



Investigatory Powers (Amendment) Act 2024

2024 CHAPTER 9

PART 5

MISCELLANEOUS

PROSPECTIVE

Equipment interference

24 Issue of equipment interference warrants

- (1) Part 1 of the table in Schedule 6 to the Investigatory Powers Act 2016 (issue of warrants under section 106 etc) is amended in accordance with subsections (2) and (3).
- (2) In the entry relating to the Chief Constable of a police force maintained under section 2 of the Police Act 1996, in the second column—
 - (a) for “section 12A(1) of the Police Act 1996” substitute “section 41(1) of the Police Reform and Social Responsibility Act 2011”;
 - (b) for “section 12A(2)” substitute “section 41(5)”.
- (3) In the entry relating to the Director General of the National Crime Agency—
 - (a) in the first column, after “General” insert “or a Deputy Director General”;
 - (b) in the second column, after “General” insert “or a Deputy Director General”.
- (4) In section 107(3) of the Investigatory Powers Act 2016 (restriction on issue of warrants to certain law enforcement officers)—
 - (a) after “General”, in the first place it occurs, insert “or a Deputy Director General”;
 - (b) after “General”, in the second place it occurs, insert “or the Deputy Director General (as the case may be)”.

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Investigatory Powers (Amendment) Act 2024, Cross Heading: Equipment interference. (See end of Document for details)

Commencement Information

I1 S. 24 not in force at Royal Assent, see [s. 32\(2\)](#)

25 Modification of equipment interference warrants

In section 121 of the Investigatory Powers Act 2016 (notification of modifications), after subsection (3) insert—

- “(4) But subsection (3) does not apply where the modification—
- (a) is made in accordance with section 119(1), and
 - (b) is to remove any matter, name or description included in the warrant in accordance with section 115(3) to (5).”

Commencement Information

I2 S. 25 not in force at Royal Assent, see [s. 32\(2\)](#)

26 Issue of targeted examination warrants to intelligence services

In section 102 of the Investigatory Powers Act 2016 (power to issue warrants to intelligence services: the Secretary of State), for subsection (4) substitute—

- “(4) But the Secretary of State may not issue a targeted examination warrant under subsection (3) if—
- (a) the Secretary of State considers that the only ground for considering the warrant to be necessary is for the purpose of preventing or detecting serious crime, and
 - (b) the warrant, if issued, would relate only to a person who would be in Scotland at the time of the issue of the warrant or whom the Secretary of State believes would be in Scotland at that time.

For the power of the Scottish Ministers to issue a targeted examination warrant, see section 103.”

Commencement Information

I3 S. 26 not in force at Royal Assent, see [s. 32\(2\)](#)

27 Bulk equipment interference: safeguards for confidential journalistic material etc

- (1) The Investigatory Powers Act 2016 is amended as follows.
- (2) For section 195 (additional safeguard for confidential journalistic material) substitute—

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“195 Additional safeguards for confidential journalistic material etc

- (1) Subsection (2) applies if, in a case where material obtained under a bulk equipment interference warrant (“BEI material”) is to be selected for examination—
 - (a) the purpose, or one of the purposes, of using those criteria to be used for the selection of the BEI material for examination (“the relevant criteria”) is to identify any confidential journalistic material or to identify or confirm a source of journalistic information, or
 - (b) the use of the relevant criteria is highly likely to identify confidential journalistic material or identify or confirm a source of journalistic information.
- (2) The BEI material may be selected for examination using the relevant criteria only if the use of those criteria has been approved by—
 - (a) the Investigatory Powers Commissioner, or
 - (b) in a case where a senior official acting on behalf of the Secretary of State considers there is an urgent need to do so, the senior official.
- (3) The Investigatory Powers Commissioner or a senior official may give an approval under subsection (2) only if the Commissioner or official considers that—
 - (a) the public interest in obtaining the information that would be obtained by the selection of the BEI material for examination outweighs the public interest in the confidentiality of confidential journalistic material or sources of journalistic information, and
 - (b) there are no less intrusive means by which the information may reasonably be obtained.
- (4) Subsection (5) applies where—
 - (a) material obtained under a bulk equipment interference warrant (“the relevant material”) is retained, following its examination, for purposes other than the destruction of the relevant material, and
 - (b) the person to whom the warrant is addressed considers that the relevant material contains confidential journalistic material or material that would identify or confirm a source of journalistic information.
- (5) The person to whom the warrant is addressed must inform the Investigatory Powers Commissioner of the retention of the relevant material as soon as reasonably practicable.
- (6) Unless the Investigatory Powers Commissioner considers that [subsection \(8\)](#) applies to the relevant material, the Commissioner must direct that the relevant material is destroyed.
- (7) If the Investigatory Powers Commissioner considers that [subsection \(8\)](#) applies to the relevant material, the Commissioner may impose such conditions as to the use or retention of the relevant material as the Commissioner considers necessary for the purpose of protecting the public interest in the confidentiality of confidential journalistic material or sources of journalistic information.

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- (8) This subsection applies to material containing—
- (a) confidential journalistic material, or
 - (b) material identifying or confirming a source of journalistic information,
- if the public interest in retaining the material outweighs the public interest in the confidentiality of confidential journalistic material or sources of journalistic information.
- (9) The Investigatory Powers Commissioner—
- (a) may require an affected party to make representations about how the Commissioner should exercise any function under subsections (6) and (7), and
 - (b) must have regard to any such representations made by an affected party (whether or not as a result of a requirement imposed under [paragraph \(a\)](#)).
- (10) “Affected party” has the meaning given by section 194(14).
- (For provision about the grounds for retaining material obtained under a warrant, see section 191.)

195A Section 195: procedure where use of criteria approved by senior official

- (1) This section applies where material obtained under a bulk equipment interference warrant is selected for examination using criteria the use of which was approved by a senior official under [section 195\(2\)](#).
- (2) The Secretary of State must, as soon as reasonably practicable, inform the Investigatory Powers Commissioner that the approval has been given.
- (3) The Investigatory Powers Commissioner must, as soon as reasonably practicable—
 - (a) consider whether the relevant condition is met as regards the use of the criteria for the selection of the material for examination, and
 - (b) notify the Secretary of State of their decision.
- (4) For this purpose, “the relevant condition” is that—
 - (a) the public interest in obtaining the information that would be obtained by the selection of the material for examination outweighs the public interest in the confidentiality of confidential journalistic material or sources of journalistic information, and
 - (b) there are no less intrusive means by which the information may reasonably be obtained.
- (5) On the giving of a notification of a decision that the relevant condition is not met, the senior official’s approval ceases to have effect.
- (6) Nothing in [subsection \(5\)](#) affects the lawfulness of—
 - (a) anything done by virtue of the approval before it ceases to have effect, or
 - (b) if anything is in the process of being done by virtue of the approval when it ceases to have effect—

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- (i) anything done before that thing could be stopped, or
- (ii) anything done which it is not reasonably practicable to stop.”

(3) In section 229 (main oversight functions), in subsection (8), before paragraph (g) insert—

“(fb) deciding whether—

- (i) to approve the use of criteria under section 195(2)(a),
- (ii) subsection 195(8) applies for the purposes of subsection 195(6) and (7),
- (iii) the relevant condition is met for the purposes of subsection 195A(3)(a).”

Commencement Information

I4 S. 27 not in force at Royal Assent, see [s. 32\(2\)](#)

Status:

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Changes to legislation:

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