

REGULATION OF INVESTIGATORY POWERS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

“Copy” is defined in subsection (8).

Section 16: Extra safeguards in the case of certificated warrants

131. This Section creates extra safeguards in addition to those provided in Section 15, in the case of warrants to which Section 8(4) certificates apply.
132. *Subsections (1) and (2)* provide the additional safeguards which apply. Material intercepted under the authority of a warrant to which a certificate applies should only be examined if it:
- has been certified as necessary to be examined in the interests of national security; for the purpose of preventing or detecting serious crime; or for the purpose of safeguarding the economic well-being of the United Kingdom; and
 - does not have as its purpose, or one of its purposes, the identification of material contained in communications sent by, or intended for, an individual who is known to be for the time being in the British Islands; and
 - has not been selected by reference to such an individual.
133. *Subsection (3)* provides an exception to the second and third criteria above where under a Section 8(4) certificate the Secretary of State has certified that material selected by reference to such an individual is necessary for one of the three purposes outlined above. This material may only relate to communications sent during the period specified in the certificate; and the period specified must not be more than three months.
134. *Subsections (4), (5) and (6)* provide two further exceptions where:
- the person to whom the warrant is addressed believes on reasonable grounds both that the material examined is not referable to an individual known to be in the British Islands, and that the material has not been selected for the purpose of identifying material contained in communications sent by, or intended for, such an individual; or
 - it has appeared to the person to whom the warrant is addressed that circumstances have changed such that the individual concerned has entered the British Islands, or that their belief in the individual’s absence from the British Islands was mistaken; and since it first so appeared, written authorisation to examine the material has been given by a senior official.
135. The senior official may only provide authorisation until the end of the first working day after the day on which the change of circumstances became apparent.