



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 6

BULK WARRANTS

VALID FROM 31/05/2018

CHAPTER 1

BULK INTERCEPTION WARRANTS

Bulk interception warrants

136 Bulk interception warrants

- (1) For the purposes of this Act a “bulk interception warrant” is a warrant issued under this Chapter which meets conditions A and B.
- (2) Condition A is that the main purpose of the warrant is one or more of the following—
 - (a) the interception of overseas-related communications (see subsection (3));
 - (b) the obtaining of secondary data from such communications (see section 137).
- (3) In this Chapter “overseas-related communications” means—
 - (a) communications sent by individuals who are outside the British Islands, or
 - (b) communications received by individuals who are outside the British Islands.
- (4) Condition B is that the warrant authorises or requires the person to whom it is addressed to secure, by any conduct described in the warrant, any one or more of the following activities—
 - (a) the interception, in the course of their transmission by means of a telecommunication system, of communications described in the warrant;

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- (b) the obtaining of secondary data from communications transmitted by means of such a system and described in the warrant;
 - (c) the selection for examination, in any manner described in the warrant, of intercepted content or secondary data obtained under the warrant;
 - (d) the disclosure, in any manner described in the warrant, of anything obtained under the warrant to the person to whom the warrant is addressed or to any person acting on that person's behalf.
- (5) A bulk interception warrant also authorises the following conduct (in addition to the conduct described in the warrant)—
- (a) any conduct which it is necessary to undertake in order to do what is expressly authorised or required by the warrant, including—
 - (i) the interception of communications not described in the warrant, and
 - (ii) conduct for obtaining secondary data from such communications;
 - (b) 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 in giving effect to the warrant;
 - (c) any conduct for obtaining related systems data from any telecommunications operator.
- (6) For the purposes of subsection (5)(c)—
- “related systems data”, in relation to a warrant, means systems data relating to a relevant communication or to the sender or recipient, or intended recipient, of a relevant communication (whether or not a person), and
- “relevant communication”, in relation to a warrant, means—
- (a) any communication intercepted in accordance with the warrant in the course of its transmission by means of a telecommunication system, or
 - (b) any communication from which secondary data is obtained under the warrant.

137 Obtaining secondary data

- (1) This section has effect for the purposes of this Chapter.
- (2) References to obtaining secondary data from a communication transmitted by means of a telecommunication system are references to obtaining such data—
 - (a) while the communication is being transmitted, or
 - (b) at any time when the communication is stored in or by the system (whether before or after its transmission),
 and references to secondary data obtained under a bulk interception warrant are to be read accordingly.
- (3) “Secondary data”, in relation to a communication transmitted by means of a telecommunication system, means any data falling within subsection (4) or (5).
- (4) The data falling within this subsection is systems data which is comprised in, included as part of, attached to or logically associated with the communication (whether by the sender or otherwise).
- (5) The data falling within this subsection is identifying data which—

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- (a) is comprised in, included as part of, attached to or logically associated with the communication (whether by the sender or otherwise),
- (b) is capable of being logically separated from the remainder of the communication, and
- (c) if it were so separated, would not reveal anything of what might reasonably be considered to be the meaning (if any) of the communication, disregarding any meaning arising from the fact of the communication or from any data relating to the transmission of the communication.

(6) For the meaning of “systems data” and “identifying data”, see section 263.

138 Power to issue bulk interception warrants

(1) The Secretary of State may, on an application made by or on behalf of the head of an intelligence service, issue a bulk interception warrant if—

- (a) the Secretary of State considers that the main purpose of the warrant is one or more of the following—
 - (i) the interception of overseas-related communications, and
 - (ii) the obtaining of secondary data from such communications,
- (b) the Secretary of State considers that the warrant is necessary—
 - (i) in the interests of national security, or
 - (ii) on that ground and on any other grounds falling within subsection (2),
- (c) the Secretary of State considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
- (d) the Secretary of State considers that—
 - (i) each of the specified operational purposes (see section 142) is a purpose for which the examination of intercepted content or secondary data obtained under the warrant is or may be necessary, and
 - (ii) the examination of intercepted content or secondary data for each such purpose is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary,
- (e) the Secretary of State considers that satisfactory arrangements made for the purposes of sections 150 and 151 (safeguards relating to disclosure etc.) are in force in relation to the warrant,
- (f) in a case where the Secretary of State considers that a telecommunications operator outside the United Kingdom is likely to be required to provide assistance in giving effect to the warrant if it is issued, the Secretary of State has complied with section 139, and
- (g) the decision to issue the warrant has been approved by a Judicial Commissioner.

For the meaning of “head of an intelligence service”, see section 263.

- (2) A warrant is necessary on grounds falling within this subsection if it is necessary—
- (a) for the purpose of preventing or detecting serious crime, or
 - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security (but see subsection (3)).

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- (3) A warrant may be considered necessary on the ground falling within subsection (2) (b) only if the information which it is considered necessary to obtain is information relating to the acts or intentions of persons outside the British Islands.
- (4) A warrant may not be considered necessary in the interests of national security or on any other grounds falling within subsection (2) if it is considered necessary only for the purpose of gathering evidence for use in any legal proceedings.
- (5) An application for the issue of a bulk interception warrant may only be made on behalf of the head of an intelligence service by a person holding office under the Crown.

139 Additional requirements in respect of warrants affecting overseas operators

- (1) This section applies where—
 - (a) an application for a bulk interception warrant has been made, and
 - (b) the Secretary of State considers that a telecommunications operator outside the United Kingdom is likely to be required to provide assistance in giving effect to the warrant if it is issued.
- (2) Before issuing the warrant, the Secretary of State must consult the operator.
- (3) Before issuing the warrant, the Secretary of State must, among other matters, take into account—
 - (a) the likely benefits of the warrant,
 - (b) the likely number of users (if known) of any telecommunications service which is provided by the operator and to which the warrant relates,
 - (c) the technical feasibility of complying with any requirement that may be imposed on the operator to provide assistance in giving effect to the warrant,
 - (d) the likely cost of complying with any such requirement, and
 - (e) any other effect of the warrant on the operator.

140 Approval of warrants by Judicial Commissioners

- (1) In deciding whether to approve a decision to issue a warrant under section 138, a Judicial Commissioner must review the Secretary of State's conclusions as to the following matters—
 - (a) whether the warrant is necessary as mentioned in subsection (1)(b) of that section,
 - (b) whether the conduct that would be authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
 - (c) whether—
 - (i) each of the specified operational purposes (see section 142) is a purpose for which the examination of intercepted content or secondary data obtained under the warrant is or may be necessary, and
 - (ii) the examination of intercepted content or secondary data for each such purpose is necessary as mentioned in section 138(1)(d)(ii), and
 - (d) any matters taken into account in accordance with section 139.
- (2) In doing so, the Judicial Commissioner must—

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- (a) apply the same principles as would be applied by a court on an application for judicial review, and
 - (b) consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).
- (3) Where a Judicial Commissioner refuses to approve a decision to issue a warrant under section 138, the Judicial Commissioner must give the Secretary of State written reasons for the refusal.
- (4) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve a decision to issue a warrant under section 138, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to issue the warrant.

141 Decisions to issue warrants to be taken personally by Secretary of State

- (1) The decision to issue a bulk interception warrant must be taken personally by the Secretary of State.
- (2) Before a bulk interception warrant is issued, it must be signed by the Secretary of State.

142 Requirements that must be met by warrants

- (1) A bulk interception warrant must contain a provision stating that it is a bulk interception warrant.
- (2) A bulk interception warrant must be addressed to the head of the intelligence service by whom, or on whose behalf, the application for the warrant was made.
- (3) A bulk interception warrant must specify the operational purposes for which any intercepted content or secondary data obtained under the warrant may be selected for examination.
- (4) The operational purposes specified in the warrant must be ones specified, in a list maintained by the heads of the intelligence services (“the list of operational purposes”), as purposes which they consider are operational purposes for which intercepted content or secondary data obtained under bulk interception warrants may be selected for examination.
- (5) The warrant may, in particular, specify all of the operational purposes which, at the time the warrant is issued, are specified in the list of operational purposes.
- (6) An operational purpose may be specified in the list of operational purposes only with the approval of the Secretary of State.
- (7) The Secretary of State may give such approval only if satisfied that the operational purpose is specified in a greater level of detail than the descriptions contained in section 138(1)(b) or (2).
- (8) At the end of each relevant three-month period the Secretary of State must give a copy of the list of operational purposes to the Intelligence and Security Committee of Parliament.
- (9) In subsection (8) “relevant three-month period” means—

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- (a) the period of three months beginning with the day on which this section comes into force, and
 - (b) each successive period of three months.
- (10) The Prime Minister must review the list of operational purposes at least once a year.
- (11) In this Chapter “the specified operational purposes”, in relation to a bulk interception warrant, means the operational purposes specified in the warrant in accordance with this section.

VALID FROM 27/06/2018

Duration, modification and cancellation of warrants

143 Duration of warrants

- (1) A bulk interception warrant (unless already cancelled) ceases to have effect at the end of the period of 6 months beginning with—
- (a) the day on which the warrant was issued, or
 - (b) in the case of a warrant that has been renewed, the day after the day at the end of which the warrant would have ceased to have effect if it had not been renewed.
- (2) For provision about the renewal of warrants, see section 144.

144 Renewal of warrants

- (1) If the renewal conditions are met, a bulk interception warrant may be renewed, at any time during the renewal period, by an instrument issued by the Secretary of State.

This is subject to subsection (6).

- (2) The renewal conditions are—
- (a) that the Secretary of State considers that the warrant continues to be necessary—
 - (i) in the interests of national security, or
 - (ii) on that ground and on any other grounds falling within section 138(2),
 - (b) that the Secretary of State considers that the conduct that would be authorised by the renewed warrant continues to be proportionate to what is sought to be achieved by that conduct,
 - (c) that the Secretary of State considers that—
 - (i) each of the specified operational purposes (see section 142) is a purpose for which the examination of intercepted content or secondary data obtained under the warrant continues to be, or may be, necessary, and
 - (ii) the examination of intercepted content or secondary data for each such purpose continues to be necessary on any of the grounds on which the Secretary of State considers that the warrant continues to be necessary, and

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- (d) that the decision to renew the warrant has been approved by a Judicial Commissioner.
- (3) “The renewal period” means the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.
- (4) The decision to renew a bulk interception warrant must be taken personally by the Secretary of State, and the instrument renewing the warrant must be signed by the Secretary of State.
- (5) Section 140 (approval of warrants by Judicial Commissioners) applies in relation to a decision to renew a bulk interception warrant as it applies in relation to a decision to issue a bulk interception warrant, but with the omission of paragraph (d) of subsection (1).

This is subject to subsection (6).
- (6) In the case of the renewal of a bulk interception warrant that has been modified so that it no longer authorises or requires the interception of communications or the obtaining of secondary data—
 - (a) the renewal condition in subsection (2)(a) is to be disregarded,
 - (b) the reference in subsection (2)(c)(ii) to the grounds on which the Secretary of State considers the warrant to be necessary is to be read as a reference to any grounds falling within section 138(1)(b) or (2), and
 - (c) section 140 has effect as if—
 - (i) paragraph (a) of subsection (1) were omitted, and
 - (ii) the reference in subsection (1)(c)(ii) to the grounds on which the Secretary of State considers the warrant to be necessary were a reference to any grounds falling within section 138(1)(b) or (2).

145 Modification of warrants

- (1) The provisions of a bulk interception warrant may be modified at any time by an instrument issued by the person making the modification.
- (2) The only modifications that may be made under this section are—
 - (a) adding, varying or removing any operational purpose specified in the warrant as a purpose for which any intercepted content or secondary data obtained under the warrant may be selected for examination, and
 - (b) providing that the warrant no longer authorises or requires (to the extent that it did so previously)—
 - (i) the interception of any communications in the course of their transmission by means of a telecommunication system, or
 - (ii) the obtaining of any secondary data from communications transmitted by means of such a system.
- (3) In this section—
 - (a) a modification adding or varying any operational purpose as mentioned in paragraph (a) of subsection (2) is referred to as a “major modification”, and
 - (b) any other modification within that subsection is referred to as a “minor modification”.
- (4) A major modification—

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- (a) must be made by the Secretary of State, and
 - (b) may be made only if the Secretary of State considers that it is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary (see section 138(1)(b)).
- (5) Except where the Secretary of State considers that there is an urgent need to make the modification, a major modification has effect only if the decision to make the modification is approved by a Judicial Commissioner.
- (6) A minor modification may be made by—
- (a) the Secretary of State, or
 - (b) a senior official acting on behalf of the Secretary of State.
- (7) Where a minor modification is made by a senior official, the Secretary of State must be notified personally of the modification and the reasons for making it.
- (8) If at any time a person mentioned in subsection (6) considers that any operational purpose specified in a warrant is no longer a purpose for which the examination of intercepted content or secondary data obtained under the warrant is or may be necessary, the person must modify the warrant by removing that operational purpose.
- (9) The decision to modify the provisions of a warrant must be taken personally by the person making the modification, and the instrument making the modification must be signed by that person.
- This is subject to subsection (10).
- (10) If it is not reasonably practicable for an instrument making a major modification to be signed by the Secretary of State, the instrument may be signed by a senior official designated by the Secretary of State for that purpose.
- (11) In such a case, the instrument making the modification must contain a statement that—
- (a) it is not reasonably practicable for the instrument to be signed by the Secretary of State, and
 - (b) the Secretary of State has personally and expressly authorised the making of the modification.
- (12) Despite section 136(2), the modification of a bulk interception warrant as mentioned in subsection (2)(b) above does not prevent the warrant from being a bulk interception warrant.
- (13) Nothing in this section applies in relation to modifying the provisions of a warrant in a way which does not affect the conduct authorised or required by it.

146 Approval of major modifications by Judicial Commissioners

- (1) In deciding whether to approve a decision to make a major modification of a bulk interception warrant, a Judicial Commissioner must review the Secretary of State's conclusions as to whether the modification is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary.
- (2) In doing so, the Judicial Commissioner must—

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- (a) apply the same principles as would be applied by a court on an application for judicial review, and
 - (b) consider the matter referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).
- (3) Where a Judicial Commissioner refuses to approve a decision to make a major modification under section 145, the Judicial Commissioner must give the Secretary of State written reasons for the refusal.
- (4) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve a decision to make a major modification under section 145, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to make the modification.

147 Approval of major modifications made in urgent cases

- (1) This section applies where—
- (a) the Secretary of State makes a major modification of a bulk interception warrant without the approval of a Judicial Commissioner, and
 - (b) the Secretary of State considered that there was an urgent need to make the modification.
- (2) The Secretary of State must inform a Judicial Commissioner that the modification has been made.
- (3) The Judicial Commissioner must, before the end of the relevant period—
- (a) decide whether to approve the decision to make the modification, and
 - (b) notify the Secretary of State of the Judicial Commissioner's decision.
- “The relevant period” means the period ending with the third working day after the day on which the modification was made.
- (4) If the Judicial Commissioner refuses to approve the decision to make the modification—
- (a) the warrant (unless it no longer has effect) has effect as if the modification had not been made, and
 - (b) the person to whom the warrant is addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant by virtue of that modification stops as soon as possible,
- and section 146(4) does not apply in relation to the refusal to approve the decision.
- (5) Nothing in this section affects the lawfulness of—
- (a) anything done under the warrant by virtue of the modification before the modification ceases to have effect;
 - (b) if anything is in the process of being done under the warrant by virtue of the modification when the modification ceases to have effect—
 - (i) anything done before that thing could be stopped, or
 - (ii) anything done which it is not reasonably practicable to stop.

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148 Cancellation of warrants

- (1) The Secretary of State, or a senior official acting on behalf of the Secretary of State, may cancel a bulk interception warrant at any time.
- (2) If the Secretary of State, or a senior official acting on behalf of the Secretary of State, considers that any of the cancellation conditions are met in relation to a bulk interception warrant, the person must cancel the warrant.
- (3) The cancellation conditions are—
 - (a) that the warrant is no longer necessary in the interests of national security;
 - (b) that the conduct authorised by the warrant is no longer proportionate to what is sought to be achieved by that conduct;
 - (c) that the examination of intercepted content or secondary data obtained under the warrant is no longer necessary for any of the specified operational purposes (see section 142).
- (4) But the condition in subsection (3)(a) does not apply where the warrant has been modified so that it no longer authorises or requires the interception of communications or the obtaining of secondary data.
- (5) Where a warrant is cancelled under this section, the person to whom the warrant was addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant stops as soon as possible.
- (6) A warrant that has been cancelled under this section may not be renewed.

VALID FROM 27/06/2018

Implementation of warrants

149 Implementation of warrants

- (1) In giving effect to a bulk interception warrant, the person to whom it is addressed (“the implementing authority”) may (in addition to acting alone) act through, or together with, such other persons as the implementing authority may require (whether under subsection (2) or otherwise) to provide the authority with assistance in giving effect to the warrant.
- (2) For the purpose of requiring any person to provide assistance in relation to a bulk interception warrant, the implementing authority may—
 - (a) serve a copy of the warrant on any person who the implementing authority considers may be able to provide such assistance, or
 - (b) make arrangements for the service of a copy of the warrant on any such person.
- (3) A copy of a warrant may be served under subsection (2) on a person outside the United Kingdom for the purpose of requiring the person to provide such assistance in the form of conduct outside the United Kingdom.
- (4) For the purposes of this Act, the provision of assistance in giving effect to a bulk interception warrant includes any disclosure to the implementing authority, or to

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persons acting on behalf of the implementing authority, of anything obtained under the warrant.

- (5) Sections 42 (service of warrants) and 43 (duty of operators to assist with implementation) apply in relation to a bulk interception warrant as they apply in relation to a targeted interception warrant.
- (6) References in this section (and in sections 42 and 43 as they apply in relation to bulk interception warrants) to the service of a copy of a warrant include—
- (a) the service of a copy of one or more schedules contained in the warrant with the omission of the remainder of the warrant, and
 - (b) the service of a copy of the warrant with the omission of any schedule contained in the warrant.

Restrictions on use or disclosure of material obtained under warrants etc.

150 Safeguards relating to retention and disclosure of material

- (1) The Secretary of State must ensure, in relation to every bulk interception warrant, that arrangements are in force for securing—
- (a) that the requirements of subsections (2) and (5) are met in relation to the material obtained under the warrant, and
 - (b) that the requirements of section 152 are met in relation to the intercepted content or secondary data obtained under the warrant.

This is subject to subsection (8).

- (2) The requirements of this subsection are met in relation to the material obtained under a warrant if each of the following is limited to the minimum that is necessary for the authorised purposes (see subsection (3))—
- (a) the number of persons to whom any of the material is disclosed or otherwise made available;
 - (b) the extent to which any of the material is disclosed or otherwise made available;
 - (c) the extent to which any of the material is copied;
 - (d) the number of copies that are made.
- (3) For the purposes of subsection (2) something is necessary for the authorised purposes if, and only if—
- (a) it is, or is likely to become, necessary in the interests of national security or on any other grounds falling within section 138(2),
 - (b) it is necessary for facilitating the carrying out of any functions under this Act of the Secretary of State, the Scottish Ministers or the head of the intelligence service to whom the warrant is or was addressed,
 - (c) it is necessary for facilitating the carrying out of any functions of the Judicial Commissioners or the Investigatory Powers Tribunal under or in relation to this Act,
 - (d) it is necessary to ensure that a person (“P”) who is conducting a criminal prosecution has the information P needs to determine what is required of P by P's duty to secure the fairness of the prosecution, or

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- (e) it is necessary for the performance of any duty imposed on any person by the Public Records Act 1958 or the Public Records Act (Northern Ireland) 1923.
- (4) The arrangements for the time being in force under this section for securing that the requirements of subsection (2) are met in relation to the material obtained under the warrant must include arrangements for securing that every copy made of any of that material is stored, for so long as it is retained, in a secure manner.
- (5) The requirements of this subsection are met in relation to the material obtained under a warrant if every copy made of any of that material (if not destroyed earlier) is destroyed as soon as there are no longer any relevant grounds for retaining it (see subsection (6)).
- (6) For the purposes of subsection (5), there are no longer any relevant grounds for retaining a copy of any material if, and only if—
- (a) its retention is not necessary, or not likely to become necessary, in the interests of national security or on any other grounds falling within section 138(2), and
 - (b) its retention is not necessary for any of the purposes mentioned in paragraphs (b) to (e) of subsection (3) above.
- (7) Subsection (8) applies if—
- (a) any material obtained under the warrant has been handed over to any overseas authorities, or
 - (b) a copy of any such material has been given to any overseas authorities.
- (8) To the extent that the requirements of subsections (2) and (5) and section 152 relate to any of the material mentioned in subsection (7)(a), or to the copy mentioned in subsection (7)(b), the arrangements made for the purposes of this section are not required to secure that those requirements are met (see instead section 151).
- (9) In this section—
- “copy”, in relation to material obtained under a warrant, means any of the following (whether or not in documentary form)—
- (a) any copy, extract or summary of the material which identifies the material as having been obtained under the warrant, and
 - (b) any record which—
 - (i) refers to any interception or to the obtaining of any material, and
 - (ii) is a record of the identities of the persons to or by whom the material was sent, or to whom the material relates,
- and “copied” is to be read accordingly;
- “overseas authorities” means authorities of a country or territory outside the United Kingdom.

151 Safeguards relating to disclosure of material overseas

- (1) The Secretary of State must ensure, in relation to every bulk interception warrant, that arrangements are in force for securing that—
- (a) any material obtained under the warrant is handed over to overseas authorities only if the requirements of subsection (2) are met, and

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- (b) copies of any such material are given to overseas authorities only if those requirements are met.
- (2) The requirements of this subsection are met in the case of a warrant if it appears to the Secretary of State—
 - (a) that requirements corresponding to the requirements of section 150(2) and (5) and section 152 will apply, to such extent (if any) as the Secretary of State considers appropriate, in relation to any of the material which is handed over, or any copy of which is given, to the authorities in question, and
 - (b) that restrictions are in force which would prevent, to such extent (if any) as the Secretary of State considers appropriate, the doing of anything in, for the purposes of or in connection with any proceedings outside the United Kingdom which would result in a prohibited disclosure.
- (3) In subsection (2)(b) “prohibited disclosure” means a disclosure which, if made in the United Kingdom, would breach the prohibition in section 56(1) (see section 156).
- (4) In this section—
 - “copy” has the same meaning as in section 150;
 - “overseas authorities” means authorities of a country or territory outside the United Kingdom.

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152 Safeguards relating to examination of material

- (1) For the purposes of section 150 the requirements of this section are met in relation to the intercepted content and secondary data obtained under a warrant if—
 - (a) the selection of any of the intercepted content or secondary data for examination is carried out only for the specified purposes (see subsection (2)),
 - (b) the selection of any of the intercepted content or secondary data for examination is necessary and proportionate in all the circumstances, and
 - (c) the selection of any of the intercepted content for examination meets any of the selection conditions (see subsection (3)).
- (2) The selection of intercepted content or secondary data for examination is carried out only for the specified purposes if the intercepted content or secondary data is selected for examination only so far as is necessary for the operational purposes specified in the warrant in accordance with section 142.

In this subsection “specified in the warrant” means specified in the warrant at the time of the selection of the intercepted content or secondary data for examination.
- (3) The selection conditions referred to in subsection (1)(c) are—
 - (a) that the selection of the intercepted content for examination does not breach the prohibition in subsection (4);
 - (b) that the person to whom the warrant is addressed considers that the selection of the intercepted content for examination would not breach that prohibition;
 - (c) that the selection of the intercepted content for examination in breach of that prohibition is authorised by subsection (5);

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(d) that the selection of the intercepted content for examination in breach of that prohibition is authorised by a targeted examination warrant issued under Chapter 1 of Part 2.

(4) The prohibition referred to in subsection (3)(a) is that intercepted content may not at any time be selected for examination if—

- (a) any criteria used for the selection of the intercepted content for examination are referable to an individual known to be in the British Islands at that time, and
- (b) the purpose of using those criteria is to identify the content of communications sent by, or intended for, that individual.

It does not matter for the purposes of this subsection whether the identity of the individual is known.

(5) The selection of intercepted content (“the relevant content”) for examination is authorised by this subsection if—

- (a) criteria referable to an individual have been, or are being, used for the selection of intercepted content for examination in circumstances falling within subsection (3)(a) or (b),
- (b) at any time it appears to the person to whom the warrant is addressed that there has been a relevant change of circumstances in relation to the individual (see subsection (6)) which would mean that the selection of the relevant content for examination would breach the prohibition in subsection (4),
- (c) since that time, a written authorisation to examine the relevant content using those criteria has been given by a senior officer, and
- (d) the selection of the relevant content for examination is made before the end of the permitted period (see subsection (7)).

(6) For the purposes of subsection (5)(b) there is a relevant change of circumstances in relation to an individual if—

- (a) the individual has entered the British Islands, or
- (b) a belief by the person to whom the warrant is addressed that the individual was outside the British Islands was in fact mistaken.

(7) In subsection (5)—

“senior officer”, in relation to a warrant addressed to the head of an intelligence service, means a member of the intelligence service who—

- (a) is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty's Diplomatic Service, or
- (b) holds a position in the intelligence service of equivalent seniority to such a member;

“the permitted period” means the period ending with the fifth working day after the time mentioned in subsection (5)(b).

(8) In a case where the selection of intercepted content for examination is authorised by subsection (5), the person to whom the warrant is addressed must notify the Secretary of State that the selection is being carried out.

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153 Additional safeguards for items subject to legal privilege

- (1) Subsection (2) applies if, in a case where intercepted content obtained under a bulk interception warrant is to be selected for examination—
 - (a) the selection of the intercepted content for examination meets any of the selection conditions in section 152(3)(a) to (c), and
 - (b) either—
 - (i) the purpose, or one of the purposes, of using the criteria to be used for the selection of the intercepted content for examination (“the relevant criteria”) is to identify any items subject to legal privilege, or
 - (ii) the use of the relevant criteria is likely to identify such items.
- (2) The intercepted content may be selected for examination using the relevant criteria only if a senior official acting on behalf of the Secretary of State has approved the use of those criteria.
- (3) In deciding whether to give an approval under subsection (2) in a case where subsection (1)(b)(i) applies, a senior official must have regard to the public interest in the confidentiality of items subject to legal privilege.
- (4) A senior official may give an approval under subsection (2) only if—
 - (a) the official considers that the arrangements made for the purposes of section 150 (safeguards relating to retention and disclosure of material) include specific arrangements for the handling, retention, use and destruction of items subject to legal privilege, and
 - (b) where subsection (1)(b)(i) applies, the official considers that there are exceptional and compelling circumstances that make it necessary to authorise the use of the relevant criteria.
- (5) For the purposes of subsection (4)(b), there cannot be exceptional and compelling circumstances that make it necessary to authorise the use of the relevant criteria unless—
 - (a) the public interest in obtaining the information that would be obtained by the selection of the intercepted content for examination outweighs the public interest in the confidentiality of items subject to legal privilege,
 - (b) there are no other means by which the information may reasonably be obtained, and
 - (c) obtaining the information is necessary in the interests of national security or for the purpose of preventing death or significant injury.
- (6) Subsection (7) applies if, in a case where intercepted content obtained under a bulk interception warrant is to be selected for examination—
 - (a) the selection of the intercepted content for examination meets any of the selection conditions in section 152(3)(a) to (c),
 - (b) the purpose, or one of the purposes, of using the criteria to be used for the selection of the intercepted content for examination (“the relevant criteria”) is to identify communications that, if they were not made with

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- the intention of furthering a criminal purpose, would be items subject to legal privilege, and
- (c) the person to whom the warrant is addressed considers that the communications (“the targeted communications”) are likely to be communications made with the intention of furthering a criminal purpose.
- (7) The intercepted content may be selected for examination using the relevant criteria only if a senior official acting on behalf of the Secretary of State has approved the use of those criteria.
- (8) A senior official may give an approval under subsection (7) only if the official considers that the targeted communications are likely to be communications made with the intention of furthering a criminal purpose.
- (9) Where an item subject to legal privilege which has been intercepted in accordance with a bulk interception warrant is retained following its examination, for purposes other than the destruction of the item, the person to whom the warrant is addressed must inform the Investigatory Powers Commissioner as soon as is reasonably practicable.
- (For provision about the grounds for retaining material obtained under a warrant, see section 150.)
- (10) Unless the Investigatory Powers Commissioner considers that subsection (12) applies to the item, the Commissioner must—
- (a) direct that the item is destroyed, or
 - (b) impose one or more conditions as to the use or retention of that item.
- (11) If the Investigatory Powers Commissioner considers that subsection (12) applies to the item, the Commissioner may nevertheless impose such conditions under subsection (10)(b) as the Commissioner considers necessary for the purpose of protecting the public interest in the confidentiality of items subject to legal privilege.
- (12) This subsection applies to an item subject to legal privilege if—
- (a) the public interest in retaining the item outweighs the public interest in the confidentiality of items subject to legal privilege, and
 - (b) retaining the item is necessary in the interests of national security or for the purpose of preventing death or significant injury.
- (13) The Investigatory Powers Commissioner—
- (a) may require an affected party to make representations about how the Commissioner should exercise any function under subsection (10), and
 - (b) must have regard to any such representations made by an affected party (whether or not as a result of a requirement imposed under paragraph (a)).
- (14) Each of the following is an “affected party” for the purposes of subsection (13)—
- (a) the Secretary of State;
 - (b) the person to whom the warrant is or was addressed.

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154 Additional safeguard for confidential journalistic material

Where—

- (a) a communication which has been intercepted in accordance with a bulk interception warrant is retained, following its examination, for purposes other than the destruction of the communication, and
- (b) it is a communication containing confidential journalistic material, the person to whom the warrant is addressed must inform the Investigatory Powers Commissioner as soon as is reasonably practicable.

(For provision about the grounds for retaining material obtained under a warrant, see section 150.)

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155 Offence of breaching safeguards relating to examination of material

(1) A person commits an offence if—

- (a) the person selects for examination any intercepted content or secondary data obtained under a bulk interception warrant,
- (b) the person knows or believes that the selection of that intercepted content or secondary data for examination does not comply with a requirement imposed by section 152 or 153, and
- (c) the person deliberately selects that intercepted content or secondary data for examination in breach of that requirement.

(2) A person guilty of an offence under this section is liable—

- (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003), or
 - (ii) to a fine,or to both;
- (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 12 months, or
 - (ii) to a fine not exceeding the statutory maximum,or to both;
- (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months, or
 - (ii) to a fine not exceeding the statutory maximum,or to both;
- (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

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- (3) No proceedings for any offence which is an offence by virtue of this section may 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.

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156 Application of other restrictions in relation to warrants

- (1) Section 56 and Schedule 3 (exclusion of matters from legal proceedings etc.) apply in relation to bulk interception warrants as they apply in relation to targeted interception warrants.
- (2) Sections 57 to 59 (duty not to make unauthorised disclosures) apply in relation to bulk interception warrants as they apply in relation to targeted interception warrants, but as if the reference in section 58(2)(c) to a requirement for disclosure imposed by virtue of section 41(5) were a reference to such a requirement imposed by virtue of section 149(4).

Interpretation

157 Chapter 1: interpretation

- (1) In this Chapter—
 - “intercepted content”, in relation to a bulk interception warrant, means any content of communications intercepted by an interception authorised or required by the warrant;
 - “overseas-related communications” has the meaning given by section 136;
 - “secondary data” has the meaning given by section 137, and references to obtaining secondary data from a communication are to be read in accordance with that section;
 - “senior official” means a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty's Diplomatic Service;
 - “the specified operational purposes” has the meaning given by section 142(11).
- (2) See also—
 - section 261 (telecommunications definitions),
 - section 263 (general definitions),
 - section 264 (general definitions: “journalistic material” etc.),
 - section 265 (index of defined expressions).

Status:

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