



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.

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 electromagnetic 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
- (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.

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- (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,
 - (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—

(a) with the authority of a designated person under section 5 of the 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 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.

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.
- (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 Prison Act 1952, section 39 of the Prisons (Scotland) Act 1989 or section 13 of the 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 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 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 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 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 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 Prison Act 1952 or the 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 Prisons (Scotland) Act 1989,
- and includes any contracted out prison, within the meaning of Part IV of the Criminal Justice Act 1991 or section 106(4) of the Criminal Justice and Public Order Act 1994, and any legalised police cells within the meaning of section 14 of the Prisons (Scotland) Act 1989.

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;

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- (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 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.