



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 5

EQUIPMENT INTERFERENCE

Further provision about warrants

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;
 - (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—

Status: This is the original version (as it was originally enacted).

- (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.