

REGULATION OF INVESTIGATORY POWERS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

“Private telecommunication system” is defined in Section 2(1).

There is an exception for conduct with “lawful authority”, as to which see subsection (5). For territorial limitation, see section 2(4).

21. *Subsection (3) creates civil liability for unlawful interception on a private telecommunications network, the locations at which the liability applies and the persons who may bring an action under this subsection, namely the sender, recipient or intended recipient. For example, where an employee believes that their employer has unlawfully intercepted a telephone conversation with a third party, either the employee or the third party may sue the employer.*

There is an exception for conduct with “lawful authority”, as to which see subsection (5). Particularly relevant to this liability are the regulations that may be made under [Section 4\(2\)](#). For territorial limitation, see [section 2\(4\)](#).

22. *Subsection (4) applies to international agreements on mutual assistance in connection with the interception of communications which are designated under this subsection by an order made by the Secretary of State (negative resolution, see Section 78). This will enable the United Kingdom to comply with the interception provisions in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union. Although no similar agreements are currently under negotiation, this subsection will provide flexibility for the future.*
23. *In respect of agreements designated by this order, this subsection requires the Secretary of State to ensure that no request for mutual assistance to intercept communications, or in connection with interception, is made unless it has lawful authority. “Lawful authority” has the meaning given by subsection (5); in practice, for the purposes of the Convention referred to above, this means that the Secretary of State must issue an interception warrant under Section 5(1)(b) prior to any request for mutual assistance.*