



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 5

EQUIPMENT INTERFERENCE

Supplementary provision

131 Additional safeguards for items subject to legal privilege

- (1) This section applies where an item subject to legal privilege which has been obtained under a targeted equipment interference warrant is retained, following its examination, for purposes other than the destruction of the item.
- (2) The person to whom the warrant is addressed must inform the Investigatory Powers Commissioner of the retention of the item as soon as is reasonably practicable.
- (3) Unless the Investigatory Powers Commissioner considers that subsection (5) applies to the item, the Commissioner must—
 - (a) direct that the item is destroyed, or
 - (b) impose one or more conditions as to the use or retention of that item.
- (4) If the Investigatory Powers Commissioner considers that subsection (5) applies to the item, the Commissioner may nevertheless impose such conditions under subsection (3)(b) as the Commissioner considers necessary for the purpose of protecting the public interest in the confidentiality of items subject to legal privilege.
- (5) This subsection applies to an item subject to legal privilege if—
 - (a) the public interest in retaining the item outweighs the public interest in the confidentiality of items subject to legal privilege, and
 - (b) retaining the item is necessary in the interests of national security or for the purpose of preventing death or significant injury.
- (6) The Investigatory Powers Commissioner—

Changes to legislation: *Investigatory Powers Act 2016, Section 131 is up to date with all changes known to be in force on or before 17 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*

- (a) may require an affected party to make representations about how the Commissioner should exercise any function under subsection (3), and
 - (b) must have regard to any such representations made by an affected party (whether or not as a result of a requirement imposed under paragraph (a)).
- (7) Each of the following is an “affected party” for the purposes of subsection (6)—
 - (a) the issuing authority (within the meaning given by section 129(11));
 - (b) the person to whom the warrant is or was addressed.

Commencement Information

II [S. 131](#) in force at 27.6.2018 by [S.I. 2018/652](#), [reg. 9\(q\)](#) (with [reg. 24](#))

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