



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 4

#### RETENTION OF COMMUNICATIONS DATA

##### *Variation or revocation of notices*

#### **94 Variation or revocation of notices**

- (1) The Secretary of State may vary a retention notice.
- (2) The Secretary of State must give, or publish, notice of the variation in such manner as the Secretary of State considers appropriate for bringing the variation to the attention of the telecommunications operator (or description of operators) to whom it relates.
- (3) A variation comes into force—
  - (a) when notice of it is given or published in accordance with subsection (2), or
  - (b) (if later) at the time or times specified in the notice of variation.
- (4) A retention notice may not be varied so as to require the retention of additional relevant communications data unless—
  - (a) the Secretary of State considers that the requirement is necessary and proportionate for one or more of the purposes falling within [F1sub-paragraphs (i) to (vi) of section 87(1)(a)], and
  - (b) subject to subsection (6), the decision to vary the notice has been approved by a Judicial Commissioner.
- (5) The fact that additional relevant communications data which would be retained under a retention notice as varied relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the requirement to retain the data is necessary for one or more of the purposes falling within [F2sub-paragraphs (i) to (vi) of section 87(1)(a)].
- (6) Subsection (4)(b) does not apply to a variation to which section 90(11) applies.

*Changes to legislation: Investigatory Powers Act 2016, Section 94 is up to date with all changes known to be in force on or before 03 September 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*

- (7) Section 87(2) and (5) apply in relation to a retention notice as varied as they apply in relation to a retention notice, but as if the references to the notice coming into force included references to the variation coming into force.
- (8) Sections 87(3), (4) and (8), 95 and 97, and subsections (1), (4), (13) and (16) of this section, apply in relation to a retention notice as varied as they apply in relation to a retention notice.
- (9) Section 88 applies in relation to the making of a variation as it applies in relation to the giving of a retention notice (and, accordingly, the references to the notice in section 88(1)(a) to (e) are to be read as references to the variation).
- (10) Section 89 applies in relation to a decision to vary to which subsection (4)(b) above applies as it applies in relation to a decision to give a retention notice (and, accordingly, the reference in subsection (1) of that section to the requirement to be imposed by the notice is to be read as a reference to the requirement to be imposed by the variation).
- (11) Section 90 applies (but only so far as the variation is concerned) in relation to a retention notice as varied (other than one varied as mentioned in subsection (10)(a) of that section) as it applies in relation to a retention notice.
- (12) Section 91 applies in relation to a decision under section 90(10) to vary or confirm a variation as it applies in relation to a decision to vary or confirm a retention notice (and, accordingly, the reference in subsection (1) of that section to the requirement to be imposed by the notice as varied or confirmed is to be read as a reference to the requirement to be imposed by the variation as varied or confirmed).
- (13) The Secretary of State may revoke (whether wholly or in part) a retention notice.
- (14) The Secretary of State must give or publish notice of the revocation in such manner as the Secretary of State considers appropriate for bringing the revocation to the attention of the operator (or description of operators) to whom it relates.
- (15) A revocation comes into force—
  - (a) when notice of it is given or published in accordance with subsection (14), or
  - (b) (if later) at the time or times specified in the notice of revocation.
- (16) The fact that a retention notice has been revoked in relation to a particular description of communications data and a particular operator (or description of operators) does not prevent the giving of another retention notice in relation to the same description of data and the same operator (or description of operators).

#### Textual Amendments

- F1** Words in s. 94(4)(a) substituted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), reg. 1(3)(f), [Sch. 1 para. 22\(c\)](#)
- F2** Words in s. 94(5) substituted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), reg. 1(3)(f), [Sch. 1 para. 22\(c\)](#)

#### Commencement Information

- I1** S. 94(1)-(3)(4)(a)(5)(7) in force at 30.12.2016 by [S.I. 2016/1233](#), [reg. 2\(h\)](#)
- I2** S. 94(4)(b)(6)(10)(12) in force at 1.11.2018 by [S.I. 2018/873](#), [reg. 4\(a\)](#)
- I3** S. 94(8) in force at 30.12.2016 for specified purposes by [S.I. 2016/1233](#), [reg. 2\(i\)](#)
- I4** S. 94(8)(11) in force at 1.11.2018 in so far as not already in force by [S.I. 2018/873](#), [reg. 4\(a\)](#)

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| <b>15</b> | S. 94(9)(13)-(16) in force at 30.12.2016 by <a href="#">S.I. 2016/1233</a> , <a href="#">reg. 2(j)</a>                |
| <b>16</b> | S. 94(11) in force at 30.12.2016 for specified purposes by <a href="#">S.I. 2016/1233</a> , <a href="#">reg. 2(j)</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\(3\)\(a\)](#)