



# Police, Crime, Sentencing and Courts Act 2022

## 2022 CHAPTER 32

### PART 2

#### PREVENTION, INVESTIGATION AND PROSECUTION OF CRIME

### CHAPTER 3

#### EXTRACTION OF INFORMATION FROM ELECTRONIC DEVICES

#### **37 Extraction of information from electronic devices: investigations of crime etc**

- (1) An authorised person may extract information stored on an electronic device from that device if—
  - (a) a user of the device has voluntarily provided the device to an authorised person, and
  - (b) that user has agreed to the extraction of information from the device by an authorised person.
- (2) The power in subsection (1) may be exercised only for the purposes of—
  - (a) preventing, detecting, investigating or prosecuting crime,
  - (b) helping to locate a missing person, or
  - (c) protecting a child or an at-risk adult from neglect or physical, mental or emotional harm.
- (3) The reference in subsection (2) to crime is a reference to—
  - (a) conduct which constitutes one or more criminal offences in any part of the United Kingdom, or
  - (b) conduct which, if it took place in any part of the United Kingdom, would constitute one or more criminal offences.

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*Changes to legislation:* There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Section 37. (See end of Document for details)

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- (4) For the purposes of subsection (2) an adult is an at-risk adult if the authorised person reasonably believes that the adult—
- (a) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and
  - (b) is unable to protect themselves against the neglect or harm or the risk of it.
- (5) An authorised person may exercise the power in subsection (1) only if—
- (a) in a case where the authorised person proposes to exercise the power for a purpose within subsection (2)(a), the authorised person reasonably believes that information stored on the electronic device is relevant to a reasonable line of enquiry which is being, or is to be, pursued by an authorised person,
  - (b) in a case where the authorised person proposes to exercise the power for a purpose within subsection (2)(b) or (c), the authorised person reasonably believes that information stored on the electronic device is relevant to that purpose, and
  - (c) in any case, the authorised person is satisfied that exercise of the power is necessary and proportionate to achieve the purpose within subsection (2) for which the person proposes to exercise the power.
- (6) Subsection (7) applies if the authorised person thinks that, in exercising the power, there is a risk of obtaining information other than—
- (a) information necessary for a purpose within subsection (2) for which the authorised person may exercise the power, or
  - (b) information necessary for a purpose within subsection (2) of section 41 (investigations of death) for which the authorised person may exercise the power in subsection (1) of that section.
- (7) The authorised person must, to be satisfied that the exercise of the power in subsection (1) is proportionate, be satisfied that—
- (a) there are no other means of obtaining the information sought by the authorised person which avoid that risk, or
  - (b) there are such other means, but it is not reasonably practicable to use them.
- (8) Subsection (9) applies if the authorised person thinks that, in exercising the power in subsection (1), there is a risk of obtaining confidential information.
- (9) The authorised person must, to be satisfied that the exercise of the power is proportionate—
- (a) have regard to the matters in subsection (10), and
  - (b) be satisfied that—
    - (i) there are no other means of obtaining the information sought by the authorised person which avoid that risk, or
    - (ii) there are such other means, but it is not reasonably practicable to use them.
- (10) The matters referred to in subsection (9)(a) are—
- (a) the amount of confidential information likely to be stored on the device, and
  - (b) the potential relevance of the confidential information to—
    - (i) a purpose within subsection (2) for which the authorised person may exercise the power, or

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- (ii) a purpose within subsection (2) of section 41 for which the authorised person may exercise the power in subsection (1) of that section.
- (11) An authorised person must have regard to the code of practice for the time being in force under section 42 in exercising, or deciding whether to exercise, the power in subsection (1).
- (12) This section does not affect any power relating to the extraction or production of information, or any power to seize any item or obtain any information, conferred by an enactment or rule of law.
- (13) In this Chapter—
- “adult” means a person aged 18 or over;
  - “authorised person” has the meaning given by subsection (1) of section 44 (subject to subsections (2) and (3) of that section);
  - “child” means a person aged under 18;
  - “confidential information” has the meaning given by section 43;
  - “criminal offence” includes—
    - (a) a service offence within the meaning of the Armed Forces Act 2006, and
    - (b) an SDA offence within the meaning of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059);
  - “electronic device” means any device on which information is capable of being stored electronically and includes any component of such a device;
  - “enactment” includes—
    - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978,
    - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
    - (c) an enactment contained in, or in an instrument made under, an Act or Measure of Senedd Cymru, and
    - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
  - “information” includes moving or still images and sounds;
  - “user”, in relation to an electronic device, means a person who ordinarily uses the device.
- (14) References in this Chapter to the extraction of information include its reproduction in any form.
- (15) This section is subject to sections 38 (children, and adults without capacity), 39 (requirements for voluntary provision and agreement) and 40 (persons who have died etc).

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**Commencement Information**

- 11** S. 37 not in force at Royal Assent, see **s. 208(1)**
- 12** S. 37 in force at 8.11.2022 by **S.I. 2022/1075, reg. 5(a)**

**Changes to legislation:**

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