



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 2

LAWFUL INTERCEPTION OF COMMUNICATIONS

CHAPTER 1

INTERCEPTION AND EXAMINATION WITH A WARRANT

Power to issue warrants

21 Power of Scottish Ministers to issue warrants

- (1) The Scottish Ministers may, on an application made by or on behalf of an intercepting authority mentioned in section 18(1)(a) to (g), issue a targeted interception warrant if—
- (a) the application is a relevant Scottish application (see section 22),
 - (b) the Scottish Ministers consider that the warrant is necessary on grounds falling within subsection (4),
 - (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 53 and 54 (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 application is a relevant Scottish application,

Status: Point in time view as at 30/08/2018. This version of this provision has been superseded.

Changes to legislation: Investigatory Powers Act 2016, Section 21 is up to date with all changes known to be in force on or before 17 July 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)

- (b) the Scottish Ministers consider that the warrant is necessary on grounds falling within subsection (4),
 - (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 the warrant is or may be necessary to authorise the selection of relevant content for examination in breach of the prohibition in section 152(4) (prohibition on seeking to identify communications of 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 Scottish Ministers may, on an application made by or on behalf of an intercepting authority, issue a mutual assistance warrant if—
- (a) the application is a relevant Scottish application,
 - (b) the Scottish Ministers consider that the warrant is necessary on grounds falling within subsection (4),
 - (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 53 and 54 (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.
- (4) A warrant is necessary on grounds falling within this subsection if—
- (a) in the case of a targeted interception warrant or targeted examination warrant, it is necessary for the purposes of preventing or detecting serious crime, and
 - (b) in the case of a mutual assistance warrant—
 - (i) it is necessary for the purpose of giving effect to the provisions of an EU mutual assistance instrument or an international mutual assistance agreement, and
 - (ii) the circumstances appear to the Scottish Ministers to be equivalent to those in which the Scottish Ministers would issue a warrant by virtue of paragraph (a).
- (5) A warrant may not be considered necessary on grounds falling within subsection (4) if it is considered necessary only for the purpose of gathering evidence for use in any legal proceedings.
- (6) 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 on grounds falling within subsection (4).

Commencement Information

- | | |
|-----------|---|
| I1 | S. 21(1)-(3) in force at 31.5.2018 for specified purposes by S.I. 2018/652 , reg. 3(g)(i) (with reg. 15(1)(b)) |
| I2 | S. 21(1)-(3) in force at 30.8.2018 in so far as not already in force by S.I. 2018/940 , reg. 2(1)(b) (with regs. 2(2), 6(b)) |

Status: Point in time view as at 30/08/2018. This version of this provision has been superseded.

Changes to legislation: Investigatory Powers Act 2016, Section 21 is up to date with all changes known to be in force on or before 17 July 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)

I3 S. 21(4)-(6) in force at 31.5.2018 by [S.I. 2018/652, reg. 3\(g\)\(ii\)](#)

Status:

Point in time view as at 30/08/2018. This version of this provision has been superseded.

Changes to legislation:

Investigatory Powers Act 2016, Section 21 is up to date with all changes known to be in force on or before 17 July 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.