STATUTORY INSTRUMENTS

2018 No. 349

INVESTIGATORY POWERS

The Investigatory Powers (Disclosure of Statistical Information) Regulations 2018

Made - - - -	*8th March 2018*
Laid before Parliament	*13th March 2018*
Coming into force in accordance with regulation 1	

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 58(8)(a), 133(6)(a) and 267(1)(c) of the Investigatory Powers Act 2016(**1**).

Citation and commencement

1. These Regulations may be cited as the Investigatory Powers (Disclosure of Statistical Information) Regulations 2018 and come into force on the day on which section 58(8) of the Act comes into force.

Interpretation

2. In these Regulations—

"the Act" means the Investigatory Powers Act 2016;

"relevant warrant" means—

(a) a warrant under Chapter 1 of Part 2 of the Act;

(b) a warrant under Part 5 of the Act;

(c) a bulk interception warrant under Chapter 1 of Part 6 of the Act, or

(d) a bulk equipment interference warrant under Chapter 3 of Part 6 of the Act.

"user" means—

(a) in relation to a postal operator, a person to whom the operator provides, or has provided, a postal service, or

(b) in relation to a telecommunications operator, a person to whom the operator provides, or has provided, a telecommunications service.

(**1**) 2016 c. 25.

Disclosure of statistical information

3. A disclosure by a postal operator or telecommunications operator falls within sections 58(8)(a) or 133(6)(a) of the Act (meaning of "excepted disclosure": disclosure of statistical information) if the disclosure—

(a) consists of statistical information of a description specified in regulation 4, 5 or 6, and

(b) is made in accordance with regulations 7 to 10.

Disclosure relating to a total number of relevant warrants

4. Statistical information is of a description specified by this regulation if it relates to the total number of relevant warrants in relation to which the postal operator or telecommunications operator has provided assistance—

(a) to an intercepting authority in accordance with section 41(2) (implementation of targeted interception warrants and mutual assistance warrants) or 149(1) of the Act (implementation of bulk interception warrants), or

(b) to an implementing authority in accordance with sections 126(1) (implementation of targeted equipment interference warrants) or 190(1) of the Act (implementation of bulk equipment interference warrants).

Disclosure relating to a total number of users

5.—(1) Statistical information is of a description specified by this regulation if it relates to the total number of users to which paragraph (2) applies.

(2) This paragraph applies to a user if—

(a) a factor, or combination of factors, relating to the user was specified by a warrant in accordance with section 31(8) of the Act (requirement to specify factors to be used to identify communications), and

(b) that factor, or combination of factors, identified communications in relation to which the postal operator or telecommunications operator has provided assistance to an intercepting authority in accordance with section 41(2) of the Act.

Disclosure relating to a total number of factors

6.—(1) Statistical information is of a description specified by this regulation if it relates to the total number of factors, or combinations of factors, to which paragraph (2) applies.

(2) This paragraph applies to a factor, or combination of factors, which—

(a) was specified by a warrant in accordance with section 31(8) of the Act, and

(b) identified communications in relation to which the telecommunications operator has provided assistance to an intercepting authority in accordance with section 41(2) of the Act.

Disclosure of a range

7.—(1) A disclosure of statistical information relating to a total number of relevant warrants, users or factors, or combinations of factors must be made by disclosing a range specified by paragraph (2) within which that total falls.

(2) This paragraph specifies ranges which are—

(a) consecutive ranges of 500, where the first such range is 0 to 499, or

(b) consecutive ranges of 1000, where the first such range is 0 to 999.

Reporting periods

8.—(1) A disclosure of statistical information must be in respect of a particular period of six months (" a reporting period").

(2) A disclosure of statistical information is in respect of a reporting period if, in the case of a disclosure of statistical information specified by—

(a) regulation 4, the postal operator or telecommunications operator provided assistance during the reporting period;

(b) regulation 5, the postal operator or telecommunications operator provided assistance as mentioned in paragraph (2)(b) of that regulation during the reporting period;

(c) regulation 6, the postal operator or telecommunications operator provided assistance as mentioned in paragraph (2)(b) of that regulation during the reporting period.

Further Disclosure

9. Where a postal operator or telecommunications operator has made a disclosure of statistical information of a description specified by regulation 4, 5 or 6, the operator must not make a further disclosure of statistical information of the same description which relates to any part of the reporting period.

Time of disclosure

10.—(1) Subject to paragraph (2), a postal operator or telecommunications operator must not make a disclosure of statistical information in respect of a reporting period until the day six months after the last day of the reporting period.

(2) A postal operator or telecommunications operator may not make a disclosure of statistical information during the period of 18 months beginning with the day on which that operator first provided assistance—

(a) to an intercepting authority in accordance with section 41(2) or 149(1) of the Act, or

(b) to an implementing authority in accordance with sections 126(1) or 190(1) of the Act.

Ben Wallace
Minister of State
Home Office

8th March 2018

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about excepted disclosures in relation to statistical information.

Section 57 of the Investigatory Powers Act 2016 (c. 25) provides that postal operators and telecommunications operators must not make a disclosure relating to a warrant under Part 2 of the Act (i.e. a targeted interception warrant, targeted examination warrant or mutual assistance warrant). Section 132 of the Act similarly provides that a telecommunications operator must not make a disclosure in relation to a warrant under Part 5 of the Act (i.e. a targeted equipment interference warrant or a targeted examination warrant). Sections 58 and 133 set out exceptions to the duty not to make a disclosure. Sections 156(2) and 197 provide that the duty not to make a disclosure in relation to a warrant, and the exceptions to that duty, also apply to bulk interception warrants and bulk equipment interference warrants.

One of the exceptions provided for in sections 58 and 133 is a disclosure made in accordance with a requirement imposed by regulations and consisting of statistical information of a description specified in regulations.

Regulation 4, 5 and 6 each specify a description of statistical information that may be disclosed. Regulations 7 to 10 impose requirements regarding the disclosure of such statistical information. Regulation 7 provides that the disclosure must be of the range within which the number of relevant warrants, factors or users falls. The range disclosed must be a range of 500 (i.e. 0-499, 500-999, etc.) or a range of 1000 (i.e. 0-999, 1000-1999, etc.). Regulation 8 provides that the disclosure must relate to a 6-month reporting period. Regulation 9 provides that where a disclosure has been made in relation to a reporting period, the operator cannot make a disclosure of the same type in relation to any part of that six-month period. This means that reporting periods cannot overlap. Finally, regulation 10 provides for the period of time that must pass between the reporting period and the point at which the disclosure can be made. That period is six months, subject to the fact that 18 months must have passed between the disclosure and the first occasion on which the operator first provided assistance in giving effect to a relevant warrant.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.