



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 6

BULK WARRANTS

CHAPTER 1

BULK INTERCEPTION WARRANTS

Duration, modification and cancellation of warrants

143 Duration of warrants

- (1) A bulk interception warrant (unless already cancelled) ceases to have effect at the end of the period of 6 months beginning with—
 - (a) the day on which the warrant was issued, or
 - (b) in the case of a warrant that has been renewed, the day after the day at the end of which the warrant would have ceased to have effect if it had not been renewed.
- (2) For provision about the renewal of warrants, see section 144.

Commencement Information

II S. 143 in force at 27.6.2018 by S.I. 2018/652, reg. 10(a)

144 Renewal of warrants

- (1) If the renewal conditions are met, a bulk interception warrant may be renewed, at any time during the renewal period, by an instrument issued by the Secretary of State.
This is subject to subsection (6).

Status: Point in time view as at 27/06/2018.

Changes to legislation: Investigatory Powers Act 2016, Cross Heading: Duration, modification and cancellation of warrants is up to date with all changes known to be in force on or before 19 August 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)

- (2) The renewal conditions are—
- (a) that the Secretary of State considers that the warrant continues to be necessary—
 - (i) in the interests of national security, or
 - (ii) on that ground and on any other grounds falling within section 138(2),
 - (b) that the Secretary of State considers that the conduct that would be authorised by the renewed warrant continues to be proportionate to what is sought to be achieved by that conduct,
 - (c) that the Secretary of State considers that—
 - (i) each of the specified operational purposes (see section 142) is a purpose for which the examination of intercepted content or secondary data obtained under the warrant continues to be, or may be, necessary, and
 - (ii) the examination of intercepted content or secondary data for each such purpose continues to be necessary on any of the grounds on which the Secretary of State considers that the warrant continues to be necessary, and
 - (d) that the decision to renew the warrant has been approved by a Judicial Commissioner.
- (3) “The renewal period” means the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.
- (4) The decision to renew a bulk interception warrant must be taken personally by the Secretary of State, and the instrument renewing the warrant must be signed by the Secretary of State.
- (5) Section 140 (approval of warrants by Judicial Commissioners) applies in relation to a decision to renew a bulk interception warrant as it applies in relation to a decision to issue a bulk interception warrant, but with the omission of paragraph (d) of subsection (1).
- This is subject to subsection (6).
- (6) In the case of the renewal of a bulk interception warrant that has been modified so that it no longer authorises or requires the interception of communications or the obtaining of secondary data—
- (a) the renewal condition in subsection (2)(a) is to be disregarded,
 - (b) the reference in subsection (2)(c)(ii) to the grounds on which the Secretary of State considers the warrant to be necessary is to be read as a reference to any grounds falling within section 138(1)(b) or (2), and
 - (c) section 140 has effect as if—
 - (i) paragraph (a) of subsection (1) were omitted, and
 - (ii) the reference in subsection (1)(c)(ii) to the grounds on which the Secretary of State considers the warrant to be necessary were a reference to any grounds falling within section 138(1)(b) or (2).

Commencement Information

I2 S. 144 in force at 27.6.2018 by S.I. 2018/652, reg. 10(a)

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145 Modification of warrants

- (1) The provisions of a bulk interception warrant may be modified at any time by an instrument issued by the person making the modification.
- (2) The only modifications that may be made under this section are—
 - (a) adding, varying or removing any operational purpose specified in the warrant as a purpose for which any intercepted content or secondary data obtained under the warrant may be selected for examination, and
 - (b) providing that the warrant no longer authorises or requires (to the extent that it did so previously)—
 - (i) the interception of any communications in the course of their transmission by means of a telecommunication system, or
 - (ii) the obtaining of any secondary data from communications transmitted by means of such a system.
- (3) In this section—
 - (a) a modification adding or varying any operational purpose as mentioned in paragraph (a) of subsection (2) is referred to as a “major modification”, and
 - (b) any other modification within that subsection is referred to as a “minor modification”.
- (4) A major modification—
 - (a) must be made by the Secretary of State, and
 - (b) may be made only if the Secretary of State considers that it is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary (see section 138(1)(b)).
- (5) Except where the Secretary of State considers that there is an urgent need to make the modification, a major modification has effect only if the decision to make the modification is approved by a Judicial Commissioner.
- (6) A minor modification may be made by—
 - (a) the Secretary of State, or
 - (b) a senior official acting on behalf of the Secretary of State.
- (7) Where a minor modification is made by a senior official, the Secretary of State must be notified personally of the modification and the reasons for making it.
- (8) If at any time a person mentioned in subsection (6) considers that any operational purpose specified in a warrant is no longer a purpose for which the examination of intercepted content or secondary data obtained under the warrant is or may be necessary, the person must modify the warrant by removing that operational purpose.
- (9) The decision to modify the provisions of a warrant must be taken personally by the person making the modification, and the instrument making the modification must be signed by that person.

This is subject to subsection (10).
- (10) If it is not reasonably practicable for an instrument making a major modification to be signed by the Secretary of State, the instrument may be signed by a senior official designated by the Secretary of State for that purpose.
- (11) In such a case, the instrument making the modification must contain a statement that—

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- (a) it is not reasonably practicable for the instrument to be signed by the Secretary of State, and
 - (b) the Secretary of State has personally and expressly authorised the making of the modification.
- (12) Despite section 136(2), the modification of a bulk interception warrant as mentioned in subsection (2)(b) above does not prevent the warrant from being a bulk interception warrant.
- (13) Nothing in this section applies in relation to modifying the provisions of a warrant in a way which does not affect the conduct authorised or required by it.

Commencement Information

I3 S. 145 in force at 27.6.2018 by S.I. 2018/652, reg. 10(a)

146 Approval of major modifications by Judicial Commissioners

- (1) In deciding whether to approve a decision to make a major modification of a bulk interception warrant, a Judicial Commissioner must review the Secretary of State's conclusions as to whether the modification is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary.
- (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 matter 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 make a major modification under section 145, 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 make a major modification under section 145, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to make the modification.

Commencement Information

I4 S. 146 in force at 27.6.2018 by S.I. 2018/652, reg. 10(a)

147 Approval of major modifications made in urgent cases

- (1) This section applies where—
- (a) the Secretary of State makes a major modification of a bulk interception warrant without the approval of a Judicial Commissioner, and
 - (b) the Secretary of State considered that there was an urgent need to make the modification.

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- (2) The Secretary of State must inform a Judicial Commissioner that the modification has been made.
- (3) The Judicial Commissioner must, before the end of the relevant period—
 - (a) decide whether to approve the decision to make the modification, and
 - (b) notify the Secretary of State of the Judicial Commissioner's decision.

“The relevant period” means the period ending with the third working day after the day on which the modification was made.
- (4) If the Judicial Commissioner refuses to approve the decision to make the modification—
 - (a) the warrant (unless it no longer has effect) has effect as if the modification had not been made, and
 - (b) the person to whom the warrant is addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant by virtue of that modification stops as soon as possible,and section 146(4) does not apply in relation to the refusal to approve the decision.
- (5) Nothing in this section affects the lawfulness of—
 - (a) anything done under the warrant by virtue of the modification before the modification ceases to have effect;
 - (b) if anything is in the process of being done under the warrant by virtue of the modification when the modification ceases to have effect—
 - (i) anything done before that thing could be stopped, or
 - (ii) anything done which it is not reasonably practicable to stop.

Commencement Information

I5 S. 147 in force at 27.6.2018 by S.I. 2018/652, reg. 10(a)

148 Cancellation of warrants

- (1) The Secretary of State, or a senior official acting on behalf of the Secretary of State, may cancel a bulk interception warrant at any time.
- (2) If the Secretary of State, or a senior official acting on behalf of the Secretary of State, considers that any of the cancellation conditions are met in relation to a bulk interception warrant, the person must cancel the warrant.
- (3) The cancellation conditions are—
 - (a) that the warrant is no longer necessary in the interests of national security;
 - (b) that the conduct authorised by the warrant is no longer proportionate to what is sought to be achieved by that conduct;
 - (c) that the examination of intercepted content or secondary data obtained under the warrant is no longer necessary for any of the specified operational purposes (see section 142).
- (4) But the condition in subsection (3)(a) does not apply where the warrant has been modified so that it no longer authorises or requires the interception of communications or the obtaining of secondary data.

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- (5) Where a warrant is cancelled under this section, the person to whom the warrant was addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant stops as soon as possible.
- (6) A warrant that has been cancelled under this section may not be renewed.

Commencement Information

I6 S. 148 in force at 27.6.2018 by S.I. 2018/652, reg. 10(a)

Status:

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Changes to legislation:

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