



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 7

BULK PERSONAL DATASET WARRANTS

Further and supplementary provision

225 Application of Part to bulk personal datasets obtained under this Act

- (1) Subject to subsection (2), this section applies where a bulk personal dataset has been obtained by an intelligence service under a warrant or other authorisation issued or given under this Act (and, accordingly, section 200(1) and (2) do not apply by virtue of section 201(1)).
- (2) This section does not apply where the bulk personal dataset was obtained by the intelligence service under a bulk acquisition warrant issued under Chapter 2 of Part 6.
- (3) Where this section applies, the Secretary of State may, on the application of the head of the intelligence service, give a direction that—
 - (a) the intelligence service may retain, or retain and examine, the bulk personal dataset by virtue of the direction,
 - (b) any other power of the intelligence service to retain or examine the bulk personal dataset, and any associated regulatory provision, ceases to apply in relation to the bulk personal dataset (subject to subsection (5)), and
 - (c) section 201(1) also ceases to apply in relation to the bulk personal dataset.
- (4) Accordingly, where a direction is given under subsection (3), the intelligence service may exercise its power by virtue of the direction to retain, or to retain and examine, the bulk personal dataset only if authorised to do so by a class BPD warrant or a specific BPD warrant under this Part.
- (5) A direction under subsection (3) may provide for any associated regulatory provision specified in the direction to continue to apply in relation to the bulk personal dataset, with or without modifications specified in the direction.

Status: This is the original version (as it was originally enacted).

- (6) The power conferred by subsection (5) must be exercised to ensure that—
- (a) where section 56 and Schedule 3 applied in relation to the bulk personal dataset immediately before the giving of the direction, they continue to apply in relation to it (without modification);
 - (b) where sections 57 to 59 applied in relation to the bulk personal dataset immediately before the giving of the direction, they continue to apply in relation to it with the modification that the reference in section 58(7)(a) to the provisions of Part 2 is to be read as including a reference to the provisions of this Part.
- (7) The Secretary of State may only give a direction under subsection (3) with the approval of a Judicial Commissioner.
- (8) In deciding whether to give approval for the purposes of subsection (7), the Judicial Commissioner must apply the same principles as would be applied by a court on an application for judicial review.
- (9) Where a Judicial Commissioner refuses to approve a decision by the Secretary of State to give a direction under subsection (3), the Judicial Commissioner must give the Secretary of State written reasons for the decision.
- (10) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve such a decision, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision.
- (11) A direction under subsection (3)—
- (a) may not be revoked;
 - (b) may be varied but only for the purpose of altering or removing any provision included in the direction under subsection (5).
- (12) Subsections (7) to (10) apply in relation to the variation of a direction under subsection (3) as they apply in relation to the giving of a direction under that subsection.
- (13) The head of an intelligence service may, at the same time as applying for a direction under subsection (3), apply for a specific BPD warrant under section 205 (and the Secretary of State may issue such a warrant at the same time as giving the direction).
- (14) In this section, “associated regulatory provision”, in relation to a power of an intelligence service to retain or examine a bulk personal dataset, means any provision which—
- (a) is made by or for the purposes of this Act (other than this Part), and
 - (b) applied in relation to the retention, examination, disclosure or other use of the bulk personal dataset immediately before the giving of a direction under subsection (3).