



# 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(l)

## 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\(m\)](#)  
**I4** S. 178 in force at 27.6.2018 in so far as not already in force by [S.I. 2018/652, reg. 10\(b\)](#)

### **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

**I5** S. 179 in force at 31.5.2018 by S.I. 2018/652, reg. 5(n)

### 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 [<sup>F1</sup>third][<sup>F1</sup>ninth] 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.

#### Textual Amendments

**F1** Word in s. 180(3) substituted (temp.) (27.3.2020) by virtue of [The Investigatory Powers \(Temporary Judicial Commissioners and Modification of Time Limits\) Regulations 2020 \(S.I. 2020/360\)](#), regs. 1(2), 4(a) (with reg. 5)

#### Commencement Information

**I6** S. 180 in force at 27.6.2018 by S.I. 2018/652, reg. 10(b)

### 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.

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- (3) The Judicial Commissioner may—
  - (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.

#### **Commencement Information**

**I7** S. 181 in force at 27.6.2018 by S.I. 2018/652, reg. 10(b)

## **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

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- (b) the Secretary of State has personally and expressly authorised the issue of the warrant.

#### Commencement Information

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

### 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.

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**Commencement Information**

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



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