



# 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

#### **41 Extraction of information from electronic devices: investigations of death**

- (1) An authorised person may extract information stored on an electronic device from that device if—
  - (a) a person who was a user of the electronic device has died, and
  - (b) the person was a user of the device immediately before their death.
- (2) The power in subsection (1) may be exercised only for the purposes of—
  - (a) an investigation into the person's death under Chapter 1 of Part 1 of the Coroners and Justice Act 2009,
  - (b) an inquest into the person's death under the Coroners Act (Northern Ireland) 1959, or
  - (c) an investigation into the person's death by the Lord Advocate.
- (3) References in subsection (2) to the exercise of the power in subsection (1) for the purposes of an investigation or inquest include references to the exercise of that power for the purposes of determining whether an investigation should be conducted or an inquest should be held.
- (4) An authorised person may exercise the power in subsection (1) only if—
  - (a) the authorised person reasonably believes that information stored on the electronic device is relevant to a purpose within subsection (2), and

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*Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Section 41. (See end of Document for details)*

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- (b) the authorised person is satisfied that exercise of the power is necessary and proportionate to achieve that purpose.
- (5) Subsection (6) 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), or
  - (b) information necessary for a purpose within section 37(2).
- (6) The authorised person must, to be satisfied that the exercise of the power 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.
- (7) Subsection (8) applies if the authorised person thinks that, in exercising the power in subsection (1), there is a risk of obtaining confidential information.
- (8) The authorised person must, to be satisfied that the exercise of the power is proportionate—
  - (a) have regard to the matters in subsection (9), 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.
- (9) The matters referred to in subsection (8)(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 a purpose within subsection (2) or section 37(2).
- (10) 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).
- (11) 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.

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**Commencement Information**

- I1** S. 41 not in force at Royal Assent, see **s. 208(1)**
- I2** S. 41 in force at 8.11.2022 by **S.I. 2022/1075, reg. 5(e)**

**Changes to legislation:**

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