



Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART III

INVESTIGATION OF ELECTRONIC DATA PROTECTED BY ENCRYPTION ETC.

Power to require disclosure

50 Effect of notice imposing disclosure requirement

- (1) Subject to the following provisions of this section, the effect of a section 49 notice imposing a disclosure requirement in respect of any protected information on a person who is in possession at a relevant time of both the protected information and a means of obtaining access to the information and of disclosing it in an intelligible form is that he—
 - (a) shall be entitled to use any key in his possession to obtain access to the information or to put it into an intelligible form; and
 - (b) shall be required, in accordance with the notice imposing the requirement, to make a disclosure of the information in an intelligible form.
- (2) A person subject to a requirement under subsection (1)(b) to make a disclosure of any information in an intelligible form shall be taken to have complied with that requirement if—
 - (a) he makes, instead, a disclosure of any key to the protected information that is in his possession; and
 - (b) that disclosure is made, in accordance with the notice imposing the requirement, to the person to whom, and by the time by which, he was required to provide the information in that form.
- (3) Where, in a case in which a disclosure requirement in respect of any protected information is imposed on any person by a section 49 notice—
 - (a) that person is not in possession of the information,

Status: This is the original version (as it was originally enacted).

- (b) that person is incapable, without the use of a key that is not in his possession, of obtaining access to the information and of disclosing it in an intelligible form, or
- (c) the notice states, in pursuance of a direction under section 51, that it can be complied with only by the disclosure of a key to the information,

the effect of imposing that disclosure requirement on that person is that he shall be required, in accordance with the notice imposing the requirement, to make a disclosure of any key to the protected information that is in his possession at a relevant time.

- (4) Subsections (5) to (7) apply where a person (“the person given notice”)—
- (a) is entitled or obliged to disclose a key to protected information for the purpose of complying with any disclosure requirement imposed by a section 49 notice; and
 - (b) is in possession of more than one key to that information.

- (5) It shall not be necessary, for the purpose of complying with the requirement, for the person given notice to make a disclosure of any keys in addition to those the disclosure of which is, alone, sufficient to enable the person to whom they are disclosed to obtain access to the information and to put it into an intelligible form.

- (6) Where—
- (a) subsection (5) allows the person given notice to comply with a requirement without disclosing all of the keys in his possession, and
 - (b) there are different keys, or combinations of keys, in the possession of that person the disclosure of which would, under that subsection, constitute compliance,

the person given notice may select which of the keys, or combination of keys, to disclose for the purpose of complying with that requirement in accordance with that subsection.

- (7) Subject to subsections (5) and (6), the person given notice shall not be taken to have complied with the disclosure requirement by the disclosure of a key unless he has disclosed every key to the protected information that is in his possession at a relevant time.

- (8) Where, in a case in which a disclosure requirement in respect of any protected information is imposed on any person by a section 49 notice—

- (a) that person has been in possession of the key to that information but is no longer in possession of it,
- (b) if he had continued to have the key in his possession, he would have been required by virtue of the giving of the notice to disclose it, and
- (c) he is in possession, at a relevant time, of information to which subsection (9) applies,

the effect of imposing that disclosure requirement on that person is that he shall be required, in accordance with the notice imposing the requirement, to disclose all such information to which subsection (9) applies as is in his possession and as he may be required, in accordance with that notice, to disclose by the person to whom he would have been required to disclose the key.

- (9) This subsection applies to any information that would facilitate the obtaining or discovery of the key or the putting of the protected information into an intelligible form.

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

- (10) In this section “relevant time”, in relation to a disclosure requirement imposed by a section 49 notice, means the time of the giving of the notice or any subsequent time before the time by which the requirement falls to be complied with.