



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 5

EQUIPMENT INTERFERENCE

Supplementary provision

129 Safeguards relating to retention and disclosure of material

- (1) The issuing authority must ensure, in relation to every targeted equipment interference warrant issued by that authority, that arrangements are in force for securing that the requirements of subsections (2) and (5) are met in relation to the material obtained under the warrant.

This is subject to subsection (10).

- (2) The requirements of this subsection are met in relation to the material obtained under a warrant if each of the following is limited to the minimum that is necessary for the authorised purposes (see subsection (3))—
- (a) the number of persons to whom any of the material is disclosed or otherwise made available;
 - (b) the extent to which any of the material is disclosed or otherwise made available;
 - (c) the extent to which any of the material is copied;
 - (d) the number of copies that are made.
- (3) For the purposes of subsection (2), something is necessary for the authorised purposes if, and only if—
- (a) it is, or is likely to become, necessary on any relevant grounds (see subsection (7)),
 - (b) it is necessary for facilitating the carrying out of any functions under this Act of the Secretary of State, the Scottish Ministers or the person to whom the warrant is or was addressed,

Changes to legislation: *Investigatory Powers Act 2016, Section 129 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*

- (c) it is necessary for facilitating the carrying out of any functions of the Judicial Commissioners or of the Investigatory Powers Tribunal under or in relation to this Act,
 - (d) it is necessary for the purpose of legal proceedings, or
 - (e) it is necessary for the performance of the functions of any person under any enactment.
- (4) The arrangements for the time being in force under this section for securing that the requirements of subsection (2) are met in relation to the material obtained under the warrant must include arrangements for securing that every copy made of any of that material is stored, for so long as it is retained, in a secure manner.
- (5) The requirements of this subsection are met in relation to the material obtained under a warrant if every copy made of any of that material (if not destroyed earlier) is destroyed as soon as there are no longer any grounds for retaining it (see subsection (6)).
- (6) For the purposes of subsection (5), there are no longer any grounds for retaining a copy of any material if, and only if—
 - (a) its retention is not necessary, or not likely to become necessary, on any relevant grounds (see subsection (7)), and
 - (b) its retention is not necessary for any of the purposes mentioned in paragraphs (b) to (e) of subsection (3) above.
- (7) In subsections (3) and (6), “relevant grounds” means—
 - (a) in relation to a warrant issued under section 102, grounds falling within section 102(5);
 - (b) in relation to a warrant issued under section 103, the purpose of preventing or detecting serious crime;
 - (c) in relation to a warrant issued under section 104, the interests of national security;
 - (d) in the case of a warrant issued under section 106(1), the purpose mentioned in section 106(1)(a);
 - (e) in the case of a warrant issued under section 106(3), the purpose mentioned in section 106(3)(a).
- (8) Where—
 - (a) material obtained under a targeted equipment interference warrant is retained, following its examination, for purposes other than the destruction of the material, and
 - (b) it is material that contains confidential journalistic material or identifies a source of journalistic material,
 the person to whom the warrant is addressed must inform the Investigatory Powers Commissioner as soon as is reasonably practicable.
- (9) Subsection (10) applies if—
 - (a) any material obtained under the warrant has been handed over to any overseas authorities, or
 - (b) a copy of any such material has been given to any overseas authorities.
- (10) To the extent that the requirements of subsections (2) and (5) relate to any of the material mentioned in subsection (9)(a), or to the copy mentioned in subsection (9)(b), the arrangements made for the purpose of this section are not required to secure that those requirements are met (see instead section 130).

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(11) In this section—

“copy”, in relation to material obtained under a warrant, means any of the following (whether or not in documentary form)—

- (a) any copy, extract or summary of the material which identifies the material as having been obtained under the warrant, and
- (b) any record which is a record of the identities of persons who owned, used or were in possession of the equipment which was interfered with to obtain that material,

and “copied” is to be read accordingly;

“the issuing authority” means—

- (a) in the case of a warrant issued under section 102 or 104, the Secretary of State;
- (b) in the case of a warrant issued under section 103, the Scottish Ministers;
- (c) in the case of a warrant issued under section 106, the law enforcement chief who issued the warrant (or on whose behalf it was issued);

“overseas authorities” means authorities of a country or territory outside the United Kingdom.

Commencement Information

I1 S. 129 in force at 31.5.2018 for specified purposes by [S.I. 2018/652](#), [reg. 4\(n\)](#) (with [reg. 24](#))

I2 S. 129 in force at 28.11.2018 in so far as not already in force by [S.I. 2018/1246](#), [reg. 2\(f\)](#)

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