

REGULATION OF INVESTIGATORY POWERS ACT 2000

EXPLANATORY NOTES

OTHER AUTHORISATIONS

Part Iii: Investigation of Electronic Data Protected by Encryption Etc

Section 50: Effect of notice imposing disclosure requirement

264. This section explains the effect of serving a notice imposing a disclosure requirement in various circumstances.
265. *Subsection (1)* applies where a person has, at the time a notice is served, possession of the relevant protected information and a means of accessing it and of disclosing it in an intelligible form. This means that they have the password, in the case of material protected by a password; or the decryption key in the case of encrypted material; or both, in the case of material protected in both ways. In these circumstances, the effect of imposing a disclosure requirement is, first, that the recipient of a notice may use any key in their possession to access the information or to put it into intelligible form; and, second, that they must disclose it in accordance with the terms of the notice.
266. *Subsection (2)* allows a person who is required to disclosure information in an intelligible form to instead disclose a relevant key if they so choose to do so.
267. The effect of *Subsection (3)* is that where a notice is served on a person who does not have the relevant protected information in their possession; or cannot access the information without use of a key which is not in their possession; or the notice contains a direction that a key must be disclosed (as to which, see section 51), that person must disclose any key to the information that is in their possession at a relevant time. But this duty is qualified by subsections (4) to (6).
268. The Act does not prevent the person giving a section 49 notice from giving the recipient access to the protected information, in order to allow then to produce plain text rather than disclose a key.

Relevant time is defined in section 50(10)

269. The effect of *Subsections (4) and (5)* is that where a person served with a notice is entitled or obliged to disclose a key, they need only provide those keys which are sufficient to access the relevant information and to put it into intelligible form. And *Subsection (6)* further provides that such a person may choose which keys to provide, so long as they suffice to access the information and render it intelligible.
270. *Subsection (7)* requires a person served with a notice to disclose every key to the relevant protected information that is in their possession, subject to the provisions in subsections (5) and (6). It means that a person need only provide those keys which suffice to access the information and render it intelligible, and that they may choose which keys to provide to achieve that end.

*These notes refer to the Regulation of Investigatory Powers
Act 2000 (c.23) which received Royal Assent on 28 July 2000*

271. The effect of Subsection (8) is that where a person served with a notice no longer possesses a key to the relevant protected information, they are to disclose all information that is in their possession that would facilitate the discovery of the key.