



Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART I

COMMUNICATIONS

CHAPTER I

INTERCEPTION

Restrictions on use of intercepted material etc.

15 General safeguards

- (1) Subject to subsection (6), it shall be the duty of the Secretary of State to ensure, in relation to all interception warrants, that such arrangements are in force as he considers necessary for securing—
 - (a) that the requirements of subsections (2) and (3) are satisfied in relation to the intercepted material and any related communications data; and
 - (b) in the case of warrants in relation to which there are section 8(4) certificates, that the requirements of section 16 are also satisfied.
- (2) The requirements of this subsection are satisfied in relation to the intercepted material and any related communications data if each of the following—
 - (a) the number of persons to whom any of the material or data is disclosed or otherwise made available,
 - (b) the extent to which any of the material or data is disclosed or otherwise made available,
 - (c) the extent to which any of the material or data is copied, and
 - (d) the number of copies that are made,

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is limited to the minimum that is necessary for the authorised purposes.

- (3) The requirements of this subsection are satisfied in relation to the intercepted material and any related communications data if each copy made of any of the material or data (if not destroyed earlier) is destroyed as soon as there are no longer any grounds for retaining it as necessary for any of the authorised purposes.
- (4) For the purposes of this section something is necessary for the authorised purposes if, and only if—
 - (a) it continues to be, or is likely to become, necessary as mentioned in section 5(3);
 - (b) it is necessary for facilitating the carrying out of any of the functions under this Chapter of the Secretary of State;
 - (c) it is necessary for facilitating the carrying out of any functions in relation to this Part of the Interception of Communications Commissioner or of the Tribunal;
 - (d) it is necessary to ensure that a person conducting a criminal prosecution has the information he needs to determine what is required of him by his duty to secure the fairness of the prosecution; or
 - (e) it is necessary for the performance of any duty imposed on any person by the Public Records Act 1958 or the Public Records Act (Northern Ireland) 1923.
- (5) The arrangements for the time being in force under this section for securing that the requirements of subsection (2) are satisfied in relation to the intercepted material or any related communications data must include such arrangements as the Secretary of State considers necessary for securing that every copy of the material or data that is made is stored, for so long as it is retained, in a secure manner.
- (6) Arrangements in relation to interception warrants which are made for the purposes of subsection (1)—
 - (a) shall not be required to secure that the requirements of subsections (2) and (3) are satisfied in so far as they relate to any of the intercepted material or related communications data, or any copy of any such material or data, possession of which has been surrendered to any authorities of a country or territory outside the United Kingdom; but
 - (b) shall be required to secure, in the case of every such warrant, that possession of the intercepted material and data and of copies of the material or data is surrendered to authorities of a country or territory outside the United Kingdom only if the requirements of subsection (7) are satisfied.
- (7) The requirements of this subsection are satisfied in the case of a warrant if it appears to the Secretary of State—
 - (a) that requirements corresponding to those of subsections (2) and (3) will apply, to such extent (if any) as the Secretary of State thinks fit, in relation to any of the intercepted material or related communications data possession of which, or of any copy of which, is surrendered to the authorities in question; and
 - (b) that restrictions are in force which would prevent, to such extent (if any) as the Secretary of State thinks fit, the doing of anything in, for the purposes of or in connection with any proceedings outside the United Kingdom which would result in such a disclosure as, by virtue of section 17, could not be made in the United Kingdom.

- (8) In this section “copy”, in relation to intercepted material or related communications data, means any of the following (whether or not in documentary form)—
- (a) any copy, extract or summary of the material or data which identifies itself as the product of an interception, and
 - (b) any record referring to an interception which is a record of the identities of the persons to or by whom the intercepted material was sent, or to whom the communications data relates,
- and “copied” shall be construed accordingly.

16 Extra safeguards in the case of certificated warrants

- (1) For the purposes of section 15 the requirements of this section, in the case of a warrant in relation to which there is a section 8(4) certificate, are that the intercepted material is read, looked at or listened to by the persons to whom it becomes available by virtue of the warrant to the extent only that it—
- (a) has been certified as material the examination of which is necessary as mentioned in section 5(3)(a), (b) or (c); and
 - (b) falls within subsection (2).
- (2) Subject to subsections (3) and (4), intercepted material falls within this subsection so far only as it is selected to be read, looked at or listened to otherwise than according to a factor which—
- (a) is referable to an individual who is known to be for the time being in the British Islands; and
 - (b) has as its purpose, or one of its purposes, the identification of material contained in communications sent by him, or intended for him.
- (3) Intercepted material falls within subsection (2), notwithstanding that it is selected by reference to any such factor as is mentioned in paragraph (a) and (b) of that subsection, if—
- (a) it is certified by the Secretary of State for the purposes of section 8(4) that the examination of material selected according to factors referable to the individual in question is necessary as mentioned in subsection 5(3)(a), (b) or (c); and
 - (b) the material relates only to communications sent during a period of not more than three months specified in the certificate.
- (4) Intercepted material also falls within subsection (2), notwithstanding that it is selected by reference to any such factor as is mentioned in paragraph (a) and (b) of that subsection, if—
- (a) the person to whom the warrant is addressed believes, on reasonable grounds, that the circumstances are such that the material would fall within that subsection; or
 - (b) the conditions set out in subsection (5) below are satisfied in relation to the selection of the material.
- (5) Those conditions are satisfied in relation to the selection of intercepted material if—
- (a) it has appeared to the person to whom the warrant is addressed that there has been such a relevant change of circumstances as, but for subsection (4)(b), would prevent the intercepted material from falling within subsection (2);

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- (b) since it first so appeared, a written authorisation to read, look at or listen to the material has been given by a senior official; and
 - (c) the selection is made before the end of the first working day after the day on which it first so appeared to that person.
- (6) References in this section to its appearing that there has been a relevant change of circumstances are references to its appearing either—
- (a) that the individual in question has entered the British Islands; or
 - (b) that a belief by the person to whom the warrant is addressed in the individual's presence outside the British Islands was in fact mistaken.

17 Exclusion of matters from legal proceedings

- (1) Subject to section 18, no evidence shall be adduced, question asked, assertion or disclosure made or other thing done in, for the purposes of or in connection with any legal proceedings which (in any manner)—
- (a) discloses, in circumstances from which its origin in anything falling within subsection (2) may be inferred, any of the contents of an intercepted communication or any related communications data; or
 - (b) tends (apart from any such disclosure) to suggest that anything falling within subsection (2) has or may have occurred or be going to occur.
- (2) The following fall within this subsection—
- (a) conduct by a person falling within subsection (3) that was or would be an offence under section 1(1) or (2) of this Act or under section 1 of the Interception of Communications Act 1985;
 - (b) a breach by the Secretary of State of his duty under section 1(4) of this Act;
 - (c) the issue of an interception warrant or of a warrant under the Interception of Communications Act 1985;
 - (d) the making of an application by any person for an interception warrant, or for a warrant under that Act;
 - (e) the imposition of any requirement on any person to provide assistance with giving effect to an interception warrant.
- (3) The persons referred to in subsection (2)(a) are—
- (a) any person to whom a warrant under this Chapter may be addressed;
 - (b) any person holding office under the Crown;
 - (c) any member of the National Criminal Intelligence Service;
 - (d) any member of the National Crime Squad;
 - (e) any person employed by or for the purposes of a police force;
 - (f) any person providing a postal service or employed for the purposes of any business of providing such a service; and
 - (g) any person providing a public telecommunications service or employed for the purposes of any business of providing such a service.
- (4) In this section “intercepted communication” means any communication intercepted in the course of its transmission by means of a postal service or telecommunication system.

18 Exceptions to section 17

- (1) Section 17(1) shall not apply in relation to—
 - (a) any proceedings for a relevant offence;
 - (b) any civil proceedings under section 11(8);
 - (c) any proceedings before the Tribunal;
 - (d) any proceedings on an appeal or review for which provision is made by an order under section 67(8);
 - (e) any proceedings before the Special Immigration Appeals Commission or any proceedings arising out of proceedings before that Commission; or
 - (f) any proceedings before the Proscribed Organisations Appeal Commission or any proceedings arising out of proceedings before that Commission.
- (2) Subsection (1) shall not, by virtue of paragraph (e) or (f), authorise the disclosure of anything—
 - (a) in the case of any proceedings falling within paragraph (e), to—
 - (i) the appellant to the Special Immigration Appeals Commission; or
 - (ii) any person who for the purposes of any proceedings so falling (but otherwise than by virtue of an appointment under section 6 of the Special Immigration Appeals Commission Act 1997) represents that appellant;or
 - (b) in the case of proceedings falling within paragraph (f), to—
 - (i) the applicant to the Proscribed Organisations Appeal Commission;
 - (ii) the organisation concerned (if different);
 - (iii) any person designated under paragraph 6 of Schedule 3 to the Terrorism Act 2000 to conduct proceedings so falling on behalf of that organisation; or
 - (iv) any person who for the purposes of any proceedings so falling (but otherwise than by virtue of an appointment under paragraph 7 of that Schedule) represents that applicant or that organisation.
- (3) Section 17(1) shall not prohibit anything done in, for the purposes of, or in connection with, so much of any legal proceedings as relates to the fairness or unfairness of a dismissal on the grounds of any conduct constituting an offence under section 1(1) or (2), 11(7) or 19 of this Act, or section 1 of the Interception of Communications Act 1985.
- (4) Section 17(1)(a) shall not prohibit the disclosure of any of the contents of a communication if the interception of that communication was lawful by virtue of section 1(5)(c), 3 or 4.
- (5) Where any disclosure is proposed to be or has been made on the grounds that it is authorised by subsection (4), section 17(1) shall not prohibit the doing of anything in, or for the purposes of, so much of any legal proceedings as relates to the question whether that disclosure is or was so authorised.
- (6) Section 17(1)(b) shall not prohibit the doing of anything that discloses any conduct of a person for which he has been convicted of an offence under section 1(1) or (2), 11(7) or 19 of this Act, or section 1 of the Interception of Communications Act 1985.
- (7) Nothing in section 17(1) shall prohibit any such disclosure of any information that continues to be available for disclosure as is confined to—

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- (a) a disclosure to a person conducting a criminal prosecution for the purpose only of enabling that person to determine what is required of him by his duty to secure the fairness of the prosecution; or
 - (b) a disclosure to a relevant judge in a case in which that judge has ordered the disclosure to be made to him alone.
- (8) A relevant judge shall not order a disclosure under subsection (7)(b) except where he is satisfied that the exceptional circumstances of the case make the disclosure essential in the interests of justice.
- (9) Subject to subsection (10), where in any criminal proceedings—
- (a) a relevant judge does order a disclosure under subsection (7)(b), and
 - (b) in consequence of that disclosure he is of the opinion that there are exceptional circumstances requiring him to do so,
- he may direct the person conducting the prosecution to make for the purposes of the proceedings any such admission of fact as that judge thinks essential in the interests of justice.
- (10) Nothing in any direction under subsection (9) shall authorise or require anything to be done in contravention of section 17(1).
- (11) In this section “a relevant judge” means—
- (a) any judge of the High Court or of the Crown Court or any Circuit judge;
 - (b) any judge of the High Court of Justiciary or any sheriff;
 - (c) in relation to a court-martial, the judge advocate appointed in relation to that court-martial under section 84B of the Army Act 1955, section 84B of the Air Force Act 1955 or section 53B of the Naval Discipline Act 1957; or
 - (d) any person holding any such judicial office as entitles him to exercise the jurisdiction of a judge falling within paragraph (a) or (b).
- (12) In this section “relevant offence” means—
- (a) an offence under any provision of this Act;
 - (b) an offence under section 1 of the Interception of Communications Act 1985;
 - (c) an offence under section 5 of the Wireless Telegraphy Act 1949;
 - (d) an offence under section 45 of the Telegraph Act 1863, section 20 of the Telegraph Act 1868 or section 58 of the Post Office Act 1953;
 - (e) an offence under section 45 of the Telecommunications Act 1984;
 - (f) an offence under section 4 of the Official Secrets Act 1989 relating to any such information, document or article as is mentioned in subsection (3)(a) of that section;
 - (g) an offence under section 1 or 2 of the Official Secrets Act 1911 relating to any sketch, plan, model, article, note, document or information which incorporates or relates to the contents of any intercepted communication or any related communications data or tends to suggest as mentioned in section 17(1)(b) of this Act;
 - (h) perjury committed in the course of any proceedings mentioned in subsection (1) or (3) of this section;
 - (i) attempting or conspiring to commit, or aiding, abetting, counselling or procuring the commission of, an offence falling within any of the preceding paragraphs; and

- (j) contempt of court committed in the course of, or in relation to, any proceedings mentioned in subsection (1) or (3) of this section.
- (13) In subsection (12) “intercepted communication” has the same meaning as in section 17.

19 Offence for unauthorised disclosures

- (1) Where an interception warrant has been issued or renewed, it shall be the duty of every person falling within subsection (2) to keep secret all the matters mentioned in subsection (3).
- (2) The persons falling within this subsection are—
- (a) the persons specified in section 6(2);
 - (b) every person holding office under the Crown;
 - (c) every member of the National Criminal Intelligence Service;
 - (d) every member of the National Crime Squad;
 - (e) every person employed by or for the purposes of a police force;
 - (f) persons providing postal services or employed for the purposes of any business of providing such a service;
 - (g) persons providing public telecommunications services or employed for the purposes of any business of providing such a service;
 - (h) persons having control of the whole or any part of a telecommunication system located wholly or partly in the United Kingdom.
- (3) Those matters are—
- (a) the existence and contents of the warrant and of any section 8(4) certificate in relation to the warrant;
 - (b) the details of the issue of the warrant and of any renewal or modification of the warrant or of any such certificate;
 - (c) the existence and contents of any requirement to provide assistance with giving effect to the warrant;
 - (d) the steps taken in pursuance of the warrant or of any such requirement; and
 - (e) everything in the intercepted material, together with any related communications data.
- (4) A person who makes a disclosure to another of anything that he is required to keep secret under this section shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.
- (5) In proceedings against any person for an offence under this section in respect of any disclosure, it shall be a defence for that person to show that he could not reasonably have been expected, after first becoming aware of the matter disclosed, to take steps to prevent the disclosure.
- (6) In proceedings against any person for an offence under this section in respect of any disclosure, it shall be a defence for that person to show that—

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- (a) the disclosure was made by or to a professional legal adviser in connection with the giving, by the adviser to any client of his, of advice about the effect of provisions of this Chapter; and
 - (b) the person to whom or, as the case may be, by whom it was made was the client or a representative of the client.
- (7) In proceedings against any person for an offence under this section in respect of any disclosure, it shall be a defence for that person to show that the disclosure was made by a legal adviser—
- (a) in contemplation of, or in connection with, any legal proceedings; and
 - (b) for the purposes of those proceedings.
- (8) Neither subsection (6) nor subsection (7) applies in the case of a disclosure made with a view to furthering any criminal purpose.
- (9) In proceedings against any person for an offence under this section in respect of any disclosure, it shall be a defence for that person to show that the disclosure was confined to a disclosure made to the Interception of Communications Commissioner or authorised—
- (a) by that Commissioner;
 - (b) by the warrant or the person to whom the warrant is or was addressed;
 - (c) by the terms of the requirement to provide assistance; or
 - (d) by section 11(9).