



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 2

LAWFUL INTERCEPTION OF COMMUNICATIONS

CHAPTER 1

INTERCEPTION AND EXAMINATION WITH A WARRANT

Further provision about warrants

30 Decisions to issue warrants to be taken personally by Ministers

- (1) The decision to issue a warrant under this Chapter must be taken personally by—
 - (a) the Secretary of State, or
 - (b) in the case of a warrant to be issued by the Scottish Ministers, a member of the Scottish Government.
- (2) Before a warrant under this Chapter is issued, it must be signed by the person who has taken the decision to issue it.
- (3) Subsections (1) and (2) are subject to—
 - (a) subsection (4), and
 - (b) section 40 (special rules for certain mutual assistance warrants).
- (4) If it is not reasonably practicable for a warrant to be signed by the person who has taken the decision to issue it, the warrant may be signed by a senior official designated by the Secretary of State or (as the case may be) the Scottish Ministers for that purpose.
- (5) In such a case, the warrant must contain a statement that—
 - (a) it is not reasonably practicable for the warrant to be signed by the person who took the decision to issue it, and

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- (b) the Secretary of State or (as the case may be) a member of the Scottish Government has personally and expressly authorised the issue of the warrant.
- (6) In this section “senior official” means—
- (a) in the case of a warrant to be issued by the Secretary of State, a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service;
 - (b) in the case of a warrant to be issued by the Scottish Ministers, a member of the staff of the Scottish Administration who is a member of the Senior Civil Service.

31 Requirements that must be met by warrants

- (1) A warrant under this Chapter must contain a provision stating whether it is a targeted interception warrant, a targeted examination warrant or a mutual assistance warrant.
- (2) A warrant issued under this Chapter must be addressed to the person by whom, or on whose behalf, the application for the warrant was made.
- (3) A warrant that relates to a particular person or organisation, or to a single set of premises, must name or describe that person or organisation or those premises.
- (4) A warrant that relates to a group of persons who share a common purpose or who carry on (or may carry on) a particular activity must—
 - (a) describe that purpose or activity, and
 - (b) name or describe as many of those persons as it is reasonably practicable to name or describe.
- (5) A warrant that relates to more than one person or organisation, or more than one set of premises, where the conduct authorised or required by the warrant is for the purposes of a single investigation or operation, must—
 - (a) describe the investigation or operation, and
 - (b) name or describe as many of those persons or organisations, or as many of those sets of premises, as it is reasonably practicable to name or describe.
- (6) A warrant that relates to any testing or training activities must—
 - (a) describe those activities, and
 - (b) name or describe as many of the persons within subsection (7) as it is reasonably practicable to name or describe.

“Testing or training activities” has the meaning given by section 17(3).

- (7) A person is within this subsection if—
 - (a) in the case of a targeted interception warrant—
 - (i) communications from, or intended for, the person will or may be intercepted by an interception authorised or required by the warrant, or
 - (ii) secondary data will or may be obtained under the warrant from communications from, or intended for, the person;
 - (b) in the case of a targeted examination warrant, the content of communications from, or intended for, the person may be selected for examination under the warrant.

- (8) Where—
- (a) a targeted interception warrant or mutual assistance warrant authorises or requires the interception of communications described in the warrant, or the obtaining of secondary data from such communications, or
 - (b) a targeted examination warrant authorises the selection of the content of communications for examination,
- the warrant must specify the addresses, numbers, apparatus, or other factors, or combination of factors, that are to be used for identifying the communications.
- (9) Any factor, or combination of factors, specified in accordance with subsection (8) must be one that identifies communications which are likely to be or to include—
- (a) communications from, or intended for, any person or organisation named or described in the warrant, or
 - (b) communications originating on, or intended for transmission to, any premises named or described in the warrant.
- (10) In this section any reference to communications from, or intended for, a person or organisation includes communications from, or intended for, anything owned, controlled or operated by that person or organisation.

32 Duration of warrants

- (1) A warrant under this Chapter ceases to have effect at the end of the relevant period (see subsection (2)), unless—
- (a) it is renewed before the end of that period (see section 33), or
 - (b) it is cancelled or otherwise ceases to have effect before the end of that period (see sections 24 and 39).
- (2) In this section “the relevant period”—
- (a) in the case of an urgent warrant which has not been renewed, means the period ending with the fifth working day after the day on which the warrant was issued;
 - (b) in any other case, means the period of 6 months beginning with—
 - (i) the day on which the warrant was issued, or
 - (ii) in the case of a warrant that has been renewed, the day after the day at the end of which the warrant would have ceased to have effect if it had not been renewed.
- (3) For the purposes of subsection (2)(a) a warrant is an “urgent warrant” if—
- (a) the warrant was issued without the approval of a Judicial Commissioner, and
 - (b) the person who decided to issue the warrant considered that there was an urgent need to issue it.

33 Renewal of warrants

- (1) If the renewal conditions are met, a warrant issued under this Chapter may be renewed, at any time during the renewal period, by an instrument issued by the appropriate person (see subsection (3)).
- (2) The renewal conditions are—

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- (a) that the appropriate person considers that the warrant continues to be necessary on any relevant grounds (see subsection (4)),
 - (b) that the appropriate person considers that the conduct that would be authorised by the renewed warrant continues to be proportionate to what is sought to be achieved by that conduct,
 - (c) that, in the case of a targeted examination warrant, the appropriate person considers that the warrant continues to be necessary to authorise the selection of relevant content for examination in breach of the prohibition in section 152(4), and
 - (d) that the decision to renew the warrant has been approved by a Judicial Commissioner.
- (3) The appropriate person is—
- (a) in the case of a warrant issued by the Secretary of State, the Secretary of State;
 - (b) in the case of a warrant issued by the Scottish Ministers, a member of the Scottish Government.
- (4) “Relevant grounds” means—
- (a) in the case of a warrant issued by the Secretary of State, grounds falling within section 20;
 - (b) in the case of a warrant issued by the Scottish Ministers, grounds falling within section 21(4).
- (5) “The renewal period” means—
- (a) in the case of an urgent warrant which has not been renewed, the relevant period;
 - (b) in any other case, the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.
- (6) The decision to renew a warrant must be taken personally by the appropriate person, and the instrument renewing the warrant must be signed by that person.
- (7) Section 23 (approval of warrants by Judicial Commissioners) applies in relation to a decision to renew a warrant as it applies in relation to a decision to issue a warrant (and accordingly any reference in that section to the person who decided to issue the warrant is to be read as a reference to the person who decided to renew it).
- (8) Sections 26 to 29 (additional safeguards) apply in relation to a decision to renew a warrant as they apply in relation to a decision to issue a warrant.
- (9) In this section—
- “the relevant period” has the same meaning as in section 32;
 - “urgent warrant” is to be read in accordance with subsection (3) of that section.
- (10) This section is subject to section 40 (special rules for certain mutual assistance warrants).

34 Modification of warrants

- (1) The provisions of a warrant issued under this Chapter may be modified at any time by an instrument issued by the person making the modification.
- (2) The only modifications that may be made under this section are—

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- (a) adding, varying or removing the name or description of a person, organisation or set of premises to which the warrant relates, and
 - (b) adding, varying or removing any factor specified in the warrant in accordance with section 31(8).
- (3) But a warrant may not be modified as mentioned in subsection (2)(a) if it relates only to a particular person or organisation, or to a single set of premises, as mentioned in section 17(1).
- (4) The decision to modify the provisions of a warrant must be taken personally by the person making the modification, and the instrument making the modification must be signed by that person.
- This is subject to section 36(8).
- (5) In this Chapter—
- (a) a modification adding or varying a name or description as mentioned in paragraph (a) of subsection (2) is referred to as a “major modification”, and
 - (b) any other modification within that subsection is referred to as a “minor modification”.
- (6) Nothing in this section applies in relation to modifying the provisions of a warrant in a way which does not affect the conduct authorised or required by it.
- (7) Sections 35 to 38 contain further provision about making modifications under this section.

35 Persons who may make modifications

- (1) A major modification may be made by—
- (a) the Secretary of State, in the case of a warrant issued by the Secretary of State,
 - (b) a member of the Scottish Government, in the case of a warrant issued by the Scottish Ministers, or
 - (c) a senior official acting on behalf of the Secretary of State or (as the case may be) the Scottish Ministers.
- (2) A minor modification may be made by—
- (a) the Secretary of State, in the case of a warrant issued by the Secretary of State,
 - (b) a member of the Scottish Government, in the case of a warrant issued by the Scottish Ministers,
 - (c) a senior official acting on behalf of the Secretary of State or (as the case may be) the Scottish Ministers,
 - (d) the person to whom the warrant is addressed, or
 - (e) a person who holds a senior position in the same public authority as the person mentioned in paragraph (d).
- (3) But if a person within subsection (2)(d) or (e) considers that there is an urgent need to make a major modification, that person (as well as a person within subsection (1)) may do so.

Section 38 contains provision about the approval of major modifications made in urgent cases.

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- (4) Subsections (1) and (3) are subject to section 36(5) and (6) (special rules where any of sections 26 to 29 applies in relation to the making of a major modification).
- (5) Subsections (2)(d) and (e) and (3) do not apply in the case of a mutual assistance warrant addressed to a person falling within section 18(1)(h) (competent authorities of overseas countries or territories).
- (6) For the purposes of subsection (2)(e) a person holds a senior position in a public authority if—
- (a) in the case of any of the intelligence services—
 - (i) the person is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service, or
 - (ii) the person holds a position in the intelligence service of equivalent seniority to such a person;
 - (b) in the case of the National Crime Agency, the person is a National Crime Agency officer of grade 2 or above;
 - (c) in the case of the metropolitan police force, the Police Service of Northern Ireland or the Police Service of Scotland, a person is of or above the rank of superintendent;
 - (d) in the case of Her Majesty’s Revenue and Customs, the person is a member of the Senior Civil Service;
 - (e) in the case of the Ministry of Defence—
 - (i) the person is a member of the Senior Civil Service, or
 - (ii) the person is of or above the rank of brigadier, commodore or air commodore.
- (7) In this section “senior official” means—
- (a) in the case of a warrant issued by the Secretary of State, a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service;
 - (b) in the case of a warrant issued by the Scottish Ministers, a member of the staff of the Scottish Administration who is a member of the Senior Civil Service.

36 Further provision about modifications

- (1) A person may make a modification within subsection (2) only if the person considers—
- (a) that the modification is necessary on any relevant grounds (see subsection (3)), and
 - (b) that the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct.
- (2) The modifications within this subsection are—
- (a) a major modification adding the name or description of a person, organisation or set of premises to which the warrant relates, and
 - (b) a minor modification adding any factor specified in the warrant in accordance with section 31(8).
- (3) In subsection (1)(a) “relevant grounds” means—

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- (a) in the case of a warrant issued by the Secretary of State, grounds falling within section 20;
- (b) in the case of a warrant issued by the Scottish Ministers, grounds falling within section 21(4);

and for the purposes of subsection (1) any reference to the Secretary of State in section 20(3)(b) or the Scottish Ministers in section 21(4)(b) is to be read as a reference to the person making the modification.

- (4) Sections 26 to 29 (additional safeguards) apply in relation to the making of a major modification within subsection (2)(a) above as they apply in relation to the issuing of a warrant.
- (5) Where section 26 applies in relation to the making of a major modification—
 - (a) the modification must be made by the Secretary of State, and
 - (b) the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.
- (6) Where section 27, 28 or 29 applies in relation to the making of a major modification—
 - (a) the modification must be made by—
 - (i) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government, or
 - (ii) if a senior official acting on behalf of a person within subparagraph (i) considers that there is an urgent need to make the modification, that senior official, and
 - (b) except where the person making the modification considers that there is an urgent need to make it, the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.
- (7) In a case where any of sections 26 to 29 applies in relation to the making of a major modification, section 23 (approval of warrants by Judicial Commissioners) applies in relation to the decision to make the modification as it applies in relation to a decision to issue a warrant, but as if—
 - (a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the modification,
 - (b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification, and
 - (c) subsection (3) of this section applied for the purposes of subsection (1) of that section as it applies for the purposes of subsection (1) of this section.

Section 38 contains provision about the approval of major modifications made in urgent cases.

- (8) If, in a case where any of sections 26 to 29 applies in relation to the making of a major modification, it is not reasonably practicable for the instrument making the modification to be signed by the Secretary of State or (as the case may be) a member of the Scottish Government in accordance with section 34(4), the instrument may be signed by a senior official designated by the Secretary of State or (as the case may be) the Scottish Ministers for that purpose.
- (9) In such a case, the instrument making the modification must contain a statement that—
 - (a) it is not reasonably practicable for the instrument to be signed by the person who took the decision to make the modification, and

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- (b) the Secretary of State or (as the case may be) a member of the Scottish Government has personally and expressly authorised the making of the modification.
- (10) If at any time a person mentioned in section 35(2) considers that any factor specified in a warrant in accordance with section 31(8) is no longer relevant for identifying communications which, in the case of that warrant, are likely to be, or to include, communications falling within section 31(9)(a) or (b), the person must modify the warrant by removing that factor.
- (11) In this section “senior official” has the same meaning as in section 35.

37 Notification of major modifications

- (1) As soon as is reasonably practicable after a person makes a major modification of a warrant under this Chapter, a Judicial Commissioner must be notified of the modification and the reasons for making it.
- (2) But subsection (1) does not apply where—
 - (a) the modification is made by virtue of section 35(3), or
 - (b) any of sections 26 to 29 applies in relation to the making of the modification.
- (3) Where a major modification is made by a senior official in accordance with section 35(1) or section 36(6)(a)(ii), the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the modification and the reasons for making it.
- (4) In this section “senior official” has the same meaning as in section 35.

38 Approval of major modifications made in urgent cases

- (1) This section applies where a person makes a major modification of a warrant under this Chapter by virtue of section 35(3).
- (2) This section also applies where—
 - (a) section 27, 28 or 29 applies in relation to the making of a major modification of a warrant under this Chapter,
 - (b) the person making the modification does so without the approval of a Judicial Commissioner, and
 - (c) the person considered that there was an urgent need to make the modification.
- (3) The person who made the modification must inform the appropriate person that it has been made.
- (4) In this section—
 - “the appropriate person” is—
 - (a) in a case falling within subsection (1), a designated senior official, and
 - (b) in a case falling within subsection (2), a Judicial Commissioner,
 “designated senior official” means a senior official who has been designated by the Secretary of State or (in the case of warrants issued by the Scottish Ministers) the Scottish Ministers for the purposes of this section, and
 “senior official” has the same meaning as in section 35.
- (5) The appropriate person must, before the end of the relevant period—

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- (a) decide whether to approve the decision to make the modification, and
- (b) notify the person of the appropriate person's decision.

“The relevant period” means the period ending with the third working day after the day on which the modification was made.

- (6) As soon as is reasonably practicable after a designated senior official makes a decision under subsection (5)—
 - (a) a Judicial Commissioner must be notified of—
 - (i) the decision, and
 - (ii) if the senior official has decided to approve the decision to make the modification, the modification in question, and
 - (b) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the matters mentioned in paragraph (a)(i) and (ii).
- (7) If the appropriate person refuses to approve the decision to make the modification—
 - (a) the warrant (unless it no longer has effect) has effect as if the modification had not been made, and
 - (b) the person to whom the warrant is addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant by virtue of that modification stops as soon as possible,and, in a case falling within subsection (2) above, section 23(5) does not apply in relation to the refusal to approve the decision.
- (8) Nothing in this section affects the lawfulness of—
 - (a) anything done under the warrant by virtue of the modification before the modification ceases to have effect;
 - (b) if anything is in the process of being done under the warrant by virtue of the modification when the modification ceases to have effect—
 - (i) anything done before that thing could be stopped, or
 - (ii) anything done which it is not reasonably practicable to stop.

39 Cancellation of warrants

- (1) Any of the appropriate persons may cancel a warrant issued under this Chapter at any time.
- (2) If any of the appropriate persons considers that—
 - (a) a warrant issued under this Chapter is no longer necessary on any relevant grounds, or
 - (b) the conduct authorised by the warrant is no longer proportionate to what is sought to be achieved by that conduct,the person must cancel the warrant.
- (3) In subsection (2)(a) “relevant grounds” means—
 - (a) in the case of a warrant issued by the Secretary of State, grounds falling within section 20;
 - (b) in the case of a warrant issued by the Scottish Ministers, grounds falling within section 21(4).
- (4) For the purpose of this section “the appropriate persons” are—

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- (a) in the case of a warrant issued by the Secretary of State, the Secretary of State or a senior official acting on behalf of the Secretary of State;
 - (b) in the case of a warrant issued by the Scottish Ministers, a member of the Scottish Government or a senior official acting on behalf of the Scottish Ministers.
- (5) Where a warrant is cancelled under this section, the person to whom the warrant was addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant stops as soon as possible.
- (6) A warrant that has been cancelled under this section may not be renewed.
- (7) In this section “senior official” means—
- (a) in the case of a warrant issued by the Secretary of State, a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service;
 - (b) in the case of a warrant issued by the Scottish Ministers, a member of the staff of the Scottish Administration who is a member of the Senior Civil Service.
- (8) See also section 40 (which imposes a duty to cancel mutual assistance warrants in certain circumstances).

40 Special rules for certain mutual assistance warrants

- (1) For the purposes of this section a warrant is a “relevant mutual assistance warrant” if—
- (a) the warrant is for the purposes of a request for assistance made under an EU mutual assistance instrument or an international mutual assistance agreement by the competent authorities of a country or territory outside the United Kingdom, and
 - (b) either—
 - (i) it appears that the interception subject is outside the United Kingdom, or
 - (ii) the interception authorised or required by the warrant is to take place in relation only to premises outside the United Kingdom.
- (2) The decision to issue a relevant mutual assistance warrant may be taken by a senior official designated by the Secretary of State for that purpose.
- (3) In such a case, the warrant must contain—
- (a) a statement that the warrant is issued for the purposes of a request for assistance made under an EU mutual assistance instrument or an international mutual assistance agreement (as the case may be) by the competent authorities of a country or territory outside the United Kingdom, and
 - (b) whichever of the following statements is applicable—
 - (i) a statement that the interception subject appears to be outside the United Kingdom;
 - (ii) a statement that the interception authorised or required by the warrant is to take place in relation only to premises outside the United Kingdom.
- (4) A relevant mutual assistance warrant may be renewed by a senior official designated by the Secretary of State for that purpose; and references in section 33 to the

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appropriate person include, in the case of such a warrant, references to that senior official.

- (5) Where a senior official renews a relevant mutual assistance warrant in accordance with subsection (4), the instrument renewing the warrant must contain—
- (a) a statement that the renewal is for the purposes of a request for assistance made under an EU mutual assistance instrument or an international mutual assistance agreement (as the case may be) by the competent authorities of a country or territory outside the United Kingdom, and
 - (b) whichever of the following statements is applicable—
 - (i) a statement that the interception subject appears to be outside the United Kingdom;
 - (ii) a statement that the interception authorised or required by the warrant is to take place in relation only to premises outside the United Kingdom.
- (6) Subsection (7) applies in a case where—
- (a) a relevant mutual assistance warrant—
 - (i) was issued containing the statement set out in subsection (3)(b)(i), or
 - (ii) has been renewed by an instrument containing the statement set out in subsection (5)(b)(i), and
 - (b) the last renewal (if any) of the warrant was a renewal by a senior official in accordance with subsection (4).
- (7) If the Secretary of State, or a senior official acting on behalf of the Secretary of State, believes that the person, group or organisation named or described in the warrant as the interception subject is in the United Kingdom, that person must cancel the warrant under section 39.
- (8) In this section—
- “the interception subject”, in relation to a warrant, means the person, group of persons or organisation to which the warrant relates;
 - “senior official” means a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service.