



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 1

#### GENERAL PRIVACY PROTECTIONS

##### *Overview and general privacy duties*

## 2 General duties in relation to privacy

- (1) Subsection (2) applies where a public authority is deciding whether—
  - (a) to issue, renew or cancel a warrant under Part 2, 5, 6 or 7,
  - (b) to modify such a warrant,
  - (c) to approve a decision to issue, renew or modify such a warrant,
  - (d) to grant, approve or cancel an authorisation under Part 3,
  - (e) to give a notice in pursuance of such an authorisation or under Part 4 or section 252, 253 or 257,
  - (f) to vary or revoke such a notice,
  - (g) to approve a decision to give or vary a notice under Part 4 or section 252, 253 or 257,
  - (h) to approve the use of criteria under section 153, 194 or 222,
  - (i) to give an authorisation under section 219(3)(b),
  - (j) to approve a decision to give such an authorisation, or
  - (k) to apply for or otherwise seek any issue, grant, giving, modification, variation or renewal of a kind falling within paragraph (a), (b), (d), (e), (f) or (i).
- (2) The public authority must have regard to—
  - (a) whether what is sought to be achieved by the warrant, authorisation or notice could reasonably be achieved by other less intrusive means,
  - (b) whether the level of protection to be applied in relation to any obtaining of information by virtue of the warrant, authorisation or notice is higher because of the particular sensitivity of that information,

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**Changes to legislation:** *Investigatory Powers Act 2016, Section 2 is up to date with all changes known to be in force on or before 11 March 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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- (c) the public interest in the integrity and security of telecommunication systems and postal services, and
  - (d) any other aspects of the public interest in the protection of privacy.
- (3) The duties under subsection (2)—
- (a) apply so far as they are relevant in the particular context, and
  - (b) are subject to the need to have regard to other considerations that are also relevant in that context.
- (4) The other considerations may, in particular, include—
- (a) the interests of national security or of the economic well-being of the United Kingdom,
  - (b) the public interest in preventing or detecting serious crime,
  - (c) other considerations which are relevant to—
    - (i) whether the conduct authorised or required by the warrant, authorisation or notice is proportionate, or
    - (ii) whether it is necessary to act for a purpose provided for by this Act,
  - (d) the requirements of the Human Rights Act 1998, and
  - (e) other requirements of public law.
- (5) For the purposes of subsection (2)(b), examples of sensitive information include—
- (a) items subject to legal privilege,
  - (b) any information identifying or confirming a source of journalistic information, and
  - (c) relevant confidential information within the meaning given by paragraph 2(4) of Schedule 7 (certain information held in confidence and consisting of personal records, journalistic material or communications between Members of Parliament and their constituents).

<sup>F1</sup>(6) .....

#### Textual Amendments

**F1** S. 2(6) omitted (5.2.2019) by virtue of [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), reg. 1(4)(d)(5), [Sch. 1 para. 1](#) (see S.I. 2019/174, reg. 2(c))

#### Commencement Information

**I1** S. 2 in force at 30.12.2016 for specified purposes by [S.I. 2016/1233](#), [reg. 2\(a\)](#)

**I2** S. 2 in force at 12.3.2018 for specified purposes by [S.I. 2018/341](#), [reg. 2\(a\)](#)

**I3** S. 2 in force at 31.5.2018 for specified purposes by [S.I. 2018/652](#), [reg. 2\(a\)](#)

**I4** S. 2 in force at 27.6.2018 for specified purposes by [S.I. 2018/652](#), [reg. 7\(a\)](#)

**I5** S. 2 in force at 25.7.2018 for specified purposes by [S.I. 2018/873](#), [reg. 2\(a\)](#)

**I6** S. 2 in force at 22.8.2018 for specified purposes by [S.I. 2018/873](#), [reg. 3\(a\)](#)

**I7** S. 2 in force at 5.2.2019 in so far as not already in force by [S.I. 2019/174](#), [reg. 2\(a\)](#)

**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):

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