



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 2

LAWFUL INTERCEPTION OF COMMUNICATIONS

CHAPTER 1

INTERCEPTION AND EXAMINATION WITH A WARRANT

Power to issue warrants

21 Power of Scottish Ministers to issue warrants

- (1) The Scottish Ministers may, on an application made by or on behalf of an intercepting authority mentioned in section 18(1)(a) to (g), issue a targeted interception warrant if—
 - (a) the application is a relevant Scottish application (see section 22),
 - (b) the Scottish Ministers consider that the warrant is necessary on grounds falling within subsection (4),
 - (c) the Scottish Ministers consider that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
 - (d) the Scottish Ministers consider that satisfactory arrangements made for the purposes of sections 53 and 54 (safeguards relating to disclosure etc.) are in force in relation to the warrant, and
 - (e) except where the Scottish Ministers consider that there is an urgent need to issue the warrant, the decision to issue the warrant has been approved by a Judicial Commissioner.
- (2) The Scottish Ministers may, on an application made by or on behalf of the head of an intelligence service, issue a targeted examination warrant if—
 - (a) the application is a relevant Scottish application,

Status: This is the original version (as it was originally enacted).

- (b) the Scottish Ministers consider that the warrant is necessary on grounds falling within subsection (4),
 - (c) the Scottish Ministers consider that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
 - (d) the Scottish Ministers consider that the warrant is or may be necessary to authorise the selection of relevant content for examination in breach of the prohibition in section 152(4) (prohibition on seeking to identify communications of individuals in the British Islands), and
 - (e) except where the Scottish Ministers consider that there is an urgent need to issue the warrant, the decision to issue the warrant has been approved by a Judicial Commissioner.
- (3) The Scottish Ministers may, on an application made by or on behalf of an intercepting authority, issue a mutual assistance warrant if—
 - (a) the application is a relevant Scottish application,
 - (b) the Scottish Ministers consider that the warrant is necessary on grounds falling within subsection (4),
 - (c) the Scottish Ministers consider that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
 - (d) the Scottish Ministers consider that satisfactory arrangements made for the purposes of sections 53 and 54 (safeguards relating to disclosure etc.) are in force in relation to the warrant, and
 - (e) except where the Scottish Ministers consider that there is an urgent need to issue the warrant, the decision to issue the warrant has been approved by a Judicial Commissioner.
- (4) A warrant is necessary on grounds falling within this subsection if—
 - (a) in the case of a targeted interception warrant or targeted examination warrant, it is necessary for the purposes of preventing or detecting serious crime, and
 - (b) in the case of a mutual assistance warrant—
 - (i) it is necessary for the purpose of giving effect to the provisions of an EU mutual assistance instrument or an international mutual assistance agreement, and
 - (ii) the circumstances appear to the Scottish Ministers to be equivalent to those in which the Scottish Ministers would issue a warrant by virtue of paragraph (a).
- (5) A warrant may not be considered necessary on grounds falling within subsection (4) if it is considered necessary only for the purpose of gathering evidence for use in any legal proceedings.
- (6) The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary on grounds falling within subsection (4).