

REGULATION OF INVESTIGATORY POWERS ACT 2000

EXPLANATORY NOTES

OTHER AUTHORISATIONS

Part Iii: Investigation of Electronic Data Protected by Encryption Etc

Section 49: Notices requiring disclosure

Intelligible is defined in [section 56\(3\)](#)

256. *Subsection (1)* limits the information to which this power to serve notices applies. It does so by defining the various means by which the protected information in question has been, or is likely to be, lawfully obtained. By way of illustration, this could be material:

- seized under a judicial warrant (e.g. under the Police and Criminal Evidence Act 1984 (PACE));
- intercepted under a warrant personally authorised by the Secretary of State under Chapter I of Part I of this Act;
- lawfully obtained under an authorisation given under Chapter II of Part I or Part II of this Act;
- lawfully obtained by an agency under their statutory functions but not under a warrant (e.g. under the Customs and Excise Management Act 1979); or
- which has lawfully come into the possession of an agency but not by use of statutory functions (e.g. material which has been voluntarily handed over).

257. *Subsection (2)* states that persons with the “appropriate permission” (see Schedule 2) may serve a notice imposing a disclosure requirement in respect of the protected information in question if there are reasonable grounds for believing:

- that the key to the relevant protected information is in the possession of the person on whom the notice is being served;
- that serving a notice imposing a disclosure requirement is necessary for the reasons set out in subsection (3), or necessary for securing the effective exercise or proper performance of any statutory power or duty of a public authority;
- that imposing a disclosure requirement is proportionate to what is sought to be achieved by doing so; and
- that an intelligible version of the relevant protected information cannot be obtained by any other reasonable means.

key is defined in [section 56\(1\)](#)

possession of a key is defined in [section 56\(2\)](#)

*These notes refer to the Regulation of Investigatory Powers
Act 2000 (c.23) which received Royal Assent on 28 July 2000*

258. *Subsection (4)* explains the format which notices must take.
259. The effect of *subsections (5) and (6)* is that, where applicable, notices must be served on a senior officer within a corporate body or firm.