



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 9

MISCELLANEOUS AND GENERAL PROVISIONS

CHAPTER 1

MISCELLANEOUS

Additional powers

253 Technical capability notices

- (1) The Secretary of State may give a relevant operator a technical capability notice under this section if—
 - (a) the Secretary of State considers that the notice is necessary for securing that the operator has the capability to provide any assistance which the operator may be required to provide in relation to any relevant authorisation,
 - (b) the Secretary of State considers that the conduct required by the notice is proportionate to what is sought to be achieved by that conduct, and
 - (c) the decision to give the notice has been approved by a Judicial Commissioner.
- (2) A “technical capability notice” is a notice—
 - (a) imposing on the relevant operator any applicable obligations specified in the notice, and
 - (b) requiring the person to take all the steps specified in the notice for the purpose of complying with those obligations.
- (3) In this section—

“applicable obligation”, in relation to a relevant operator of a particular description, means an obligation specified by the Secretary of State in

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regulations as an obligation that may be imposed on relevant operators, or on relevant operators of that description;

“relevant authorisation” means—

- (a) any warrant issued under Part 2, 5 or 6, or
- (b) any authorisation or notice given under Part 3;

“relevant operator” means—

- (a) a postal operator,
- (b) a telecommunications operator, or
- (c) a person who is proposing to become a postal operator or a telecommunications operator.

- (4) Regulations under this section may specify an obligation that may be imposed on any relevant operators only if the Secretary of State considers it is reasonable to do so for the purpose of securing—
 - (a) that it is (and remains) practicable to impose requirements on those relevant operators to provide assistance in relation to relevant authorisations, and
 - (b) that it is (and remains) practicable for those relevant operators to comply with those requirements.
- (5) The obligations that may be specified in regulations under this section include, among other things—
 - (a) obligations to provide facilities or services of a specified description;
 - (b) obligations relating to apparatus owned or operated by a relevant operator;
 - (c) obligations relating to the removal by a relevant operator of electronic protection applied by or on behalf of that operator to any communications or data;
 - (d) obligations relating to the security of any postal or telecommunications services provided by a relevant operator;
 - (e) obligations relating to the handling or disclosure of any information.
- (6) Before making any regulations under this section, the Secretary of State must consult the following persons—
 - (a) the Technical Advisory Board,
 - (b) persons appearing to the Secretary of State to be likely to be subject to any obligations specified in the regulations,
 - (c) persons representing persons falling within paragraph (b), and
 - (d) persons with statutory functions in relation to persons falling within that paragraph.
- (7) A technical capability notice—
 - (a) must specify such period as appears to the Secretary of State to be reasonable as the period within which the steps specified in the notice are to be taken, and
 - (b) may specify different periods in relation to different steps.
- (8) A technical capability notice may be given to persons outside the United Kingdom (and may require things to be done, or not to be done, outside the United Kingdom).
- (9) Sections 254 to 258 contain further provision about technical capability notices.

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Modifications etc. (not altering text)

- C1** S. 253(3) modified (8.3.2018) by [The Investigatory Powers Act 2016 \(Commencement No. 4 and Transitional and Saving Provisions\) Regulations 2018 \(S.I. 2018/341\)](#), [reg. 6\(1\)\(a\)\(2\)](#) (as amended (29.5.2018) by [The Investigatory Powers Act 2016 \(Commencement No. 5 and Transitional and Saving Provisions\) Regulations 2018 \(S.I. 2018/652\)](#), [reg. 27](#))

Commencement Information

- I1** S. 253(1)(2)(7)-(9) in force at 12.3.2018 by [S.I. 2018/341](#), [reg. 2\(g\)](#)
- I2** S. 253(3)-(6) in force at 13.2.2017 by [S.I. 2017/137](#), [reg. 2\(s\)](#) (with [reg. 3](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58(4)(e) inserted by [2023 c. 41 Sch. 13 para. 9](#)