



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 7

MISCELLANEOUS AND FINAL

Other

352 Communications data

- (1) Section 12(2) of the Investigatory Powers Act 2016 (restriction of powers to obtain communications data) does not apply to a power falling within [subsection \(2\)](#).
- (2) A power falls within this subsection if it is conferred (whether before, on or after the passing of this Act) by or under—
 - (a) any Finance Act of any year (including this Act and any other numbered Finance Act);
 - (b) the Taxes Acts (within the meaning of TMA 1970);
 - (c) the customs and excise Acts (within the meaning of CEMA 1979);
 - (d) any enactment relating to value added tax;
 - (e) any enactment, not falling within paragraphs (a) to (d), that relates to tax.
- (3) But [subsection \(1\)](#) does not apply in relation to the exercise of such a power by a public authority in the course of a criminal investigation by the authority.
- (4) In section 12 of the Investigatory Powers Act 2016, after subsection (2) insert—

“(2A) Subsection (2) is subject to [section 352\(1\)](#) of the Finance (No. 2) Act 2023 (no restriction on tax related powers).”
- (5) In Schedule 36 to FA 2008 (information and inspection powers), in paragraph 19, omit sub-paragraphs (4) and (5).
- (6) In consequence of the repeal made by [subsection \(5\)](#), omit paragraph 10 of Schedule 2 to the Investigatory Powers Act 2016.

Status: This is the original version (as it was originally enacted).

- (7) The modification and amendments made by [subsections \(1\) to \(6\)](#) are to be treated as having always had effect.
- (8) Subsections [\(9\)](#) and [\(10\)](#) apply where—
- (a) before the day on which this Act is passed, a public authority imposed a requirement on a person under a power falling within [subsection \(2\)](#), and
 - (b) as a result of section 12(2) of the Investigatory Powers Act 2016 the public authority did not, ignoring this section, have the power to impose it.
- (9) The requirement is to be treated as having been imposed on the day on which this Act is passed (and accordingly the period in which it must be complied with is to be treated as starting on that day) unless—
- (a) the requirement was withdrawn by the public authority before that day, or
 - (b) the person complied with the requirement before that day.
- (10) Where, before the day on which this Act is passed, the public authority imposed a penalty on the person for contravening the requirement—
- (a) the penalty is of no effect, and
 - (b) if already paid, the authority is liable to repay it.