



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 6

BULK WARRANTS

CHAPTER 3

BULK EQUIPMENT INTERFERENCE WARRANTS

Bulk equipment interference warrants

176 Bulk equipment interference warrants: general

- (1) For the purposes of this Act, a warrant is a “bulk equipment interference warrant” if—
- (a) it is issued under this Chapter;
 - (b) it authorises or requires the person to whom it is addressed to secure interference with any equipment for the purpose of obtaining—
 - (i) communications (see section 198);
 - (ii) equipment data (see section 177);
 - (iii) any other information; and
 - (c) the main purpose of the warrant is to obtain one or more of the following—
 - (i) overseas-related communications;
 - (ii) overseas-related information;
 - (iii) overseas-related equipment data.
- (2) In this Chapter—
- “overseas-related communications” means—
- (a) communications sent by individuals who are outside the British Islands, or
 - (b) communications received by individuals who are outside the British Islands;

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“overseas-related information” means information of individuals who are outside the British Islands.

- (3) For the purpose of this Chapter, equipment data is “overseas-related equipment data” if—
- (a) it forms part of, or is connected with, overseas-related communications or overseas-related information;
 - (b) it would or may assist in establishing the existence of overseas-related communications or overseas-related information or in obtaining such communications or information;
 - (c) it would or may assist in developing capabilities in relation to obtaining overseas-related communications or overseas-related information.
- (4) A bulk equipment interference warrant—
- (a) must authorise or require the person to whom it is addressed to secure the obtaining of the communications, equipment data or other information to which the warrant relates;
 - (b) may also authorise or require the person to whom it is addressed to secure—
 - (i) the selection for examination, in any manner described in the warrant, of any material obtained under the warrant by virtue of paragraph (a);
 - (ii) the disclosure, in any manner described in the warrant, of any such material to the person to whom the warrant is addressed or to any person acting on that person's behalf.
- (5) A bulk equipment interference 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, including conduct for securing the obtaining of communications, equipment data or other information;
 - (b) any 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.
- (6) A bulk equipment interference warrant may not, by virtue of subsection (4)(a), authorise a person to engage in conduct, in relation to a communication other than a stored communication, which would (unless done with lawful authority) constitute an offence under section 3(1) (unlawful interception).
- (7) Subsection (5)(a) does not authorise a person to engage in conduct which could not be expressly authorised under the warrant because of the restriction imposed by subsection (6).
- (8) In subsection (6), “stored communication” means a communication stored in or by a telecommunication system (whether before or after its transmission).
- (9) Any conduct which is carried out in accordance with a bulk equipment interference warrant is lawful for all purposes.

Commencement Information

II S. 176 in force at 31.5.2018 by S.I. 2018/652, reg. 5(k)

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177 Meaning of “equipment data”

- (1) In this Chapter, “equipment data” means—
 - (a) systems data;
 - (b) data which falls within subsection (2).
- (2) The data falling within this subsection is identifying data which—
 - (a) is, for the purposes of a relevant system, comprised in, included as part of, attached to or logically associated with a communication (whether by the sender or otherwise) or any other item of information,
 - (b) is capable of being logically separated from the remainder of the communication or the item of information, and
 - (c) if it were so separated, would not reveal anything of what might reasonably be considered to be the meaning (if any) of the communication or the item of information, disregarding any meaning arising from the fact of the communication or the existence of the item of information or from any data relating to that fact.
- (3) In subsection (2), “relevant system” means any system on or by means of which the data is held.
- (4) For the meaning of “systems data” and “identifying data”, see section 263.

Commencement Information

I2 S. 177 in force at 31.5.2018 by S.I. 2018/652, reg. 5(I)

178 Power to issue bulk equipment interference warrants

- (1) The Secretary of State may, on an application made by or on behalf of the head of an intelligence service, issue a bulk equipment interference warrant if—
 - (a) the Secretary of State considers that the main purpose of the warrant is to obtain overseas-related communications, overseas-related information or overseas-related equipment data,
 - (b) 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),
 - (c) the Secretary of State considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct,
 - (d) the Secretary of State considers that—
 - (i) each of the specified operational purposes (see section 183) is a purpose for which the examination of material obtained under the warrant is or may be necessary, and
 - (ii) the examination of such material for each such purpose is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary,
 - (e) the Secretary of State considers that satisfactory arrangements made for the purposes of sections 191 and 192 (safeguards relating to disclosure etc.) are in force in relation to the warrant, and

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- (f) except where the Secretary of State considers that there is an urgent need to issue the warrant, 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 interference with equipment which would be authorised by the warrant is considered necessary for the purpose of obtaining information relating to the acts or intentions of persons outside the British Islands.
- (4) An application for the issue of a bulk equipment interference warrant may only be made on behalf of the head of an intelligence service by a person holding office under the Crown.

Commencement Information

I3 S. 178 in force at 31.5.2018 for specified purposes by S.I. 2018/652, reg. 5(m)

179 Approval of warrants by Judicial Commissioners

- (1) In deciding whether to approve a decision to issue a warrant under section 178, 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)(b) 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 183) is a purpose for which the examination of material obtained under the warrant is or may be necessary, and
 - (ii) the examination of such material for each such purpose is necessary as mentioned in section 178(1)(d)(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 178, the Judicial Commissioner must give the Secretary of State written reasons for the refusal.

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- (4) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve a decision to issue a warrant under section 178, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to issue the warrant.

Commencement Information

I4 S. 179 in force at 31.5.2018 by S.I. 2018/652, reg. 5(n)

VALID FROM 27/06/2018

180 Approval of warrants issued in urgent cases

- (1) This section applies where—
- a warrant under section 178 is issued without the approval of a Judicial Commissioner, and
 - the Secretary of State considered that there was an urgent need to issue it.
- (2) The Secretary of State must inform a Judicial Commissioner that it has been issued.
- (3) The Judicial Commissioner must, before the end of the relevant period—
- decide whether to approve the decision to issue the warrant, and
 - 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 warrant was issued.
- (4) If a Judicial Commissioner refuses to approve the decision to issue a warrant, the warrant—
- ceases to have effect (unless already cancelled), and
 - may not be renewed,
- and section 179(4) does not apply in relation to the refusal to approve the decision.
- (5) Section 181 contains further provision about what happens if a Judicial Commissioner refuses to approve a decision to issue a warrant.

VALID FROM 27/06/2018

181 Failure to approve warrant issued in urgent case

- (1) This section applies where under section 180(3) a Judicial Commissioner refuses to approve a decision to issue a warrant.
- (2) 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.
- (3) The Judicial Commissioner may—

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- (a) authorise further interference with equipment for the purpose of enabling the person to whom the warrant was addressed to secure that anything in the process of being done under the warrant stops as soon as possible;
 - (b) direct that any material obtained under the warrant is destroyed;
 - (c) impose conditions as to the use or retention of any of that material.
- (4) The Judicial Commissioner—
- (a) may require an affected party to make representations about how the Judicial Commissioner should exercise any function under subsection (3), 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)).
- (5) Each of the following is an “affected party” for the purposes of subsection (4)—
- (a) the Secretary of State;
 - (b) the person to whom the warrant was addressed.
- (6) The Secretary of State may ask the Investigatory Powers Commissioner to review a decision made by any other Judicial Commissioner under subsection (3).
- (7) On a review under subsection (6), the Investigatory Powers Commissioner may—
- (a) confirm the Judicial Commissioner's decision, or
 - (b) make a fresh determination.
- (8) Nothing in this section or section 180 affects the lawfulness of—
- (a) anything done under the warrant before it ceases to have effect;
 - (b) if anything is in the process of being done under the warrant when it ceases to have effect—
 - (i) anything done before that thing could be stopped, or
 - (ii) anything done that it is not reasonably practicable to stop.

182 Decisions to issue warrants to be taken personally by Secretary of State

- (1) The decision to issue a bulk equipment interference warrant must be taken personally by the Secretary of State.
- (2) Before a bulk equipment interference warrant is issued, it must be signed by the Secretary of State.
- (3) If it is not reasonably practicable for a warrant to be signed by the Secretary of State, the warrant may be signed by a senior official designated by the Secretary of State for that purpose.
- (4) In such a case, the warrant must contain a statement that—
 - (a) it is not reasonably practicable for the warrant to be signed by the Secretary of State, and
 - (b) the Secretary of State has personally and expressly authorised the issue of the warrant.

Commencement Information

I5 S. 182 in force at 31.5.2018 by S.I. 2018/652, reg. 5(o)

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183 Requirements that must be met by warrants

- (1) A bulk equipment interference warrant must contain a provision stating that it is a bulk equipment interference warrant.
- (2) A bulk equipment interference 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 equipment interference warrant must describe the conduct that is authorised by the warrant.
- (4) A bulk equipment interference warrant must specify the operational purposes for which any material obtained under the warrant may be selected for examination.
- (5) 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 material obtained under bulk equipment interference warrants may be selected for examination.
- (6) 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.
- (7) An operational purpose may be specified in the list of operational purposes only with the approval of the Secretary of State.
- (8) 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 178(1)(b) or (2).
- (9) 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.
- (10) In subsection (9), “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.
- (11) The Prime Minister must review the list of operational purposes at least once a year.
- (12) In this Chapter, “the specified operational purposes”, in relation to a bulk equipment interference warrant, means the operational purposes specified in the warrant in accordance with this section.

Commencement Information

16 S. 183 in force at 31.5.2018 by S.I. 2018/652, reg. 5(p)

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Duration, modification and cancellation of warrants

184 Duration of warrants

- (1) A bulk equipment interference warrant ceases to have effect at the end of the relevant period (see subsection (2)), unless—
 - (a) it is renewed before the end of that period (see section 185), or
 - (b) it is cancelled or otherwise ceases to have effect before the end of that period (see sections 180 and 189).
- (2) In this section, “the relevant period”—
 - (a) in the case of an urgent warrant (see subsection (3)), means the period ending with the fifth working day after the day on which the warrant was issued;
 - (b) in any other case, means the period of 6 months beginning with—
 - (i) the day on which the warrant was issued, or
 - (ii) in the case of a warrant which 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.
- (3) For the purposes of subsection (2)(a), a warrant is an “urgent warrant” if—
 - (a) the warrant was issued without the approval of a Judicial Commissioner, and
 - (b) the person who decided to issue the warrant considered that there was an urgent need to issue it.

185 Renewal of warrants

- (1) If the renewal conditions are met, a bulk equipment interference 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 178(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 183) is a purpose for which the examination of material obtained under the warrant continues to be, or may be, necessary, and
 - (ii) the examination of such material 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

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- (d) that the decision to renew the warrant has been approved by a Judicial Commissioner.
- (3) “The renewal period” means—
- (a) in the case of an urgent warrant which has not been renewed, the relevant period;
 - (b) in any other case, 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 equipment interference 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 179 (approval of warrants by Judicial Commissioners) applies in relation to a decision to renew a bulk equipment interference warrant as it applies in relation to a decision to issue a bulk equipment interference warrant.
- This is subject to subsection (6).
- (6) In the case of a bulk equipment interference warrant which has been modified so that it no longer authorises or requires the securing of interference with any equipment or the obtaining of any communications, equipment data or other information—
- (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 178(1)(b) or (2), and
 - (c) section 179 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 178(1)(b) or (2).
- (7) In this section—
- “the relevant period” has the same meaning as in section 184;
 - “urgent warrant” is to be read in accordance with subsection (3) of that section.

186 Modification of warrants

- (1) The provisions of a bulk equipment interference warrant may be modified at any time by an instrument issued by the person making the modification.
- (2) The modifications which 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 material obtained under the warrant may be selected for examination, and
 - (b) adding, varying or removing any description of conduct authorised by the warrant.
- (3) In this section—
- (a) a modification adding or varying any operational purpose, or any description of conduct, as mentioned in subsection (2) is referred to as a “major modification”, and

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- (b) any other modification within that subsection is referred to as a “minor modification”.
- (4) A major modification adding or varying any operational purpose—
 - (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 178(1)(b)).
- (5) A major modification adding or varying any description of conduct—
 - (a) must be made by the Secretary of State, and
 - (b) may be made only if the Secretary of State considers—
 - (i) that the modification is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary (see section 178(1)(b)), and
 - (ii) that the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) If at any time a person mentioned in subsection (7) considers that any operational purpose specified in a warrant is no longer a purpose for which the examination of material obtained under the warrant is or may be necessary, the person must modify the warrant by removing that operational purpose.
- (10) 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 (11).
- (11) 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.
- (12) 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.
- (13) Despite section 176(1)(b) and (4)(a), the modification of a bulk equipment interference warrant so that it no longer authorises or requires the securing of interference with any equipment or the obtaining of any communications, equipment

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data or other information does not prevent the warrant from being a bulk equipment interference warrant.

- (14) Nothing in this section applies in relation to modifying the provisions of a warrant in a way which does not affect the conduct authorised by it.

187 Approval of major modifications by Judicial Commissioners

- (1) In deciding whether to approve a decision to make a major modification of a bulk equipment interference warrant, a Judicial Commissioner must review the Secretary of State's conclusions as to the following matters—
- (a) whether the modification is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary, and
 - (b) in the case of a major modification adding or varying any description of conduct authorised by the warrant, whether the conduct authorised by the modification 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) Where a Judicial Commissioner refuses to approve a decision to make a major modification under section 186, 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 186, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to make the modification.

188 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 equipment interference 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—

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- (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 187(4) does not apply in relation to the refusal to approve the decision.
- (5) The Judicial Commissioner may authorise further interference with equipment for the purpose of enabling the person to whom the warrant is addressed to secure that anything in the process of being done under the warrant by virtue of the modification stops as soon as possible.
- (6) 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.

189 Cancellation of warrants

- (1) The Secretary of State, or a senior official acting on behalf of the Secretary of State, may cancel a bulk equipment interference 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 equipment interference 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 material obtained under the warrant is no longer necessary for any of the specified operational purposes (see section 183).
- (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 securing of interference with any equipment or the obtaining of any communications, equipment data or other information.
- (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.

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Implementation of warrants

190 Implementation of warrants

- (1) In giving effect to a bulk equipment interference 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 equipment interference warrant, the implementing authority may—
 - (a) serve a copy of the warrant on any person who 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 equipment interference warrant includes any disclosure to the implementing authority, or to persons acting on behalf of the implementing authority, of material obtained under the warrant.
- (5) Sections 127 (service of warrants) and 128 (duty of telecommunications operators to assist with implementation) apply in relation to a bulk equipment interference warrant as they apply in relation to a targeted equipment interference warrant issued under section 102 by the Secretary of State.
- (6) References in this section (and in sections 127 and 128 as they apply in relation to bulk equipment interference warrants) 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
 - (b) the service of a copy of the warrant with the omission of any schedule contained in the warrant.

Restrictions on use or disclosure of material obtained under warrants etc.

191 Safeguards relating to retention and disclosure of material

- (1) The Secretary of State must ensure, in relation to every bulk equipment interference warrant, that arrangements are in force for securing—
 - (a) that the requirements of subsections (2) and (5) are met in relation to the material obtained under the warrant, and
 - (b) that the requirements of section 193 are met in relation to that material.

This is subject to subsection (8).

Status: Point in time view as at 31/05/2018. This version of this chapter contains provisions that are not valid for this point in time.

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- (2) The requirements of this subsection are met in relation to the material obtained under the 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 material is disclosed or otherwise made available;
 - (b) the extent to which any of the material is disclosed or otherwise made available;
 - (c) the extent to which any of the material 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 178(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,
 - (c) it is necessary for facilitating the carrying out of any functions of the Judicial Commissioners or of the Investigatory Powers Tribunal under or in relation to this Act,
 - (d) it is necessary for the purpose of legal proceedings, or
 - (e) it is necessary for the performance of the functions of any person under any enactment.
- (4) The arrangements for the time being in force under this section for securing that the requirements of subsection (2) are met in relation to the material obtained under the warrant must include arrangements for securing that every copy made of any of that material 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 material obtained under the warrant if every copy made of any of that material (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 material 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 178(2), and
 - (b) its retention is not necessary for any of the purposes mentioned in paragraphs (b) to (e) of subsection (3) above.
- (7) Subsection (8) applies if—
- (a) any material obtained under the warrant has been handed over to any overseas authorities, or
 - (b) a copy of any such material has been given to any overseas authorities.
- (8) To the extent that the requirements of subsections (2) and (5) and section 193 relate to any of the material mentioned in subsection (7)(a), or to the copy mentioned in subsection (7)(b), the arrangements made for the purpose of this section are not required to secure that those requirements are met (see instead section 192).
- (9) In this section—

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“copy”, in relation to any material obtained under a warrant, means any of the following (whether or not in documentary form)—

- (a) any copy, extract or summary of the material which identifies the material as having been obtained under the warrant, and
- (b) any record which is a record of the identities of persons who owned, used or were in possession of the equipment which was interfered with to obtain that material,

and “copied” is to be read accordingly;

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

Commencement Information

I7 S. 191 in force at 31.5.2018 by S.I. 2018/652, reg. 5(q)

192 Safeguards relating to disclosure of material overseas

- (1) The Secretary of State must ensure, in relation to every bulk equipment interference warrant, that arrangements are in force for securing that—
 - (a) any material obtained under the warrant is handed over to overseas authorities only if the requirements of subsection (2) are met, and
 - (b) copies of any such material are given to overseas authorities only if those requirements are met.
- (2) The requirements of this subsection are met in the case of a warrant if it appears to the Secretary of State that requirements corresponding to the requirements of section 191(2) and (5) and section 193 will apply, to such extent (if any) as the Secretary of State considers appropriate, in relation to any of the material which is handed over, or any copy of which is given, to the authorities in question.
- (3) In this section—

“copy” has the same meaning as in section 191;

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

Commencement Information

I8 S. 192 in force at 31.5.2018 by S.I. 2018/652, reg. 5(r)

VALID FROM 27/06/2018

193 Safeguards relating to examination of material etc.

- (1) For the purposes of section 191, the requirements of this section are met in relation to the material obtained under a warrant if—
 - (a) the selection of any of the material obtained under the warrant for examination is carried out only for the specified purposes (see subsection (2)),

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- (b) the selection of any of the material for examination is necessary and proportionate in all the circumstances, and
 - (c) where any such material is protected material, the selection of the material for examination meets any of the selection conditions (see subsection (3)).
- (2) The selection of material obtained under the warrant for examination is carried out only for the specified purposes if the material is selected for examination only so far as is necessary for the operational purposes specified in the warrant in accordance with section 183.

In this subsection “specified in the warrant” means specified in the warrant at the time of the selection of the material for examination.

- (3) The selection conditions referred to in subsection (1)(c) are—
- (a) that the selection of the protected material for examination does not breach the prohibition in subsection (4);
 - (b) that the person to whom the warrant is addressed reasonably considers that the selection of the protected material for examination would not breach that prohibition;
 - (c) that the selection of the protected material for examination in breach of that prohibition is authorised by subsection (5);
 - (d) that the selection of the protected material for examination in breach of that prohibition is authorised by a targeted examination warrant issued under Part 5.
- (4) The prohibition referred to in subsection (3)(a) is that the protected material may not at any time be selected for examination if—
- (a) any criteria used for the selection of the material for examination are referable to an individual known to be in the British Islands at that time, and
 - (b) the purpose of using those criteria is to identify protected material consisting of communications sent by, or intended for, that individual or private information relating to that individual.

It does not matter for the purposes of this subsection whether the identity of the individual is known.

- (5) The selection of protected material (“the relevant material”) for examination is authorised by this subsection if—
- (a) criteria referable to an individual have been, or are being, used for the selection of material for examination in circumstances falling within subsection (3)(a) or (b),
 - (b) at any time it appears to the person to whom the warrant is addressed that there has been a relevant change of circumstances in relation to the individual (see subsection (6)) which would mean that the selection of the relevant material for examination would breach the prohibition in subsection (4),
 - (c) since that time, a written authorisation to examine the relevant material using those criteria has been given by a senior officer, and
 - (d) the selection of the relevant material for examination is made before the end of the permitted period (see subsection (7)).
- (6) For the purposes of subsection (5)(b) there is a relevant change of circumstances in relation to an individual if—
- (a) the individual has entered the British Islands, or

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- (b) a belief by the person to whom the warrant is addressed that the individual was outside the British Islands was in fact mistaken.
- (7) In subsection (5)—
- “senior officer”, in relation to a warrant addressed to the head of an intelligence service, means a member of the intelligence service who—
 - (a) is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty's Diplomatic Service, or
 - (b) holds a position in the intelligence service of equivalent seniority to such a member;
 - “the permitted period” means the period ending with the fifth working day after the time mentioned in subsection (5)(b).
- (8) In a case where the selection of protected material for examination is authorised by subsection (5), the person to whom the warrant is addressed must notify the Secretary of State that the selection is being carried out.
- (9) In this Part, “protected material” means any material obtained under the warrant other than material which is—
- (a) equipment data;
 - (b) information (other than a communication or equipment data) which is not private information.

VALID FROM 27/06/2018

194 Additional safeguards for items subject to legal privilege

- (1) Subsection (2) applies if, in a case where protected material obtained under a bulk equipment interference warrant is to be selected for examination—
- (a) the selection of the material for examination meets any of the selection conditions in section 193(3)(a) to (c), and
 - (b) either—
 - (i) the purpose, or one of the purposes, of using the criteria to be used for the selection of the material for examination (“the relevant criteria”) is to identify any items subject to legal privilege, or
 - (ii) the use of the relevant criteria is likely to identify such items.
- (2) The material may be selected for examination using the relevant criteria only if a senior official acting on behalf of the Secretary of State has approved the use of those criteria.
- (3) In deciding whether to give an approval under subsection (2) in a case where subsection (1)(b)(i) applies, a senior official must have regard to the public interest in the confidentiality of items subject to legal privilege.
- (4) A senior official may give an approval under subsection (2) only if—
- (a) the official considers that the arrangements made for the purposes of section 191 (safeguards relating to retention and disclosure of material) include specific arrangements for the handling, retention, use and destruction of items subject to legal privilege, and

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- (b) where subsection (1)(b)(i) applies, the official considers that there are exceptional and compelling circumstances that make it necessary to authorise the use of the relevant criteria.
- (5) For the purposes of subsection (4)(b), there cannot be exceptional and compelling circumstances that make it necessary to authorise the use of the relevant criteria unless—
- (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 items subject to legal privilege,
 - (b) there are no other means by which the information may reasonably be obtained, and
 - (c) obtaining the information is necessary in the interests of national security or for the purpose of preventing death or significant injury.
- (6) Subsection (7) applies if, in a case where protected material obtained under a bulk equipment interference warrant is to be selected for examination—
- (a) the selection of the material for examination meets any of the selection conditions in section 193(3)(a) to (c),
 - (b) the purpose, or one of the purposes, of using the criteria to be used for the selection of the material for examination (“the relevant criteria”) is to identify communications or other items of information that, if they were not communications made or (as the case may be) other items of information created or held with the intention of furthering a criminal purpose, would be items subject to legal privilege, and
 - (c) the person to whom the warrant is addressed considers that the communications or other items of information (“the targeted communications or other items of information”) are likely to be communications made or (as the case may be) other items of information created or held with the intention of furthering a criminal purpose.
- (7) The material may be selected for examination using the relevant criteria only if a senior official acting on behalf of the Secretary of State has approved the use of those criteria.
- (8) A senior official may give an approval under subsection (7) only if the official considers that the targeted communications or other items of information are likely to be communications made or (as the case may be) other items of information created or held with the intention of furthering a criminal purpose.
- (9) Where an item subject to legal privilege which has been obtained under a bulk equipment interference warrant is retained following its examination, for purposes other than the destruction of the item, the person to whom the warrant is addressed must inform the Investigatory Powers Commissioner as soon as is reasonably practicable.
- (For provision about the grounds for retaining material obtained under a bulk equipment interference warrant, see section 191.)
- (10) Unless the Investigatory Powers Commissioner considers that subsection (12) applies to the item, the Commissioner must—
- (a) direct that the item is destroyed, or
 - (b) impose one or more conditions as to the use or retention of that item.

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- (11) If the Investigatory Powers Commissioner considers that subsection (12) applies to the item, the Commissioner may nevertheless impose such conditions under subsection (10)(b) as the Commissioner considers necessary for the purpose of protecting the public interest in the confidentiality of items subject to legal privilege.
- (12) This subsection applies to an item subject to legal privilege if—
- (a) the public interest in retaining the item outweighs the public interest in the confidentiality of items subject to legal privilege, and
 - (b) retaining the item is necessary in the interests of national security or for the purpose of preventing death or significant injury.
- (13) The Investigatory Powers Commissioner—
- (a) may require an affected party to make representations about how the Commissioner should exercise any function under subsection (10), 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)).
- (14) Each of the following is an “affected party” for the purposes of subsection (13)—
- (a) the Secretary of State;
 - (b) the person to whom the warrant is or was addressed.

VALID FROM 27/06/2018

195 Additional safeguard for confidential journalistic material

Where—

- (a) material obtained under a bulk equipment interference warrant is retained, following its examination, for purposes other than the destruction of the material, and
 - (b) it is material containing confidential journalistic material,
- the person to whom the warrant is addressed must inform the Investigatory Powers Commissioner as soon as is reasonably practicable.

VALID FROM 27/06/2018

196 Offence of breaching safeguards relating to examination of material

- (1) A person commits an offence if—
- (a) the person selects for examination any material obtained under a bulk equipment interference warrant,
 - (b) the person knows or believes that the selection of that material does not comply with a requirement imposed by section 193 or 194, and
 - (c) the person deliberately selects that material 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—

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- (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;
 - (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.

VALID FROM 27/06/2018

197 Application of other restrictions in relation to warrants

Sections 132 to 134 (duty not to make unauthorised disclosures) apply in relation to bulk equipment interference warrants as they apply in relation to targeted equipment interference warrants, but as if the reference in section 133(2)(c) to a requirement for disclosure imposed by virtue of section 126(4) were a reference to such a requirement imposed by virtue of section 190(4).

Interpretation

198 Chapter 3: interpretation

- (1) In this Chapter—
- “communication” includes—
 - (a) anything comprising speech, music, sounds, visual images or data of any description, and
 - (b) signals serving either for the impartation of anything between persons, between a person and a thing or between things or for the actuation or control of any apparatus;
 - “equipment” means equipment producing electromagnetic, acoustic or other emissions or any device capable of being used in connection with such equipment;

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“equipment data” has the meaning given by section 177;

“private information” includes information relating to a person's private or family life;

“protected material”, in relation to a bulk equipment interference warrant, has the meaning given by section 193(9);

“senior official” means a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty's Diplomatic Service;

“the specified operational purposes” has the meaning given by section 183(12).

(2) See also—

section 261 (telecommunications definitions);

section 263 (general definitions);

section 264 (general definitions: “journalistic material” etc.);

section 265 (index of defined expressions).

Commencement Information

19 [S. 198](#) in force at 31.5.2018 by [S.I. 2018/652](#), [reg. 5\(s\)](#)

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