

# REGULATION OF INVESTIGATORY POWERS ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

*“International mutual assistance agreement” is defined in Section 20.*

#### *Section 10: Modification of warrants and certificates*

92. *Section 10* sets out the circumstances in which warrants and certificates may be modified and by whom this may be done.
93. *Subsection (1)(a)* gives the Secretary of State the power to modify the provisions of an interception warrant.
94. *Subsection (1)(b)* gives the Secretary of State the power to modify the description of interception material specified in a Section 8(4) certificate so as to include any material the examination of which he considers necessary for a purpose mentioned in Section 5(3)(a), (b) or (c) (in the interests of national security, for the purpose of preventing or detecting serious crime, for the purpose of safeguarding the economic well-being of the UK).
95. *Subsection (2)* requires the Secretary of State to modify a schedule if at any time he considers that any factor in the schedule is no longer relevant for identifying communications from, or intended for, the person named or described in the warrant or the communications originating on or intended for transmission to the premises so named or described. The modification is to take the form of the deletion of the factor in question. This provision is the modification equivalent of the cancellation provision in Section 9(3).
96. *Subsection (3)* requires the Secretary of State to modify the description in a certificate if at any time he considers that it includes material the examination of which is no longer necessary for the purposes mentioned in section 5(3)(a) to (c). The modification is to take the form of the exclusion of the material in question.
97. *Subsection (4)* allows only the Secretary of State or a senior official to modify a warrant or certificate subject to subsections (5) to (8).
98. By *subsection (5)*, a senior official may only modify the unscheduled parts (explained in subsection (10) below) of an interception warrant in an urgent case where the official is expressly authorised by the Secretary of State himself to make the modification and a statement of that fact is on the modifying instrument. This is the same as the urgency procedure for the issue of warrants.
99. The restriction in subsection (5) does not apply to the scheduled parts of a warrant, which may therefore be modified without each modification being referred personally to the Secretary of State. Such modifications shall be valid for five working days – see subsection (9). But *subsection (6)* restricts the senior officials who may modify

*These notes refer to the Regulation of Investigatory Powers  
Act 2000 (c.23) which received Royal Assent on 28 July 2000*

the scheduled parts of a warrant by prohibiting those listed in Section 6(2) or their subordinates from making modifications under this provision. The intention is that this function will only be exercised by senior officials in the department of a Secretary of State.

100. *Subsection (7)* requires that a senior official may only modify a section 8(4) certificate in an urgent case where the official is expressly authorised by the provisions contained in the certificate to modify the certificate on the Secretary of State's behalf or the Secretary of State has expressly authorised the modification and a statement of that fact is on the modifying instrument. Again such modifications shall be valid for five working days – see subsection (9).
101. *Subsection (8)* is a separate power to that provided by subsection (4). It permits the persons listed in Section 6(2) or any of their subordinates, where they are expressly authorised by the warrant, to make urgent modifications to the scheduled parts of an interception warrant. Again such modifications shall be valid for five working days – see subsection (9).