



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART III

#### INVESTIGATION OF ELECTRONIC DATA PROTECTED BY ENCRYPTION ETC.

#### *Offences*

#### **53 Failure to comply with a notice.**

- (1) A person to whom a section 49 notice has been given is guilty of an offence if he knowingly fails, in accordance with the notice, to make the disclosure required by virtue of the giving of the notice.
- (2) In proceedings against any person for an offence under this section, if it is shown that that person was in possession of a key to any protected information at any time before the time of the giving of the section 49 notice, that person shall be taken for the purposes of those proceedings to have continued to be in possession of that key at all subsequent times, unless it is shown that the key was not in his possession after the giving of the notice and before the time by which he was required to disclose it.
- (3) For the purposes of this section a person shall be taken to have shown that he was not in possession of a key to protected information at a particular time if—
  - (a) sufficient evidence of that fact is adduced to raise an issue with respect to it; and
  - (b) the contrary is not proved beyond a reasonable doubt.
- (4) In proceedings against any person for an offence under this section it shall be a defence for that person to show—
  - (a) that it was not reasonably practicable for him to make the disclosure required by virtue of the giving of the section 49 notice before the time by which he was required, in accordance with that notice, to make it; but

**Changes to legislation:** *Regulation of Investigatory Powers Act 2000, Section 53 is up to date with all changes known to be in force on or before 27 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) that he did make that disclosure as soon after that time as it was reasonably practicable for him to do so.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding [<sup>F1</sup>the appropriate maximum term] 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.
- [<sup>F2</sup>(5A) In subsection (5) ‘the appropriate maximum term’ means—
  - (a) in a national security case [<sup>F3</sup>or a child indecency case], five years; and
  - (b) in any other case, two years.
- (5B) In subsection (5A) ‘a national security case’ means a case in which the grounds specified in the notice to which the offence relates as the grounds for imposing a disclosure requirement were or included a belief that the imposition of the requirement was necessary in the interests of national security.]
- [<sup>F4</sup>(6) In subsection (5A) “ a child indecency case ” means a case in which the grounds specified in the notice to which the offence relates as the grounds for imposing a disclosure requirement were or included a belief that the imposition of the requirement was necessary for the purpose of preventing or detecting an offence under any of the provisions listed in subsection (7).
- (7) Those provisions are—
  - (a) section 1 of the Protection of Children Act 1978 (showing or taking etc an indecent photograph of a child: England and Wales);
  - (b) Article 3 of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (corresponding offence for Northern Ireland);
  - (c) section 52 or 52A of the Civic Government (Scotland) Act 1982 (showing or taking etc or possessing an indecent photograph of a child: Scotland);
  - (d) section 160 of the Criminal Justice Act 1988 (possessing an indecent photograph of a child: England and Wales);
  - (e) Article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (corresponding offence for Northern Ireland).]

#### Textual Amendments

- F1** Words in s. 53(5)(a) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 15(1)(a)**, 39(2) (with s. 15(3)); S.I. 2006/1013, **art. 2(2)(a)**
- F2** S. 53(5A)(5B) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 15(2)**, 39(2) (with s. 15(3)); S.I. 2006/1013, **art. 2(2)(a)**
- F3** Words in s. 53(5A)(a) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 26(2)(4)**, 116; S.I. 2009/3096, **art. 3(e)**
- F4** S. 53(6)(7) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 26(3)(4)**, 116; S.I. 2009/3096, **art. 3(e)**

**Changes to legislation:**

Regulation of Investigatory Powers Act 2000, Section 53 is up to date with all changes known to be in force on or before 27 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(6A)-(6D) inserted by [2016 anaw 6 s. 187\(2\)\(b\)](#)
- Sch. 1 para. 16A and cross-heading inserted by [2016 anaw 6 s. 187\(3\)](#)
- Sch. 1 Pt. 1 para. 20H inserted by [2013 c. 32 Sch. 12 para. 74](#)