



# Data Retention and Investigatory Powers Act 2014

## 2014 CHAPTER 27

### *Retention of relevant communications data*

#### **1 Powers for retention of relevant communications data subject to safeguards**

- (1) The Secretary of State may by notice (a “retention notice”) require a public telecommunications operator to retain relevant communications data if the Secretary of State considers that the requirement is necessary and proportionate for one or more of the purposes falling within paragraphs (a) to (h) of section 22(2) of the Regulation of Investigatory Powers Act 2000 (purposes for which communications data may be obtained).
- (2) A retention notice may—
  - (a) relate to a particular operator or any description of operators,
  - (b) require the retention of all data or any description of data,
  - (c) specify the period or periods for which data is to be retained,
  - (d) contain other requirements, or restrictions, in relation to the retention of data,
  - (e) make different provision for different purposes,
  - (f) relate to data whether or not in existence at the time of the giving, or coming into force, of the notice.
- (3) The Secretary of State may by regulations make further provision about the retention of relevant communications data.
- (4) Such provision may, in particular, include provision about—
  - (a) requirements before giving a retention notice,
  - (b) the maximum period for which data is to be retained under a retention notice,
  - (c) the content, giving, coming into force, review, variation or revocation of a retention notice,
  - (d) the integrity, security or protection of, access to, or the disclosure or destruction of, data retained by virtue of this section,

- (e) the enforcement of, or auditing compliance with, relevant requirements or restrictions,
  - (f) a code of practice in relation to relevant requirements or restrictions or relevant powers,
  - (g) the reimbursement by the Secretary of State (with or without conditions) of expenses incurred by public telecommunications operators in complying with relevant requirements or restrictions,
  - (h) the 2009 Regulations ceasing to have effect and the transition to the retention of data by virtue of this section.
- (5) The maximum period provided for by virtue of subsection (4)(b) must not exceed 12 months beginning with such day as is specified in relation to the data concerned by regulations under subsection (3).
- (6) A public telecommunications operator who retains relevant communications data by virtue of this section must not disclose the data except—
- (a) in accordance with—
    - (i) Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act 2000 (acquisition and disclosure of communications data), or
    - (ii) a court order or other judicial authorisation or warrant, or
  - (b) as provided by regulations under subsection (3).
- (7) The Secretary of State may by regulations make provision, which corresponds to any provision made (or capable of being made) by virtue of subsection (4)(d) to (g) or (6), in relation to communications data which is retained by telecommunications service providers by virtue of a code of practice under section 102 of the Anti-terrorism, Crime and Security Act 2001.

## 2 Section 1: supplementary

- (1) In this section and section 1—
- “communications data” has the meaning given by section 21(4) of the Regulation of Investigatory Powers Act 2000 so far as that meaning applies in relation to telecommunications services and telecommunication systems;
  - “functions” includes powers and duties;
  - “notice” means notice in writing;
  - “public telecommunications operator” means a person who—
    - (a) controls or provides a public telecommunication system, or
    - (b) provides a public telecommunications service;
  - “public telecommunications service” and “public telecommunication system” have the meanings given by section 2(1) of the Regulation of Investigatory Powers Act 2000;
  - “relevant communications data” means communications data of the kind mentioned in the Schedule to the 2009 Regulations so far as such data is generated or processed in the United Kingdom by public telecommunications operators in the process of supplying the telecommunications services concerned;
  - “relevant powers” means any powers conferred by virtue of section 1(1) to (6);
  - “relevant requirements or restrictions” means any requirements or restrictions imposed by virtue of section 1(1) to (6);

“retention notice” has the meaning given by section 1(1);

“specify” means specify or describe (and “specified” is to be read accordingly);

“telecommunications service” and “telecommunication system” have the meanings given by section 2(1) of the Regulation of Investigatory Powers Act 2000;

“telecommunications service provider” means a person who provides a telecommunications service;

“unsuccessful call attempt” means a communication where a telephone call has been successfully connected but not answered or there has been a network management intervention;

“the 2009 Regulations” means the provisions known as the Data Retention (EC Directive) Regulations 2009 ([S.I. 2009/859](#)).

- (2) “Relevant communications data” includes (so far as it otherwise falls within the definition) communications data relating to unsuccessful call attempts that—
- (a) in the case of telephony data, is stored in the United Kingdom, or
  - (b) in the case of internet data, is logged in the United Kingdom,
- but does not include data relating to unconnected calls or data revealing the content of a communication.
- (3) Regulations under section 1(3) may specify the communications data that is of the kind mentioned in the Schedule to the 2009 Regulations and, where they do so, the reference in the definition of “relevant communications data” to communications data of that kind is to be read as a reference to communications data so specified.
- (4) Any power to make regulations under section 1—
- (a) is exercisable by statutory instrument,
  - (b) includes power to—
    - (i) confer or impose functions (including those involving the exercise of a discretion) on any person (including the Secretary of State),
    - (ii) make supplementary, incidental, consequential, transitional, transitory or saving provision,
    - (iii) make different provision for different purposes,
  - (c) may, so far as relating to provision about codes of practice, be exercised in particular by modifying the effect of sections 71 and 72 of the Regulation of Investigatory Powers Act 2000 (codes of practice in relation to certain powers and duties).
- (5) A statutory instrument containing regulations under section 1 is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.