DRAFT STATUTORY INSTRUMENTS

2018 No.

The Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018

Lawful interception of communications

3.—(1) Conduct is authorised for the purpose of section 46(1) of the Act if—

(a) it consists of the interception of a communication, in the course of its transmission by means of a telecommunication system, which is effected by or with the express consent of the system controller;

(b) it is conduct to which paragraph (2), (3) or (4) applies, and

(c) the requirements in regulation 4 are met.

(2) This paragraph applies to the monitoring or keeping a record of communications—

(a) in order to establish the existence of facts;

(b) in order to ascertain compliance with regulatory or self-regulatory practices or procedures which are applicable, in the carrying on of relevant activities, to—

(i) the system controller, or

(ii) another person where that person is supervised by the system controller in respect of those practices or procedures;

(c) in order to ascertain or demonstrate the standards which are achieved or ought to be achieved by persons using the telecommunication system in the course of their duties;

(d) in the interests of national security;

(e) for the purpose of preventing or detecting crime;

(f) for the purpose of investigating or detecting the unauthorised use of that or any other telecommunication system;

(g) in order to secure, or as an inherent part of, the effective operation of the telecommunication system.

(3) This paragraph applies to the monitoring of communications for the purpose of determining whether they are communications relevant to the carrying on of relevant activities.

(4) This paragraph applies to the monitoring of communications made to a confidential counselling or support service which is free of charge (other than the cost, if any, of the communication) and operated in such a way that users may remain anonymous if they so choose.