



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 5

#### EQUIPMENT INTERFERENCE

##### *Approval of warrants by Judicial Commissioners*

#### **108 Approval of warrants by Judicial Commissioners**

- (1) In deciding whether to approve a person's decision to issue a warrant under this Part, a Judicial Commissioner must review the person's conclusions as to the following matters—
  - (a) whether the warrant is necessary on any relevant grounds (see subsection (3)), and
  - (b) whether the conduct which would be authorised by the warrant is proportionate to what is sought to be achieved by that conduct.
- (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) In subsection (1)(a), "relevant grounds" means—
  - (a) in the case of a decision to issue a warrant under section 102, grounds falling within section 102(5);
  - (b) in the case of a decision to issue a warrant under section 103, the purpose of preventing or detecting serious crime;
  - (c) in the case of a decision to issue a warrant under section 104, the interests of national security;
  - (d) in the case of a decision to issue a warrant under section 106(1), the purpose mentioned in section 106(1)(a);

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*Status: This is the original version (as it was originally enacted).*

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- (e) in the case of a decision to issue a warrant under section 106(3), the purpose mentioned in section 106(3)(a).
- (4) Where a Judicial Commissioner refuses to approve a person's decision to issue a warrant under this Part, the Judicial Commissioner must give the person written reasons for the refusal.
- (5) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve a person's decision to issue a warrant under this Part, the person may ask the Investigatory Powers Commissioner to decide whether to approve the decision to issue the warrant.