

Changes to legislation: Regulation of Investigatory Powers Act 2000, Paragraph 3 is up to date with all changes known to be in force on or before 17 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE A1

MONETARY PENALTY NOTICES IN RELATION TO CERTAIN UNLAWFUL INTERCEPTIONS

Textual Amendments

- F1** Sch. A1 inserted (17.6.2011) by [The Regulation of Investigatory Powers \(Monetary Penalty Notices and Consents for Interceptions\) Regulations 2011 \(S.I. 2011/1340\)](#), **regs. 1(2), 2(4)** {Sch.}

PART 1

MONETARY PENALTY NOTICES

Consultation requirements before service of notices

- 3 (1) The Commissioner must proceed in accordance with sub-paragraphs (2) to (7) before serving a monetary penalty notice on a person.
- (2) The Commissioner must serve a notice of intent on the person.
- (3) A notice of intent is a notice that the Commissioner proposes to serve a monetary penalty notice on the person.
- (4) A notice of intent must, in particular—
- (a) state the name and address of the person concerned,
 - (b) state the grounds on which the Commissioner proposes to serve the monetary penalty notice,
 - (c) provide an indication of the amount of the monetary penalty that the Commissioner proposes to impose and the Commissioner's grounds for deciding that amount,
 - (d) state whether the monetary penalty notice is to include any enforcement obligation and, if so, what the obligation is and the grounds for including it,
 - (e) state the date on which the Commissioner proposes to serve the monetary penalty notice,
 - (f) inform the person concerned that the person may make written representations in relation to the Commissioner's proposal within a period specified in the notice, and
 - (g) inform the person concerned that the person may, within a period specified in the notice, request an oral hearing before the Commissioner in order to make representations of the kind mentioned in sub-paragraph (6)(b).
- (5) No period specified as mentioned in sub-paragraph (4)(f) or (g) may be less than 21 days beginning with the day after the day on which the notice is served.

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- (6) Where the person concerned has requested an oral hearing within the period specified for the purpose in the notice—
 - (a) the Commissioner must arrange such a hearing, and
 - (b) the person may make representations at the hearing about—
 - (i) any matter falling within section 1(1A)(a)(ii), or
 - (ii) any other matter relating to the Commissioner's proposal which, by virtue of section 17, the person would be unable to raise on an appeal under paragraph 5.
- (7) The Commissioner must consider any representations which have been made by the person concerned in accordance with the notice or sub-paragraph (6).
- (8) Subject to sub-paragraph (9), the Commissioner may not vary a notice of intent.
- (9) The Commissioner may vary a notice of intent by extending the period mentioned in sub-paragraph (4)(f) or (g).
- (10) Sub-paragraph (8) does not prevent the Commissioner from issuing a new notice of intent instead of varying such a notice.
- (11) The Commissioner may cancel a notice of intent.
- (12) A variation or cancellation of a notice of intent is effected by serving on the person on whom the notice was served a notice setting out the variation or cancellation.
- (13) Subject to sub-paragraph (14), the Commissioner must not serve a monetary penalty notice on a person in respect of an interception if any notice of intent in respect of that interception was served on the person more than 3 months earlier.
- (14) The Commissioner may serve a monetary penalty notice on a person where the service of the notice would otherwise be prevented by virtue of sub-paragraph (13) if the Commissioner—
 - (a) considers it reasonable to do so, and
 - (b) includes the reasons for doing so in the monetary penalty notice.
- (15) If the Commissioner decides not to serve a monetary penalty notice on a person as a result of any representations which have been made by the person in accordance with a notice of intent or sub-paragraph (6), the Commissioner must inform the person of that fact.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(6A)-(6D) inserted by [2016 anaw 6 s. 187\(2\)\(b\)](#)
- Sch. 1 para. 16A and cross-heading inserted by [2016 anaw 6 s. 187\(3\)](#)
- Sch. 1 Pt. 1 para. 20H inserted by [2013 c. 32 Sch. 12 para. 74](#)