



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 9

#### MISCELLANEOUS AND GENERAL PROVISIONS

### CHAPTER 2

#### GENERAL

#### *Interpretation*

#### **261 Telecommunications definitions**

- (1) The definitions in this section have effect for the purposes of this Act.

#### *Communication*

- (2) “Communication”, in relation to a telecommunications operator, telecommunications service or telecommunication system, includes—
- (a) anything comprising speech, music, sounds, visual images or data of any description, and
  - (b) signals serving either for the impartation of anything between persons, between a person and a thing or between things or for the actuation or control of any apparatus.

#### *Entity data*

- (3) “Entity data” means any data which—
- (a) is about—
    - (i) an entity,
    - (ii) an association between a telecommunications service and an entity, or

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- (iii) an association between any part of a telecommunication system and an entity,
- (b) consists of, or includes, data which identifies or describes the entity (whether or not by reference to the entity's location), and
- (c) is not events data.

#### *Events data*

- (4) “Events data” means any data which identifies or describes an event (whether or not by reference to its location) on, in or by means of a telecommunication system where the event consists of one or more entities engaging in a specific activity at a specific time.

#### *Communications data*

- (5) “Communications data”, in relation to a telecommunications operator, telecommunications service or telecommunication system, means entity data or events data—
- (a) which is (or is to be or is capable of being) held or obtained by, or on behalf of, a telecommunications operator and—
    - (i) is about an entity to which a telecommunications service is provided and relates to the provision of the service,
    - (ii) is comprised in, included as part of, attached to or logically associated with a communication (whether by the sender or otherwise) for the purposes of a telecommunication system by means of which the communication is being or may be transmitted, or
    - (iii) does not fall within sub-paragraph (i) or (ii) but does relate to the use of a telecommunications service or a telecommunication system,
  - (b) which is available directly from a telecommunication system and falls within sub-paragraph (ii) of paragraph (a), or
  - (c) which—
    - (i) is (or is to be or is capable of being) held or obtained by, or on behalf of, a telecommunications operator,
    - (ii) is about the architecture of a telecommunication system, and
    - (iii) is not about a specific person,

but does not include any content of a communication or anything which, in the absence of subsection (6)(b), would be content of a communication.

#### *Content of a communication*

- (6) “Content”, in relation to a communication and a telecommunications operator, telecommunications service or telecommunication system, means any element of the communication, or any data attached to or logically associated with the communication, which reveals anything of what might reasonably be considered to be the meaning (if any) of the communication, but—
- (a) any meaning arising from the fact of the communication or from any data relating to the transmission of the communication is to be disregarded, and
  - (b) anything which is systems data is not content.

#### *Other definitions*

- (7) “Entity” means a person or thing.

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- (8) “Public telecommunications service” means any telecommunications service which is offered or provided to the public, or a substantial section of the public, in any one or more parts of the United Kingdom.
- (9) “Public telecommunication system” means a telecommunication system located in the United Kingdom—
  - (a) by means of which any public telecommunications service is provided, or
  - (b) which consists of parts of any other telecommunication system by means of which any such service is provided.
- (10) “Telecommunications operator” means a person who—
  - (a) offers or provides a telecommunications service to persons in the United Kingdom, or
  - (b) controls or provides a telecommunication system which is (wholly or partly) —
    - (i) in the United Kingdom, or
    - (ii) controlled from the United Kingdom.
- (11) “Telecommunications service” means any service that consists in the provision of access to, and of facilities for making use of, any telecommunication system (whether or not one provided by the person providing the service).
- (12) For the purposes of subsection (11), the cases in which a service is to be taken to consist in the provision of access to, and of facilities for making use of, a telecommunication system include any case where a service consists in or includes facilitating the creation, management or storage of communications transmitted, or that may be transmitted, by means of such a system.
- (13) “Telecommunication system” means a system (including the apparatus comprised in it) that exists (whether wholly or partly in the United Kingdom or elsewhere) for the purpose of facilitating the transmission of communications by any means involving the use of electrical or electromagnetic energy.
- (14) “Private telecommunication system” means any telecommunication system which—
  - (a) is not a public telecommunication system,
  - (b) is attached, directly or indirectly, to a public telecommunication system (whether or not for the purposes of the communication in question), and
  - (c) includes apparatus which is both located in the United Kingdom and used (with or without other apparatus) for making the attachment to that public telecommunication system.

## 262 Postal definitions

- (1) The definitions in this section have effect for the purposes of this Act.

### *Communication*

- (2) “Communication”, in relation to a postal operator or postal service (but not in the definition of “postal service” in this section), includes anything transmitted by a postal service.

### *Communications data*

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- (3) “Communications data”, in relation to a postal operator or postal service, means—
- (a) postal data comprised in, included as part of, attached to or logically associated with a communication (whether by the sender or otherwise) for the purposes of a postal service by means of which it is being or may be transmitted,
  - (b) information about the use made by any person of a postal service (but excluding any content of a communication (apart from information within paragraph (a)), or
  - (c) information not within paragraph (a) or (b) that is (or is to be or is capable of being) held or obtained by or on behalf of a person providing a postal service, is about those to whom the service is provided by that person and relates to the service so provided.

#### *Postal data*

- (4) “Postal data” means data which—
- (a) identifies, or purports to identify, any person, apparatus or location to or from which a communication is or may be transmitted,
  - (b) identifies or selects, or purports to identify or select, apparatus through which, or by means of which, a communication is or may be transmitted,
  - (c) identifies, or purports to identify, the time at which an event relating to a communication occurs, or
  - (d) identifies the data or other data as data comprised in, included as part of, attached to or logically associated with a particular communication.

For the purposes of this definition “data”, in relation to a postal item, includes anything written on the outside of the item.

#### *Other definitions*

- (5) “Postal item” means—
- (a) any letter, postcard or other such thing in writing as may be used by the sender for imparting information to the recipient, or
  - (b) any packet or parcel.
- (6) “Postal operator” means a person providing a postal service to persons in the United Kingdom.
- (7) “Postal service” means a service that—
- (a) consists in the following, or in any one or more of them, namely, the collection, sorting, conveyance, distribution and delivery (whether in the United Kingdom or elsewhere) of postal items, and
  - (b) has as its main purpose, or one of its main purposes, to make available, or to facilitate, a means of transmission from place to place of postal items containing communications.
- (8) “Public postal service” means a postal service that is offered or provided to the public, or a substantial section of the public, in any one or more parts of the United Kingdom.

## **263 General definitions**

- (1) In this Act—

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“apparatus” includes any equipment, machinery or device (whether physical or logical) and any wire or cable,

“civil proceedings” means any proceedings in or before any court or tribunal that are not criminal proceedings,

“crime” means conduct which—

- (a) constitutes one or more criminal offences, or
- (b) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences,

“criminal proceedings” includes proceedings before a court in respect of a service offence within the meaning of the Armed Forces Act 2006 (and references to criminal prosecutions are to be read accordingly),

“data” includes data which is not electronic data and any information (whether or not electronic),

“destroy”, in relation to electronic data, means delete the data in such a way as to make access to the data impossible (and related expressions are to be read accordingly),

“enactment” means an enactment whenever passed or made; and includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978,
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales, and
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation,

“enhanced affirmative procedure” is to be read in accordance with section 268,

“functions” includes powers and duties,

“GCHQ” has the same meaning as in the Intelligence Services Act 1994,

“head”, in relation to an intelligence service, means—

- (a) in relation to the Security Service, the Director-General,
- (b) in relation to the Secret Intelligence Service, the Chief, and
- (c) in relation to GCHQ, the Director,

“Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006,

“identifying data” has the meaning given by subsection (2),

“intelligence service” means the Security Service, the Secret Intelligence Service or GCHQ,

“the Investigatory Powers Commissioner” means the person appointed under section 227(1)(a) (and the expression is also to be read in accordance with section 227(13)(b)),

“the Investigatory Powers Tribunal” means the tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000,

“items subject to legal privilege”—

- (a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act),

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(b) in relation to Scotland, means—

- (i) communications between a professional legal adviser and the adviser's client, or
- (ii) communications made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,

which would, by virtue of any rule of law relating to the confidentiality of communications, be protected in legal proceedings from disclosure, and

(c) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 12 of that Order),

“Judicial Commissioner” means a person appointed under section 227(1) (a) or (b) (and the expression is therefore to be read in accordance with section 227(13)(a)),

“legal proceedings” means—

- (a) civil or criminal proceedings in or before a court or tribunal, or
- (b) proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006,

“modify” includes amend, repeal or revoke (and related expressions are to be read accordingly),

“person holding office under the Crown” includes any servant of the Crown and any member of Her Majesty's forces,

“premises” includes any land, movable structure, vehicle, vessel, aircraft or hovercraft (and “set of premises” is to be read accordingly),

“primary legislation” means—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, or
- (d) Northern Ireland legislation,

“public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal,

“serious crime” means crime where—

- (a) the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 3 years or more, or
- (b) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose,

“source of journalistic information” means an individual who provides material intending the recipient to use it for the purposes of journalism or knowing that it is likely to be so used,

“specified”, in relation to an authorisation, warrant, notice or regulations, means specified or described in the authorisation, warrant, notice or (as the case may be) regulations (and “specify” is to be read accordingly),

“statutory”, in relation to any function, means conferred by virtue of this Act or any other enactment,

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“subordinate legislation” means—

- (a) subordinate legislation within the meaning of the Interpretation Act 1978, or
- (b) an instrument made under an Act of the Scottish Parliament, Northern Ireland legislation or a Measure or Act of the National Assembly for Wales,

“systems data” has the meaning given by subsection (4),

“the Technical Advisory Board” means the Board provided for by section 245,

“the Technology Advisory Panel” means the panel established in accordance with section 246(1),

[<sup>F1</sup>“tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006,]

“working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

(2) In this Act “identifying data” means—

- (a) data which may be used to identify, or assist in identifying, any person, apparatus, system or service,
- (b) data which may be used to identify, or assist in identifying, any event, or
- (c) data which may be used to identify, or assist in identifying, the location of any person, event or thing.

(3) For the purposes of subsection (2), the reference to data which may be used to identify, or assist in identifying, any event includes—

- (a) data relating to the fact of the event;
- (b) data relating to the type, method or pattern of event;
- (c) data relating to the time or duration of the event.

(4) In this Act “systems data” means any data that enables or facilitates, or identifies or describes anything connected with enabling or facilitating, the functioning of any of the following—

- (a) a postal service;
- (b) a telecommunication system (including any apparatus forming part of the system);
- (c) any telecommunications service provided by means of a telecommunication system;
- (d) a relevant system (including any apparatus forming part of the system);
- (e) any service provided by means of a relevant system.

(5) For the purposes of subsection (4), a system is a “relevant system” if any communications or other information are held on or by means of the system.

(6) For the purposes of this Act detecting crime or serious crime is to be taken to include—

- (a) establishing by whom, for what purpose, by what means and generally in what circumstances any crime or (as the case may be) serious crime was committed, and
- (b) the apprehension of the person by whom any crime or (as the case may be) serious crime was committed.

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- (7) References in this Act to the examination of material obtained under a warrant are references to the material being read, looked at or listened to by the persons to whom it becomes available as a result of the warrant.

#### **Textual Amendments**

- F1** Words in [s. 263\(1\)](#) inserted (1.5.2022 for specified purposes, 5.12.2022 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), [Sch. 5 para. 46](#); [S.I. 2022/471](#), reg. 2(e); [S.I. 2022/1095](#), reg. 4

## **264 General definitions: “journalistic material” etc.**

- (1) The definitions in this section have effect for the purposes of this Act.

### *Journalistic material*

- (2) “Journalistic material” means material created or acquired for the purposes of journalism.
- (3) For the purposes of this section, where—
- (a) a person (“R”) receives material from another person (“S”), and
  - (b) S intends R to use the material for the purposes of journalism,
- R is to be taken to have acquired it for those purposes.

Accordingly, a communication sent by S to R containing such material is to be regarded as a communication containing journalistic material.

- (4) For the purposes of determining whether a communication contains material acquired for the purposes of journalism, it does not matter whether the material has been acquired for those purposes by the sender or recipient of the communication or by some other person.
- (5) For the purposes of this section—
- (a) material is not to be regarded as created or acquired for the purposes of journalism if it is created or acquired with the intention of furthering a criminal purpose, and
  - (b) material which a person intends to be used to further such a purpose is not to be regarded as intended to be used for the purposes of journalism.

### *Confidential journalistic material*

- (6) “Confidential journalistic material” means—
- (a) in the case of material contained in a communication, journalistic material which the sender of the communication—
    - (i) holds in confidence, or
    - (ii) intends the recipient, or intended recipient, of the communication to hold in confidence;
  - (b) in any other case, journalistic material which a person holds in confidence.
- (7) A person holds material in confidence for the purposes of this section if—
- (a) the person holds it subject to an express or implied undertaking to hold it in confidence, or



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- (b) the person holds it subject to a restriction on disclosure or an obligation of secrecy contained in an enactment.

## 265 Index of defined expressions

In this Act, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

<i>Expression</i>	<i>Provision</i>
Apparatus	Section 263(1)
Bulk equipment interference warrant	Section 176(1)
Bulk interception warrant	Section 136(1)
Civil proceedings	Section 263(1)
Communication	Sections 261(2) and 262(2)
Communications data	Sections 261(5) and 262(3)
Confidential journalistic material	Section 264(6) and (7)
Content of a communication (in relation to a telecommunications operator, telecommunications service or telecommunication system)	Section 261(6)
Crime	Section 263(1)
Criminal proceedings	Section 263(1)
Criminal prosecution	Section 263(1)
Data	Section 263(1)
Destroy (in relation to electronic data) and related expressions	Section 263(1)
Detecting crime or serious crime	Section 263(6)
Enactment	Section 263(1)
Enhanced affirmative procedure	Section 263(1)
Entity	Section 261(7)
Entity data	Section 261(3)
Events data	Section 261(4)
Examination (in relation to material obtained under a warrant)	Section 263(7)
Functions	Section 263(1)
GCHQ	Section 263(1)
Head (in relation to an intelligence service)	Section 263(1)
Her Majesty's forces	Section 263(1)
Identifying data	Section 263(2) and (3)

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Intelligence service	Section 263(1)
Interception of communication (postal service)	Sections 4(7) and 5
Interception of communication (telecommunication system)	Sections 4(1) to (6) and 5(1)
Interception of communication in the United Kingdom	Section 4(8)
Internet connection record	Section 62(7)
Investigatory Powers Commissioner	Section 263(1)
Investigatory Powers Tribunal	Section 263(1)
Items subject to legal privilege	Section 263(1)
Journalistic material	Section 264(2) to (5)
Judicial Commissioner	Section 263(1)
Judicial Commissioners	Section 227(7)
Lawful authority (in relation to interception of communication)	Section 6
Legal proceedings	Section 263(1)
Modify (and related expressions)	Section 263(1)
Person holding office under the Crown	Section 263(1)
Postal data	Section 262(4)
Postal item	Section 262(5)
Postal item in course of transmission by postal service	Section 4(7)
Postal operator	Section 262(6)
Postal service	Section 262(7)
Premises	Section 263(1)
Primary legislation	Section 263(1)
Private telecommunication system	Section 261(14)
Public authority	Section 263(1)
Public postal service	Section 262(8)
Public telecommunications service	Section 261(8)
Public telecommunication system	Section 261(9)
Serious crime	Section 263(1) (and paragraph 6 of Schedule 9)
Source of journalistic information	Section 263(1)
Specified and specify (in relation to an authorisation, warrant, notice or regulations)	Section 263(1)
Statutory (in relation to any function)	Section 263(1)
Subordinate legislation	Section 263(1)

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Systems data	Section 263(4) and (5)
Technical Advisory Board	Section 263(1)
Technology Advisory Panel	Section 263(1)
Telecommunications operator	Section 261(10)
Telecommunications service	Section 261(11) and (12)
Telecommunication system	Section 261(13)
Working day	Section 263(1)

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**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):

- Sch. 3 para. 8A and cross-heading inserted by [2023 c. 32 Sch. 18 para. 10\(2\)](#)
- Sch. 3 para. 20(2)(ha)(hb) inserted by [2023 c. 32 Sch. 18 para. 10\(3\)\(a\)](#)