

Status: This version of this provision is prospective.

Changes to legislation: Investigatory Powers Act 2016, Section 89 is up to date with all changes known to be in force on or before 29 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 4

RETENTION OF COMMUNICATIONS DATA

Safeguards

PROSPECTIVE

89 Approval of retention notices by Judicial Commissioners

- (1) In deciding whether to approve a decision to give a retention notice, a Judicial Commissioner must review the Secretary of State's conclusions as to whether the requirement to be imposed by the notice to retain relevant communications data is necessary and proportionate for one or more of the purposes falling within [F1sub-paragraphs (i) to (vi) of section 87(1)(a)].
- (2) In doing so, the Judicial Commissioner must—
 - (a) apply the same principles as would be applied by a court on an application for judicial review, and
 - (b) consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).
- (3) Where a Judicial Commissioner refuses to approve a decision to give a retention notice, the Judicial Commissioner must give the Secretary of State written reasons for the refusal.
- (4) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve a decision to give a retention notice, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to give the notice.

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Textual Amendments

- F1** Words in s. 89(1) substituted (1.11.2018) by [The Data Retention and Acquisition Regulations 2018](#) (S.I. 2018/1123), reg. 1(3)(f), [Sch. 1 para. 22\(a\)](#)

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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](#)