



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 4

RETENTION OF COMMUNICATIONS DATA

Safeguards

88 Matters to be taken into account before giving retention notices

- (1) Before giving a retention notice [^{F1}, including in relation to one or more of the purposes mentioned in sub-paragraphs (i) to (vi) of section 87(1)(a) (purposes for which retention of communications data may be required)], the Secretary of State must, among other matters, take into account—
 - (a) the likely benefits of the notice,
 - [^{F2}(aa) the telecommunications services to which the retention notice relates,
 - (ab) the appropriateness of limiting the data to be retained by reference to—
 - (i) location, or
 - (ii) descriptions of persons to whom telecommunications services are provided,]
 - (b) the likely number of users (if known) of any telecommunications service to which the notice relates,
 - (c) the technical feasibility of complying with the notice,
 - (d) the likely cost of complying with the notice, and
 - (e) any other effect of the notice on the telecommunications operator (or description of operators) to whom it relates.
- (2) Before giving such a notice, the Secretary of State must take reasonable steps to consult any operator to whom it relates.

Changes to legislation: Investigatory Powers Act 2016, Section 88 is up to date with all changes known to be in force on or before 23 April 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](#)

Textual Amendments

- F1** Words in s. 88(1)(a) inserted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), regs. 1(3)(c), **9(a)**
- F2** S. 88(1)(aa)(ab) inserted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), regs. 1(3)(c), **9(b)**
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Commencement Information

- I1** S. 88 in force at 30.12.2016 by [S.I. 2016/1233](#), **reg. 2(d)**

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](#)