



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 5

#### EQUIPMENT INTERFERENCE

##### *Power to issue warrants*

#### **106 Power to issue warrants to law enforcement officers**

- (1) A law enforcement chief described in Part 1 or 2 of the table in Schedule 6 may, on an application made by a person who is an appropriate law enforcement officer in relation to the chief, issue a targeted equipment interference warrant if—
  - (a) the law enforcement chief considers that the warrant is necessary for the purpose of preventing or detecting serious crime,
  - (b) the law enforcement chief considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
  - (c) the law enforcement chief 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 law enforcement chief 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) 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)(a).
- (3) A law enforcement chief described in Part 1 of the table in Schedule 6 may, on an application made by a person who is an appropriate law enforcement officer in relation to the chief, issue a targeted equipment interference warrant if—
  - (a) the law enforcement chief considers that the warrant is necessary for the purpose of preventing death or any injury or damage to a person's physical

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**Changes to legislation:** *Investigatory Powers Act 2016, Section 106 is up to date with all changes known to be in force on or before 14 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*

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- or mental health or of mitigating any injury or damage to a person's physical or mental health,
  - (b) the law enforcement chief considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
  - (c) the law enforcement chief 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 law enforcement chief 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) If it is not reasonably practicable for a law enforcement chief to consider an application under this section, an appropriate delegate may, in an urgent case, exercise the power to issue a targeted equipment interference warrant.
- (5) For the purposes of this section—
  - (a) a person is a law enforcement chief if the person is listed in the first column of the table in Schedule 6;
  - (b) a person is an appropriate delegate in relation to a law enforcement chief listed in the first column if the person is listed in the corresponding entry in the second column of that table;
  - (c) a person is an appropriate law enforcement officer in relation to a law enforcement chief listed in the first column if the person is listed in the corresponding entry in the third column of that table.
- (6) Where the law enforcement chief is the Chief Constable or the Deputy Chief Constable of the Police Service of Northern Ireland, the reference in subsection (1)(a) to the purpose of preventing or detecting serious crime includes a reference to the interests of national security.
- (7) A law enforcement chief who is an immigration officer may consider that the condition in subsection (1)(a) is satisfied only if the serious crime relates to an offence which is an immigration or nationality offence (whether or not it also relates to other offences).
- (8) A law enforcement chief who is an officer of Revenue and Customs may consider that the condition in subsection (1)(a) is satisfied only if the serious crime relates to an assigned matter within the meaning of section 1(1) of the Customs and Excise Management Act 1979.
- (9) A law enforcement chief who is a designated customs official may consider that the condition in subsection (1)(a) is satisfied only if the serious crime relates to a matter in respect of which a designated customs official has functions.
- (10) A law enforcement chief who is the chair of the Competition and Markets Authority may consider that the condition in subsection (1)(a) is satisfied only if the offence, or all of the offences, to which the serious crime relates are offences under section 188 of the Enterprise Act 2002.
- (11) A law enforcement chief who is [<sup>F1</sup>the Director General of the Independent Office for Police Conduct] may consider that the condition in subsection (1)(a) is satisfied only if the offence, or all of the offences, to which the serious crime relates are offences that are being investigated as part of an investigation <sup>F2</sup>... under Schedule 3 to the Police Reform Act 2002.

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- [<sup>F3</sup>(11A) A law enforcement chief who is the Service Police Complaints Commissioner may consider that the condition in subsection (1)(a) is satisfied only if the offence, or all of the offences, to which the serious crime relates are offences that are being investigated as part of an investigation carried out under regulations under section 340P of the Armed Forces Act 2006 (power to make further provision).]
- (12) A law enforcement chief who is the Police Investigations and Review Commissioner may consider that the condition in subsection (1)(a) is satisfied only if the offence, or all of the offences, to which the serious crime relates are offences that are being investigated under section 33A(b)(i) of the Police, Public Order and Criminal Justice (Scotland) Act 2006.
- (13) For the purpose of subsection (7), an offence is an immigration or nationality offence if conduct constituting the offence—
- (a) relates to the entitlement of one or more persons who are not nationals of the United Kingdom to enter, transit across, or be in, the United Kingdom (including conduct which relates to conditions or other controls on any such entitlement), or
  - (b) is undertaken for the purposes of or otherwise in relation to—
    - (i) the British Nationality Act 1981;
    - (ii) the Hong Kong Act 1985;
    - (iii) the Hong Kong (War Wives and Widows) Act 1996;
    - (iv) the British Nationality (Hong Kong) Act 1997;
    - (v) the British Overseas Territories Act 2002;
    - (vi) an instrument made under any of those Acts.
- (14) In this section—
- “designated customs official” has the same meaning as in Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act);
  - “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971.

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#### Textual Amendments

- F1** Words in s. 106(11) substituted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 9 para. 74\(3\)\(a\)](#); S.I. 2017/1249, reg. 2 (with reg. 3)
- F2** Words in s. 106(11) omitted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 9 para. 74\(3\)\(b\)](#); S.I. 2017/1249, reg. 2 (with reg. 3)
- F3** [S. 106\(11A\)](#) inserted (1.11.2022 for specified purposes, 19.6.2023 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), [Sch. 4 para. 2\(3\)](#); S.I. 2022/1095, reg. 3; S.I. 2023/621, reg. 2

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#### Commencement Information

- I1** [S. 106\(1\)](#) in force at 28.11.2018 for specified purposes by S.I. 2018/1246, [reg. 2\(a\)\(i\)](#)
- I2** [S. 106\(1\)\(3\)\(4\)](#) in force at 5.12.2018 in so far as not already in force by S.I. 2018/1246, [reg. 3\(a\)](#)
- I3** [S. 106\(2\)](#) in force at 28.11.2018 by S.I. 2018/1246, [reg. 2\(a\)\(ii\)](#)
- I4** [S. 106\(3\)\(4\)](#) in force at 28.11.2018 for specified purposes by S.I. 2018/1246, [reg. 2\(a\)\(iii\)](#)
- I5** [S. 106\(5\)-\(14\)](#) in force at 28.11.2018 by S.I. 2018/1246, [reg. 2\(a\)\(iv\)](#)

**Changes to legislation:**

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