



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 2

LAWFUL INTERCEPTION OF COMMUNICATIONS

CHAPTER 1

INTERCEPTION AND EXAMINATION WITH A WARRANT

Implementation of warrants

41 Implementation of warrants

- (1) This section applies to targeted interception warrants and mutual assistance warrants.
- (2) In giving effect to a warrant to which this section applies, the person to whom it is addressed (“the intercepting authority”) may (in addition to acting alone) act through, or together with, such other persons as the intercepting authority may require (whether under subsection (3) or otherwise) to provide the authority with assistance in giving effect to the warrant.
- (3) For the purpose of requiring any person to provide assistance in relation to a warrant to which this section applies, the intercepting authority may—
 - (a) serve a copy of the warrant on any person who the intercepting authority considers may be able to provide such assistance, or
 - (b) make arrangements for the service of a copy of the warrant on any such person.
- (4) A copy of a warrant may be served under subsection (3) on a person outside the United Kingdom for the purpose of requiring the person to provide such assistance in the form of conduct outside the United Kingdom.
- (5) For the purposes of this Act, the provision of assistance in giving effect to a warrant to which this section applies includes any disclosure to the intercepting authority, or

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to persons acting on behalf of the intercepting authority, of anything obtained under the warrant.

- (6) References in this section and sections 42 and 43 to the service of a copy of a warrant include—
- (a) the service of a copy of one or more schedules contained in the warrant with the omission of the remainder of the warrant, and
 - (b) the service of a copy of the warrant with the omission of any schedule contained in the warrant.

42 Service of warrants

- (1) This section applies to the service of warrants under section 41(3).
- (2) A copy of the warrant must be served in such a way as to bring the contents of the warrant to the attention of the person who the intercepting authority considers may be able to provide assistance in relation to it.
- (3) A copy of a warrant may be served on a person outside the United Kingdom in any of the following ways (as well as by electronic or other means of service)—
 - (a) by serving it at the person’s principal office within the United Kingdom or, if the person has no such office in the United Kingdom, at any place in the United Kingdom where the person carries on business or conducts activities;
 - (b) if the person has specified an address in the United Kingdom as one at which the person, or someone on the person’s behalf, will accept service of documents of the same description as a copy of a warrant, by serving it at that address;
 - (c) by making it available for inspection (whether to the person or to someone acting on the person’s behalf) at a place in the United Kingdom (but this is subject to subsection (4)).
- (4) A copy of a warrant may be served on a person outside the United Kingdom in the way mentioned in subsection (3)(c) only if—
 - (a) it is not reasonably practicable for a copy to be served by any other means (whether as mentioned in subsection (3)(a) or (b) or otherwise), and
 - (b) the intercepting authority takes such steps as the authority considers appropriate for the purpose of bringing the contents of the warrant, and the availability of a copy for inspection, to the attention of the person.
- (5) The steps mentioned in subsection (4)(b) must be taken as soon as reasonably practicable after the copy of the warrant is made available for inspection.
- (6) In this section “the intercepting authority” has the same meaning as in section 41.

43 Duty of operators to assist with implementation

- (1) A relevant operator that has been served with a copy of a warrant to which section 41 applies by (or on behalf of) the intercepting authority must take all steps for giving effect to the warrant that are notified to the relevant operator by (or on behalf of) the intercepting authority.

This is subject to subsection (4).

- (2) In this section—

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“relevant operator” means a postal operator or a telecommunications operator;

“the intercepting authority” has the same meaning as in section 41.

- (3) Subsection (1) applies whether or not the relevant operator is in the United Kingdom.
- (4) The relevant operator is not required to take any steps which it is not reasonably practicable for the relevant operator to take.
- (5) In determining for the purposes of subsection (4) whether it is reasonably practicable for a relevant operator outside the United Kingdom to take any steps in a country or territory outside the United Kingdom for giving effect to a warrant, the matters to be taken into account include the following—
 - (a) any requirements or restrictions under the law of that country or territory that are relevant to the taking of those steps, and
 - (b) the extent to which it is reasonably practicable to give effect to the warrant in a way that does not breach any of those requirements or restrictions.
- (6) Where obligations have been imposed on a relevant operator (“P”) under section 253 (technical capability notices), for the purposes of subsection (4) the steps which it is reasonably practicable for P to take include every step which it would have been reasonably practicable for P to take if P had complied with all of those obligations.
- (7) A person who knowingly fails to comply with subsection (1) is guilty of an offence and liable—
 - (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003), or
 - (ii) to a fine,or to both;
 - (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 12 months, or
 - (ii) to a fine not exceeding the statutory maximum,or to both;
 - (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months, or
 - (ii) to a fine not exceeding the statutory maximum,or to both;
 - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.
- (8) The duty imposed by subsection (1) is enforceable (whether or not the person is in the United Kingdom) by civil proceedings by the Secretary of State for an injunction, or for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or for any other appropriate relief.