

ELECTRONIC COMMUNICATIONS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I Cryptography Service Providers

Section 2: Arrangements for the grant of approvals

25. This section places a duty on the Secretary of State to ensure that there are arrangements in force for granting approval, handling complaints and disputes and modifying or withdrawing approval.
26. *Subsection (1)* places a duty on the Secretary of State to ensure that there are arrangements for granting approvals for any person providing, or proposing to provide, cryptography support services in the United Kingdom, and applying to be approved.
 - *The provision of cryptography support services in the United Kingdom is described in subsection (10) of section 2.*
27. *Subsection (2)* sets out what the arrangements for approvals are to achieve.
28. *Subsection (3)* says what the Secretary of State must be satisfied about in order to grant an approval. The Secretary of State is given the power to set requirements (e.g. relating to the technology provided, to the person himself and his background and experience, and the way he provides the technology to the public) by regulation, and also to impose conditions on the approval. *Subsection (5)* of section 5 provides that the Secretary of State must consult before making regulations imposing requirements. The Secretary of State must also be satisfied that the person is fit and proper to be approved. Relevant factors include any known contraventions of provisions of this legislation, and convictions for offences involving fraud or dishonesty, or engaging in discriminatory practices, or engaging in deceitful, oppressive, unfair or improper business practices.
29. *Subsection (4)* allows for regulations made by virtue of *subsection (3)(a)* or *(b)* to frame the requirement for compliance with these requirements by reference to the opinion of a person specified, either in the regulations or chosen in a manner set out in the regulations.
30. *Subsection (5)* specifies the nature of the requirements which may be imposed as conditions of an approval, subject to the limits in *subsection (6)*.
31. *Subsection (7)* provides for the enforcement of any requirement to provide information imposed by the conditions of an approval by the Secretary of State in civil proceedings.
32. *Subsections (8) and (9)* make provision about the payment of fees.
33. *Subsection (10)* sets out what is meant by cryptography support services being provided in the United Kingdom.
34. The arrangements for approvals, outlined above, envisage providers requesting approval for one or a number of different cryptography support services. The granting

*These notes refer to the Electronic Communications Act
2000 (c.7) which received Royal Assent on 25 May 2000*

of such an approval would depend on the applicant meeting the conditions specified in the relevant regulations.