
STATUTORY INSTRUMENTS

2014 No. 2042

The Data Retention Regulations 2014

PART 2

THE RETENTION NOTICE REGIME

Supplementary and transitional provisions

Variation or revocation of notices

11.—(1) The Secretary of State may vary a retention notice.

(2) The Secretary of State must give or publish notice of the variation in such manner as the Secretary of State considers appropriate for bringing the variation to the attention of the public telecommunications operator (or description of operators) to whom it relates.

(3) A variation comes into force when notice of it is given or published in accordance with paragraph (2) or (if later) at the time or times specified for this purpose in the notice of variation.

(4) Regulations 4(2), 6 and 12(1)(a), and paragraphs (1), (7) and (10) of this regulation, apply in relation to a retention notice as varied as they apply in relation to a retention notice.

(5) Regulation 4(3) applies in relation to a retention notice as varied as it applies in relation to a retention notice but as if the references to the notice coming into force included references to the variation coming into force.

(6) Regulation 5 applies in relation to the making of a variation as it applies in relation to the giving of a retention notice.

(7) The Secretary of State may revoke (whether wholly or in part) a retention notice.

(8) The Secretary of State must give or publish notice of the revocation in such manner as the Secretary of State considers appropriate for bringing the revocation to the attention of the operator (or description of operators) to whom it relates.

(9) A revocation comes into force when notice of it is given or published in accordance with paragraph (8) or (if later) at the time or times provided for in the notice of revocation.

(10) The fact that a retention notice has been revoked in relation to a particular description of communications data and a particular operator (or description of operators) does not prevent the giving of another retention notice in relation to the same description of data and the same operator (or description of operators).

Enforcement of notices and certain other requirements and restrictions

12.—(1) It is the duty of a public telecommunications operator on whom a requirement or restriction is imposed by—

- (a) a retention notice,
- (b) section 1(6) of the Act, or

(c) regulation 7 or 8,

to comply with the requirement or restriction concerned.

(2) That duty is enforceable by civil proceedings by the Secretary of State for an injunction, or for specific performance of a statutory duty under section 45 of the Court of Session Act 1988(1), or for any other appropriate relief.

Reimbursement of expenses of compliance

13.—(1) The Secretary of State may reimburse any expenses incurred by a public telecommunications operator in complying with section 1(1) to (6) of the Act and this Part.

(2) Reimbursement may be conditional on either or both of the following—

- (a) the expenses having been notified to the Secretary of State and agreed in advance;
- (b) the public telecommunications operator having co-operated with any audit that may be reasonably required for the purpose of monitoring the claim for reimbursement.

Transitional provisions

14.—(1) The 2009 Regulations are revoked (but this is without prejudice to the operation of the definition of “relevant communications data” in section 2(1) of the Act).

(2) Paragraph (3) applies in relation to any notice given or published in the approved manner under the 2009 Regulations (and not fully revoked) before the day on which these Regulations come into force (a “pre-commencement notice”) and which—

- (a) specifies the extent to which, and the date from which, the 2009 Regulations are to apply to a public telecommunications operator (or a description of operators including that operator), and
- (b) relates to data which is not retained in the United Kingdom by another operator.

(3) Sections 1(1) to (6) and 2 of the Act and this Part apply on and after the day on which these Regulations come into force as if the pre-commencement notice were a retention notice which—

- (a) is given in accordance with those sections and this Part—
 - (i) on the day on which these Regulations come into force, or
 - (ii) if later, on the day which the pre-commencement notice specifies as the day from which the 2009 Regulations are to apply,
- (b) requires the retention of relevant communications data except so far as the pre-commencement notice specifies a more limited application for the 2009 Regulations, and
- (c) requires the retention of that data for the period of 12 months beginning with the day of the communication concerned.

(4) Paragraph (3) ceases to apply on 1st January 2015 or on any earlier revocation in full of the pre-commencement notice.

(5) The Secretary of State may revoke (whether wholly or in part) a pre-commencement notice.

(6) The fact that a pre-commencement notice has, in relation to a particular description of data and a particular operator (or description of operators), ceased to have effect or been revoked does not prevent the giving of a retention notice in relation to the same description of data and the same operator (or description of operators).

(7) In this regulation—

“the approved manner” means such manner as the Secretary of State considered appropriate for bringing the notice to the attention of the operator concerned (or the description of operators which included the operator),

“pre-commencement notice” has the meaning given by paragraph (2).