



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 2

LAWFUL INTERCEPTION OF COMMUNICATIONS

CHAPTER 1

INTERCEPTION AND EXAMINATION WITH A WARRANT

Further provision about warrants

35 Persons who may make modifications

- (1) A major modification may be made by—
 - (a) the Secretary of State, in the case of a warrant issued by the Secretary of State,
 - (b) a member of the Scottish Government, in the case of a warrant issued by the Scottish Ministers, or
 - (c) a senior official acting on behalf of the Secretary of State or (as the case may be) the Scottish Ministers.
- (2) A minor modification may be made by—
 - (a) the Secretary of State, in the case of a warrant issued by the Secretary of State,
 - (b) a member of the Scottish Government, in the case of a warrant issued by the Scottish Ministers,
 - (c) a senior official acting on behalf of the Secretary of State or (as the case may be) the Scottish Ministers,
 - (d) the person to whom the warrant is addressed, or
 - (e) a person who holds a senior position in the same public authority as the person mentioned in paragraph (d).

Status: This is the original version (as it was originally enacted).

- (3) But if a person within subsection (2)(d) or (e) considers that there is an urgent need to make a major modification, that person (as well as a person within subsection (1)) may do so.

Section 38 contains provision about the approval of major modifications made in urgent cases.

- (4) Subsections (1) and (3) are subject to section 36(5) and (6) (special rules where any of sections 26 to 29 applies in relation to the making of a major modification).
- (5) Subsections (2)(d) and (e) and (3) do not apply in the case of a mutual assistance warrant addressed to a person falling within section 18(1)(h) (competent authorities of overseas countries or territories).
- (6) For the purposes of subsection (2)(e) a person holds a senior position in a public authority if—
- (a) in the case of any of the intelligence services—
 - (i) the person is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service, or
 - (ii) the person holds a position in the intelligence service of equivalent seniority to such a person;
 - (b) in the case of the National Crime Agency, the person is a National Crime Agency officer of grade 2 or above;
 - (c) in the case of the metropolitan police force, the Police Service of Northern Ireland or the Police Service of Scotland, a person is of or above the rank of superintendent;
 - (d) in the case of Her Majesty’s Revenue and Customs, the person is a member of the Senior Civil Service;
 - (e) in the case of the Ministry of Defence—
 - (i) the person is a member of the Senior Civil Service, or
 - (ii) the person is of or above the rank of brigadier, commodore or air commodore.
- (7) In this section “senior official” means—
- (a) in the case of a warrant issued by the Secretary of State, a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service;
 - (b) in the case of a warrant issued by the Scottish Ministers, a member of the staff of the Scottish Administration who is a member of the Senior Civil Service.