



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 5

#### EQUIPMENT INTERFERENCE

##### *Further provision about warrants*

#### **115 Requirements that must be met by warrants**

- (1) A warrant under this Part must contain a provision stating whether it is a targeted equipment interference warrant or a targeted examination warrant.
- (2) A warrant under this Part must be addressed—
  - (a) in the case of a warrant issued under section 102 or 103, to the head of the intelligence service by whom or on whose behalf the application for the warrant was made;
  - (b) in the case of a warrant issued under section 104, to the Chief of Defence Intelligence;
  - (c) in the case of a warrant issued under section 106 by a law enforcement chief (or by an appropriate delegate in relation to a law enforcement chief), to a person who—
    - (i) is an appropriate law enforcement officer in relation to the law enforcement chief, and
    - (ii) is named or described in the warrant.
- (3) In the case of a targeted equipment interference warrant which relates to a matter described in the first column of the Table below, the warrant must include the details specified in the second column.

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<i>Matter</i>	<i>Details to be included in the warrant</i>
Equipment belonging to, used by or in the possession of a particular person or organisation	The name of the person or organisation or a description of the person or organisation
Equipment belonging to, used by or in the possession of persons who form a group which shares a common purpose or who carry on, or may carry on, a particular activity	A description of the purpose or activity and the name of, or a description of, as many of the persons as it is reasonably practicable to name or describe
Equipment used by or in the possession of more than one person or organisation, where the interference is for the purpose of a single investigation or operation	A description of the nature of the investigation or operation and the name of, or a description of, as many of the persons or organisations as it is reasonably practicable to name or describe
Equipment in a particular location	A description of the location
Equipment in more than one location, where the interference is for the purpose of a single investigation or operation	A description of the nature of the investigation or operation and a description of as many of the locations as it is reasonably practicable to describe
Equipment which is being, or may be, used for the purposes of a particular activity or activities of a particular description	A description of the particular activity or activities
Equipment which is being, or may be, used to test, maintain or develop capabilities relating to interference with equipment	A description of the nature of the testing, maintenance or development of capabilities
Equipment which is being, or may be, used for the training of persons who carry out, or are likely to carry out, interference with equipment	A description of the nature of the training

- (4) A targeted equipment interference warrant must also describe—
- (a) the type of equipment which is to be interfered with, and
  - (b) the conduct which the person to whom the warrant is addressed is authorised to take.
- (5) In the case of a targeted examination warrant which relates to a matter described in the first column of the Table below, the warrant must include the details specified in the second column.

<i>Matter</i>	<i>Details to be included in the warrant</i>
A particular person or organisation	The name of the person or organisation or a description of the person or organisation

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<i>Matter</i>	<i>Details to be included in the warrant</i>
A group of persons who share a common purpose or who carry on or may carry on a particular activity	A description of the purpose or activity and the name of, or a description of, as many of the persons as it is reasonably practicable to name or describe
More than one person or organisation, where the interference is for the purpose of a single investigation or operation	A description of the nature of the investigation or operation and the name of, or a description of, as many of the persons or organisations as it is reasonably practicable to name or describe
The testing, maintenance or development of capabilities relating to the selection of protected material for examination	A description of the nature of the testing, maintenance or development of capabilities
The training of persons who carry out, or are likely to carry out, the selection of protected material for examination	A description of the nature of the training

## 116 Duration of warrants

- (1) A warrant issued under this Part ceases to have effect at the end of the relevant period (see subsection (2)), unless—
  - (a) it is renewed before the end of that period (see section 117), or
  - (b) it is cancelled or otherwise ceases to have effect before the end of that period (see sections 109 and 125).
- (2) In this section, “the relevant period”—
  - (a) in the case of an urgent warrant which has not been renewed, means the period ending with the fifth working day after the day on which the warrant was issued;
  - (b) in any other case, means the period of 6 months beginning with—
    - (i) the day on which the warrant was issued, or
    - (ii) in the case of a warrant which has been renewed, the day after the day at the end of which the warrant would have ceased to have effect if it had not been renewed.
- (3) For the purposes of subsection (2)(a), a warrant is an “urgent warrant” if—
  - (a) the warrant was issued without the approval of a Judicial Commissioner, and
  - (b) the person who decided to issue the warrant considered that there was an urgent need to issue it.

## 117 Renewal of warrants

- (1) If the renewal conditions are met, a warrant issued under this Part may be renewed, at any time during the renewal period, by an instrument issued by the appropriate person (see subsection (3)).
- (2) The renewal conditions are—

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- (a) that the appropriate person considers that the warrant continues to be necessary on any relevant grounds,
  - (b) that the appropriate person considers that the conduct that would be authorised by the renewed warrant continues to be proportionate to what is sought to be achieved by that conduct,
  - (c) that, in the case of a targeted examination warrant, the appropriate person considers that the warrant continues to be necessary to authorise the selection of protected material for examination in breach of the prohibition in section 193(4), and
  - (d) that the decision to renew the warrant has been approved by a Judicial Commissioner.
- (3) The appropriate person is—
- (a) in the case of a warrant issued under section 102 or 104, the Secretary of State;
  - (b) in the case of a warrant issued under section 103, a member of the Scottish Government;
  - (c) in the case of a warrant issued under section 106 by a law enforcement chief or by an appropriate delegate in relation to the law enforcement chief, either—
    - (i) the law enforcement chief, or
    - (ii) if the warrant was issued by an appropriate delegate, that person.
- (4) In subsection (2)(a), “relevant grounds” means—
- (a) in the case of a warrant issued under section 102, grounds falling within section 102(5),
  - (b) in the case of a warrant issued under section 103, the purpose of preventing or detecting serious crime,
  - (c) in the case of a warrant issued under section 104, the interests of national security,
  - (d) in the case of a warrant issued under section 106(1), the purpose mentioned in section 106(1)(a), or
  - (e) in the case of a warrant issued under section 106(3), the purpose mentioned in section 106(3)(a).
- (5) “The renewal period” means—
- (a) in the case of an urgent warrant which has not been renewed, the relevant period;
  - (b) in any other case, the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.
- (6) The decision to renew a warrant issued under section 102 or 104 must be taken personally by the Secretary of State, and the instrument renewing the warrant must be signed by the Secretary of State.
- (7) The decision to renew a warrant issued under section 103 must be taken personally by a member of the Scottish Government, and the instrument renewing the warrant must be signed by the person who took that decision.
- (8) The instrument renewing a warrant issued under section 106 must be signed by the person who renews it.
- (9) Section 108 (approval of warrants by Judicial Commissioners) applies in relation to a decision to renew a warrant under this Part as it applies in relation to a decision to

issue such a warrant (and accordingly any reference in that section to the person who decided to issue the warrant is to be read as a reference to the person who decided to renew it).

- (10) Sections 111 to 114 (additional safeguards) apply in relation to a decision to renew a warrant under this Part as they apply in relation to a decision to issue such a warrant.
- (11) In this section—
- “relevant period” has the same meaning as in section 116;
  - “urgent warrant” is to be read in accordance with subsection (3) of that section.

## **118 Modification of warrants issued by the Secretary of State or Scottish Ministers**

- (1) The provisions of a warrant issued under section 102, 103 or 104 may be modified at any time by an instrument issued by the person making the modification.
- (2) The only modifications which may be made under this section are—
- (a) adding to the matters to which the warrant relates (see section 101(1) and (2)), by including the details required in relation to that matter by section 115(3) or (5);
  - (b) removing a matter to which the warrant relates;
  - (c) adding (in relation to a matter to which the warrant relates) a name or description to the names or descriptions included in the warrant in accordance with section 115(3) or (5);
  - (d) varying or removing (in relation to a matter to which the warrant relates) a name or description included in the warrant in accordance with section 115(3) or (5);
  - (e) adding to the descriptions of types of equipment included in the warrant in accordance with section 115(4)(a);
  - (f) varying or removing a description of a type of equipment included in the warrant in accordance with section 115(4)(a).
- (3) But—
- (a) where a targeted equipment interference warrant relates only to a matter specified in section 101(1)(a), only to a matter specified in section 101(1)(d), or only to both such matters, the details included in the warrant in accordance with section 115(3) may not be modified;
  - (b) where a targeted examination warrant relates only to a matter specified in section 101(2)(a), the details included in the warrant in accordance with section 115(5) may not be modified.
- (4) The decision to modify the provisions of a warrant must be taken personally by the person making the modification, and the instrument making the modification must be signed by that person.

This is subject to section 120(7).

- (5) Nothing in this section applies in relation to modifying the provisions of a warrant in a way which does not affect the conduct authorised or required by it.
- (6) Sections 119 to 122 contain further provision about making modifications under this section.

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## **119 Persons who may make modifications under section 118**

- (1) The persons who may make modifications under section 118 of a warrant are (subject to subsection (2))—
- (a) in the case of a warrant issued by the Secretary of State under section 102 or 104—
    - (i) the Secretary of State, or
    - (ii) a senior official acting on behalf of the Secretary of State;
  - (b) in the case of a warrant issued by the Scottish Ministers under section 103—
    - (i) a member of the Scottish Government, or
    - (ii) a senior official acting on behalf of the Scottish Ministers.
- (2) Any of the following persons may also make modifications under section 118 of a warrant, but only where the person considers that there is an urgent need to make the modification—
- (a) the person to whom the warrant is addressed;
  - (b) a person who holds a senior position in the same public authority as the person mentioned in paragraph (a).

Section 122 contains provision about the approval of modifications made in urgent cases.

- (3) Subsection (2) is subject to section 120(4) and (5) (special rules where any of sections 111 to 114 applies in relation to the making of a modification under section 118).
- (4) For the purposes of subsection (2)(b), a person holds a senior position in a public authority if—
- (a) in the case of any of the intelligence services—
    - (i) the person is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service, or
    - (ii) the person holds a position in the intelligence service of equivalent seniority to such a person;
  - (b) in the case of the Ministry of Defence—
    - (i) the person is a member of the Senior Civil Service, or
    - (ii) the person is of or above the rank of brigadier, commodore or air commodore.

## **120 Further provision about modifications under section 118**

- (1) A modification, other than a modification removing any matter, name or description, may be made under section 118 only if the person making the modification considers—
- (a) that the modification is necessary on any relevant grounds (see subsection (2)), and
  - (b) that the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct.
- (2) In subsection (1)(a), “relevant grounds” means—
- (a) in the case of a warrant issued under section 102, grounds falling within section 102(5);
  - (b) in the case of a warrant issued under section 103, the purpose of preventing or detecting serious crime;

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- (c) in the case of a warrant issued under section 104, the interests of national security.
- (3) Sections 111 to 114 (additional safeguards) apply in relation to the making of a modification to a warrant under section 118, other than a modification removing any matter, name or description, as they apply in relation to the issuing of a warrant.
- (4) Where section 111 applies in relation to the making of a modification—
  - (a) the modification must be made by the Secretary of State, and
  - (b) the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.
- (5) Where section 112, 113 or 114 applies in relation to the making of a modification—
  - (a) the modification must be made by —
    - (i) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government, or
    - (ii) if a senior official acting on behalf of a person within subparagraph (i) considers that there is an urgent need to make the modification, that senior official, and
  - (b) except where the person making the modification considers that there is an urgent need to make it, the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.
- (6) In a case where any of sections 111 to 114 applies in relation to the making of a modification, section 108 (approval of warrants by Judicial Commissioners) applies in relation to the decision to make the modification as it applies in relation to a decision to issue a warrant, but as if—
  - (a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the modification, and
  - (b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification.

Section 122 contains provision about the approval of modifications made in urgent cases.

- (7) If, in a case where any of sections 111 to 114 applies in relation to the making of a modification, it is not reasonably practicable for the instrument making the modification to be signed by the Secretary of State or (as the case may be) a member of the Scottish Government in accordance with section 118(4), the instrument may be signed by a senior official designated by the Secretary of State or (as the case may be) the Scottish Ministers for that purpose.
- (8) In such a case, the instrument making the modification must contain a statement that—
  - (a) it is not reasonably practicable for the instrument to be signed by the person who took the decision to make the modification, and
  - (b) the Secretary of State or (as the case may be) a member of the Scottish Government has personally and expressly authorised the making of the modification.

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## **121 Notification of modifications**

- (1) As soon as is reasonably practicable after a person makes a modification of a warrant under section 118, a Judicial Commissioner must be notified of the modification and the reasons for making it.
- (2) But subsection (1) does not apply where—
  - (a) the modification is to remove any matter, name or description included in the warrant in accordance with section 115(3) to (5),
  - (b) the modification is made by virtue of section 119(2), or
  - (c) any of sections 111 to 114 applies in relation to the making of the modification.
- (3) Where a modification is made by a senior official in accordance with section 119(1) or section 120(5)(a)(ii), the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the modification and the reasons for making it.

## **122 Approval of modifications under section 118 made in urgent cases**

- (1) This section applies where a person makes a modification of a warrant by virtue of section 119(2).
- (2) This section also applies where—
  - (a) section 112, 113 or 114 applies in relation to the making of a modification under section 118,
  - (b) the person making the modification does so without the approval of a Judicial Commissioner, and
  - (c) the person considered that there was an urgent need to make the modification.
- (3) The person who made the modification must inform the appropriate person that it has been made.
- (4) In this section—

“the appropriate person” is—

  - (a) in a case falling within subsection (1), a designated senior official, and
  - (b) in a case falling within subsection (2), a Judicial Commissioner;

“designated senior official” means a senior official who has been designated by the Secretary of State or (in the case of warrants issued by the Scottish Ministers) the Scottish Ministers for the purposes of this section.
- (5) The appropriate person must, before the end of the relevant period—
  - (a) decide whether to approve the decision to make the modification, and
  - (b) notify the person of the appropriate person’s decision.

“The relevant period” means the period ending with the third working day after the day on which the modification was made.
- (6) As soon as is reasonably practicable after a designated senior official makes a decision under subsection (5)—
  - (a) a Judicial Commissioner must be notified of—
    - (i) the decision, and
    - (ii) if the senior official has decided to approve the decision to make the modification, the modification in question, and



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- (b) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the matters mentioned in paragraph (a)(i) and (ii).
- (7) If the appropriate person refuses to approve the decision to make the modification—
- (a) the warrant (unless it no longer has effect) has effect as if the modification had not been made, and
  - (b) the person to whom the warrant is addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant by virtue of that modification stops as soon as possible;
- and, in a case falling within subsection (2) above, section 108(5) does not apply in relation to the refusal to approve the decision.
- (8) In a case where the appropriate person refuses to approve a decision to make a modification of a targeted equipment interference warrant, the appropriate person may authorise further interference with equipment for the purpose of enabling the person to whom the warrant is addressed to secure that anything in the process of being done under the warrant by virtue of the modification stops as soon as possible.
- (9) If the appropriate person authorises further interference with equipment under subsection (8), the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the authorisation.
- (10) Nothing in this section affects the lawfulness of—
- (a) anything done under the warrant by virtue of the modification before the modification ceases to have effect;
  - (b) if anything is in the process of being done under the warrant by virtue of the modification when the modification ceases to have effect—
    - (i) anything done before that thing could be stopped, or
    - (ii) anything done which it is not reasonably practicable to stop.

### **123 Modification of warrants issued by law enforcement chiefs**

- (1) The provisions of a warrant issued under section 106 by a law enforcement chief, or by an appropriate delegate in relation to that chief, may be modified at any time—
- (a) by the law enforcement chief, or
  - (b) if the warrant was issued by an appropriate delegate, by that person.
- (2) The only modifications which may be made under this section are—
- (a) adding to the matters to which the warrant relates (see section 101(1) and (2)), by including the details required in relation to that matter by section 115(3) or (5);
  - (b) removing a matter to which the warrant relates;
  - (c) adding (in relation to a matter to which the warrant relates) a name or description to the names or descriptions included in the warrant in accordance with section 115(3) or (5);
  - (d) varying or removing (in relation to a matter to which the warrant relates) a name or description included in the warrant in accordance with section 115(3) or (5);
  - (e) adding to the descriptions of types of equipment included in the warrant in accordance with section 115(4)(a);

- (f) varying or removing a description of a type of equipment included in the warrant in accordance with section 115(4)(a).
- (3) But where a warrant relates only to a matter specified in section 101(1)(a), only to a matter specified in section 101(1)(d), or only to both such matters, the details included in the warrant in accordance with section 115(3) may not be modified.
- (4) A modification may be made only if—
- (a) except in the case of a modification removing any matter, name or description, the person making the modification considers that—
    - (i) the modification is necessary on any relevant grounds (see subsection (5)), and
    - (ii) the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct, and
  - (b) except where the person making the modification considers that there is an urgent need to make it, the decision to make the modification has been approved by a Judicial Commissioner.
- (5) In subsection (4)(a), “relevant grounds” means—
- (a) in the case of a warrant issued under section 106(1), the purpose mentioned in section 106(1)(a);
  - (b) in the case of a warrant issued under section 106(3), the purpose mentioned in section 106(3)(a).
- (6) The decision to make any modification must be taken personally by the person making the modification, and the instrument making the modification must be signed by that person.
- (7) Section 108 (approval of warrants by Judicial Commissioners) applies in relation to a decision to make a modification of a warrant issued under section 106 as it applies in relation to a decision to issue such a warrant, but as if—
- (a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the modification, and
  - (b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification.
- (8) Sections 111 to 114 (additional safeguards) apply in relation to the making of a modification to a warrant under this section, other than a modification removing any matter, name or description, as they apply in relation to the issuing of a warrant.
- (9) In the application of section 111 in accordance with subsection (8), subsection (5) is to be read as if for the words from “unless” to the end of the subsection there were substituted “unless the law enforcement chief believes that the warrant (as modified) would authorise interference only with equipment which would be in Scotland at the time of the making of the modification or which the law enforcement chief believes would be in Scotland at that time”.
- (10) Where section 111 applies in relation to the making of a modification to a warrant under this section, subsection (4)(b) of this section has effect in relation to the making of the modification as if the words “except where the person making the modification considers that there is an urgent need to make it” were omitted.
- (11) Nothing in this section applies in relation to modifying the provisions of a warrant in a way which does not affect the conduct authorised or required by it.

## **124 Approval of modifications under section 123 in urgent cases**

- (1) This section applies where—
  - (a) a modification is made under section 123 without the approval of a Judicial Commissioner, and
  - (b) the person who made the modification considered that there was an urgent need to make it.
- (2) The person who made the modification must inform a Judicial Commissioner that it has been made.
- (3) The Judicial Commissioner must, before the end of the relevant period—
  - (a) decide whether to approve the decision to make the modification, and
  - (b) notify the person of the Judicial Commissioner’s decision.

“The relevant period” means the period ending with the third working day after the day on which the modification was made.

- (4) If the Judicial Commissioner refuses to approve the decision to make the modification—
  - (a) the person who issued the warrant must be notified of the refusal,
  - (b) the warrant (unless it no longer has effect) has effect as if the modification had not been made, and
  - (c) the person to whom the warrant is addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant by virtue of that modification stops as soon as possible;and section 108(5) does not apply in relation to the refusal to approve the decision.
- (5) In a case where a Judicial Commissioner refuses to approve a decision to make a modification of a targeted equipment interference warrant, the Judicial Commissioner may authorise further interference with equipment for the purpose of enabling the person to whom the warrant is addressed to secure that anything in the process of being done under the warrant by virtue of the modification stops as soon as possible.
- (6) If the Judicial Commissioner authorises further interference with equipment under subsection (5), the person who issued the warrant must be informed of the authorisation.
- (7) Nothing in this section affects the lawfulness of—
  - (a) anything done under the warrant by virtue of the modification before the modification ceases to have effect;
  - (b) if anything is in the process of being done under the warrant by virtue of the modification when the modification ceases to have effect—
    - (i) anything done before that thing could be stopped, or
    - (ii) anything done which it is not reasonably practicable to stop.

## **125 Cancellation of warrants**

- (1) Any of the appropriate persons may cancel a warrant issued under this Part at any time.
- (2) If any of the appropriate persons considers that—
  - (a) a warrant issued under this Part is no longer necessary on any relevant grounds, or

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- (b) the conduct authorised by a warrant issued under this Part is no longer proportionate to what is sought to be achieved by the conduct, the person must cancel the warrant.
- (3) In subsection (2)(a), “relevant grounds” means—
- (a) in the case of a warrant issued under section 102, grounds falling within section 102(5);
  - (b) in the case of a warrant issued under section 103, the purpose of preventing or detecting serious crime;
  - (c) in the case of a warrant issued under section 104, the interests of national security;
  - (d) in the case of a warrant issued under section 106(1), the purpose mentioned in section 106(1)(a);
  - (e) in the case of a warrant issued under section 106(3), the purpose mentioned in section 106(3)(a).
- (4) For the purposes of this section, “the appropriate persons” are—
- (a) in the case of a warrant issued by the Secretary of State under section 102 or 104, the Secretary of State or a senior official acting on behalf of the Secretary of State;
  - (b) in the case of a warrant issued by the Scottish Ministers under section 103, a member of the Scottish Government or a senior official acting on behalf of the Scottish Ministers;
  - (c) in the case of a warrant issued under section 106 by a law enforcement chief or by an appropriate delegate in relation to the law enforcement chief, either—
    - (i) the law enforcement chief, or
    - (ii) if the warrant was issued by an appropriate delegate, that person.
- (5) Where a warrant is cancelled under this section, the person to whom the warrant was addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant stops as soon as possible.
- (6) A warrant that has been cancelled under this section may not be renewed.