



Digital Economy Act 2017

2017 CHAPTER 30

PART 6

MISCELLANEOUS

Communication devices used for drug dealing

107 Prevention or restriction of use of communication devices for drug dealing

After section 80 of the Serious Crime Act 2015 insert—

“80A Prevention or restriction of use of communication devices for drug dealing

- (1) Regulations may make provision conferring power on a court to make a drug dealing telecommunications restriction order.
- (2) “Drug dealing telecommunications restriction order” means an order requiring a communications provider to take whatever action the order specifies for the purpose of preventing or restricting the use of communication devices in connection with drug dealing offences.
- (3) Without limiting the action that may be specified, it includes—
 - (a) action that relates to a specified device;
 - (b) action that relates to a specified phone number or something else that may be used with a device.
- (4) In this section “drug dealing offence” means an offence under section 4(3) of the Misuse of Drugs Act 1971 or section 5 of the Psychoactive Substances Act 2016; and a communication device is used in connection with a drug dealing offence if it is used by a person (“the user”) in the course of—
 - (a) the user committing a drug dealing offence,
 - (b) the user facilitating the commission by the user or another person of a drug dealing offence, or

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- (c) conduct of the user that is likely to facilitate the commission by the user or another person of a drug dealing offence (whether or not an offence is committed).
- (5) Regulations under this section must provide for drug dealing telecommunications restriction orders to be made only on the application of—
- (a) the Director General or Deputy Director General of the National Crime Agency, or
 - (b) a police officer of the rank of superintendent or above.
- (6) Regulations under this section must—
- (a) specify the matters about which the court must be satisfied if it is to make an order;
 - (b) make provision about the duration of orders (which may include provision for orders of indefinite duration);
 - (c) make provision about the giving (by a communications provider or any other person) of notice of the making of an order;
 - (d) make provision about variation (including extension) and discharge of orders;
 - (e) make provision about appeals.
- (7) Regulations under this section must provide—
- (a) for applications for drug dealing telecommunications restriction orders to be made and heard without notice of the application or hearing having been given to persons affected (or their legal representatives), subject to subsection (9)(a);
 - (b) for applications to be heard and determined in the absence of persons affected (and their legal representatives), subject to subsection (9)(b);
 - (c) for applications to be heard and determined in private.
- (8) Regulations under this section must provide for a court hearing an application or an appeal to have power to restrict disclosure of information submitted in connection with the application or appeal if satisfied that it is necessary to do so in the public interest.
- (9) Regulations under this section may—
- (a) make provision for a communications provider affected by an application to be given notice of the application or hearing;
 - (b) make provision for a communications provider affected by an application to be present or represented at the hearing and determination of the application;
 - (c) in connection with any provision under paragraph (b), make provision for a communications provider to have a right to make representations;
 - (d) make provision for a drug dealing telecommunications restriction order to specify that a requirement of the order is not to apply in particular circumstances;
 - (e) make provision authorising a court to include in an order a requirement for the person applying for the order to pay any or all of the costs of complying with it;
 - (f) make provision about time limits for complying with orders;

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- (g) make provision about enforcement of orders (which may include provision creating offences);
 - (h) make provision about costs (or, in Scotland, expenses) in respect of legal proceedings;
 - (i) make provision about compensation;
 - (j) make different provision for different purposes or areas;
 - (k) make incidental, consequential, supplementary or transitional provision, including provision applying any enactment (with or without modifications).
- (10) The power to make regulations under this section is exercisable by statutory instrument made by the Secretary of State.
- (11) A statutory instrument containing regulations under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (12) In this section—
- “communication device” means an item specified in section 1(3) of the Prisons (Interference with Wireless Telegraphy) Act 2012 (mobile telephones etc);
 - “communications provider” means a person providing a telecommunications service;
 - “court” means—
 - (a) in relation to England and Wales, the county court;
 - (b) in relation to Scotland, the sheriff;
 - (c) in relation to Northern Ireland, a county court;
 - “enactment” includes—
 - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
 - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
 - (c) Northern Ireland legislation;
 - “telecommunications service” has the meaning given by section 261 of the Investigatory Powers Act 2016.”

Changes to legislation:

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