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Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART I

COMMUNICATIONS

CHAPTER I

INTERCEPTION

Unlawful and authorised interception

1 Unlawful interception.

(1) It shall be an offence for a person intentionally and without lawful authority to intercept, at any place in the United Kingdom, any communication in the course of its transmission by means of—

(a) a public postal service; or

(b) a public telecommunication system.

(2) It shall be an offence for a person—

(a) intentionally and without lawful authority, and

(b) otherwise than in circumstances in which his conduct is excluded by subsection (6) from criminal liability under this subsection,

to intercept, at any place in the United Kingdom, any communication in the course of its transmission by means of a private telecommunication system.

(3) Any interception of a communication which is carried out at any place in the United Kingdom by, or with the express or implied consent of, a person having the right to control the operation or the use of a private telecommunication system shall be

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actionable at the suit or instance of the sender or recipient, or intended recipient, of the communication if it is without lawful authority and is either—

(a) an interception of that communication in the course of its transmission by means of that private system; or

(b) an interception of that communication in the course of its transmission, by means of a public telecommunication system, to or from apparatus comprised in that private telecommunication system.

(4) Where the United Kingdom is a party to an international agreement which—

(a) relates to the provision of mutual assistance in connection with, or in the form of, the interception of communications,

(b) requires the issue of a warrant, order or equivalent instrument in cases in which assistance is given, and

(c) is designated for the purposes of this subsection by an order made by the Secretary of State,

it shall be the duty of the Secretary of State to secure that no request for assistance in accordance with the agreement is made on behalf of a person in the United Kingdom to the competent authorities of a country or territory outside the United Kingdom except with lawful authority.

(5) Conduct has lawful authority for the purposes of this section if, and only if—

(a) it is authorised by or under section 3 or 4;

(b) it takes place in accordance with a warrant under section 5 ("an interception warrant"); or

(c) it is in exercise, in relation to any stored communication, of any statutory power that is exercised (apart from this section) for the purpose of obtaining information or of taking possession of any document or other property;

and conduct (whether or not prohibited by this section) which has lawful authority for the purposes of this section by virtue of paragraph (a) or (b) shall also be taken to be lawful for all other purposes.

(6) The circumstances in which a person makes an interception of a communication in the course of its transmission by means of a private telecommunication system are such that his conduct is excluded from criminal liability under subsection (2) if—

(a) he is a person with a right to control the operation or the use of the system; or

(b) he has the express or implied consent of such a person to make the interception.

(7) A person who is guilty of an offence under subsection (1) or (2) shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(b) on summary conviction, to a fine not exceeding the statutory maximum.

(8) No proceedings for any offence which is an offence by virtue of this section shall be instituted—

(a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;

(b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

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Commencement Information

I1 S. 1 wholly in force; S. 1 not in force at Royal Assent see s. 83(2); S. 1 except for subsection (3) in force at 2.10.2000 and S. 1(3) in force at 24.10.2000 by S.I. 2000/2543, **arts. 3**, 4

2 Meaning and location of "interception" etc.

(1) In this Act—

"postal service" means any service which—

(a) consists in the following, or in any one or more of them, namely, the collection, sorting, conveyance, distribution and delivery (whether in the United Kingdom or elsewhere) of postal items; and

(b) is offered or provided as a service the main purpose of which, or one of the main purposes of which, is to make available, or to facilitate, a means of transmission from place to place of postal items containing communications;

"private telecommunication system" means any telecommunication system which, without itself being a public telecommunication system, is a system in relation to which the following conditions are satisfied—

(a) it is attached, directly or indirectly and whether or not for the purposes of the communication in question, to a public telecommunication system; and

(b) there is apparatus comprised in the system which is both located in the United Kingdom and used (with or without other apparatus) for making the attachment to the public telecommunication system;

"public postal service" means any postal service which is offered or provided to, or to a substantial section of, the public in any one or more parts of the United Kingdom;

"public telecommunications service" means any telecommunications service which is offered or provided to, or to a substantial section of, the public in any one or more parts of the United Kingdom;

"public telecommunication system" means any such parts of a telecommunication system by means of which any public telecommunications service is provided as are located in the United Kingdom;

"telecommunications service" means any service that consists in the provision of access to, and of facilities for making use of, any telecommunication system (whether or not one provided by the person providing the service); and

"telecommunication system" means any system (including the apparatus comprised in it) which exists (whether wholly or partly in the United Kingdom or elsewhere) for the purpose of facilitating the transmission of communications by any means involving the use of electrical or electro-magnetic energy.

(2) For the purposes of this Act, but subject to the following provisions of this section, a person intercepts a communication in the course of its transmission by means of a telecommunication system if, and only if, he—

(a) so modifies or interferes with the system, or its operation,

(b) so monitors transmissions made by means of the system, or

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(c) so monitors transmissions made by wireless telegraphy to or from apparatus comprised in the system,

as to make some or all of the contents of the communication available, while being transmitted, to a person other than the sender or intended recipient of the communication.

(3) References in this Act to the interception of a communication do not include references to the interception of any communication broadcast for general reception.

(4) For the purposes of this Act the interception of a communication takes place in the United Kingdom if, and only if, the modification, interference or monitoring or, in the case of a postal item, the interception is effected by conduct within the United Kingdom and the communication is either—

(a) intercepted in the course of its transmission by means of a public postal service or public telecommunication system; or

(b) intercepted in the course of its transmission by means of a private telecommunication system in a case in which the sender or intended recipient of the communication is in the United Kingdom.

(5) References in this Act to the interception of a communication in the course of its transmission by means of a postal service or telecommunication system do not include references to—

(a) any conduct that takes place in relation only to so much of the communication as consists in any traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any postal service or telecommunication system by means of which it is being or may be transmitted; or

(b) any such conduct, in connection with conduct falling within paragraph (a), as gives a person who is neither the sender nor the intended recipient only so much access to a communication as is necessary for the purpose of identifying traffic data so comprised or attached.

(6) For the purposes of this section references to the modification of a telecommunication system include references to the attachment of any apparatus to, or other modification of or interference with—

(a) any part of the system; or

(b) any wireless telegraphy apparatus used for making transmissions to or from apparatus comprised in the system.

(7) For the purposes of this section the times while a communication is being transmitted by means of a telecommunication system shall be taken to include any time when the system by means of which the communication is being, or has been, transmitted is used for storing it in a manner that enables the intended recipient to collect it or otherwise to have access to it.

(8) For the purposes of this section the cases in which any contents of a communication are to be taken to be made available to a person while being transmitted shall include any case in which any of the contents of the communication, while being transmitted, are diverted or recorded so as to be available to a person subsequently.

(9) In this section “traffic data”, in relation to any communication, means—

(a) any data identifying, or purporting to identify, any person, apparatus or location to or from which the communication is or may be transmitted,

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(b) any data identifying or selecting, or purporting to identify or select, apparatus through which, or by means of which, the communication is or may be transmitted,

(c) any data comprising signals for the actuation of apparatus used for the purposes of a telecommunication system for effecting (in whole or in part) the transmission of any communication, and

(d) any data identifying the data or other data as data comprised in or attached to a particular communication,

but that expression includes data identifying a computer file or computer program access to which is obtained, or which is run, by means of the communication to the extent only that the file or program is identified by reference to the apparatus in which it is stored.

(10) In this section—

(a) references, in relation to traffic data comprising signals for the actuation of apparatus, to a telecommunication system by means of which a communication is being or may be transmitted include references to any telecommunication system in which that apparatus is comprised; and

(b) references to traffic data being attached to a communication include references to the data and the communication being logically associated with each other;

and in this section "data", in relation to a postal item, means anything written on the outside of the item.

(11) In this section "postal item" means any letter, postcard or other such thing in writing as may be used by the sender for imparting information to the recipient, or any packet or parcel.

3 Lawful interception without an interception warrant.

(1) Conduct by any person consisting in the interception of a communication is authorised by this section if the communication is one which, or which that person has reasonable grounds for believing, is both—

(a) a communication sent by a person who has consented to the interception; and

(b) a communication the intended recipient of which has so consented.

(2) Conduct by any person consisting in the interception of a communication is authorised by this section if—

(a) the communication is one sent by, or intended for, a person who has consented to the interception; and

(b) surveillance by means of that interception has been authorised under Part II.

(3) Conduct consisting in the interception of a communication is authorised by this section if—

(a) it is conduct by or on behalf of a person who provides a postal service or a telecommunications service; and

(b) it takes place for purposes connected with the provision or operation of that service or with the enforcement, in relation to that service, of any enactment relating to the use of postal services or telecommunications services.

(4) Conduct by any person consisting in the interception of a communication in the course of its transmission by means of wireless telegraphy is authorised by this section if it takes place—

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(a) with the authority of a designated person under section 5 of the [M1]Wireless Telegraphy Act 1949 (misleading messages and interception and disclosure of wireless telegraphy messages); and

(b) for purposes connected with anything falling within subsection (5).

(5) Each of the following falls within this subsection—

(a) the issue of licences under the [M2]Wireless Telegraphy Act 1949;

(b) the prevention or detection of anything which constitutes interference with wireless telegraphy; and

(c) the enforcement of any enactment contained in that Act or of any enactment not so contained that relates to such interference.

Marginal Citations

M1 1949 c. 54.

M2 1949 c. 54.

4 Power to provide for lawful interception.

(1) Conduct by any person ("the interceptor") consisting in the interception of a communication in the course of its transmission by means of a telecommunication system is authorised by this section if—

(a) the interception is carried out for the purpose of obtaining information about the communications of a person who, or who the interceptor has reasonable grounds for believing, is in a country or territory outside the United Kingdom;

(b) the interception relates to the use of a telecommunications service provided to persons in that country or territory which is either—

(i) a public telecommunications service; or

(ii) a telecommunications service that would be a public telecommunications service if the persons to whom it is offered or provided were members of the public in a part of the United Kingdom;

(c) the person who provides that service (whether the interceptor or another person) is required by the law of that country or territory to carry out, secure or facilitate the interception in question;

(d) the situation is one in relation to which such further conditions as may be prescribed by regulations made by the Secretary of State are required to be satisfied before conduct may be treated as authorised by virtue of this subsection; and

(e) the conditions so prescribed are satisfied in relation to that situation.

(2) Subject to subsection (3), the Secretary of State may by regulations authorise any such conduct described in the regulations as appears to him to constitute a legitimate practice reasonably required for the purpose, in connection with the carrying on of any business, of monitoring or keeping a record of—

(a) communications by means of which transactions are entered into in the course of that business; or

(b) other communications relating to that business or taking place in the course of its being carried on.

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(3) Nothing in any regulations under subsection (2) shall authorise the interception of any communication except in the course of its transmission using apparatus or services provided by or to the person carrying on the business for use wholly or partly in connection with that business.

(4) Conduct taking place in a prison is authorised by this section if it is conduct in exercise of any power conferred by or under any rules made under section 47 of the [M3]Prison Act 1952, section 39 of the [M4]Prisons (Scotland) Act 1989 or section 13 of the [M5]Prison Act (Northern Ireland) 1953 (prison rules).

(5) Conduct taking place in any hospital premises where high security psychiatric services are provided is authorised by this section if it is conduct in pursuance of, and in accordance with, any direction given under section 17 of the [M6]National Health Service Act 1977 (directions as to the carrying out of their functions by health bodies) to the body providing those services at those premises.

(6) Conduct taking place in a state hospital is authorised by this section if it is conduct in pursuance of, and in accordance with, any direction given to the State Hospitals Board for Scotland under section 2(5) of the [M7]National Health Service (Scotland) Act 1978 (regulations and directions as to the exercise of their functions by health boards) as applied by Article 5(1) of and the Schedule to The [M8]State Hospitals Board for Scotland Order 1995 (which applies certain provisions of that Act of 1978 to the State Hospitals Board).

(7) In this section references to a business include references to any activities of a government department, of any public authority or of any person or office holder on whom functions are conferred by or under any enactment.

(8) In this section—

"government department" includes any part of the Scottish Administration, a Northern Ireland department and the National Assembly for Wales;

"high security psychiatric services" has the same meaning as in the [M9]National Health Service Act 1977;

"hospital premises" has the same meaning as in section 4(3) of that Act; and

"state hospital" has the same meaning as in the [M10]National Health Service (Scotland) Act 1978.

(9) In this section "prison" means—

(a) any prison, young offender institution, young offenders centre or remand centre which is under the general superintendence of, or is provided by, the Secretary of State under the [M11]Prison Act 1952 or the [M12]Prison Act (Northern Ireland) 1953, or

(b) any prison, young offenders institution or remand centre which is under the general superintendence of the Scottish Ministers under the [M13]Prisons (Scotland) Act 1989,

and includes any contracted out prison, within the meaning of Part IV of the [M14]Criminal Justice Act 1991 or section 106(4) of the [M15]Criminal Justice and Public Order Act 1994, and any legalised police cells within the meaning of section 14 of the [M16]Prisons (Scotland) Act 1989.

Marginal Citations

M3 1952 c. 52.

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M4 1989 c. 45.
M5 1953 c. 18 (N.I.).
M6 1977 c. 49.
M7 1978 c. 29.
M8 S.I. 1995/574.
M9 1977 c. 49.
M10 1978 c. 29.
M11 1952 c. 52.
M12 1953 c. 18 (N.I.).
M13 1989 c. 45.
M14 1991 c. 53.
M15 1994 c. 33.
M16 1989 c. 45.

5 Interception with a warrant.

(1) Subject to the following provisions of this Chapter, the Secretary of State may issue a warrant authorising or requiring the person to whom it is addressed, by any such conduct as may be described in the warrant, to secure any one or more of the following—

(a) the interception in the course of their transmission by means of a postal service or telecommunication system of the communications described in the warrant;

(b) the making, in accordance with an international mutual assistance agreement, of a request for the provision of such assistance in connection with, or in the form of, an interception of communications as may be so described;

(c) the provision, in accordance with an international mutual assistance agreement, to the competent authorities of a country or territory outside the United Kingdom of any such assistance in connection with, or in the form of, an interception of communications as may be so described;

(d) the disclosure, in such manner as may be so described, of intercepted material obtained by any interception authorised or required by the warrant, and of related communications data.

(2) The Secretary of State shall not issue an interception warrant unless he believes—

(a) that the warrant is necessary on grounds falling within subsection (3); and

(b) that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct.

(3) Subject to the following provisions of this section, a warrant is necessary on grounds falling within this subsection if it is necessary—

(a) in the interests of national security;

(b) for the purpose of preventing or detecting serious crime;

(c) for the purpose of safeguarding the economic well-being of the United Kingdom; or

(d) for the purpose, in circumstances appearing to the Secretary of State to be equivalent to those in which he would issue a warrant by virtue of paragraph (b), of giving effect to the provisions of any international mutual assistance agreement.

(4) The matters to be taken into account in considering whether the requirements of subsection (2) are satisfied in the case of any warrant shall include whether the

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information which it is thought necessary to obtain under the warrant could reasonably be obtained by other means.

(5) A warrant shall not be considered necessary on the ground falling within subsection (3)(c) unless the information which it is thought necessary to obtain is information relating to the acts or intentions of persons outside the British Islands.

(6) The conduct authorised by an interception warrant shall be taken to include—

(a) all such conduct (including the interception of communications not identified by the warrant) as it is necessary to undertake in order to do what is expressly authorised or required by the warrant;

(b) conduct for obtaining related communications data; and

(c) conduct by any person which is conduct in pursuance of a requirement imposed by or on behalf of the person to whom the warrant is addressed to be provided with assistance with giving effect to the warrant.

Modifications etc. (not altering text)

C1 S. 5 modified (S.) (14.12.2000) by S.I. 2000/3253, arts. 1(1)(2), 2, **Sch. 1 para. 2** (with art. 6)

C2 S. 5: functions transferred to the Scottish Ministers (S.) (15.12.2000) by virtue of S.I. 2000/3253, arts. 1(1)(3), 3, **Sch. 2** (with art. 6)

C3 S. 5: certain functions modified (9.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), **art. 2**, Sch. 1 para. 1

C4 S. 5: transfer of functions (10.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), art. 3, **Sch. 2**

C5 S. 5 modified (11.10.2007) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007 (S.I. 2007/2915), arts. 1(2), 2, **Sch. 1 para. 1** (with art. 6)

C6 S. 5: functions transferred (12.10.2007) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007 (S.I. 2007/2915), arts. 1(1), 3, **Sch. 2** (with art. 6)

Interception warrants

6 Application for issue of an interception warrant.

(1) An interception warrant shall not be issued except on an application made by or on behalf of a person specified in subsection (2).

(2) Those persons are—

(a) the Director-General of the Security Service;

(b) the Chief of the Secret Intelligence Service;

(c) the Director of GCHQ;

(d) the Director General of the National Criminal Intelligence Service;

(e) the Commissioner of Police of the Metropolis;

(f) the Chief Constable of the Royal Ulster Constabulary;

(g) the chief constable of any police force maintained under or by virtue of section 1 of the [M17]Police (Scotland) Act 1967;

(h) the Commissioners of Customs and Excise;

(i) the Chief of Defence Intelligence;

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(j) a person who, for the purposes of any international mutual assistance agreement, is the competent authority of a country or territory outside the United Kingdom.

(3) An application for the issue of an interception warrant shall not be made on behalf of a person specified in subsection (2) except by a person holding office under the Crown.

Modifications etc. (not altering text)

C7 S. 6(2)(h) restricted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 16, 17, 53(1), **Sch. 2 Pt. 1 para. 11(2)(a)**; S. I. 2005/1126, **art. 2(2)(d)**

Marginal Citations

M17 1967 c. 77.

7 Issue of warrants.

(1) An interception warrant shall not be issued except—

(a) under the hand of the Secretary of State **[**[F1]or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive**]**; or

(b) in a case falling within subsection (2) **[**[F2](a) or (b)**]**, under the hand of a senior official.

[[F3]; or

(c) in a case falling within subsection (2)(aa), under the hand of a member of the staff of the Scottish Administration who is a member of the Senior Civil Service and who is designated by the Scottish Ministers as a person under whose hand a warrant may be issued in such a case.**]**

(2) Those cases are—

(a) an urgent case in which the Secretary of State has himself expressly authorised the issue of the warrant in that case; and

[[F4](aa) an urgent case in which the Scottish Ministers have themselves (by virtue of provision made under section 63 of the Scotland Act 1998) expressly authorised the use of the warrant in that case and a statement of that fact is endorsed on the warrant; and**]**

(b) a case in which the warrant is for the purposes of a request for assistance made under an international mutual assistance agreement by the competent authorities of a country or territory outside the United Kingdom and either—

(i) it appears that the interception subject is outside the United Kingdom; or

(ii) the interception to which the warrant relates is to take place in relation only to premises outside the United Kingdom.

(3) An interception warrant—

(a) must be addressed to the person falling within section 6(2) by whom, or on whose behalf, the application for the warrant was made; and

(b) in the case of a warrant issued under the hand of a senior official, must contain, according to whatever is applicable—

(i) one of the statements set out in subsection (4); and

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(ii) if it contains the statement set out in subsection (4)(b), one of the statements set out in subsection (5).

(4) The statements referred to in subsection (3)(b)(i) are—

(a) a statement that the case is an urgent case in which the Secretary of State has himself expressly authorised the issue of the warrant;

(b) a statement that the warrant is issued for the purposes of a request for assistance made under an international mutual assistance agreement by the competent authorities of a country or territory outside the United Kingdom.

(5) The statements referred to in subsection (3)(b)(ii) are—

(a) a statement that the interception subject appears to be outside the United Kingdom;

(b) a statement that the interception to which the warrant relates is to take place in relation only to premises outside the United Kingdom.

Textual Amendments

F1 Words in s. 7(1)(a) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 4(a)** (with art. 6)

F2 Words in s. 7(1)(b) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 4(b)** (with art. 6)

F3 S. 7(1)(c) and word immediately preceding it inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 4(c)** (with art. 6)

F4 S. 7(2)(aa) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 4(d)** (with art. 6)

8 Contents of warrants.

(1) An interception warrant must name or describe either—

(a) one person as the interception subject; or

(b) a single set of premises as the premises in relation to which the interception to which the warrant relates is to take place.

(2) The provisions of an interception warrant describing communications the interception of which is authorised or required by the warrant must comprise one or more schedules setting out the addresses, numbers, apparatus or other factors, or combination of factors, that are to be used for identifying the communications that may be or are to be intercepted.

(3) Any factor or combination of factors set out in accordance with subsection (2) must be one that identifies communications which are likely to be or to include—

(a) communications from, or intended for, the person named or described in the warrant in accordance with subsection (1); or

(b) communications originating on, or intended for transmission to, the premises so named or described.

(4) Subsections (1) and (2) shall not apply to an interception warrant if—

(a) the description of communications to which the warrant relates confines the conduct authorised or required by the warrant to conduct falling within subsection (5); and

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(b) at the time of the issue of the warrant, a certificate applicable to the warrant has been issued by the Secretary of State certifying—

(i) the descriptions of intercepted material the examination of which he considers necessary; and

(ii) that he considers the examination of material of those descriptions necessary as mentioned in section 5(3)(a), (b) or (c).

(5) Conduct falls within this subsection if it consists in—

(a) the interception of external communications in the course of their transmission by means of a telecommunication system; and

(b) any conduct authorised in relation to any such interception by section 5(6).

(6) A certificate for the purposes of subsection (4) shall not be issued except under the hand of the Secretary of State.

9 Duration, cancellation and renewal of warrants.

(1) An interception warrant—

(a) shall cease to have effect at the end of the relevant period; but

(b) may be renewed, at any time before the end of that period, by an instrument under the hand of the Secretary of State **[**[F5]or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive**]** or, in a case falling within section 7(2)(b), under the hand of a senior official.

(2) An interception warrant shall not be renewed under subsection (1) unless the Secretary of State believes that the warrant continues to be necessary on grounds falling within section 5(3).

(3) The Secretary of State shall cancel an interception warrant if he is satisfied that the warrant is no longer necessary on grounds falling within section 5(3).

(4) The Secretary of State shall cancel an interception warrant if, at any time before the end of the relevant period, he is satisfied in a case in which—

(a) the warrant is one which was issued containing the statement set out in section 7(5)(a) or has been renewed by an instrument containing the statement set out in subsection (5)(b)(i) of this section, and

(b) the latest renewal (if any) of the warrant is not a renewal by an instrument under the hand of the Secretary of State,

that the person named or described in the warrant as the interception subject is in the United Kingdom.

(5) An instrument under the hand of a senior official that renews an interception warrant must contain—

(a) a statement that the renewal is for the purposes of a request for assistance made under an international mutual assistance agreement by the competent authorities of a country or territory outside the United Kingdom; and

(b) whichever of the following statements is applicable—

(i) a statement that the interception subject appears to be outside the United Kingdom;

(ii) a statement that the interception to which the warrant relates is to take place in relation only to premises outside the United Kingdom.

Status: *Point in time view as at 25/07/2003. This version of this part contains provisions that are not valid for this point in time.*
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(6) In this section "the relevant period"—

(a) in relation to an unrenewed warrant issued in a case falling within section 7(2)(a) under the hand of a senior official, means the period ending with the fifth working day following the day of the warrant's issue;

(b) in relation to a renewed warrant the latest renewal of which was by an instrument endorsed under the hand of the Secretary of State with a statement that the renewal is believed to be necessary on grounds falling within section 5(3)(a) or (c), means the period of six months beginning with the day of the warrant's renewal; and

(c) in all other cases, means the period of three months beginning with the day of the warrant's issue or, in the case of a warrant that has been renewed, of its latest renewal.

Textual Amendments

F5 Words in s. 9(1)(b) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 5** (with art. 6)

Modifications etc. (not altering text)

C8 S. 9(1)(b)(3) modified (S.) (14.12.2000) by S.I. 2000/3253, arts. 1(1)(2), 2, **Sch. 1 para. 3(1)** (with art. 6)
S. 9(1)(b)(3): functions transferred to the Scottish Ministers (S.) (15.12.2000) by virtue of S.I. 2000/3253,, arts. 1(1)(3), 3, Sch. 2 (with art. 6)

C9 S. 9(1)(b)(3): certain functions modified (9.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), **art. 2**, Sch. 1 para. 2

C10 S. 9(1)(b)(3): transfer of functions (10.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), art. 3, **Sch. 2**

10 Modification of warrants and certificates.

(1) The Secretary of State may at any time—

(a) modify the provisions of an interception warrant; or

(b) modify a section 8(4) certificate so as to include in the certified material any material the examination of which he considers to be necessary as mentioned in section 5(3)(a), (b) or (c).

(2) If at any time the Secretary of State considers that any factor set out in a schedule to an interception warrant is no longer relevant for identifying communications which, in the case of that warrant, are likely to be or to include communications falling within section 8(3)(a) or (b), it shall be his duty to modify the warrant by the deletion of that factor.

(3) If at any time the Secretary of State considers that the material certified by a section 8(4) certificate includes any material the examination of which is no longer necessary as mentioned in any of paragraphs (a) to (c) of section 5(3), he shall modify the certificate so as to exclude that material from the certified material.

(4) Subject to subsections (5) to (8), a warrant or certificate shall not be modified under this section except by an instrument under the hand of the Secretary of State or of a senior official.

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Changes to legislation: *Regulation of Investigatory Powers Act 2000, Part I is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F6](4A) Subject to subsections (5A), (6) and (8), a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) shall not be modified under this section except by an instrument under the hand of a member of the Scottish Executive or a member of the staff of the Scottish Administration who is a member of the Senior Civil Service and is designated by the Scottish Ministers as a person under whose hand an instrument may be issued in such a case (in this section referred to as "a designated official")**]**

(5) Unscheduled parts of an interception warrant shall not be modified under the hand of a senior official except in an urgent case in which—

(a) the Secretary of State has himself expressly authorised the modification; and

(b) a statement of that fact is endorsed on the modifying instrument.

[[F7](5A) Unscheduled parts of an interception warrant issued by the Scottish Ministers shall not be modified under the hand of a designated official except in an urgent case in which–

(a) they have themselves (by virtue of provision made under section 63 of the Scotland Act 1998) expressly authorised the modification; and

(b) a statement of that fact is endorsed on the modifying instrument**]**

(6) Subsection (4) **[**[F8]or (4A)**]**shall not authorise the making under the hand of either—

(a) the person to whom the warrant is addressed, or

(b) any person holding a position subordinate to that person,

of any modification of any scheduled parts of an interception warrant.

(7) A section 8(4) certificate shall not be modified under the hand of a senior official except in an urgent case in which—

(a) the official in question holds a position in respect of which he is expressly authorised by provisions contained in the certificate to modify the certificate on the Secretary of State's behalf; or

(b) the Secretary of State has himself expressly authorised the modification and a statement of that fact is endorsed on the modifying instrument.

(8) Where modifications in accordance with this subsection are expressly authorised by provision contained in the warrant, the scheduled parts of an interception warrant may, in an urgent case, be modified by an instrument under the hand of—

(a) the person to whom the warrant is addressed; or

(b) a person holding any such position subordinate to that person as may be identified in the provisions of the warrant.

(9) Where—

(a) a warrant or certificate is modified by an instrument under the hand of a person other than the Secretary of State **[**[F9]or, as the case may be, the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)**]**, and

(b) a statement for the purposes of subsection (5)(b) **[**[F10], (5A)(b)**]**or (7)(b) is endorsed on the instrument, or the modification is made under subsection (8),

that modification shall cease to have effect at the end of the fifth working day following the day of the instrument's issue.

(10) For the purposes of this section—

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(a) the scheduled parts of an interception warrant are any provisions of the warrant that are contained in a schedule of identifying factors comprised in the warrant for the purposes of section 8(2); and

(b) the modifications that are modifications of the scheduled parts of an interception warrant include the insertion of an additional such schedule in the warrant;

and references in this section to unscheduled parts of an interception warrant, and to their modification, shall be construed accordingly.

Textual Amendments

F6 S. 10(4A) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 6(a)** (with art. 6)

F7 S. 10(5A) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 6(b)** (with art. 6)

F8 Words in s 10(6) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt.II para. 6(c)** (with art. 6)

F9 Words in s. 10(9)(a) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 6(d)(i)** (with art. 6)

F10 Words in s. 10(9)(b) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 6(d)(ii)** (with art. 6)

Modifications etc. (not altering text)

C11 S. 10(1)(a)(2) modified (S.) (14.12.2000) by S.I. 2000/3253, arts. 1(1)(2), 2, **Sch. 1 para. 2** (with art. 6)
S. 10(1)(a)(2): functions transferred to the Scottish Ministers (S.) (15.12.2000) by virtue of S.I. 2000/3253, arts. 1(1)(3), 3, **Sch. 2** (with art. 6)

C12 S. 10(1)(a)(2): certain functions modified (9.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), **art. 2**, Sch. 1 para. 2

C13 S. 10(1)(a): transfer of functions (10.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), art. 3, **Sch. 2**

C14 S. 10(2): transfer of functions (10.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), art. 3, **Sch. 2**

11 Implementation of warrants.

(1) Effect may be given to an interception warrant either—

(a) by the person to whom it is addressed; or

(b) by that person acting through, or together with, such other persons as he may require (whether under subsection (2) or otherwise) to provide him with assistance with giving effect to the warrant.

(2) For the purpose of requiring any person to provide assistance in relation to an interception warrant the person to whom it is addressed may—

(a) serve a copy of the warrant on such persons as he considers may be able to provide such assistance; or

(b) make arrangements under which a copy of it is to be or may be so served.

(3) The copy of an interception warrant that is served on any person under subsection (2) may, to the extent authorised—

(a) by the person to whom the warrant is addressed, or

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(b) by the arrangements made by him for the purposes of that subsection,

omit any one or more of the schedules to the warrant.

(4) Where a copy of an interception warrant has been served by or on behalf of the person to whom it is addressed on—

(a) a person who provides a postal service,

(b) a person who provides a public telecommunications service, or

(c) a person not falling within paragraph (b) who has control of the whole or any part of a telecommunication system located wholly or partly in the United Kingdom,

it shall (subject to subsection (5)) be the duty of that person to take all such steps for giving effect to the warrant as are notified to him by or on behalf of the person to whom the warrant is addressed.

(5) A person who is under a duty by virtue of subsection (4) to take steps for giving effect to a warrant shall not be required to take any steps which it is not reasonably practicable for him to take.

(6) For the purposes of subsection (5) the steps which it is reasonably practicable for a person to take in a case in which obligations have been imposed on him by or under section 12 shall include every step which it would have been reasonably practicable for him to take had he complied with all the obligations so imposed on him.

(7) A person who knowingly fails to comply with his duty under subsection (4) shall be guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.

(8) A person's duty under subsection (4) to take steps for giving effect to a warrant shall be enforceable by civil proceedings by the Secretary of State for an injunction, or for specific performance of a statutory duty under section 45 of the [M18]Court of Session Act 1988, or for any other appropriate relief.

(9) For the purposes of this Act the provision of assistance with giving effect to an interception warrant includes any disclosure to the person to whom the warrant is addressed, or to persons acting on his behalf, of intercepted material obtained by any interception authorised or required by the warrant, and of any related communications data.

Marginal Citations

M18 1988 c. 36.

Interception capability and costs

12 Maintenance of interception capability.

(1) The Secretary of State may by order provide for the imposition by him on persons who—

(a) are providing public postal services or public telecommunications services, or

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(b) are proposing to do so,

of such obligations as it appears to him reasonable to impose for the purpose of securing that it is and remains practicable for requirements to provide assistance in relation to interception warrants to be imposed and complied with.

(2) The Secretary of State's power to impose the obligations provided for by an order under this section shall be exercisable by the giving, in accordance with the order, of a notice requiring the person who is to be subject to the obligations to take all such steps as may be specified or described in the notice.

(3) Subject to subsection (11), the only steps that may be specified or described in a notice given to a person under subsection (2) are steps appearing to the Secretary of State to be necessary for securing that that person has the practical capability of providing any assistance which he may be required to provide in relation to relevant interception warrants.

(4) A person shall not be liable to have an obligation imposed on him in accordance with an order under this section by reason only that he provides, or is proposing to provide, to members of the public a telecommunications service the provision of which is or, as the case may be, will be no more than—

(a) the means by which he provides a service which is not a telecommunications service; or

(b) necessarily incidental to the provision by him of a service which is not a telecommunications service.

(5) Where a notice is given to any person under subsection (2) and otherwise than by virtue of subsection (6)(c), that person may, before the end of such period as may be specified in an order under this section, refer the notice to the Technical Advisory Board.

(6) Where a notice given to any person under subsection (2) is referred to the Technical Advisory Board under subsection (5)—

(a) there shall be no requirement for that person to comply, except in pursuance of a notice under paragraph (c)(ii), with any obligations imposed by the notice;

(b) the Board shall consider the technical requirements and the financial consequences, for the person making the reference, of the notice referred to them and shall report their conclusions on those matters to that person and to the Secretary of State; and

(c) the Secretary of State, after considering any report of the Board relating to the notice, may either—

(i) withdraw the notice; or

(ii) give a further notice under subsection (2) confirming its effect, with or without modifications.

(7) It shall be the duty of a person to whom a notice is given under subsection (2) to comply with the notice; and that duty shall be enforceable by civil proceedings by the Secretary of State for an injunction, or for specific performance of a statutory duty under section 45 of the [M19]Court of Session Act 1988, or for any other appropriate relief.

(8) A notice for the purposes of subsection (2) must specify such period as appears to the Secretary of State to be reasonable as the period within which the steps specified or described in the notice are to be taken.

(9) Before making an order under this section the Secretary of State shall consult with—

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(a) such persons appearing to him to be likely to be subject to the obligations for which it provides,
(b) the Technical Advisory Board,
(c) such persons representing persons falling within paragraph (a), and
(d) such persons with statutory functions in relation to persons falling within that paragraph,

as he considers appropriate.

(10) The Secretary of State shall not make an order under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(11) For the purposes of this section the question whether a person has the practical capability of providing assistance in relation to relevant interception warrants shall include the question whether all such arrangements have been made as the Secretary of State considers necessary—
(a) with respect to the disclosure of intercepted material;
(b) for the purpose of ensuring that security and confidentiality are maintained in relation to, and to matters connected with, the provision of any such assistance; and
(c) for the purpose of facilitating the carrying out of any functions in relation to this Chapter of the Interception of Communications Commissioner;

but before determining for the purposes of the making of any order, or the imposition of any obligation, under this section what arrangements he considers necessary for the purpose mentioned in paragraph (c) the Secretary of State shall consult that Commissioner.

(12) In this section "relevant interception warrant"—
(a) in relation to a person providing a public postal service, means an interception warrant relating to the interception of communications in the course of their transmission by means of that service; and
(b) in relation to a person providing a public telecommunications service, means an interception warrant relating to the interception of communications in the course of their transmission by means of a telecommunication system used for the purposes of that service.

Marginal Citations
M19 1988 c. 36.

13 Technical Advisory Board.

(1) There shall be a Technical Advisory Board consisting of such number of persons appointed by the Secretary of State as he may by order provide.

(2) The order providing for the membership of the Technical Advisory Board must also make provision which is calculated to ensure—
(a) that the membership of the Technical Advisory Board includes persons likely effectively to represent the interests of the persons on whom obligations may be imposed under section 12;

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(b) that the membership of the Board includes persons likely effectively to represent the interests of the persons by or on whose behalf applications for interception warrants may be made;

(c) that such other persons (if any) as the Secretary of State thinks fit may be appointed to be members of the Board; and

(d) that the Board is so constituted as to produce a balance between the representation of the interests mentioned in paragraph (a) and the representation of those mentioned in paragraph (b).

(3) The Secretary of State shall not make an order under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

14 Grants for interception costs.

(1) It shall be the duty of the Secretary of State to ensure that such arrangements are in force as are necessary for securing that a person who provides—

(a) a postal service, or

(b) a telecommunications service,

receives such contribution as is, in the circumstances of that person's case, a fair contribution towards the costs incurred, or likely to be incurred, by that person in consequence of the matters mentioned in subsection (2).

(2) Those matters are—

(a) in relation to a person providing a postal service, the issue of interception warrants relating to communications transmitted by means of that postal service;

(b) in relation to a person providing a telecommunications service, the issue of interception warrants relating to communications transmitted by means of a telecommunication system used for the purposes of that service;

(c) in relation to each description of person, the imposition on that person of obligations provided for by an order under section 12.

(3) For the purpose of complying with his duty under this section, the Secretary of State may make arrangements for payments to be made out of money provided by Parliament.

Restrictions on use of intercepted material etc.

15 General safeguards.

(1) Subject to subsection (6), it shall be the duty of the Secretary of State to ensure, in relation to all interception warrants, that such arrangements are in force as he considers necessary for securing—

(a) that the requirements of subsections (2) and (3) are satisfied in relation to the intercepted material and any related communications data; and

(b) in the case of warrants in relation to which there are section 8(4) certificates, that the requirements of section 16 are also satisfied.

(2) The requirements of this subsection are satisfied in relation to the intercepted material and any related communications data if each of the following—

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(a) the number of persons to whom any of the material or data is disclosed or otherwise made available,
(b) the extent to which any of the material or data is disclosed or otherwise made available,
(c) the extent to which any of the material or data is copied, and
(d) the number of copies that are made,

is limited to the minimum that is necessary for the authorised purposes.

(3) The requirements of this subsection are satisfied in relation to the intercepted material and any related communications data if each copy made of any of the material or data (if not destroyed earlier) is destroyed as soon as there are no longer any grounds for retaining it as necessary for any of the authorised purposes.

(4) For the purposes of this section something is necessary for the authorised purposes if, and only if—
(a) it continues to be, or is likely to become, necessary as mentioned in section 5(3);
(b) it is necessary for facilitating the carrying out of any of the functions under this Chapter of the Secretary of State;
(c) it is necessary for facilitating the carrying out of any functions in relation to this Part of the Interception of Communications Commissioner or of the Tribunal;
(d) it is necessary to ensure that a person conducting a criminal prosecution has the information he needs to determine what is required of him by his duty to secure the fairness of the prosecution; or
(e) it is necessary for the performance of any duty imposed on any person by the [M20]Public Records Act 1958 or the [M21]Public Records Act (Northern Ireland) 1923.

(5) The arrangements for the time being in force under this section for securing that the requirements of subsection (2) are satisfied in relation to the intercepted material or any related communications data must include such arrangements as the Secretary of State considers necessary for securing that every copy of the material or data that is made is stored, for so long as it is retained, in a secure manner.

(6) Arrangements in relation to interception warrants which are made for the purposes of subsection (1)—
(a) shall not be required to secure that the requirements of subsections (2) and (3) are satisfied in so far as they relate to any of the intercepted material or related communications data, or any copy of any such material or data, possession of which has been surrendered to any authorities of a country or territory outside the United Kingdom; but
(b) shall be required to secure, in the case of every such warrant, that possession of the intercepted material and data and of copies of the material or data is surrendered to authorities of a country or territory outside the United Kingdom only if the requirements of subsection (7) are satisfied.

(7) The requirements of this subsection are satisfied in the case of a warrant if it appears to the Secretary of State—
(a) that requirements corresponding to those of subsections (2) and (3) will apply, to such extent (if any) as the Secretary of State thinks fit, in relation to any of

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the intercepted material or related communications data possession of which, or of any copy of which, is surrendered to the authorities in question; and

(b) that restrictions are in force which would prevent, to such extent (if any) as the Secretary of State thinks fit, the doing of anything in, for the purposes of or in connection with any proceedings outside the United Kingdom which would result in such a disclosure as, by virtue of section 17, could not be made in the United Kingdom.

(8) In this section "copy", in relation to intercepted material or related communications data, means any of the following (whether or not in documentary form)—

(a) any copy, extract or summary of the material or data which identifies itself as the product of an interception, and

(b) any record referring to an interception which is a record of the identities of the persons to or by whom the intercepted material was sent, or to whom the communications data relates,

and "copied" shall be construed accordingly.

Modifications etc. (not altering text)

C15 S. 15(1): functions transferred to the Scottish Ministers (S.) (15.12.2000) by virtue of S.I. 2000/3253 arts. 1(1)(3), 3, Sch. 2 (with art. 6)
S. 15(1) modified (S.) (14.12.2000) by S.I. 2000/3253, arts. 1(1)(2), 2, **Sch. 1 para. 2** (with art. 6)

C16 S. 15(1): certain functions modified (9.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), **art. 2**, Sch. 1 para. 2

C17 S. 15(1): transfer of functions (10.10.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2003 (S.I. 2003/2617), art. 3, **Sch. 2**

C18 S. 15(1) modified (11.10.2007) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007 (S.I. 2007/2915), arts. 1(2), 2, **Sch. 1 para. 2** (with art. 6)

C19 S. 15(1): functions transferred (12.10.2007) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007 (S.I. 2007/2915), arts. 1(1), 3, **Sch. 2** (with art. 6)

Marginal Citations

M20 1958 c. 51.

M21 1923 c. 20 (N.I.).

16 Extra safeguards in the case of certificated warrants.

(1) For the purposes of section 15 the requirements of this section, in the case of a warrant in relation to which there is a section 8(4) certificate, are that the intercepted material is read, looked at or listened to by the persons to whom it becomes available by virtue of the warrant to the extent only that it—

(a) has been certified as material the examination of which is necessary as mentioned in section 5(3)(a), (b) or (c); and

(b) falls within subsection (2).

(2) Subject to subsections (3) and (4), intercepted material falls within this subsection so far only as it is selected to be read, looked at or listened to otherwise than according to a factor which—

(a) is referable to an individual who is known to be for the time being in the British Islands; and

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(b) has as its purpose, or one of its purposes, the identification of material contained in communications sent by him, or intended for him.

(3) Intercepted material falls within subsection (2), notwithstanding that it is selected by reference to any such factor as is mentioned in paragraph (a) and (b) of that subsection, if—

(a) it is certified by the Secretary of State for the purposes of section 8(4) that the examination of material selected according to factors referable to the individual in question is necessary as mentioned in subsection 5(3)(a), (b) or (c); and

(b) the material relates only to communications sent during a period of not more than three months specified in the certificate.

(4) Intercepted material also falls within subsection (2), notwithstanding that it is selected by reference to any such factor as is mentioned in paragraph (a) and (b) of that subsection, if—

(a) the person to whom the warrant is addressed believes, on reasonable grounds, that the circumstances are such that the material would fall within that subsection; or

(b) the conditions set out in subsection (5) below are satisfied in relation to the selection of the material.

(5) Those conditions are satisfied in relation to the selection of intercepted material if—

(a) it has appeared to the person to whom the warrant is addressed that there has been such a relevant change of circumstances as, but for subsection (4)(b), would prevent the intercepted material from falling within subsection (2);

(b) since it first so appeared, a written authorisation to read, look at or listen to the material has been given by a senior official; and

(c) the selection is made before the end of the first working day after the day on which it first so appeared to that person.

(6) References in this section to its appearing that there has been a relevant change of circumstances are references to its appearing either—

(a) that the individual in question has entered the British Islands; or

(b) that a belief by the person to whom the warrant is addressed in the individual's presence outside the British Islands was in fact mistaken.

17 Exclusion of matters from legal proceedings.

(1) Subject to section 18, no evidence shall be adduced, question asked, assertion or disclosure made or other thing done in, for the purposes of or in connection with any legal proceedings which (in any manner)—

(a) discloses, in circumstances from which its origin in anything falling within subsection (2) may be inferred, any of the contents of an intercepted communication or any related communications data; or

(b) tends (apart from any such disclosure) to suggest that anything falling within subsection (2) has or may have occurred or be going to occur.

(2) The following fall within this subsection—

(a) conduct by a person falling within subsection (3) that was or would be an offence under section 1(1) or (2) of this Act or under section 1 of the [M22]Interception of Communications Act 1985;

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(b) a breach by the Secretary of State of his duty under section 1(4) of this Act;
(c) the issue of an interception warrant or of a warrant under the [M23]Interception of Communications Act 1985;
(d) the making of an application by any person for an interception warrant, or for a warrant under that Act;
(e) the imposition of any requirement on any person to provide assistance with giving effect to an interception warrant.

(3) The persons referred to in subsection (2)(a) are—
(a) any person to whom a warrant under this Chapter may be addressed;
(b) any person holding office under the Crown;
(c) any member of the National Criminal Intelligence Service;
(d) any member of the National Crime Squad;
(e) any person employed by or for the purposes of a police force;
(f) any person providing a postal service or employed for the purposes of any business of providing such a service; and
(g) any person providing a public telecommunications service or employed for the purposes of any business of providing such a service.

(4) In this section "intercepted communication" means any communication intercepted in the course of its transmission by means of a postal service or telecommunication system.

Marginal Citations
M22 1985 c. 56.
M23 1985 c. 56.

18 Exceptions to section 17.

(1) Section 17(1) shall not apply in relation to—
(a) any proceedings for a relevant offence;
(b) any civil proceedings under section 11(8);
(c) any proceedings before the Tribunal;
(d) any proceedings on an appeal or review for which provision is made by an order under section 67(8);
(e) any proceedings before the Special Immigration Appeals Commission or any proceedings arising out of proceedings before that Commission; or
(f) any proceedings before the Proscribed Organisations Appeal Commission or any proceedings arising out of proceedings before that Commission.

(2) Subsection (1) shall not, by virtue of paragraph (e) or (f), authorise the disclosure of anything—
(a) in the case of any proceedings falling within paragraph (e), to—
(i) the appellant to the Special Immigration Appeals Commission; or
(ii) any person who for the purposes of any proceedings so falling (but otherwise than by virtue of an appointment under section 6 of the [M24]Special Immigration Appeals Commission Act 1997) represents that appellant;

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or

(b) in the case of proceedings falling within paragraph (f), to—

(i) the applicant to the Proscribed Organisations Appeal Commission;

(ii) the organisation concerned (if different);

(iii) any person designated under paragraph 6 of Schedule 3 to the Terrorism Act 2000 to conduct proceedings so falling on behalf of that organisation; or

(iv) any person who for the purposes of any proceedings so falling (but otherwise than by virtue of an appointment under paragraph 7 of that Schedule) represents that applicant or that organisation.

(3) Section 17(1) shall not prohibit anything done in, for the purposes of, or in connection with, so much of any legal proceedings as relates to the fairness or unfairness of a dismissal on the grounds of any conduct constituting an offence under section 1(1) or (2), 11(7) or 19 of this Act, or section 1 of the [M25]Interception of Communications Act 1985.

(4) Section 17(1)(a) shall not prohibit the disclosure of any of the contents of a communication if the interception of that communication was lawful by virtue of section 1(5)(c), 3 or 4.

(5) Where any disclosure is proposed to be or has been made on the grounds that it is authorised by subsection (4), section 17(1) shall not prohibit the doing of anything in, or for the purposes of, so much of any legal proceedings as relates to the question whether that disclosure is or was so authorised.

(6) Section 17(1)(b) shall not prohibit the doing of anything that discloses any conduct of a person for which he has been convicted of an offence under section 1(1) or (2), 11(7) or 19 of this Act, or section 1 of the [M26]Interception of Communications Act 1985.

(7) Nothing in section 17(1) shall prohibit any such disclosure of any information that continues to be available for disclosure as is confined to—

(a) a disclosure to a person conducting a criminal prosecution for the purpose only of enabling that person to determine what is required of him by his duty to secure the fairness of the prosecution; or

(b) a disclosure to a relevant judge in a case in which that judge has ordered the disclosure to be made to him alone.

(8) A relevant judge shall not order a disclosure under subsection (7)(b) except where he is satisfied that the exceptional circumstances of the case make the disclosure essential in the interests of justice.

(9) Subject to subsection (10), where in any criminal proceedings—

(a) a relevant judge does order a disclosure under subsection (7)(b), and

(b) in consequence of that disclosure he is of the opinion that there are exceptional circumstances requiring him to do so,

he may direct the person conducting the prosecution to make for the purposes of the proceedings any such admission of fact as that judge thinks essential in the interests of justice.

(10) Nothing in any direction under subsection (9) shall authorise or require anything to be done in contravention of section 17(1).

(11) In this section “a relevant judge” means—

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(a) any judge of the High Court or of the Crown Court or any Circuit judge;
(b) any judge of the High Court of Justiciary or any sheriff;
(c) in relation to a court-martial, the judge advocate appointed in relation to that court-martial under section 84B of the [M27]Army Act 1955, section 84B of the [M28]Air Force Act 1955 or section 53B of the [M29]Naval Discipline Act 1957; or
(d) any person holding any such judicial office as entitles him to exercise the jurisdiction of a judge falling within paragraph (a) or (b).

(12) In this section "relevant offence" means—
(a) an offence under any provision of this Act;
(b) an offence under section 1 of the [M30]Interception of Communications Act 1985;
(c) an offence under section 5 of the [M31]Wireless Telegraphy Act 1949;
(d) an offence under [F11]. . . **[**[F12]section 83 or 84 of the Postal Services Act 2000**]**;
(e) **[**[F13]an offence under section 45 of the [M32]Telecommunications Act 1984;**]**
(f) an offence under section 4 of the [M33]Official Secrets Act 1989 relating to any such information, document or article as is mentioned in subsection (3)(a) of that section;
(g) an offence under section 1 or 2 of the [M34]Official Secrets Act 1911 relating to any sketch, plan, model, article, note, document or information which incorporates or relates to the contents of any intercepted communication or any related communications data or tends to suggest as mentioned in section 17(1)(b) of this Act;
(h) perjury committed in the course of any proceedings mentioned in subsection (1) or (3) of this section;
(i) attempting or conspiring to commit, or aiding, abetting, counselling or procuring the commission of, an offence falling within any of the preceding paragraphs; and
(j) contempt of court committed in the course of, or in relation to, any proceedings mentioned in subsection (1) or (3) of this section.

(13) In subsection (12) "intercepted communication" has the same meaning as in section 17.

Textual Amendments

F11 Words in s. 18(12)(d) repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(11))

F12 Words in s. 18(12)(d) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 135(2)** (with art. 4(8))

F13 S. 18(12)(e) repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 19(1)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1; S.I. 2003/3142, **art. 3(2)** (with art. 11)

Marginal Citations

M24 1997 c. 68.
M25 1985 c. 56.
M26 1985 c. 56.
M27 1955 c. 18.
M28 1955 c. 19.
M29 1957 c. 53.
M30 1985 c. 56.

Status: *Point in time view as at 25/07/2003. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Regulation of Investigatory Powers Act 2000, Part I is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

M31 1949 c. 54.
M32 1984 c. 12.
M33 1989 c. 6.
M34 1911 c. 28.

19 Offence for unauthorised disclosures.

(1) Where an interception warrant has been issued or renewed, it shall be the duty of every person falling within subsection (2) to keep secret all the matters mentioned in subsection (3).

(2) The persons falling within this subsection are—
- (a) the persons specified in section 6(2);
- (b) every person holding office under the Crown;
- (c) every member of the National Criminal Intelligence Service;
- (d) every member of the National Crime Squad;
- (e) every person employed by or for the purposes of a police force;
- (f) persons providing postal services or employed for the purposes of any business of providing such a service;
- (g) persons providing public telecommunications services or employed for the purposes of any business of providing such a service;
- (h) persons having control of the whole or any part of a telecommunication system located wholly or partly in the United Kingdom.

(3) Those matters are—
- (a) the existence and contents of the warrant and of any section 8(4) certificate in relation to the warrant;
- (b) the details of the issue of the warrant and of any renewal or modification of the warrant or of any such certificate;
- (c) the existence and contents of any requirement to provide assistance with giving effect to the warrant;
- (d) the steps taken in pursuance of the warrant or of any such requirement; and
- (e) everything in the intercepted material, together with any related communications data.

(4) A person who makes a disclosure to another of anything that he is required to keep secret under this section shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.

(5) In proceedings against any person for an offence under this section in respect of any disclosure, it shall be a defence for that person to show that he could not reasonably have been expected, after first becoming aware of the matter disclosed, to take steps to prevent the disclosure.

(6) In proceedings against any person for an offence under this section in respect of any disclosure, it shall be a defence for that person to show that—

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(a) the disclosure was made by or to a professional legal adviser in connection with the giving, by the adviser to any client of his, of advice about the effect of provisions of this Chapter; and

(b) the person to whom or, as the case may be, by whom it was made was the client or a representative of the client.

(7) In proceedings against any person for an offence under this section in respect of any disclosure, it shall be a defence for that person to show that the disclosure was made by a legal adviser—

(a) in contemplation of, or in connection with, any legal proceedings; and

(b) for the purposes of those proceedings.

(8) Neither subsection (6) nor subsection (7) applies in the case of a disclosure made with a view to furthering any criminal purpose.

(9) In proceedings against any person for an offence under this section in respect of any disclosure, it shall be a defence for that person to show that the disclosure was confined to a disclosure made to the Interception of Communications Commissioner or authorised—

(a) by that Commissioner;

(b) by the warrant or the person to whom the warrant is or was addressed;

(c) by the terms of the requirement to provide assistance; or

(d) by section 11(9).

Interpretation of Chapter I

20 Interpretation of Chapter I.

In this Chapter—

"certified", in relation to a section 8(4) certificate, means of a description certified by the certificate as a description of material the examination of which the Secretary of State considers necessary;

"external communication" means a communication sent or received outside the British Islands;

"intercepted material", in relation to an interception warrant, means the contents of any communications intercepted by an interception to which the warrant relates;

"the interception subject", in relation to an interception warrant, means the person about whose communications information is sought by the interception to which the warrant relates;

"international mutual assistance agreement" means an international agreement designated for the purposes of section 1(4);

"related communications data", in relation to a communication intercepted in the course of its transmission by means of a postal service or telecommunication system, means so much of any communications data (within the meaning of Chapter II of this Part) as—

(a) is obtained by, or in connection with, the interception; and

(b) relates to the communication or to the sender or recipient, or intended recipient, of the communication;

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"section 8(4) certificate" means any certificate issued for the purposes of section 8(4).

CHAPTER II

ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

21 Lawful acquisition and disclosure of communications data.

(1) This Chapter applies to—

(a) any conduct in relation to a postal service or telecommunication system for obtaining communications data, other than conduct consisting in the interception of communications in the course of their transmission by means of such a service or system; and

(b) the disclosure to any person of communications data.

(2) Conduct to which this Chapter applies shall be lawful for all purposes if—

(a) it is conduct in which any person is authorised or required to engage by an authorisation or notice granted or given under this Chapter; and

(b) the conduct is in accordance with, or in pursuance of, the authorisation or requirement.

(3) A person shall not be subject to any civil liability in respect of any conduct of his which—

(a) is incidental to any conduct that is lawful by virtue of subsection (2); and

(b) is not itself conduct an authorisation or warrant for which is capable of being granted under a relevant enactment and might reasonably have been expected to have been sought in the case in question.

(4) In this Chapter "communications data" means any of the following—

(a) any traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any postal service or telecommunication system by means of which it is being or may be transmitted;

(b) any information which includes none of the contents of a communication (apart from any information falling within paragraph (a)) and is about the use made by any person—

(i) of any postal service or telecommunications service; or

(ii) in connection with the provision to or use by any person of any telecommunications service, of any part of a telecommunication system;

(c) any information not falling within paragraph (a) or (b) that is held or obtained, in relation to persons to whom he provides the service, by a person providing a postal service or telecommunications service.

(5) In this section "relevant enactment" means—

(a) an enactment contained in this Act;

(b) section 5 of the [M35]Intelligence Services Act 1994 (warrants for the intelligence services); or

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(c) an enactment contained in Part III of the [M36]Police Act 1997 (powers of the police and of customs officers).

(6) In this section "traffic data", in relation to any communication, means—

(a) any data identifying, or purporting to identify, any person, apparatus or location to or from which the communication is or may be transmitted,

(b) any data identifying or selecting, or purporting to identify or select, apparatus through which, or by means of which, the communication is or may be transmitted,

(c) any data comprising signals for the actuation of apparatus used for the purposes of a telecommunication system for effecting (in whole or in part) the transmission of any communication, and

(d) any data identifying the data or other data as data comprised in or attached to a particular communication,

but that expression includes data identifying a computer file or computer program access to which is obtained, or which is run, by means of the communication to the extent only that the file or program is identified by reference to the apparatus in which it is stored.

(7) In this section—

(a) references, in relation to traffic data comprising signals for the actuation of apparatus, to a telecommunication system by means of which a communication is being or may be transmitted include references to any telecommunication system in which that apparatus is comprised; and

(b) references to traffic data being attached to a communication include references to the data and the communication being logically associated with each other;

and in this section "data", in relation to a postal item, means anything written on the outside of the item.

Commencement Information

I2 S. 21 wholly in force; s. 21 not in force at Royal Assent see s. 83(2); S. 21(4) in force for certain purposes at 2.10.2000 by S.I. 2000/2543, **art. 3**; s. 21 wholly in force at 5.1.2004 by S.I. 2003./3140, {art. 2(a)}

Marginal Citations

M35 1994 c. 13.

M36 1997 c. 50.

VALID FROM 05/01/2004

22 Obtaining and disclosing communications data.

(1) This section applies where a person designated for the purposes of this Chapter believes that it is necessary on grounds falling within subsection (2) to obtain any communications data.

(2) It is necessary on grounds falling within this subsection to obtain communications data if it is necessary—

(a) in the interests of national security;

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(b) for the purpose of preventing or detecting crime or of preventing disorder;

(c) in the interests of the economic well-being of the United Kingdom;

(d) in the interests of public safety;

(e) for the purpose of protecting public health;

(f) for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;

(g) for the purpose, in an emergency, of preventing death or injury or any damage to a person's physical or mental health, or of mitigating any injury or damage to a person's physical or mental health; or

(h) for any purpose (not falling within paragraphs (a) to (g)) which is specified for the purposes of this subsection by an order made by the Secretary of State.

(3) Subject to subsection (5), the designated person may grant an authorisation for persons holding offices, ranks or positions with the same relevant public authority as the designated person to engage in any conduct to which this Chapter applies.

(4) Subject to subsection (5), where it appears to the designated person that a postal or telecommunications operator is or may be in possession of, or be capable of obtaining, any communications data, the designated person may, by notice to the postal or telecommunications operator, require the operator—

(a) if the operator is not already in possession of the data, to obtain the data; and

(b) in any case, to disclose all of the data in his possession or subsequently obtained by him.

(5) The designated person shall not grant an authorisation under subsection (3), or give a notice under subsection (4), unless he believes that obtaining the data in question by the conduct authorised or required by the authorisation or notice is proportionate to what is sought to be achieved by so obtaining the data.

(6) It shall be the duty of the postal or telecommunications operator to comply with the requirements of any notice given to him under subsection (4).

(7) A person who is under a duty by virtue of subsection (6) shall not be required to do anything in pursuance of that duty which it is not reasonably practicable for him to do.

(8) The duty imposed by subsection (6) shall be enforceable by civil proceedings by the Secretary of State for an injunction, or for specific performance of a statutory duty under section 45 of the [M37]Court of Session Act 1988, or for any other appropriate relief.

(9) The Secretary of State shall not make an order under subsection (2)(h) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Marginal Citations

M37 1988 c. 36.

Status: *Point in time view as at 25/07/2003. This version of this part contains provisions that are not valid for this point in time.*
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VALID FROM 05/01/2004

23 Form and duration of authorisations and notices.

(1) An authorisation under section 22(3)—

(a) must be granted in writing or (if not in writing) in a manner that produces a record of its having been granted;

(b) must describe the conduct to which this Chapter applies that is authorised and the communications data in relation to which it is authorised;

(c) must specify the matters falling within section 22(2) by reference to which it is granted; and

(d) must specify the office, rank or position held by the person granting the authorisation.

(2) A notice under section 22(4) requiring communications data to be disclosed or to be obtained and disclosed—

(a) must be given in writing or (if not in writing) must be given in a manner that produces a record of its having been given;

(b) must describe the communications data to be obtained or disclosed under the notice;

(c) must specify the matters falling within section 22(2) by reference to which the notice is given;

(d) must specify the office, rank or position held by the person giving it; and

(e) must specify the manner in which any disclosure required by the notice is to be made.

(3) A notice under section 22(4) shall not require the disclosure of data to any person other than—

(a) the person giving the notice; or

(b) such other person as may be specified in or otherwise identified by, or in accordance with, the provisions of the notice;

but the provisions of the notice shall not specify or otherwise identify a person for the purposes of paragraph (b) unless he holds an office, rank or position with the same relevant public authority as the person giving the notice.

(4) An authorisation under section 22(3) or notice under section 22(4)—

(a) shall not authorise or require any data to be obtained after the end of the period of one month beginning with the date on which the authorisation is granted or the notice given; and

(b) in the case of a notice, shall not authorise or require any disclosure after the end of that period of any data not in the possession of, or obtained by, the postal or telecommunications operator at a time during that period.

(5) An authorisation under section 22(3) or notice under section 22(4) may be renewed at any time before the end of the period of one month applying (in accordance with subsection (4) or subsection (7)) to that authorisation or notice.

(6) A renewal of an authorisation under section 22(3) or of a notice under section 22(4) shall be by the grant or giving, in accordance with this section, of a further authorisation or notice.

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(7) Subsection (4) shall have effect in relation to a renewed authorisation or renewal notice as if the period of one month mentioned in that subsection did not begin until the end of the period of one month applicable to the authorisation or notice that is current at the time of the renewal.

(8) Where a person who has given a notice under subsection (4) of section 22 is satisfied—

(a) that it is no longer necessary on grounds falling within subsection (2) of that section for the requirements of the notice to be complied with, or

(b) that the conduct required by the notice is no longer proportionate to what is sought to be achieved by obtaining communications data to which the notice relates,

he shall cancel the notice.

(9) The Secretary of State may by regulations provide for the person by whom any duty imposed by subsection (8) is to be performed in a case in which it would otherwise fall on a person who is no longer available to perform it; and regulations under this subsection may provide for the person on whom the duty is to fall to be a person appointed in accordance with the regulations.

VALID FROM 05/01/2004

24 Arrangements for payments.

(1) It shall be the duty of the Secretary of State to ensure that such arrangements are in force as he thinks appropriate for requiring or authorising, in such cases as he thinks fit, the making to postal and telecommunications operators of appropriate contributions towards the costs incurred by them in complying with notices under section 22(4).

(2) For the purpose of complying with his duty under this section, the Secretary of State may make arrangements for payments to be made out of money provided by Parliament.

VALID FROM 05/01/2004

25 Interpretation of Chapter II.

(1) In this Chapter—

"communications data" has the meaning given by section 21(4);

"designated" shall be construed in accordance with subsection (2);

"postal or telecommunications operator" means a person who provides a postal service or telecommunications service;

"relevant public authority" means (subject to subsection (4)) any of the following—

(a) a police force;

(b) the National Criminal Intelligence Service;

(c) the National Crime Squad;

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(d) the Commissioners of Customs and Excise;

(e) the Commissioners of Inland Revenue;

(f) any of the intelligence services;

(g) any such public authority not falling within paragraphs (a) to (f) as may be specified for the purposes of this subsection by an order made by the Secretary of State.

(2) Subject to subsection (3), the persons designated for the purposes of this Chapter are the individuals holding such offices, ranks or positions with relevant public authorities as are prescribed for the purposes of this subsection by an order made by the Secretary of State.

(3) The Secretary of State may by order impose restrictions—

(a) on the authorisations and notices under this Chapter that may be granted or given by any individual holding an office, rank or position with a specified public authority; and

(b) on the circumstances in which, or the purposes for which, such authorisations may be granted or notices given by any such individual.

(4) The Secretary of State may by order remove any person from the list of persons who are for the time being relevant public authorities for the purposes of this Chapter.

(5) The Secretary of State shall not make an order under this section that adds any person to the list of persons who are for the time being relevant public authorities for the purposes of this Chapter unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Status:
Point in time view as at 25/07/2003. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:
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