Investigatory Powers Act 2016

2016 CHAPTER 25

PART 6

BULK WARRANTS

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;
- (b) the obtaining of secondary data from communications transmitted by means of such a system and described in the warrant;

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(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.

Commencement Information

I1 S. 136 in force at 31.5.2018 by S.I. 2018/652, **reg. 5(a)**

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).

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(5) The data falling within this subsection is identifying data which—

(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.

Commencement Information

I2 S. 137 in force at 31.5.2018 by S.I. 2018/652, **reg. 5(b)**

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—

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(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)).

(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.

Commencement Information

I3 S. 138 in force at 31.5.2018 for specified purposes by S.I. 2018/652, **reg. 5(c)** (with reg. 15(1)(c))

I4 S. 138 in force at 27.6.2018 in so far as not already in force by S.I. 2018/652, **reg. 10(a)**

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.

Commencement Information

I5 S. 139 in force at 31.5.2018 by S.I. 2018/652, **reg. 5(d)**

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—

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(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—

(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.

Commencement Information

I6 S. 140 in force at 31.5.2018 by S.I. 2018/652, **reg. 5(e)**

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.

Commencement Information

I7 S. 141 in force at 31.5.2018 by S.I. 2018/652, **reg. 5(f)**

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.

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(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—

(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.

Commencement Information

I8 S. 142 in force at 31.5.2018 by S.I. 2018/652, **reg. 5(g)**

Changes to legislation:
Investigatory Powers Act 2016, Cross Heading: Bulk interception warrants is up to date with all changes known to be in force on or before 10 June 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.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 7A inserted by 2024 c. 9 s. 2
- Pt. 7B inserted by 2024 c. 9 s. 5
- s. 2(1)(ja)(jb) inserted by 2024 c. 9 s. 6(3)(c)
- s. 11(3A)(3B) inserted by 2024 c. 9 s. 12(3)
- s. 12(2B)-(2D) inserted by 2024 c. 9 s. 14(4)
- s. 12(5A)(5B) inserted by 2024 c. 9 s. 14(6)
- s. 26(2)(a) words renumbered as s. 26(2)(a) by 2024 c. 9 s. 22(2)(a)
- s. 26(2)(b) and word inserted by 2024 c. 9 s. 22(2)(b)
- s. 26(2A)-(2F) inserted by 2024 c. 9 s. 22(3)
- s. 62(5A)-(5C) inserted by 2024 c. 9 s. 15(4)
- s. 87(4)(aa) inserted by 2024 c. 9 s. 16(2)(c)
- s. 87(4A) inserted by 2024 c. 9 s. 16(3)
- s. 87(6A)(6B) inserted by 2024 c. 9 s. 20(2)
- s. 90(4)-(4B) substituted for s. 90(4) by 2024 c. 9 s. 18(2)(a)
- s. 90(5A) inserted by 2024 c. 9 s. 18(2)(c)
- s. 90(9A)(9B) inserted by 2024 c. 9 s. 18(2)(d)
- s. 90(11A) inserted by 2024 c. 9 s. 18(2)(f)
- s. 90(14)-(16) inserted by 2024 c. 9 s. 18(2)(g)
- s. 94A inserted by 2024 c. 9 s. 20(4)
- s. 111(3)(a) words renumbered as s. 111(3)(a) by 2024 c. 9 s. 23(2)(a)
- s. 111(3)(b) and word inserted by 2024 c. 9 s. 23(2)(b)
- s. 111(6)(a) words renumbered as s. 111(6)(a) by 2024 c. 9 s. 23(3)(a)
- s. 111(6)(b) and word inserted by 2024 c. 9 s. 23(3)(b)
- s. 111(7A)-(7E) inserted by 2024 c. 9 s. 23(4)
- s. 121(4) inserted by 2024 c. 9 s. 25
- s. 195195A substituted for s. 195 by 2024 c. 9 s. 27(2)
- s. 200(1)(a) words renumbered as s. 200(1)(a) by 2024 c. 9 s. 1(4)(a)(i)
- s. 200(1)(b) and word inserted by 2024 c. 9 s. 1(4)(a)(ii)
- s. 200(2)(a) words renumbered as s. 200(2)(a) by 2024 c. 9 s. 1(4)(b)(i)
- s. 200(2)(b) and word inserted by 2024 c. 9 s. 1(4)(b)(ii)
- s. 202(5) inserted by 2024 c. 9 s. 4(2)(c)
- s. 206(8) inserted by 2024 c. 9 s. 4(3)(b)
- s. 219(9) inserted by 2024 c. 9 s. 4(4)(c)
- s. 220(6) inserted by 2024 c. 9 s. 1(7)(b)
- s. 220(7) inserted by 2024 c. 9 s. 4(5)(b)
- s. 225(4)(a) words renumbered as s. 225(4)(a) by 2024 c. 9 s. 1(8)(a)(i)
- s. 225(4)(b) and word inserted by 2024 c. 9 s. 1(8)(a)(ii)
- s. 225(13)(a) words renumbered as s. 225(13)(a) by 2024 c. 9 s. 1(8)(b)(i)
- s. 225(13)(b) and word inserted by 2024 c. 9 s. 1(8)(b)(ii)
- s. 225(15) inserted by 2024 c. 9 s. 4(6)(c)
- s. 227(6A)(6B) inserted by 2024 c. 9 s. 7(2)
- s. 227(8)-(8D) substituted for s. 227(8)(9) by 2024 c. 9 s. 8(2)
- s. 227(10A) inserted by 2024 c. 9 s. 8(4)
- s. 227(14) inserted by 2024 c. 9 s. 8(6)
- s. 228(6) inserted by 2024 c. 9 s. 7(3)
- s. 228A inserted by 2024 c. 9 s. 9
- s. 229(3E) inserted by 2024 c. 9 s. 10(2)(b)

- s. 229(8)(fb) inserted by 2024 c. 9 s. 27(3)
- s. 230(1)(d) and word inserted by 2024 c. 9 s. 10(3)(b)
- s. 231(10) inserted by 2024 c. 9 s. 10(4)(b)
- s. 235A inserted by 2024 c. 9 s. 11(1)
- s. 255(5A)(5B) inserted by 2024 c. 9 s. 20(6)
- s. 256A inserted by 2024 c. 9 s. 20(7)
- s. 257(3)-(3B) substituted for s. 257(3) by 2024 c. 9 s. 18(5)(a)
- s. 257(4A) inserted by 2024 c. 9 s. 18(5)(c)
- s. 257(8A)(8B) inserted by 2024 c. 9 s. 18(5)(d)
- s. 257(10A) inserted by 2024 c. 9 s. 18(5)(f)
- s. 257(13)-(15) inserted by 2024 c. 9 s. 18(5)(g)
- s. 258A258B inserted by 2024 c. 9 s. 21(2)
- s. 261(5A)(5B) inserted by 2024 c. 9 s. 13(3)
- s. 261(10)(c) and word inserted by 2024 c. 9 s. 19(2)(b)
- s. 267(3)(ja) inserted by 2024 c. 9 s. 21(3)(b)
- s. 267(5)(aa) inserted by 2024 c. 9 s. 14(8)
- Sch. 2A inserted by 2024 c. 9 s. 14(9)
- Sch. 3 para. 12A and cross-heading inserted by 2024 c. 9 s. 28(2)
- Sch. 3 para. 2526 inserted by 2024 c. 9 s. 28(3)