



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 5

#### EQUIPMENT INTERFERENCE

##### *Further provision about warrants*

#### **122 Approval of modifications under section 118 made in urgent cases**

- (1) This section applies where a person makes a modification of a warrant by virtue of section 119(2).
- (2) This section also applies where—
  - (a) section 112, 113 or 114 applies in relation to the making of a modification under section 118,
  - (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.
- (5) The appropriate person must, before the end of the relevant period—
  - (a) decide whether to approve the decision to make the modification, and
  - (b) notify the person of the appropriate person’s decision.

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*Status: This is the original version (as it was originally enacted).*

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“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- (a) the warrant (unless it no longer has effect) has effect as if the modification had not been made, and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 108(5) does not apply in relation to the refusal to approve the decision.
- (8) In a case where the appropriate person refuses to approve a decision to make a modification of a targeted equipment interference warrant, the appropriate person may authorise further interference with equipment for the purpose of enabling the person to whom the warrant is addressed to secure that anything in the process of being done under the warrant by virtue of the modification stops as soon as possible.
- (9) If the appropriate person authorises further interference with equipment under subsection (8), 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 authorisation.
- (10) 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.