

REGULATION OF INVESTIGATORY POWERS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

“Relevant judge” is explained in subsection (11).

Section 19: Offence for unauthorised disclosures

147. This section places a requirement upon specified groups of persons to keep secret all matters relating to warranted interception.
148. *Subsection (2)* describes the groups of persons upon whom there is a duty to keep secret matters relating to warranted interception. These include:
- anyone to whom an interception warrant may be addressed. These are described in Section 6 and include both heads of intercepting agencies but also anyone who may make an application for an interception warrant on their behalf;
 - anyone holding office under the Crown (civil servants, police officers and members of Her Majesty’s forces) and civilian employees of police authorities;
 - anyone providing or employed for the purpose of providing either a postal service or a public telecommunications service;
 - anyone controlling any part of a telecommunications system in the United Kingdom.
149. *Subsection (3)* describes the matters which must be kept secret. In essence these are anything to do with the existence or implementation of a warrant, including the content of the intercepted material and related communications data.
150. *Subsection (4)* creates the offence of unlawful disclosure and specifies the maximum penalties which a person who is found guilty of the criminal offence of unlawful disclosure may be sentenced to; if he is found guilty in a Magistrates’ Court he may be imprisoned for a period up to six months or fined up to the statutory maximum (currently £5000) or both; in a Crown Court he may be imprisoned for a period up to five years, or may be fined (no upper limit), or both.
151. *Subsection (5)* gives a defence where a person could not reasonably have been expected to take steps to prevent the unlawful disclosure.
152. *Subsections (6) and (7)* give further defences to the offence of unlawful disclosure and addresses the question of a person consulting their legal adviser about requirements placed upon them under this Act, and disclosures which their legal adviser may be required to make as a result of such consultation. For example, where a communications service provider is required to provide assistance with the implementation of an interception warrant, the provider may wish to first consult their lawyer. *Subsection (6)* provides a defence to such a consultation being an unlawful disclosure.

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

153. *Subsection (8)* places a limitation on the defences described in subsections (6) and (7), stating that the defences are not valid where a disclosure was made with a view to furthering any criminal purpose.
154. *Subsection (9)* gives a further defence to the offence of unlawful disclosure, stating that where such a disclosure was authorised in any of the ways described in this subsection this would constitute a defence.