

REGULATION OF INVESTIGATORY POWERS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

“Communication” is defined in section 81(1).

77. *Subsection (4)* describes a second form which warrants may take. It applies if the conditions in subsections (4)(a) and (b), are met.
78. *Subsection (4)(a)* confines the conduct authorised or required by the warrant to conduct falling within subsection (5).
79. *Subsection (4)(b)* requires that at the time when the Secretary of State issues the warrant there must be in existence a certificate certifying the description of intercepted material the examination of which he considers necessary as is mentioned in section 5(3)(a), (b) or (c) – namely the purposes for the issue of warrants other than the one relating to international mutual assistance agreements. The effect of this subsection is to require the Secretary of State to authorise a certificate describing the intercepted material which falls properly within the purpose and may therefore be read, looked at or listened to by any person. No other intercepted material, though the communications are lawfully intercepted, may be so examined. The material authorised for examination is therefore subject to Ministerial control.
80. *Subsection (5)(a)* covers conduct that consists in the interception of communications in the course of their transmission by a telecommunication system. The effect of this is to limit warrants under this provision to telecommunication, and to exclude postal items. These communications must also be external communications, i.e. sent or received outside the British Islands.