



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 7

BULK PERSONAL DATASET WARRANTS

Duration, modification and cancellation

219 Non-renewal or cancellation of BPD warrants

- (1) This section applies where a class BPD warrant or a specific BPD warrant ceases to have effect because it expires without having been renewed or because it is cancelled.
- (2) The head of the intelligence service to whom the warrant was addressed may, before the end of the period of 5 working days beginning with the day on which the warrant ceases to have effect—
 - (a) apply for—
 - (i) a specific BPD warrant authorising the retention, or the retention and examination, of the whole or any part of the material retained by the intelligence service in reliance on the warrant which has ceased to have effect;
 - (ii) a class BPD warrant authorising the retention or (as the case may be) the retention and examination of bulk personal datasets of a class that is described in a way that would authorise the retention or (as the case may be) the retention and examination of the whole or any part of such material, or
 - (b) where the head of the intelligence service wishes to give further consideration to whether to apply for a warrant of a kind mentioned in paragraph (a)(i) or (ii), apply to the Secretary of State for authorisation to retain, or to retain and examine, the whole or any part of the material retained by the intelligence service in reliance on the warrant.
- (3) On an application under subsection (2)(b), the Secretary of State may—
 - (a) direct that any of the material to which the application relates be destroyed;

Changes to legislation: Investigatory Powers Act 2016, Section 219 is up to date with all changes known to be in force on or before 12 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

- (b) with the approval of a Judicial Commissioner, authorise the retention or (as the case may be) the retention and examination of any of that material, subject to such conditions as the Secretary of State considers appropriate, for a period specified by the Secretary of State which may not exceed 3 months.
- (4) In deciding whether to give approval for the purposes of subsection (3)(b), the Judicial Commissioner must—
 - (a) apply the same principles as would be applied by a court on an application for judicial review, and
 - (b) consider the matter with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).
- (5) Where a Judicial Commissioner refuses to approve a decision by the Secretary of State to authorise the retention or (as the case may be) the retention and examination of any material under subsection (3)(b), the Judicial Commissioner must give the Secretary of State written reasons for the decision.
- (6) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve such a decision, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision.
- (7) If, during the period specified by the Secretary of State under subsection (3)(b), the head of the intelligence service decides to apply for a warrant of a kind mentioned in subsection (2)(a)(i) or (ii), the head of the intelligence service must make the application as soon as reasonably practicable and before the end of the period specified by the Secretary of State.
- (8) Where a class BPD warrant or a specific BPD warrant ceases to have effect because it expires without having been renewed or it is cancelled, an intelligence service is not to be regarded as in breach of section 200(1) or (2) by virtue of its retention or examination of any material to which the warrant related during any of the following periods.

First period The period of 5 working days beginning with the day on which the warrant ceases to have effect.

Second period The period beginning with the day on which the head of the intelligence service makes an application under subsection (2)(a) or (b) in relation to the material and ending with the determination of the application.

Third period The period during which the retention or examination of the material is authorised under subsection (3)(b).

Fourth period Where authorisation under subsection (3)(b) is given and the head of the intelligence service subsequently makes, in accordance with subsection (7), an application for a specific BPD warrant or a class BPD warrant in relation to the material, the period (if any) beginning with the expiry of the authorisation under subsection (3)(b) and ending with the determination of the application for the warrant.

Commencement Information

II [S. 219](#) in force at 22.8.2018 by [S.I. 2018/873](#), [reg. 3\(c\)](#)

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