

# REGULATION OF INVESTIGATORY POWERS ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

*“Serious crime” is defined in section 81(2) and (3)*

*“Detecting crime” is defined in section 81(5)*

59. *Subsection (3)(c)* “for the purpose of safeguarding the economic well-being of the United Kingdom”. This provision should be read in conjunction with Section 5(5) which introduces a significant limitation on its effect. Under Section 5(5) the Secretary of State is prevented from considering a warrant necessary under Section 5(3)(c) unless the information to be acquired under it is information relating to acts or intentions of persons outside the British Islands. A warrant could not therefore properly be issued in relation to purely domestic events. As with the other purposes for which interception is permitted, Section 5(3)(c) closely reflects the wording of Article 8 of the Convention, though the term in Article 8 is understood to have a broader meaning and would include, for example, the protection of tax revenues. The limitation imposed in Section 5(5) is not found in the Convention.
60. *Subsection (3)(d)* ensures that the Secretary of State will not issue an interception warrant for the purpose of an international mutual assistance agreement designated under Section 1(4) unless he is satisfied that the circumstances are equivalent to those in which he would issue a warrant for the prevention or detection of serious crime.
- “International mutual assistance agreement” is defined in Section 20: it must be designated for the purposes of section 1(4).*
61. *Subsection (4)* requires the Secretary of State to take account of other means of obtaining information when considering whether the requirements of subsection (2) are satisfied.
62. *Subsection (6)(a)* provides for the interception of such other communications (if any) as it is necessary to intercept in order to intercept the communications authorised by the warrant. This provides for situations where other communications are unavoidably intercepted in the course of intercepting the warranted communications.
63. *Subsection (6)(b)* allows for related communications data to be obtained during the course of interception. For example, this could cover the actions of a provider of communications services in effecting the requirements of a warrant where the intercepted material comprises both communications and related communications data.
64. *Subsection (6)(c)* allows for assistance in giving effect to the warrant to be provided to a person to whom the warrant is addressed; for example, by a person listed in Section 11(4).

***Section 6: Application for issue of interception warrants***

65. Section 6 describes the persons who may apply for warrants.

***Section 7: Issue of warrants***

66. Section 7 describes the persons who may sign interception warrants and the circumstances in which they may do so.

67. The combined effect of *subsections (1) and (2)* is that the warrant must be signed by the Secretary of State unless the case is either urgent or the purpose is to comply with a request for mutual assistance where the subject of the interception or the premises and the competent authority making the request are outside the United Kingdom.

68. In urgent cases a warrant may be signed by a senior official. The procedure in urgent cases has three elements:

- the senior official who signs the warrant must be expressly authorised by the Secretary of State to do so (under subsection (2(a)));
- that express authorisation must be in relation to that particular warrant (subsection (2)(a)); and
- under *subsection (4)(a)* the official who signs the warrant must endorse on it a statement that he has been expressly authorised by the Secretary of State to sign that particular warrant.

69. Thus, even where the urgency procedure applies, the Secretary of State must have given personal consideration to the application in order to give instructions to a senior official for the signing of that particular warrant, which will be limited in duration to five working days (see section 9(1) and (6)(a)).