



Investigatory Powers (Amendment) Act 2024

2024 CHAPTER 9

PROSPECTIVE

PART 5

MISCELLANEOUS

Members of Parliament etc

22 Interception and examination of communications: Members of Parliament etc

(1) Section 26 of the Investigatory Powers Act 2016 (interception and examination of communications: Members of Parliament etc) is amended as follows.

(2) In subsection (2)—

- (a) the words “the Prime Minister” become paragraph (a);
- (b) after that paragraph insert “, or
- (b) if conditions A and B are met, an individual (other than that Secretary of State) designated by the Prime Minister under this section.”

(3) After subsection (2) insert—

“(2A) Condition A is that the Prime Minister is unable to decide whether to give approval under subsection (2), due to incapacity or inability to access secure communications.

(2B) Condition B is that the Secretary of State or a senior official considers that there is an urgent need for the decision (as to whether to give such approval) to be made.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Investigatory Powers (Amendment) Act 2024, Part 5. (See end of Document for details)

- (2C) The Prime Minister may designate up to five individuals under this section.
- (2D) The Prime Minister may designate an individual under this section only if the individual—
 - (a) holds the office of Secretary of State, and
 - (b) has the necessary operational awareness to decide whether to give approvals under subsection (2).
- (2E) A designation under this section ends—
 - (a) when the individual ceases to hold the office of Secretary of State, or
 - (b) if earlier, when revoked by the Prime Minister.
- (2F) In this section “senior official” means a member of the Senior Civil Service or a member of the Senior Management Structure of His Majesty’s Diplomatic Service.”

Commencement Information

- II** S. 22 not in force at Royal Assent, see [s. 32\(2\)](#)

23 Equipment interference: Members of Parliament etc

- (1) Section 111 of the Investigatory Powers Act 2016 (equipment interference: Members of Parliament etc) is amended as follows.
- (2) In subsection (3)—
 - (a) the words “the Prime Minister” become paragraph (a);
 - (b) after that paragraph insert “, or
 - (b) if conditions A and B are met, an individual (other than that Secretary of State) designated by the Prime Minister under this section.”
- (3) In subsection (6)—
 - (a) the words “the Prime Minister” become paragraph (a);
 - (b) after that paragraph insert “, or
 - (b) if conditions A and B are met, an individual (other than that Secretary of State) designated by the Prime Minister under this section.”
- (4) After subsection (7) insert—
 - “(7A) Condition A is that the Prime Minister is unable to decide whether to give approval under subsection (3) or (as the case may be) (6), due to incapacity or inability to access secure communications.
 - (7B) Condition B is that the Secretary of State or a senior official considers that there is an urgent need for the decision (as to whether to give such approval) to be made.
 - (7C) The Prime Minister may designate up to five individuals under this section.
 - (7D) The Prime Minister may designate an individual under this section only if the individual—

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- (a) holds the office of Secretary of State, and
- (b) has the necessary operational awareness to decide whether to give approvals under subsection (3) or (6).

(7E) A designation under this section ends—

- (a) when the individual ceases to hold the office of Secretary of State, or
- (b) if earlier, when revoked by the Prime Minister.”

Commencement Information

I2 S. 23 not in force at Royal Assent, see [s. 32\(2\)](#)

Equipment interference

24 Issue of equipment interference warrants

- (1) Part 1 of the table in Schedule 6 to the Investigatory Powers Act 2016 (issue of warrants under section 106 etc) is amended in accordance with subsections (2) and (3).
- (2) In the entry relating to the Chief Constable of a police force maintained under section 2 of the Police Act 1996, in the second column—
 - (a) for “section 12A(1) of the Police Act 1996” substitute “section 41(1) of the Police Reform and Social Responsibility Act 2011”;
 - (b) for “section 12A(2)” substitute “section 41(5)”.
- (3) In the entry relating to the Director General of the National Crime Agency—
 - (a) in the first column, after “General” insert “or a Deputy Director General”;
 - (b) in the second column, after “General” insert “or a Deputy Director General”.
- (4) In section 107(3) of the Investigatory Powers Act 2016 (restriction on issue of warrants to certain law enforcement officers)—
 - (a) after “General”, in the first place it occurs, insert “or a Deputy Director General”;
 - (b) after “General”, in the second place it occurs, insert “or the Deputy Director General (as the case may be)”.

Commencement Information

I3 S. 24 not in force at Royal Assent, see [s. 32\(2\)](#)

25 Modification of equipment interference warrants

In section 121 of the Investigatory Powers Act 2016 (notification of modifications), after subsection (3) insert—

- “(4) But subsection (3) does not apply where the modification—
 - (a) is made in accordance with section 119(1), and
 - (b) is to remove any matter, name or description included in the warrant in accordance with section 115(3) to (5).”

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Investigatory Powers (Amendment) Act 2024, Part 5. (See end of Document for details)

Commencement Information

I4 S. 25 not in force at Royal Assent, see [s. 32\(2\)](#)

26 Issue of targeted examination warrants to intelligence services

In section 102 of the Investigatory Powers Act 2016 (power to issue warrants to intelligence services: the Secretary of State), for subsection (4) substitute—

“(4) But the Secretary of State may not issue a targeted examination warrant under subsection (3) if—

- (a) the Secretary of State considers that the only ground for considering the warrant to be necessary is for the purpose of preventing or detecting serious crime, and
- (b) the warrant, if issued, would relate only to a person who would be in Scotland at the time of the issue of the warrant or whom the Secretary of State believes would be in Scotland at that time.

For the power of the Scottish Ministers to issue a targeted examination warrant, see section 103.”

Commencement Information

I5 S. 26 not in force at Royal Assent, see [s. 32\(2\)](#)

27 Bulk equipment interference: safeguards for confidential journalistic material etc

- (1) The Investigatory Powers Act 2016 is amended as follows.
- (2) For section 195 (additional safeguard for confidential journalistic material) substitute—

“195 Additional safeguards for confidential journalistic material etc

- (1) Subsection (2) applies if, in a case where material obtained under a bulk equipment interference warrant (“BEI material”) is to be selected for examination—
 - (a) the purpose, or one of the purposes, of using those criteria to be used for the selection of the BEI material for examination (“the relevant criteria”) is to identify any confidential journalistic material or to identify or confirm a source of journalistic information, or
 - (b) the use of the relevant criteria is highly likely to identify confidential journalistic material or identify or confirm a source of journalistic information.
- (2) The BEI material may be selected for examination using the relevant criteria only if the use of those criteria has been approved by—
 - (a) the Investigatory Powers Commissioner, or
 - (b) in a case where a senior official acting on behalf of the Secretary of State considers there is an urgent need to do so, the senior official.

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Changes to legislation: There are currently no known outstanding effects for the Investigatory Powers (Amendment) Act 2024, Part 5. (See end of Document for details)

- (3) The Investigatory Powers Commissioner or a senior official may give an approval under subsection (2) only if the Commissioner or official considers that—
 - (a) the public interest in obtaining the information that would be obtained by the selection of the BEI material for examination outweighs the public interest in the confidentiality of confidential journalistic material or sources of journalistic information, and
 - (b) there are no less intrusive means by which the information may reasonably be obtained.
- (4) Subsection (5) applies where—
 - (a) material obtained under a bulk equipment interference warrant (“the relevant material”) is retained, following its examination, for purposes other than the destruction of the relevant material, and
 - (b) the person to whom the warrant is addressed considers that the relevant material contains confidential journalistic material or material that would identify or confirm a source of journalistic information.
- (5) The person to whom the warrant is addressed must inform the Investigatory Powers Commissioner of the retention of the relevant material as soon as reasonably practicable.
- (6) Unless the Investigatory Powers Commissioner considers that subsection (8) applies to the relevant material, the Commissioner must direct that the relevant material is destroyed.
- (7) If the Investigatory Powers Commissioner considers that subsection (8) applies to the relevant material, the Commissioner may impose such conditions as to the use or retention of the relevant material as the Commissioner considers necessary for the purpose of protecting the public interest in the confidentiality of confidential journalistic material or sources of journalistic information.
- (8) This subsection applies to material containing—
 - (a) confidential journalistic material, or
 - (b) material identifying or confirming a source of journalistic information,if the public interest in retaining the material outweighs the public interest in the confidentiality of confidential journalistic material or sources of journalistic information.
- (9) The Investigatory Powers Commissioner—
 - (a) may require an affected party to make representations about how the Commissioner should exercise any function under subsections (6) and (7), 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)).
- (10) “Affected party” has the meaning given by section 194(14).

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Changes to legislation: There are currently no known outstanding effects for the Investigatory Powers (Amendment) Act 2024, Part 5. (See end of Document for details)

(For provision about the grounds for retaining material obtained under a warrant, see section 191.)

195A Section 195: procedure where use of criteria approved by senior official

- (1) This section applies where material obtained under a bulk equipment interference warrant is selected for examination using criteria the use of which was approved by a senior official under [section 195\(2\)](#).
- (2) The Secretary of State must, as soon as reasonably practicable, inform the Investigatory Powers Commissioner that the approval has been given.
- (3) The Investigatory Powers Commissioner must, as soon as reasonably practicable—
 - (a) consider whether the relevant condition is met as regards the use of the criteria for the selection of the material for examination, and
 - (b) notify the Secretary of State of their decision.
- (4) For this purpose, “the relevant condition” is that—
 - (a) the public interest in obtaining the information that would be obtained by the selection of the material for examination outweighs the public interest in the confidentiality of confidential journalistic material or sources of journalistic information, and
 - (b) there are no less intrusive means by which the information may reasonably be obtained.
- (5) On the giving of a notification of a decision that the relevant condition is not met, the senior official’s approval ceases to have effect.
- (6) Nothing in [subsection \(5\)](#) affects the lawfulness of—
 - (a) anything done by virtue of the approval before it ceases to have effect, or
 - (b) if anything is in the process of being done by virtue of the approval when it ceases to have effect—
 - (i) anything done before that thing could be stopped, or
 - (ii) anything done which it is not reasonably practicable to stop.”
- (3) In section 229 (main oversight functions), in subsection (8), before paragraph (g) insert—
 - “(fb) deciding whether—
 - (i) to approve the use of criteria under section 195(2)(a),
 - (ii) subsection 195(8) applies for the purposes of subsection 195(6) and (7),
 - (iii) the relevant condition is met for the purposes of subsection 195A(3)(a).”

Commencement Information

I6 S. 27 not in force at Royal Assent, see [s. 32\(2\)](#)

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Investigatory Powers (Amendment) Act 2024, Part 5. (See end of Document for details)

Exclusion of matters from legal proceedings etc: exceptions

28 Exclusion of matters from legal proceedings etc: exceptions

(1) Schedule 3 to the Investigatory Powers Act 2016 (exceptions to section 56) is amended as follows.

(2) After paragraph 12 insert—

“Proceedings relating to release of prisoners etc in England and Wales

12A (1) Section 56(1) does not apply in relation to—

- (a) any proceedings before the Parole Board, or
- (b) any proceedings arising out of such proceedings.

(2) But sub-paragraph (1) does not permit the disclosure of anything to—

- (a) any person, other than the Secretary of State, who is or was a party to the proceedings, or
- (b) any person who—
 - (i) represents such a person for the purposes of the proceedings, and
 - (ii) does so otherwise than by virtue of appointment as a special advocate.”

(3) After paragraph 24 insert—

“25 (1) Nothing in section 56(1) prohibits—

- (a) a disclosure to a relevant coroner conducting an NI investigation or inquest, or
- (b) a disclosure to a qualified person—
 - (i) appointed as legal adviser to an inquest conducted by the coroner, or
 - (ii) employed under section 11(3) of the Coroners Act (Northern Ireland) 1959 (c. 15) (“the 1959 Act”) by a relevant coroner to assist the coroner in an investigation conducted by the coroner,

where, in the course of the investigation or inquest, the relevant coroner (“C”) has ordered the disclosure to be made to C alone or (as the case may be) to C and any qualified person appointed or employed by C as mentioned in paragraph (b).

(2) A relevant coroner may order a disclosure under sub-paragraph (1) only if the coroner considers that the exceptional circumstances of the case make the disclosure essential in the interests of justice.

(3) In a case where a coroner (“C”) conducting, or who has been conducting, an NI investigation or inquest is not a relevant coroner, nothing in section 56(1) prohibits—

- (a) a disclosure to C that there is intercepted material in existence which is, or may be, relevant to the investigation or inquest;
- (b) a disclosure to a qualified person appointed by C as legal adviser to the inquest or employed by C under section 11(3) of the 1959

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Act to assist C in the investigation, which is made for the purposes of determining—

- (i) whether any intercepted material is, or may be, relevant to the investigation, and
- (ii) if so, whether it is necessary for the material to be disclosed to the person conducting the investigation.

(4) In [sub-paragraph \(3\)](#) “intercepted material” means—

- (a) any content of an intercepted communication (within the meaning of section 56), or
- (b) any secondary data obtained from a communication.

(5) In this paragraph—

“the 1959 Act” has the meaning given by [sub-paragraph \(1\)](#);

“coroner” means a coroner appointed under section 2 of the 1959 Act;

“NI investigation or inquest” means an investigation under section 11(1) of the 1959 Act or an inquest under section 13 or 14 of that Act;

“qualified person” means a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland);

“relevant coroner” means a coroner who is a judge of the High Court or of a county court in Northern Ireland.

26 (1) Nothing in section 56(1) prohibits—

- (a) a disclosure to a relevant person conducting an inquiry under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 ([2016 asp 2](#)) (“IFASDA 2016”), or
- (b) a disclosure to a qualified person appointed under section 24 of that Act to assist a relevant person in the inquiry,

where, in the course of the inquiry, the person conducting the inquiry has ordered the disclosure to be made to that person alone or (as the case may be) to that person and any qualified person appointed to assist a relevant person in the inquiry.

(2) A relevant person may order a disclosure under [sub-paragraph \(1\)](#) only if the person considers that the exceptional circumstances of the case make the disclosure essential in the interests of justice.

(3) Nothing in section 56(1) prohibits—

- (a) a disclosure to a relevant person conducting an inquiry under IFASDA 2016, or
- (b) a disclosure to a qualified person appointed under section 24 of that Act to assist a relevant person in the inquiry,

that there is intercepted material in existence which is, or may be, relevant to the inquiry.

(4) In [sub-paragraph \(3\)](#) “intercepted material” means—

- (a) any content of an intercepted communication (within the meaning of section 56), or
- (b) any secondary data obtained from a communication.

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(5) In this paragraph “relevant person” means—

- (a) a sheriff principal,
- (b) a temporary sheriff principal, or
- (c) a sheriff or part-time sheriff (but not a summary sheriff or part-time summary sheriff) designated as a specialist under section 37(1) or (3) of IFASDA 2016.

(6) In this paragraph “qualified person” means an advocate or solicitor; and “advocate” and “solicitor” have the same meaning as in IFASDA 2016 (see section 40 of that Act).”

Commencement Information

I7 S. 28 not in force at Royal Assent, see [s. 32\(2\)](#)

Freedom of information

29 Freedom of information: bodies dealing with security matters

In section 23(3) of the Freedom of Information Act 2000 (information supplied by, or relating to, bodies dealing with security matters), after paragraph (o) insert—

- “(p) a Judicial Commissioner within the meaning of the Investigatory Powers Act 2016 (see section 263(1) of that Act).”

Commencement Information

I8 S. 29 not in force at Royal Assent, see [s. 32\(2\)](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Investigatory Powers (Amendment) Act 2024, Part 5.