



Crime (Overseas Production Orders) Act 2019

2019 CHAPTER 5

Overseas production orders

3 Meaning of “electronic data” and “excepted electronic data”

- (1) This section applies for the purposes of this Act.
- (2) “Electronic data” means data stored electronically.
- (3) “Excepted electronic data” means electronic data that is—
 - (a) an item subject to legal privilege, or
 - (b) a personal record which is a confidential personal record.
- (4) Where the person against whom an overseas production order is sought is a telecommunications operator, this Act applies as if references to excepted electronic data included electronic data that is communications data.
- (5) Where an application for an overseas production order is made for the purposes of a terrorist investigation other than a terrorist financing investigation, this Act applies as if references to excepted electronic data did not include electronic data that is a personal record which is a confidential personal record.
- (6) “Item subject to legal privilege”—
 - (a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
 - (b) in relation to Scotland, has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (see section 412 of that Act);
 - (c) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#)) (see Article 12 of that Order).
- (7) “Personal record” means a record concerning an individual (“P”) (whether living or dead) who can be identified from the record and relating to—

Status: This is the original version (as it was originally enacted).

- (a) P's physical or mental health,
 - (b) spiritual counselling or assistance given, or to be given, to P, or
 - (c) counselling or assistance given, or to be given, to P for the purposes of P's personal welfare by—
 - (i) any voluntary organisation,
 - (ii) any individual who by reason of an office or occupation has responsibilities for P's personal welfare, or
 - (iii) any individual who by reason of an order of a court has responsibilities for P's supervision.
- (8) A personal record is a “confidential personal record” if—
- (a) it was created in circumstances giving rise to an obligation of confidence owed to P and the obligation continues to be owed, or
 - (b) it is held subject to a restriction on disclosure, or an obligation of secrecy, contained in an enactment (whenever passed or made).
- (9) In this section—
- “communications data” and “telecommunications operator” have the same meaning as in the Investigatory Powers Act 2016 (see section 261 of that Act);
 - “terrorist financing investigation” has the same meaning as in Part 1 of Schedule 5A to the Terrorism Act 2000 (see paragraph 4 of that Schedule);
 - “terrorist investigation” has the same meaning as in the Terrorism Act 2000 (see section 32 of that Act).