



Prisons (Interference with Wireless Telegraphy) Act 2018

2018 CHAPTER 32

An Act to make provision about interference with wireless telegraphy in prisons and similar institutions. [20th December 2018]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Interference with wireless telegraphy in prisons etc

(1) Section 1 of the Prisons (Interference with Wireless Telegraphy) Act 2012 (interference with wireless telegraphy in prisons etc) is amended as follows.

(2) After subsection (2) insert—

“(2A) The Secretary of State may authorise a public communications provider to interfere with wireless telegraphy.

(2B) An interference with wireless telegraphy authorised under subsection (2A) may be carried out only for the purpose of—

- (a) preventing the use within a relevant institution in England and Wales of an item specified in subsection (3), or
- (b) detecting or investigating the use within a relevant institution in England and Wales of such an item.

(2C) An authorisation under subsection (2A) may be given in relation to—

- (a) one or more relevant institutions in England and Wales,
- (b) one or more kinds of relevant institution in England and Wales, or
- (c) relevant institutions in England and Wales generally.”

(3) In subsection (4), after “subsection (2)(b)” insert “or (2B)(b)”.

- (4) Omit subsection (5).
- (5) In subsection (6), for “The conduct to which subsection (5) applies is” substitute “The following conduct is lawful for all purposes—”.
- (6) After subsection (6) insert—
 - “(6A) The following conduct is lawful for all purposes—
 - (a) interference with wireless telegraphy that—
 - (i) is authorised under subsection (2A), and
 - (ii) is carried out in accordance with subsection (2B) and any direction given under section 2,
 - (b) the retention, use or disclosure of any traffic data, collected as a result of such an interference with wireless telegraphy, which is carried out in accordance with this Act.”
- (7) The Schedule (interference with wireless telegraphy in prisons etc) has effect.

2 Final provisions

- (1) This Act may be cited as the Prisons (Interference with Wireless Telegraphy) Act 2018.
- (2) This Act comes into force on such day as the Secretary of State may appoint by regulations made by statutory instrument.
- (3) This Act extends to England and Wales and Scotland.
- (4) The power under section 5(2) of the Prisons (Interference with Wireless Telegraphy) Act 2012 may be exercised so as to extend to any of the Channel Islands or the Isle of Man any amendment or repeal made by this Act of any part of that Act (with or without modifications).

SCHEDULE

Section 1

INTERFERENCE WITH WIRELESS TELEGRAPHY IN PRISONS ETC

Introduction

- 1 The Prisons (Interference with Wireless Telegraphy) Act 2012 (interference with wireless telegraphy in prisons etc) is amended as follows.

Section 2: safeguards

- 2 (1) Section 2 is amended as follows.
- (2) After subsection (3) insert—
- “(3A) A public communications provider that is authorised to interfere with wireless telegraphy under section 1 must act in accordance with directions given under this section.”
- (3) In subsection (4), for “section 1” substitute “section 1(1)”.
- (4) After subsection (4) insert—
- “(4A) Where the Secretary of State authorises an interference with wireless telegraphy under section 1(2A), the Secretary of State must also give directions to the public communications provider so authorised—
- (a) specifying descriptions of information—
 - (i) to be provided to persons in charge of relevant institutions in England and Wales, or
 - (ii) to be provided to the Secretary of State;
 - (b) specifying intervals at, or occurrences on, which such information is to be so provided;
 - (c) as to the circumstances in which the use of equipment for the purposes of an interference with wireless telegraphy authorised under section 1 must be modified or discontinued (and, in particular, directions aimed at ensuring that the authorised interference will not result in disproportionate interference with wireless telegraphy outside the relevant institution).
- (4B) Where the Secretary of State gives a direction under subsection (4A), the Secretary of State must also give directions to persons in charge of relevant institutions in England and Wales—
- (a) specifying descriptions of information (which may include PCP information) to be provided to the Office of Communications;
 - (b) specifying intervals at, or occurrences on, which such information is to be so provided.
- In this subsection “PCP information” means information provided by a public communications provider in accordance with a direction under subsection (4A).
- (4C) A person in charge of a relevant institution in England and Wales must comply with a direction given under subsection (4B).”

- (5) In subsection (5), for “mentioned in subsection (4)” substitute “authorised under section 1 to interfere with wireless telegraphy”.

Section 3: retention and disclosure of information obtained under section 1

- 3 (1) Section 3 is amended as follows.
- (2) In subsections (5) and (6), after “section 1(2)(b)” insert “or (2B)(b)”.
- (3) After subsection (9) insert—
- “(10) A reference in this section to a relevant institution is—
- (a) in the case of information obtained by virtue of an authorisation under section 1(1), a reference to the relevant institution to which the authorisation relates;
- (b) in the case of information obtained by virtue of an authorisation under section 1(2A), a reference to the relevant institution to which the information relates.”

Section 4: interpretation

- 4 In section 4, after the definition of “the appropriate national authority” insert—
- ““public communications provider” means a person who is a public communications provider for the purposes of Chapter 1 of Part 2 of the Communications Act 2003 by virtue of paragraph (a) or (b) of the definition of that term in section 151(1) of that Act;”.