



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 5

EQUIPMENT INTERFERENCE

Power to issue warrants

102 Power to issue warrants to intelligence services: the Secretary of State

- (1) The Secretary of State may, on an application made by or on behalf of the head of an intelligence service, issue a targeted equipment interference warrant if—
- (a) the Secretary of State considers that the warrant is necessary on grounds falling within subsection (5),
 - (b) the Secretary of State considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
 - (c) the Secretary of State considers that satisfactory arrangements made for the purposes of sections 129 and 130 (safeguards relating to disclosure etc.) are in force in relation to the warrant, and
 - (d) except where the Secretary of State considers that there is an urgent need to issue the warrant, the decision to issue the warrant has been approved by a Judicial Commissioner.
- (2) But the Secretary of State may not issue a targeted equipment interference warrant under subsection (1) if—
- (a) the Secretary of State considers that the only ground for considering the warrant to be necessary is for the purpose of preventing or detecting serious crime, and
 - (b) the warrant, if issued, would authorise interference only with equipment which would be in Scotland at the time of the issue of the warrant or which the Secretary of State believes would be in Scotland at that time.

For the power of the Scottish Ministers to issue a targeted equipment interference warrant, see section 103.

Changes to legislation: Investigatory Powers Act 2016, Section 102 is up to date with all changes known to be in force on or before 28 April 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. (See end of Document for details) View outstanding changes

- (3) The Secretary of State may, on an application made by or on behalf of the head of an intelligence service, issue a targeted examination warrant if—
- (a) the Secretary of State considers that the warrant is necessary on grounds falling within subsection (5),
 - (b) the Secretary of State considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
 - (c) the Secretary of State considers that the warrant is or may be necessary to authorise the selection of protected material for examination in breach of the prohibition in section 193(4) (prohibition on seeking to identify communications of, or private information relating to, individuals in the British Islands), and
 - (d) except where the Secretary of State considers that there is an urgent need to issue the warrant, the decision to issue the warrant has been approved by a Judicial Commissioner.

- (4) But the Secretary of State may not issue a targeted examination warrant under subsection (3) if the warrant, if issued, would relate only to a person who would be in Scotland at the time of the issue of the warrant or whom the Secretary of State believes would be in Scotland at that time.

For the power of the Scottish Ministers to issue a targeted examination warrant, see section 103.

- (5) A warrant is necessary on grounds falling within this subsection if it is necessary—
- (a) in the interests of national security,
 - (b) for the purpose of preventing or detecting serious crime, or
 - (c) 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.
- (6) A warrant may be considered necessary on the ground falling within subsection (5)(c) only if the interference with equipment which would be authorised by the warrant is considered necessary for the purpose of obtaining information relating to the acts or intentions of persons outside the British Islands.
- (7) The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary on grounds falling within subsection (5).
- (8) An application for the issue of a warrant under this section may only be made on behalf of the head of an intelligence service by a person holding office under the Crown.

^{F1}(9)

Textual Amendments

F1 S. 102(9) omitted (31.12.2020) by virtue of [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **132(3)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I1 S. 102(1)-(3) in force at 31.5.2018 for specified purposes by [S.I. 2018/652](#), **reg. 4(d)(i)** (with [reg. 22\(a\)](#))

I2 S. 102(1)-(3) in force at 27.6.2018 in so far as not already in force by [S.I. 2018/652](#), **reg. 9(a)(i)**

I3 S. 102(4) in force at 31.5.2018 for specified purposes by [S.I. 2018/652](#), **reg. 4(d)(ii)**

Changes to legislation: *Investigatory Powers Act 2016, Section 102 is up to date with all changes known to be in force on or before 28 April 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. (See end of Document for details) View outstanding changes*

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| I4 | S. 102(4) in force at 27.6.2018 for specified purposes by S.I. 2018/652, reg. 9(a)(ii) |
| I5 | S. 102(5)-(9) in force at 31.5.2018 by S.I. 2018/652, reg. 4(d)(iii) |

Changes to legislation:

Investigatory Powers Act 2016, Section 102 is up to date with all changes known to be in force on or before 28 April 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.

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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):

- s. 58(4)(e) inserted by [2023 c. 41 Sch. 13 para. 9](#)