

SCHEDULES

SCHEDULE 3

BORDER SECURITY

PART 1

POWERS

Power to make and retain copies

- 18 (1) This paragraph applies in relation to a copy consisting of or including confidential material that is retained by virtue of paragraph 17(3)(d) or (e), other than a copy in respect of which an authorisation is granted under paragraph 20.
- (2) The Investigatory Powers Commissioner (“the Commissioner”) must be informed of the copy’s retention as soon as is reasonably practicable.
- (3) The Commissioner may authorise the retention and use of the copy if both of the following two conditions are met.
- (4) The first condition is that it appears to the Commissioner that there are reasonable grounds to believe that it is necessary to retain the copy—
- (a) in the interests of national security,
 - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security,
 - (c) for the purpose of preventing or detecting an act of serious crime, or
 - (d) for the purpose of preventing death or significant injury.
- (5) The second condition is that the Commissioner is satisfied that—
- (a) arrangements are in place that are sufficient for ensuring that any confidential material contained in the copy is retained securely, and
 - (b) the material will be used only so far as necessary and proportionate for a relevant purpose.
- (6) If the Commissioner does not proceed under sub-paragraph (3) in relation to a copy, the Commissioner must (subject to sub-paragraph (7)) direct that the copy is destroyed.
- (7) Sub-paragraph (6) does not apply if the copy is further retained under a power conferred by paragraph 17(3)(b) or (c).
- (8) In authorising the retention and use of a copy under sub-paragraph (3) the Commissioner may impose whatever conditions the Commissioner thinks appropriate in relation to its retention and use.

Status: This is the original version (as it was originally enacted).

- (9) For the purposes of sub-paragraph (5)(b), the use of material is necessary for a relevant purpose if it is necessary—
- (a) in the interests of national security,
 - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security,
 - (c) for the purpose of preventing or detecting serious crime, or
 - (d) for the purpose of preventing death or significant injury.
- (10) In this paragraph “confidential material” has the meaning given by paragraph 12(10) and (11).