



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 5

EQUIPMENT INTERFERENCE

Power to issue warrants

103 Power to issue warrants to intelligence services: the Scottish Ministers

- (1) The Scottish Ministers 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 warrant authorises interference only with equipment which is in Scotland at the time the warrant is issued or which the Scottish Ministers believe to be in Scotland at that time,
 - (b) the Scottish Ministers consider that the warrant is necessary for the purpose of preventing or detecting serious crime,
 - (c) the Scottish Ministers consider that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
 - (d) the Scottish Ministers consider 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
 - (e) except where the Scottish Ministers consider that there is an urgent need to issue the warrant, the decision to issue the warrant has been approved by a Judicial Commissioner.
- (2) The Scottish Ministers may, on an application made by or on behalf of the head of an intelligence service, issue a targeted examination warrant if—
 - (a) the warrant relates only to a person who is in Scotland, or whom the Scottish Ministers believe to be in Scotland, at the time of the issue of the warrant,
 - (b) the Scottish Ministers consider that the warrant is necessary for the purpose of preventing or detecting serious crime,
 - (c) the Scottish Ministers consider that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,

Changes to legislation: *Investigatory Powers Act 2016, Section 103 is up to date with all changes known to be in force on or before 11 August 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*

- (d) the Scottish Ministers consider that the warrant is or may be necessary to authorise the selection of protected material 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
 - (e) except where the Scottish Ministers consider that there is an urgent need to issue the warrant, the decision to issue the warrant has been approved by a Judicial Commissioner.
- (3) 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 as mentioned in subsection (1)(b) or (2)(b).
- (4) 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.

Commencement Information

- I1** S. 103(1)(2) in force at 31.5.2018 for specified purposes by S.I. 2018/652, **reg. 4(e)(i)** (with **reg. 22(b)**)
- I2** S. 103(1)(2) in force at 27.6.2018 in so far as not already in force by S.I. 2018/652, **reg. 9(b)**
- I3** S. 103(3)(4) in force at 31.5.2018 by S.I. 2018/652, **reg. 4(e)(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\(3\)\(a\)](#)