



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 5

EQUIPMENT INTERFERENCE

Approval of warrants by Judicial Commissioners

110 Failure to approve warrant issued in urgent case

- (1) This section applies where under section 109(3) a Judicial Commissioner refuses to approve the decision to issue a warrant.
- (2) The person to whom the warrant was addressed must, so far as is reasonably practicable, secure that anything in the process of being done under the warrant stops as soon as possible.
- (3) Where the refusal relates to a targeted equipment interference warrant, the Judicial Commissioner may—
 - (a) authorise further interference with equipment for the purpose of enabling the person to whom the warrant was addressed to secure that anything in the process of being done under the warrant stops as soon as possible;
 - (b) direct that any of the material obtained under the warrant is destroyed;
 - (c) impose conditions as to the use or retention of any of that material.
- (4) Where the refusal relates to a targeted examination warrant, the Judicial Commissioner may impose conditions as to the use of any protected material selected for examination under the warrant.
- (5) The Judicial Commissioner—
 - (a) may require an affected party to make representations about how the Judicial Commissioner should exercise any function under subsection (3) or (4), and
 - (b) must have regard to any such representations made by an affected party (whether or not as a result of a requirement imposed under paragraph (a)).

Status: This is the original version (as it was originally enacted).

- (6) Each of the following is an “affected party” for the purposes of subsection (5)—
- (a) the person who decided to issue the warrant;
 - (b) the person to whom the warrant was addressed.
- (7) The person who decided to issue the warrant may ask the Investigatory Powers Commissioner to review a decision made by any other Judicial Commissioner under subsection (3) or (4).
- (8) On a review under subsection (7), the Investigatory Powers Commissioner may—
- (a) confirm the Judicial Commissioner’s decision, or
 - (b) make a fresh determination.
- (9) Nothing in this section or section 109 affects the lawfulness of—
- (a) anything done under the warrant before it ceases to have effect;
 - (b) if anything is in the process of being done under the warrant when it ceases to have effect—
 - (i) anything done before that thing could be stopped, or
 - (ii) anything done that it is not reasonably practicable to stop.