

REGULATION OF INVESTIGATORY POWERS ACT 2000

EXPLANATORY NOTES

OTHER AUTHORISATIONS

Part Iii: Investigation of Electronic Data Protected by Encryption Etc

Section 55: General duties of specified authorities

296. This section describes the safeguards that must be in place for the protection of any material (e.g. a decryption key) handed over in response to the serving of a notice under this Act.
297. *Subsection (1)* ensures that the safeguard requirements apply to all those who may have responsibility for organisations that will handle material provided in response to a written notice. In the case of the security and intelligence agencies for example, this will mean the Secretary of State.
298. *Subsection (2)* places an onus on those identified to ensure that:
- any material disclosed is used only for a purpose for which it may be required;
 - the uses to which the material is put are reasonable;
 - the use and any retention of the material are proportionate;
 - the requirements of subsection (3) are complied with;
 - that keys are stored in a secure manner; and
 - the material is destroyed as soon as it is no longer needed.
299. *Subsection (3)* specifies that the material is shared with the minimum number of people possible.
300. *Subsection (4)* imposes a civil liability in instances where seized keys are compromised by a failure of the safeguards arrangements in this section. There are two elements to this. Subsection (4)(a) is in respect of a person who fails to ensure that adequate arrangements are in place for the protection of keys. Subsection (4)(b) applies to where a person does not comply with those arrangements properly and compromises a key.
301. *Subsection (5)* describes the persons who may bring an action under the terms of this section. These are limited to persons who have made a disclosure in pursuance of a notice under section 49 or those whose protected information or key has been disclosed by some other person in pursuance of a notice.