



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART III

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

##### *Offences*

#### **54 Tipping-off.**

- (1) This section applies where a section 49 notice contains a provision requiring—
  - (a) the person to whom the notice is given, and
  - (b) every other person who becomes aware of it or of its contents,to keep secret the giving of the notice, its contents and the things done in pursuance of it.
- (2) A requirement to keep anything secret shall not be included in a section 49 notice except where—
  - (a) it is included with the consent of the person who for the purposes of Schedule 2 granted the permission for the giving of the notice; or
  - (b) the person who gives the notice is himself a person whose permission for the giving of such a notice in relation to the information in question would have constituted appropriate permission under that Schedule.
- (3) A section 49 notice shall not contain a requirement to keep anything secret except where the protected information to which it relates—
  - (a) has come into the possession of the police, [<sup>F1</sup>SOCA,][<sup>F2</sup>SCDEA,][<sup>F3</sup>Her Majesty's Revenue and Customs] or any of the intelligence services, or
  - (b) is likely to come into the possession of the police, [<sup>F1</sup>SOCA,][<sup>F2</sup>SCDEA,][<sup>F3</sup>Her Majesty's Revenue and Customs] or any of the intelligence services,

*Status: Point in time view as at 15/02/2008. This version of this provision has been superseded.*

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by means which it is reasonable, in order to maintain the effectiveness of any investigation or operation or of investigatory techniques generally, or in the interests of the safety or well-being of any person, to keep secret from a particular person.

- (4) A person who makes a disclosure to any other person of anything that he is required by a section 49 notice to keep secret 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—
  - (a) the disclosure was effected entirely by the operation of software designed to indicate when a key to protected information has ceased to be secure; and
  - (b) that person could not reasonably have been expected to take steps, after being given the notice or (as the case may be) becoming aware of it or of its contents, 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—
  - (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 Part; 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 a relevant Commissioner or authorised—
  - (a) by such a Commissioner;
  - (b) by the terms of the notice;
  - (c) by or on behalf of the person who gave the notice; or
  - (d) by or on behalf of a person who—
    - (i) is in lawful possession of the protected information to which the notice relates; and
    - (ii) came into possession of that information as mentioned in section 49(1).
- (10) In proceedings for an offence under this section against a person other than the person to whom the notice was given, it shall be a defence for the person against whom the proceedings are brought to show that he neither knew nor had reasonable grounds for suspecting that the notice contained a requirement to keep secret what was disclosed.

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- (11) In this section “relevant Commissioner” means the Interception of Communications Commissioner, the Intelligence Services Commissioner or any Surveillance Commissioner or Assistant Surveillance Commissioner.

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**Textual Amendments**

- F1** Words in s. 54(3) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 147](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 10 (subject to art. 4(2)-(7))
- F2** Words in s. 54(3) inserted (1.4.2007) by [The Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(Consequential Provisions and Modifications\) Order 2007 \(S.I. 2007/1098\)](#), arts. 1(3), 6, [Sch. para. 4\(10\)](#)
- F3** Word in s. 54(3) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 21](#); S.I. 2008/219, [art. 2\(b\)](#)
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**Modifications etc. (not altering text)**

- C1** S. 54 restricted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 16, 17, 53(1), [Sch. 2 Pt. 1 para. 11\(2\)\(d\)](#); S.I. 2005/1126, [art. 2\(2\)\(d\)](#)

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