
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations authorise certain interceptions of telecommunication communications which would otherwise be prohibited by section 1 of the Regulation of Investigatory Powers Act 2000. To the extent that the interceptions are also prohibited by Article 5.1 of Directive 97/66/EC, the authorisation does not exceed that permitted by Articles 5.2 and 14.1 of the Directive.

The interception has to be by or with the consent of a person carrying on a business (which includes the activities of government departments, public authorities and others exercising statutory functions) for purposes relevant to that person's business and using that business's own telecommunication system.

Interceptions are authorised for—

monitoring or recording communications—

to establish the existence of facts, to ascertain compliance with regulatory or self-regulatory practices or procedures or to ascertain or demonstrate standards which are or ought to be achieved (quality control and training),

in the interests of national security (in which case only certain specified public officials may make the interception),

to prevent or detect crime,

to investigate or detect unauthorised use of telecommunication systems or,

to secure, or as an inherent part of, effective system operation;

monitoring received communications to determine whether they are business or personal communications;

monitoring communications made to anonymous telephone helplines.

Interceptions are authorised only if the controller of the telecommunications system on which they are effected has made all reasonable efforts to inform potential users that interceptions may be made.

The Regulations do not authorise interceptions to which the persons making and receiving the communications have consented: they are not prohibited by the Act.

A regulatory impact assessment is available and can be obtained from Communications and Information Industries Directorate, Department of Trade and Industry, 151 Buckingham Palace Road, London SW1W 9SS. Copies have been placed in the libraries of both Houses of Parliament.