

Status: Point in time view as at 17/06/2011.

Changes to legislation: Regulation of Investigatory Powers Act 2000, Cross Heading: Consultation requirements before service of notices is up to date with all changes known to be in force on or before 22 April 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)

SCHEDULES

[^{F1}SCHEDULE A1

MONETARY PENALTY NOTICES IN RELATION TO CERTAIN UNLAWFUL INTERCEPTIONS

Textual Amendments

- F1** Sch. A1 inserted (17.6.2011) by [The Regulation of Investigatory Powers \(Monetary Penalty Notices and Consents for Interceptions\) Regulations 2011 \(S.I. 2011/1340\)](#), **regs. 1(2), 2(4)** {Sch.}

PART 1

MONETARY PENALTY NOTICES

Consultation requirements before service of notices

- 3 (1) The Commissioner must proceed in accordance with sub-paragraphs (2) to (7) before serving a monetary penalty notice on a person.
- (2) The Commissioner must serve a notice of intent on the person.
- (3) A notice of intent is a notice that the Commissioner proposes to serve a monetary penalty notice on the person.
- (4) A notice of intent must, in particular—
- (a) state the name and address of the person concerned,
 - (b) state the grounds on which the Commissioner proposes to serve the monetary penalty notice,
 - (c) provide an indication of the amount of the monetary penalty that the Commissioner proposes to impose and the Commissioner's grounds for deciding that amount,
 - (d) state whether the monetary penalty notice is to include any enforcement obligation and, if so, what the obligation is and the grounds for including it,
 - (e) state the date on which the Commissioner proposes to serve the monetary penalty notice,
 - (f) inform the person concerned that the person may make written representations in relation to the Commissioner's proposal within a period specified in the notice, and
 - (g) inform the person concerned that the person may, within a period specified in the notice, request an oral hearing before the Commissioner in order to make representations of the kind mentioned in sub-paragraph (6)(b).
- (5) No period specified as mentioned in sub-paragraph (4)(f) or (g) may be less than 21 days beginning with the day after the day on which the notice is served.

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- (6) Where the person concerned has requested an oral hearing within the period specified for the purpose in the notice—
 - (a) the Commissioner must arrange such a hearing, and
 - (b) the person may make representations at the hearing about—
 - (i) any matter falling within section 1(1A)(a)(ii), or
 - (ii) any other matter relating to the Commissioner's proposal which, by virtue of section 17, the person would be unable to raise on an appeal under paragraph 5.
- (7) The Commissioner must consider any representations which have been made by the person concerned in accordance with the notice or sub-paragraph (6).
- (8) Subject to sub-paragraph (9), the Commissioner may not vary a notice of intent.
- (9) The Commissioner may vary a notice of intent by extending the period mentioned in sub-paragraph (4)(f) or (g).
- (10) Sub-paragraph (8) does not prevent the Commissioner from issuing a new notice of intent instead of varying such a notice.
- (11) The Commissioner may cancel a notice of intent.
- (12) A variation or cancellation of a notice of intent is effected by serving on the person on whom the notice was served a notice setting out the variation or cancellation.
- (13) Subject to sub-paragraph (14), the Commissioner must not serve a monetary penalty notice on a person in respect of an interception if any notice of intent in respect of that interception was served on the person more than 3 months earlier.
- (14) The Commissioner may serve a monetary penalty notice on a person where the service of the notice would otherwise be prevented by virtue of sub-paragraph (13) if the Commissioner—
 - (a) considers it reasonable to do so, and
 - (b) includes the reasons for doing so in the monetary penalty notice.
- (15) If the Commissioner decides not to serve a monetary penalty notice on a person as a result of any representations which have been made by the person in accordance with a notice of intent or sub-paragraph (6), the Commissioner must inform the person of that fact.]

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