under the law of that part of the United Kingdom.
- (8) Subsections (9) and (10) of section 4 apply for the purposes of subsection (4) of this section as they apply for the purposes of subsection (3)(a) of that section.
- (9) In this section, “terrorist investigation” has the same meaning as in the Terrorism Act 2000 (see section 32 of that Act).