

Changes to legislation: Investigatory Powers Act 2016, SCHEDULE 9 is up to date with all changes known to be in force on or before 04 September 2023. 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. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 9

Section 270(1)

TRANSITIONAL, TRANSITORY AND SAVING PROVISION

Lawful interception of communications

- 1 Any agreement which, immediately before the day on which section 10 comes into force, is designated for the purposes of section 1(4) of the Regulation of Investigatory Powers Act 2000 is to be treated, on and after that day, as designated as an international mutual assistance agreement by regulations under section 10(3) of this Act.

Commencement Information

- II** Sch. 9 para. 1 in force at 27.6.2018 by S.I. 2018/652, reg. 12(f)(i)

Authorisations for obtaining communications data

- 2 The reference to the Gangmasters and Labour Abuse Authority in the table in Part 1 of Schedule 4 is to be read, in relation to any time before the day on which section 10(1) of the Immigration Act 2016 (renaming of Gangmasters Licensing Authority) comes into force, as a reference to the Gangmasters Licensing Authority.

Commencement Information

- I2** Sch. 9 para. 2 in force at 5.2.2019 by S.I. 2019/174, reg. 2(o)

Retention of communications data

- 3 (1) A retention notice under section 1 of the Data Retention and Investigatory Powers Act 2014 which is in force immediately before the commencement day is to be treated, on or after that day, as a retention notice under section 87 of this Act; and Part 4 of this Act is to be read accordingly but as if sections 87(1)(b), (4) and (8)(e), 89, 90(1) to (12), 91, 94(4)(b), (6), (10) and (12) and 96(2)(e) were omitted.
- (2) In particular—
- (a) anything which, immediately before the commencement day, is in the process of being done by virtue of, or in relation to, a retention notice under section 1 of the Act of 2014 may be continued as if being done by virtue of, or in relation to, a retention notice under section 87 of this Act, and
 - (b) anything done by virtue of, or in relation to, a retention notice under section 1 of the Act of 2014 is, if in force or effective immediately before the commencement day, to have effect as if done by virtue of, or in relation

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to, a retention notice under section 87 of this Act so far as that is required for continuing its effect on or after the commencement day.

- (3) Sub-paragraphs (1) and (2) cease to apply, in relation to any retention notice under section 1 of the Act of 2014—
 - (a) at the end of the period of six months beginning with the commencement day, or
 - (b) if earlier, on the revocation in full of the notice;
 but this is without prejudice to the continued operation of section 95(2) to (5) in relation to the notice.
- (4) Section 249 applies in relation to costs incurred in complying with a retention notice under section 1 of the Act of 2014 which has continued in force on or after the commencement day as it applies in relation to costs incurred in complying with retention notices under section 87 of this Act but as if section 249(7) were omitted.
- (5) The Secretary of State may revoke (whether wholly or in part) a retention notice under section 1 of the Act of 2014.
- (6) The fact that a retention notice under section 1 of the Act of 2014 has, in relation to a particular description of data and a particular operator (or description of operators), ceased to have effect or been revoked does not prevent the giving of a retention notice under section 87 of this Act in relation to the same description of data and the same operator (or description of operators).
- (7) In this paragraph “the commencement day” is the day on which section 1(1) of the Act of 2014 is repealed.

Commencement Information

I3 [Sch. 9 para. 3](#) in force at 30.12.2016 by [S.I. 2016/1233](#), [reg. 2\(p\)](#)

- 4
 - (1) Sub-paragraph (2) applies if any power to give, vary or confirm a retention notice under section 87 of this Act (excluding any power to vary a notice which has effect as such a notice by virtue of paragraph 3(1)) is brought into force without any requirement for approval by a Judicial Commissioner of the decision to give, vary or (as the case may be) confirm the notice.
 - (2) The notice as given, varied or confirmed ceases to have effect (so far as not previously revoked) at the end of the period of three months beginning with the day on which the requirement for approval comes into force.

Commencement Information

I4 [Sch. 9 para. 4](#) in force at 30.12.2016 by [S.I. 2016/1233](#), [reg. 2\(p\)](#)

- 5
 - (1) The repeal of section 1(7) of the Data Retention and Investigatory Powers Act 2014 does not affect the continued operation, during the transitional period mentioned in sub-paragraph (2), of regulations made under section 1(7) of that Act.
 - (2) The transitional period mentioned in this sub-paragraph is the period of six months beginning with the day on which section 1(7) of the Act of 2014 is repealed.

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- (3) In their continued operation by virtue of sub-paragraph (1), the regulations made under section 1(7) of the Act of 2014 have effect subject to such modifications (if any) as may be specified in regulations under section 270(2).

Commencement Information

I5 Sch. 9 para. 5 in force at 30.12.2016 by S.I. 2016/1233, reg. 2(p)

Definitions of “other relevant crime” and “serious crime”

- 6 (1) The definitions of—
[^{F1}(a) “serious crime” in section 86(2A),]
[^{F2}(aa) “serious crime” in section 87(10B), and]
(b) “serious crime” in section 263(1),
are to be read, until the appointed day, as if for the words “the age of 18 (or, in relation to Scotland or Northern Ireland, 21)” there were substituted “the age of 21 ”.
- (2) In sub-paragraph (1), “the appointed day” means the day on which the amendment made to section 81(3)(a) of the Regulation of Investigatory Powers Act 2000 by paragraph 211 of Schedule 7 to the Criminal Justice and Court Services Act 2000 comes into force.

Textual Amendments

- F1** Sch. 9 para. 6(1)(a) substituted (5.2.2019) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), reg. 1(4)(d)(5), [Sch. 1 para. 27\(a\)](#) (see S.I. 2019/174, reg. 2(c))
- F2** Sch. 9 para. 6(1)(aa) inserted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), reg. 1(3)(f), [Sch. 1 para. 27\(c\)](#)

Commencement Information

I6 Sch. 9 para. 6 in force at 25.7.2018 by S.I. 2018/873, reg. 2(x)

Savings for particular purposes

- 7 Nothing in this Act affects any power conferred on a postal operator (within the meaning given by section 27(3) of the Postal Services Act 2011) by or under any enactment to open, detain or delay any postal packet (within the meaning given by section 125(1) of the Postal Services Act 2000) or to deliver any such packet to a person other than the person to whom it is addressed.

Commencement Information

I7 Sch. 9 para. 7 in force at 30.8.2018 by S.I. 2018/940, reg. 2(1)(g) (with reg. 2(2))

- 8 Nothing in Part 4 of this Act prevents the retention of data for the purposes of, or in connection with, legal proceedings (including proceedings which might arise in the future).

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I8 [Sch. 9 para. 8](#) in force at 30.12.2016 by [S.I. 2016/1233](#), [reg. 2\(p\)](#)

- 9 The amendments made to the Regulation of Investigatory Powers Act 2000 by sections 3 to 6 of the Data Retention and Investigatory Powers Act 2014 (and those sections) continue to have effect despite section 8(3) of the Act of 2014 (sunset provision for that Act) until the provisions they amend (and those sections) are repealed by this Act in connection with the coming into force of provisions of this Act.

Commencement Information

I9 [Sch. 9 para. 9](#) in force at 30.12.2016 by [S.I. 2016/1233](#), [reg. 2\(p\)](#)

General saving for lawful conduct

- 10 Nothing in any of the provisions of this Act by virtue of which conduct of any description is or may be authorised by any warrant, authorisation or notice, or by virtue of which information may be obtained in any manner, is to be read—
- (a) as making it unlawful to engage in any conduct of that description which is not otherwise unlawful under this Act and would not be unlawful apart from this Act,
 - (b) as otherwise requiring—
 - (i) the issue, grant or giving of such a warrant, authorisation or notice, or
 - (ii) the taking of any step for or towards obtaining the authority of such a warrant, authorisation or notice,
 before any such conduct of that description is engaged in, or
 - (c) as prejudicing any power to obtain information by any means not involving conduct that may be authorised under this Act.

Commencement Information

I10 [Sch. 9 para. 10](#) in force at 27.6.2018 by [S.I. 2018/652](#), [reg. 12\(f\)\(ii\)](#)

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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\(3\)\(a\)](#)