



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 9

#### MISCELLANEOUS AND GENERAL PROVISIONS

### CHAPTER 2

#### GENERAL

#### *Interpretation*

#### **263 General definitions**

(1) In this Act—

“apparatus” includes any equipment, machinery or device (whether physical or logical) and any wire or cable,

“civil proceedings” means any proceedings in or before any court or tribunal that are not criminal proceedings,

“crime” means conduct which—

- (a) constitutes one or more criminal offences, or
- (b) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences,

“criminal proceedings” includes proceedings before a court in respect of a service offence within the meaning of the Armed Forces Act 2006 (and references to criminal prosecutions are to be read accordingly),

“data” includes data which is not electronic data and any information (whether or not electronic),

“destroy”, in relation to electronic data, means delete the data in such a way as to make access to the data impossible (and related expressions are to be read accordingly),

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“enactment” means an enactment whenever passed or made; and includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978,
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales, and
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation,

“enhanced affirmative procedure” is to be read in accordance with section 268,

“functions” includes powers and duties,

“GCHQ” has the same meaning as in the Intelligence Services Act 1994,

“head”, in relation to an intelligence service, means—

- (a) in relation to the Security Service, the Director-General,
- (b) in relation to the Secret Intelligence Service, the Chief, and
- (c) in relation to GCHQ, the Director,

“Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006,

“identifying data” has the meaning given by subsection (2),

“intelligence service” means the Security Service, the Secret Intelligence Service or GCHQ,

“the Investigatory Powers Commissioner” means the person appointed under section 227(1)(a) (and the expression is also to be read in accordance with section 227(13)(b)),

“the Investigatory Powers Tribunal” means the tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000,

“items subject to legal privilege”—

- (a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act),
- (b) in relation to Scotland, means—
  - (i) communications between a professional legal adviser and the adviser's client, or
  - (ii) communications made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,

which would, by virtue of any rule of law relating to the confidentiality of communications, be protected in legal proceedings from disclosure, and

- (c) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 12 of that Order),

“Judicial Commissioner” means a person appointed under section 227(1)(a) or (b) (and the expression is therefore to be read in accordance with section 227(13)(a)),

“legal proceedings” means—

- (a) civil or criminal proceedings in or before a court or tribunal, or

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(b) proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006,

“modify” includes amend, repeal or revoke (and related expressions are to be read accordingly),

“person holding office under the Crown” includes any servant of the Crown and any member of Her Majesty's forces,

“premises” includes any land, movable structure, vehicle, vessel, aircraft or hovercraft (and “set of premises” is to be read accordingly),

“primary legislation” means—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, or
- (d) Northern Ireland legislation,

“public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal,

“serious crime” means crime where—

- (a) the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 3 years or more, or
- (b) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose,

“source of journalistic information” means an individual who provides material intending the recipient to use it for the purposes of journalism or knowing that it is likely to be so used,

“specified”, in relation to an authorisation, warrant, notice or regulations, means specified or described in the authorisation, warrant, notice or (as the case may be) regulations (and “specify” is to be read accordingly),

“statutory”, in relation to any function, means conferred by virtue of this Act or any other enactment,

“subordinate legislation” means—

- (a) subordinate legislation within the meaning of the Interpretation Act 1978, or
- (b) an instrument made under an Act of the Scottish Parliament, Northern Ireland legislation or a Measure or Act of the National Assembly for Wales,

“systems data” has the meaning given by subsection (4),

“the Technical Advisory Board” means the Board provided for by section 245,

“the Technology Advisory Panel” means the panel established in accordance with section 246(1),

[<sup>F1</sup>“tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006,]

“working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

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- (2) In this Act “identifying data” means—
- (a) data which may be used to identify, or assist in identifying, any person, apparatus, system or service,
  - (b) data which may be used to identify, or assist in identifying, any event, or
  - (c) data which may be used to identify, or assist in identifying, the location of any person, event or thing.
- (3) For the purposes of subsection (2), the reference to data which may be used to identify, or assist in identifying, any event includes—
- (a) data relating to the fact of the event;
  - (b) data relating to the type, method or pattern of event;
  - (c) data relating to the time or duration of the event.
- (4) In this Act “systems data” means any data that enables or facilitates, or identifies or describes anything connected with enabling or facilitating, the functioning of any of the following—
- (a) a postal service;
  - (b) a telecommunication system (including any apparatus forming part of the system);
  - (c) any telecommunications service provided by means of a telecommunication system;
  - (d) a relevant system (including any apparatus forming part of the system);
  - (e) any service provided by means of a relevant system.
- (5) For the purposes of subsection (4), a system is a “relevant system” if any communications or other information are held on or by means of the system.
- (6) For the purposes of this Act detecting crime or serious crime is to be taken to include—
- (a) establishing by whom, for what purpose, by what means and generally in what circumstances any crime or (as the case may be) serious crime was committed, and
  - (b) the apprehension of the person by whom any crime or (as the case may be) serious crime was committed.
- (7) References in this Act to the examination of material obtained under a warrant are references to the material being read, looked at or listened to by the persons to whom it becomes available as a result of the warrant.

#### **Textual Amendments**

- F1** Words in s. 263(1) inserted (1.5.2022 for specified purposes, 5.12.2022 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), [Sch. 5 para. 46](#); S.I. 2022/471, reg. 2(e); S.I. 2022/1095, reg. 4

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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](#)