



# Investigatory Powers Act 2016

## 2016 CHAPTER 25

### PART 6 **U.K.**

#### BULK WARRANTS

### CHAPTER 2 **U.K.**

#### BULK ACQUISITION WARRANTS

##### *Bulk acquisition warrants*

#### **158 Power to issue bulk acquisition warrants **U.K.****

- (1) The Secretary of State may, on an application made by or on behalf of the head of an intelligence service, issue a bulk acquisition warrant if—
- (a) the Secretary of State considers that the warrant is necessary—
    - (i) in the interests of national security, or
    - (ii) on that ground and on any other grounds falling within subsection (2),
  - (b) the Secretary of State considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
  - (c) the Secretary of State considers that—
    - (i) each of the specified operational purposes (see section 161) is a purpose for which the examination of communications data obtained under the warrant is or may be necessary, and
    - (ii) the examination of such data for each such purpose is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary,
  - (d) the Secretary of State considers that satisfactory arrangements made for the purposes of section 171 (safeguards relating to the retention and disclosure of data) are in force in relation to the warrant, and

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

- (e) the decision to issue the warrant has been approved by a Judicial Commissioner.

For the meaning of “head of an intelligence service”, see section 263.

- (2) A warrant is necessary on grounds falling within this subsection if it is necessary—
  - (a) for the purpose of preventing or detecting serious crime, or
  - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security (but see subsection (3)).
- (3) A warrant may be considered necessary on the ground falling within subsection (2) (b) only if the communications data which it is considered necessary to obtain is communications data relating to the acts or intentions of persons outside the British Islands.
- (4) The fact that the communications data which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary in the interests of national security or on that ground and a ground falling within subsection (2).
- (5) A bulk acquisition warrant is a warrant which authorises or requires the person to whom it is addressed to secure, by any conduct described in the warrant, any one or more of the activities in subsection (6).
- (6) The activities are—
  - (a) requiring a telecommunications operator specified in the warrant—
    - (i) to disclose to a person specified in the warrant any communications data which is specified in the warrant and is in the possession of the operator,
    - (ii) to obtain any communications data specified in the warrant which is not in the possession of the operator but which the operator is capable of obtaining, or
    - (iii) to disclose to a person specified in the warrant any data obtained as mentioned in sub-paragraph (ii),
  - (b) the selection for examination, in any manner described in the warrant, of communications data obtained under the warrant,
  - (c) the disclosure, in any manner described in the warrant, of communications data obtained under the warrant to the person to whom the warrant is addressed or to any person acting on that person's behalf.
- (7) A bulk acquisition warrant also authorises the following conduct (in addition to the conduct described in the warrant)—
  - (a) any conduct which it is necessary to undertake in order to do what is expressly authorised or required by the warrant, and
  - (b) conduct by any person which is conduct in pursuance of a requirement imposed by or on behalf of the person to whom the warrant is addressed to be provided with assistance in giving effect to the warrant.
- (8) A bulk acquisition warrant may relate to data whether or not in existence at the time of the issuing of the warrant.
- (9) An application for the issue of a bulk acquisition warrant may only be made on behalf of the head of an intelligence service by a person holding office under the Crown.

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

#### Commencement Information

- I1** S. 158 in force at 25.7.2018 for specified purposes by S.I. 2018/873, reg. 2(b) (with reg. 6(a))  
**I2** S. 158 in force at 22.8.2018 in so far as not already in force by S.I. 2018/873, reg. 3(b)

### 159 Approval of warrants by Judicial Commissioners **U.K.**

- (1) In deciding whether to approve a decision to issue a warrant under section 158, a Judicial Commissioner must review the Secretary of State's conclusions as to the following matters—
- (a) whether the warrant is necessary as mentioned in subsection (1)(a) of that section,
  - (b) whether the conduct that would be authorised by the warrant is proportionate to what is sought to be achieved by that conduct, and
  - (c) whether—
    - (i) each of the specified operational purposes (see section 161) is a purpose for which the examination of communications data obtained under the warrant is or may be necessary, and
    - (ii) the examination of such data for each such purpose is necessary as mentioned in section 158(1)(c)(ii).
- (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 issue a warrant under section 158, 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 issue a warrant under section 158, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to issue the warrant.

#### Commencement Information

- I3** S. 159 in force at 25.7.2018 by S.I. 2018/873, reg. 2(c)

### 160 Decisions to issue warrants to be taken personally by Secretary of State **U.K.**

- (1) The decision to issue a bulk acquisition warrant must be taken personally by the Secretary of State.
- (2) Before a bulk acquisition warrant is issued, it must be signed by the Secretary of State.

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

**Commencement Information**

**I4** S. 160 in force at 25.7.2018 by S.I. 2018/873, reg. 2(d)

**161 Requirements that must be met by warrants** **U.K.**

- (1) A bulk acquisition warrant must contain a provision stating that it is a bulk acquisition warrant.
- (2) A bulk acquisition warrant must be addressed to the head of the intelligence service by whom, or on whose behalf, the application for the warrant was made.
- (3) A bulk acquisition warrant must specify the operational purposes for which any communications data obtained under the warrant may be selected for examination.
- (4) The operational purposes specified in the warrant must be ones specified, in a list maintained by the heads of the intelligence services (“the list of operational purposes”), as purposes which they consider are operational purposes for which communications data obtained under bulk acquisition warrants may be selected for examination.
- (5) The warrant may, in particular, specify all of the operational purposes which, at the time the warrant is issued, are specified in the list of operational purposes.
- (6) An operational purpose may be specified in the list of operational purposes only with the approval of the Secretary of State.
- (7) The Secretary of State may give such approval only if satisfied that the operational purpose is specified in a greater level of detail than the descriptions contained in section 158(1)(a) or (2).
- (8) At the end of each relevant three-month period the Secretary of State must give a copy of the list of operational purposes to the Intelligence and Security Committee of Parliament.
- (9) In subsection (8) “relevant three-month period” means—
  - (a) the period of three months beginning with the day on which this section comes into force, and
  - (b) each successive period of three months.
- (10) The Prime Minister must review the list of operational purposes at least once a year.
- (11) In this Chapter “the specified operational purposes”, in relation to a bulk acquisition warrant, means the operational purposes specified in the warrant in accordance with this section.

**Commencement Information**

**I5** S. 161 in force at 25.7.2018 by S.I. 2018/873, reg. 2(e)

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

### *Duration, modification and cancellation of warrants*

#### **162 Duration of warrants** **U.K.**

- (1) A bulk acquisition 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 163.

#### **Commencement Information**

**I6** S. 162 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

#### **163 Renewal of warrants** **U.K.**

- (1) If the renewal conditions are met, a bulk acquisition 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).
- (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 158(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 161) is a purpose for which the examination of communications data obtained under the warrant continues to be, or may be, necessary, and
    - (ii) the examination of such 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 acquisition 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 159 (approval of warrants by Judicial Commissioners) applies in relation to a decision to renew a bulk acquisition warrant as it applies in relation to a decision to issue a bulk acquisition warrant.

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

This is subject to subsection (6).

- (6) In the case of the renewal of a bulk acquisition warrant that has been modified so that it no longer authorises or requires the carrying out of activities falling within section 158(6)(a)—
- (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 158(1)(a) or (2), and
  - (c) section 159 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 158(1)(a) or (2).

#### Commencement Information

**I7** S. 163 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

## 164 Modification of warrants **U.K.**

- (1) The provisions of a bulk acquisition 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 communications data obtained under the warrant may be selected for examination, and
  - (b) providing that the warrant no longer authorises or requires the carrying out of activities falling within section 158(6)(a).
- (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 158(1)(a)).
- (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.

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

- (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 communications 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—
  - (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) 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

18 S. 164 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

## 165 Approval of major modifications by Judicial Commissioners **U.K.**

- (1) In deciding whether to approve a decision to make a major modification of a bulk acquisition 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 164, 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 164, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to make the modification.



*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

**Commencement Information**

**I9** S. 165 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

**166 Approval of major modifications made in urgent cases** **U.K.**

- (1) This section applies where—
  - (a) the Secretary of State makes a major modification of a bulk acquisition 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.
- (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 165(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**

**I10** S. 166 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

**167 Cancellation of warrants** **U.K.**

- (1) The Secretary of State, or a senior official acting on behalf of the Secretary of State, may cancel a bulk acquisition 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 acquisition warrant, the person must cancel the warrant.



*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

- (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 communications data obtained under the warrant is no longer necessary for any of the specified operational purposes (see section 161).
- (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 carrying out of activities falling within section 158(6)(a).
- (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

**III** S. 167 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

### *Implementation of warrants*

## **168 Implementation of warrants** **U.K.**

- (1) In giving effect to a bulk acquisition warrant, the person to whom it is addressed (“the implementing authority”) may (in addition to acting alone) act through, or together with, such other persons as the implementing authority may require (whether under subsection (2) or otherwise) to provide the authority with assistance in giving effect to the warrant.
- (2) For the purpose of requiring any person to provide assistance in relation to a bulk acquisition warrant, the implementing authority may—
  - (a) serve a copy of the warrant on any person whom the implementing authority considers may be able to provide such assistance, or
  - (b) make arrangements for the service of a copy of the warrant on any such person.
- (3) A copy of a warrant may be served under subsection (2) on a person outside the United Kingdom for the purpose of requiring the person to provide such assistance in the form of conduct outside the United Kingdom.
- (4) For the purposes of this Act, the provision of assistance in giving effect to a bulk acquisition warrant includes any disclosure to the implementing authority, or to persons acting on behalf of the implementing authority, of communications data as authorised or required under the warrant.
- (5) References in this section and in sections 169 and 170 to the service of a copy of a warrant include—
  - (a) the service of a copy of one or more schedules contained in the warrant with the omission of the remainder of the warrant, and

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

- (b) the service of a copy of the warrant with the omission of any schedule contained in the warrant.

**Commencement Information**

**I12** S. 168 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

**169 Service of warrants** **U.K.**

- (1) This section applies to the service of bulk acquisition warrants under section 168(2).
- (2) A copy of the warrant must be served in such a way as to bring the contents of the warrant to the attention of the person whom the implementing authority considers may be able to provide assistance in relation to it.
- (3) A copy of a warrant may be served on a person outside the United Kingdom in any of the following ways (as well as by electronic or other means of service)—
  - (a) by serving it at the person's principal office within the United Kingdom or, if the person has no such office in the United Kingdom, at any place in the United Kingdom where the person carries on business or conducts activities;
  - (b) if the person has specified an address in the United Kingdom as one at which the person, or someone on the person's behalf, will accept service of documents of the same description as a copy of a warrant, by serving it at that address;
  - (c) by making it available for inspection (whether to the person or to someone acting on the person's behalf) at a place in the United Kingdom (but this is subject to subsection (4)).
- (4) A copy of a warrant may be served on a person outside the United Kingdom in the way mentioned in subsection (3)(c) only if—
  - (a) it is not reasonably practicable for a copy to be served by any other means (whether as mentioned in subsection (3)(a) or (b) or otherwise), and
  - (b) the implementing authority takes such steps as the authority considers appropriate for the purpose of bringing the contents of the warrant, and the availability of a copy for inspection, to the attention of the person.
- (5) The steps mentioned in subsection (4)(b) must be taken as soon as reasonably practicable after the copy of the warrant is made available for inspection.
- (6) In this section “the implementing authority” has the same meaning as in section 168.

**Commencement Information**

**I13** S. 169 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

**170 Duty of operators to assist with implementation** **U.K.**

- (1) A telecommunications operator that has been served with a copy of a bulk acquisition warrant by (or on behalf of) the implementing authority must take all steps for giving effect to the warrant that are notified to the operator by (or on behalf of) the implementing authority.

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

This is subject to subsection (3).

- (2) Subsection (1) applies whether or not the operator is in the United Kingdom.
- (3) The operator is not required to take any steps which it is not reasonably practicable for the operator to take.
- (4) Where obligations have been imposed on a telecommunications operator (“P”) under section 253 (technical capability notices), for the purposes of subsection (3) the steps which it is reasonably practicable for P to take include every step which it would have been reasonably practicable for P to take if P had complied with all of those obligations.
- (5) The duty imposed by subsection (1) is enforceable against a person in the United Kingdom by civil proceedings by the Secretary of State for an injunction, or for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or for any other appropriate relief.
- (6) In this section “the implementing authority” has the same meaning as in section 168.

#### Commencement Information

**114** S. 170 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

*Restrictions on use or disclosure of data obtained under warrants etc.*

## 171 Safeguards relating to the retention and disclosure of data **U.K.**

- (1) The Secretary of State must ensure, in relation to every bulk acquisition warrant, that arrangements are in force for securing—
  - (a) that the requirements of subsections (2) and (5) are met in relation to the communications data obtained under the warrant, and
  - (b) that the requirements of section 172 are met in relation to that data.

This is subject to subsection (8).

- (2) The requirements of this subsection are met in relation to the communications data obtained under a warrant if each of the following is limited to the minimum that is necessary for the authorised purposes (see subsection (3))—
  - (a) the number of persons to whom any of the data is disclosed or otherwise made available,
  - (b) the extent to which any of the data is disclosed or otherwise made available,
  - (c) the extent to which any of the data is copied,
  - (d) the number of copies that are made.
- (3) For the purposes of subsection (2) something is necessary for the authorised purposes if, and only if—
  - (a) it is, or is likely to become, necessary in the interests of national security or on any other grounds falling within section 158(2),
  - (b) it is necessary for facilitating the carrying out of any functions under this Act of the Secretary of State, the Scottish Ministers or the head of the intelligence service to whom the warrant is or was addressed,

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

- (c) it is necessary for facilitating the carrying out of any functions of the Judicial Commissioners or the Investigatory Powers Tribunal under or in relation to this Act,
  - (d) it is necessary to ensure that a person (“P”) who is conducting a criminal prosecution has the information P needs to determine what is required of P by P’s duty to secure the fairness of the prosecution,
  - (e) it is necessary for use as evidence in legal proceedings, or
  - (f) it is necessary for the performance of any duty imposed on any person by the Public Records Act 1958 or the Public Records Act (Northern Ireland) 1923.
- (4) The arrangements for the time being in force under subsection (1) for securing that the requirements of subsection (2) are met in relation to the communications data obtained under the warrant must include arrangements for securing that every copy made of any of that data is stored, for so long as it is retained, in a secure manner.
- (5) The requirements of this subsection are met in relation to the communications data obtained under a warrant if every copy made of any of that data (if not destroyed earlier) is destroyed as soon as there are no longer any relevant grounds for retaining it (see subsection (6)).
- (6) For the purposes of subsection (5), there are no longer any relevant grounds for retaining a copy of any data if, and only if—
- (a) its retention is not necessary, or not likely to become necessary, in the interests of national security or on any other grounds falling within section 158(2), and
  - (b) its retention is not necessary for any of the purposes mentioned in paragraphs (b) to (f) of subsection (3) above.
- (7) Subsection (8) applies if—
- (a) any communications data obtained under the warrant has been handed over to any overseas authorities, or
  - (b) a copy of any such data has been given to any overseas authorities.
- (8) To the extent that the requirements of subsections (2) and (5) and section 172 relate to any of the data mentioned in subsection (7)(a), or to the copy mentioned in subsection (7)(b), the arrangements made for the purposes of subsection (1) are not required to secure that those requirements are met.
- (9) But the Secretary of State must instead ensure that arrangements are in force for securing that communications data obtained under a bulk acquisition warrant, or any copy of such data, is handed over or given to an overseas authority only if the Secretary of State considers that requirements corresponding to the requirements of subsections (2) and (5) and section 172 will apply, to such extent (if any) as the Secretary of State considers appropriate, in relation to such data or copy.
- (10) In this section—
- “copy”, in relation to communications data obtained under a warrant, means any of the following (whether or not in documentary form)—
    - (a) any copy, extract or summary of the data which identifies the data as having been obtained under the warrant, and
    - (b) any record referring to the obtaining of the data which is a record of the identities of the persons to whom the data relates,
- and “copied” is to be read accordingly,

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

“overseas authorities” means authorities of a country or territory outside the United Kingdom.

**Commencement Information**

**I15** S. 171 in force at 25.7.2018 by S.I. 2018/873, reg. 2(f)

**172 Safeguards relating to examination of data U.K.**

- (1) For the purposes of section 171 the requirements of this section are met in relation to the communications data obtained under a warrant if—
  - (a) any selection of the data for examination is carried out only for the specified purposes (see subsection (2)), and
  - (b) the selection of any of the data for examination is necessary and proportionate in all the circumstances.
- (2) The selection of communications data for examination is carried out only for the specified purposes if the data is selected for examination only so far as is necessary for the operational purposes specified in the warrant in accordance with section 161.
- (3) In subsection (2) “specified in the warrant” means specified in the warrant at the time of the selection of the data for examination.

**Commencement Information**

**I16** S. 172 in force at 25.7.2018 by S.I. 2018/873, reg. 2(g) (with reg. 7)

**173 Offence of breaching safeguards relating to examination of data U.K.**

- (1) A person commits an offence if—
  - (a) the person selects for examination any communications data obtained under a bulk acquisition warrant,
  - (b) the person knows or believes that the selection of that data for examination does not comply with a requirement imposed by section 172, and
  - (c) the person deliberately selects that data for examination in breach of that requirement.
- (2) A person guilty of an offence under this section is liable—
  - (a) on summary conviction in England and Wales—
    - (i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003), or
    - (ii) to a fine,or to both;
  - (b) on summary conviction in Scotland—
    - (i) to imprisonment for a term not exceeding 12 months, or
    - (ii) to a fine not exceeding the statutory maximum,or to both;
  - (c) on summary conviction in Northern Ireland—

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

- (i) to imprisonment for a term not exceeding 6 months, or
  - (ii) to a fine not exceeding the statutory maximum,
  - or to both;
  - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.
- (3) No proceedings for any offence which is an offence by virtue of this section may be instituted—
- (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

#### Commencement Information

**I17** S. 173 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b) (with reg. 7)

#### *Supplementary provision*

### 174 Offence of making unauthorised disclosure U.K.

- (1) It is an offence for—
- (a) a telecommunications operator who is under a duty by virtue of section 170 to assist in giving effect to a bulk acquisition warrant, or
  - (b) any person employed or engaged for the purposes of the business of such an operator,
- to disclose to any person, without reasonable excuse, the existence or contents of the warrant.
- (2) For the purposes of subsection (1), it is, in particular, a reasonable excuse if the disclosure is made with the permission of the Secretary of State.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction in England and Wales—
    - (i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003), or
    - (ii) to a fine,
 or to both;
  - (b) on summary conviction in Scotland—
    - (i) to imprisonment for a term not exceeding 12 months, or
    - (ii) to a fine not exceeding the statutory maximum,
 or to both;
  - (c) on summary conviction in Northern Ireland—
    - (i) to imprisonment for a term not exceeding 6 months, or
    - (ii) to a fine not exceeding the statutory maximum,
 or to both;

*Status: Point in time view as at 22/08/2018.*

*Changes to legislation: Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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)*

- (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

**Commencement Information**

**I18** S. 174 in force at 22.8.2018 by S.I. 2018/873, reg. 3(b)

**175 Chapter 2: interpretation** **U.K.**

- (1) In this Chapter—

“communications data” does not include communications data within the meaning given by section 262(3),

“senior official” means—

- (a) a member of the Senior Civil Service, or  
(b) a member of the Senior Management Structure of Her Majesty's Diplomatic Service,

“the specified operational purposes” has the meaning given by section 161(11).

- (2) See also—

section 261 (telecommunications definitions),

section 263 (general definitions),

section 265 (index of defined expressions).

**Commencement Information**

**I19** S. 175 in force at 25.7.2018 by S.I. 2018/873, reg. 2(h)



**Status:**

Point in time view as at 22/08/2018.

**Changes to legislation:**

Investigatory Powers Act 2016, CHAPTER 2 is up to date with all changes known to be in force on or before 03 September 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.