



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 4

RETENTION OF COMMUNICATIONS DATA

Safeguards

91 Approval of notices following review under section 90

- (1) In deciding whether to approve a decision to vary a retention notice as mentioned in section 90(10)(a), or to give a notice under section 90(10)(b) confirming the effect of a retention notice, the Investigatory Powers Commissioner must review the Secretary of State's conclusions as to whether the requirement to be imposed by the notice as varied or confirmed to retain relevant communications data is necessary and proportionate for one or more of the purposes falling within ^{F1}sub-paragraphs (i) to (vi) of section 87(1)(a).
- (2) In doing so, the Investigatory Powers Commissioner must—
 - (a) apply the same principles as would be applied by a court on an application for judicial review, and
 - (b) consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Investigatory Powers Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).
- (3) Where the Investigatory Powers Commissioner refuses to approve a decision to vary a retention notice as mentioned in section 90(10)(a), or to give a notice under section 90(10)(b) confirming the effect of a retention notice, the Investigatory Powers Commissioner must give the Secretary of State written reasons for the refusal.

Textual Amendments

- F1** Words in s. 91(1) substituted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018](#) (S.I. 2018/1123), reg. 1(3)(f), [Sch. 1 para. 22\(b\)](#)

Changes to legislation: Investigatory Powers Act 2016, Section 91 is up to date with all changes known to be in force on or before 16 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](#)

Commencement Information

II S. 91 in force at 1.11.2018 by [S.I. 2018/873](#), [reg. 4\(a\)](#)

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