
STATUTORY INSTRUMENTS

2018 No. 652

The Investigatory Powers Act 2016 (Commencement No. 5 and Transitional and Saving Provisions) Regulations 2018

PART 1

GENERAL AND COMMENCEMENT

Citation and interpretation

1.—(1) These Regulations may be cited as the Investigatory Powers Act 2016 (Commencement No. 5 and Transitional and Saving Provisions) Regulations 2018.

(2) In these Regulations—

“RIPA” means the Regulation of Investigatory Powers Act 2000 ^{M1};

“the 2016 Act” means the Investigatory Powers Act 2016.

Marginal Citations

M1 2000 c 23.

General privacy protections coming into force on 31st May 2018

2. The following provisions of Part 1 of the 2016 Act come into force on 31st May 2018—

- (a) section 2 (general duties in relation to privacy) so far as it applies to decisions relating to warrants under Part 2 or 5 or Chapters 1 and 3 of Part 6, except decisions regarding whether to approve the use of criteria under section 153 or 194;
- (b) section 4 (definition of “interception” etc.);
- (c) section 5 (conduct that is not interception);
- (d) section 6 (definition of “lawful authority”);
- (e) section 10(3) (definition of “EU mutual assistance instrument” and “international mutual assistance agreement” ^{M2} for the purpose of the definitions of “EU mutual assistance instrument” and “international mutual assistance agreement” in section 60(1) (Part 2: interpretation).

Marginal Citations

M2 [Section 10](#) is amended by [S.I. 2017/730](#). The amendments have effect from 31st June 2017.

Interception provisions coming into force on 31st May 2018

3. The following provisions in Part 2 of the 2016 Act (lawful interception of communications) come into force on 31st May 2018—

- (a) section 15 (warrants that may be issued under this Chapter) so far as not already in force;
- (b) section 16 (obtaining secondary data) so far as not already in force;
- (c) section 17 (subject matter of warrants);
- (d) section 18(1)(a) and (g), (2) and (3) (persons who may apply for issue of a warrant);
- (e) in section 19 (power of Secretary of State to issue warrants)—
 - (i) subsections (1) to (3) for the purpose of the Secretary of State deciding to issue a warrant but not for the purpose of the issuing of a warrant;
 - (ii) subsections (4) and (5);
- (f) section 20 (grounds on which warrants may be issued by the Secretary of State);
- (g) in section 21 (power of Scottish Ministers to issue warrants)—
 - (i) subsections (1) to (3) for the purpose of the Scottish Ministers deciding to issue a warrant but not for the purpose of the issuing of a warrant, and
 - (ii) subsections (4) to (6);
- (h) section 22 (“relevant Scottish applications”);
- (i) section 23 (approval of warrants by Judicial Commissioners);
- (j) section 26 (Members of Parliament etc.);
- (k) section 27 (items subject to legal privilege);
- (l) section 28 (confidential journalistic material);
- (m) section 29 (sources of journalistic information);
- (n) section 30 (decisions to issue warrants to be taken personally by Ministers);
- (o) section 31 (requirements that must be met by warrants);
- (p) section 40(1) to (3) and (8) (special rules for certain mutual assistance warrants);
- (q) section 53 (safeguards relating to retention and disclosure of material);
- (r) section 54 (safeguards relating to disclosure of material overseas);
- (s) section 60 (Part 2: interpretation) so far as not already in force.

Equipment interference provisions coming into force on 31st May 2018

4. The following provisions of Part 5 of the 2016 Act (equipment interference) come into force on 31st May 2018—

- (a) section 99 (warrants under this Part: general);
- (b) section 100 (meaning of “equipment data”);
- (c) section 101 (subject-matter of warrants);
- (d) in section 102 (power to issue warrants to intelligence services: the Secretary of State)—
 - (i) subsections (1) to (3) for the purpose of the Secretary of State deciding to issue a warrant but not for the purpose of the issuing of a warrant;
 - (ii) subsection (4) for the purpose of the Secretary of State deciding to issue a warrant but not for the purpose of the issuing of a warrant and only if the Secretary of State considers that the only grounds for considering the warrant to be necessary is for the purpose of preventing or detecting serious crime;

- (iii) subsections (5) to (9);
- (e) in section 103 (power to issue warrants to intelligence services: the Scottish Ministers)—
 - (i) subsections (1) and (2) for the purpose of the Scottish Ministers deciding to issue a warrant but not for the purpose of the issuing of a warrant;
 - (ii) subsections (3) and (4);
- (f) section 104 (power to issue warrants to the Chief of Defence Intelligence)—
 - (i) subsection (1) for the purpose of the Secretary of State deciding to issue a warrant but not for the purpose of the issuing of a warrant;
 - (ii) subsections (2) and (3);
- (g) section 105 (decision to issue warrants under sections 102 to 104 to be taken personally by Ministers);
- (h) in section 108 (approval of warrants by Judicial Commissioners) so far as relating to decisions to issue warrants under any of sections 102 to 104;
- (i) section 111(1) to (3) and (8) (members of Parliament etc.);
- (j) section 112 (items subject to legal privilege);
- (k) section 113 (confidential journalistic material);
- (l) section 114 (sources of journalistic information);
- (m) section 115 (requirements that must be met by warrants) so far as relating to warrants under any of sections 102 to 104;
- (n) section 129 (safeguards relating to retention and disclosure of material) so far as relating to warrants under any of sections 102 to 104;
- (o) section 130 (safeguards relating to disclosure of material overseas);
- (p) section 135 (Part 5: interpretation).

Bulk provisions coming into force on 31st May 2018

- 5. The following provisions of Part 6 (bulk warrants) come into force on 31st May 2018—
 - (a) section 136 (bulk interception warrants);
 - (b) section 137 (obtaining secondary data);
 - (c) section 138 (power to issue bulk interception warrants) for the purpose of the Secretary of State deciding to issue a bulk interception warrant but not for the purpose of the issuing of such a warrant;
 - (d) section 139 (additional requirements in respect of warrants affecting overseas operators);
 - (e) section 140 (approval of warrants by Judicial Commissioners);
 - (f) section 141 (decisions to issue warrants to be taken personally by the Secretary of State);
 - (g) section 142 (requirements that must be met by warrants);
 - (h) section 150 (safeguards relating to retention and disclosure of material);
 - (i) section 151 (safeguards relating to disclosure of material overseas);
 - (j) section 157 (Chapter 1: interpretation);
 - (k) section 176 (bulk equipment interference warrants: general);
 - (l) section 177 (meaning of “equipment data”);

- (m) section 178 (power to issue bulk equipment interference warrants), for the purpose of the Secretary of State deciding to issue a bulk equipment interference warrant but not for the purpose of the issuing of such a warrant;
- (n) section 179 (approval of warrants by Judicial Commissioners);
- (o) section 182 (decisions to issue warrants to be taken personally by Secretary of State);
- (p) section 183 (requirements that must be met by warrants);
- (q) section 191 (safeguards relating to retention and disclosure of material);
- (r) section 192 (safeguards relating to disclosure of material overseas);
- (s) section 198 (Chapter 3: interpretation).

Miscellaneous provisions coming into force on 31st May 2018

6. The following provisions of the 2016 Act come into force on 31st May 2018—
- (a) section 248 (combination of warrants and authorisations) for the purpose of the provisions of Schedule 8 coming into force in accordance with paragraph (b) of this regulation;
 - (b) in Schedule 8—
 - (i) paragraphs 1, 2, 4, 8 to 10, 13 and 14 (combined warrants that may be issued on application of an intelligence service or the Chief of Defence Intelligence) for the purpose of the Secretary of State or Scottish Ministers deciding to issue a combined warrant but not for the purpose of the issuing of such a warrant;
 - (ii) paragraph 15 (combined warrants: introductory provision);
 - (iii) in paragraph 16 (combined warrants: general)—
 - (aa) sub-paragraph (1) for the purpose of the Secretary of State or Scottish Ministers deciding to issue a combined warrant but not for the purpose of the issuing of such a warrant;
 - (bb) sub-paragraph (2);
 - (iv) paragraphs 17 to 19 (requirements that must be met by combined warrants and references to warrants and authorisations);
 - (v) in paragraph 20 (rules about issue etc. applying separately in relation to each part of a combined warrant)—
 - (aa) sub-paragraph (1) for the purpose of the matters in paragraphs (a) to (e) of that sub-paragraph;
 - (bb) sub-paragraph (2) for the purpose of the matters in paragraphs (a) and (b) of that sub-paragraph;
 - (cc) sub-paragraph (3);
 - (vi) in paragraph 21 (rules about issue etc. applying in relation to combined warrants)—
 - (aa) sub-paragraph (1), so far as relating to the issue of a combined warrant under Part 1 of Schedule 8;
 - (bb) sub-paragraph (2) for the purpose of the matters in paragraphs (a) to (c) of that sub-paragraph;
 - (cc) sub-paragraph (3);
 - (vii) in paragraph 22 (rules about issue etc. applying in relation to combined warrants)—
 - (aa) sub-paragraph (1), so far as relating to the issue of a combined warrant under Part 2 of Schedule 8;
 - (bb) sub-paragraphs (2) and (3);

- (viii) in paragraph 23 (rules about issue etc. applying in relation to combined warrants)—
 - (aa) sub-paragraph (1), so far as relating to the issue of a combined warrant under Part 3 of Schedule 8;
 - (bb) sub-paragraph (2);
- (ix) paragraph 33 (power to make consequential amendments).

General privacy protections coming into force on 27th June 2018

7. The following provisions of Part 1 of the 2016 Act (general privacy protections) come into force on 27th June 2018—

- (a) section 2 (general duties in relation to privacy) so far as it applies to decisions regarding whether to approve the use of criteria under section 153 or 194;
- (b) section 3 (offence of unlawful interception);
- (c) section 7 (monetary penalties for certain unlawful interceptions);
- (d) section 8 (civil liability for certain unlawful interceptions);
- (e) section 9 (restriction on requesting interception by overseas authorities) so far as it applies to requests other than requests made by or on behalf of—
 - (i) the Director General of the National Crime Agency;
 - (ii) the Commissioner of Police of the Metropolis;
 - (iii) the Chief Constable of the Police Service of Northern Ireland;
 - (iv) the chief constable of the Police Service of Scotland, or
 - (v) the Commissioners for Her Majesty's Revenue and Customs;
- (f) in section 10 (restrictions on requesting assistance under mutual assistance agreements etc.)—
 - (i) subsections (1) and (2) (restriction on requesting assistance under mutual assistance agreements etc.) so far as they applies to requests other than requests made by or on behalf of—
 - (aa) the Director General of the National Crime Agency;
 - (bb) the Commissioner of Police of the Metropolis;
 - (cc) the Chief Constable of the Police Service of Northern Ireland;
 - (dd) the chief constable of the Police Service of Scotland, or
 - (ee) the Commissioners for Her Majesty's Revenue and Customs;
 - (ii) subsection (3) so far as not already in force;
- (g) Schedule 1 (monetary penalty notices).

Interception provisions coming into force on 27th June 2018

8. The following provisions of Part 2 of the 2016 Act (lawful interception of communications) come into force on 27th June 2018—

- (a) section 19 (power of Secretary of State to issue warrants) so far as not already in force;
- (b) section 24 (approval of warrants issued in urgent cases);
- (c) section 25 (failure to approve warrant issued in urgent case);
- (d) section 32 (duration of warrants);
- (e) section 33 (renewal of warrants);

- (f) section 34 (modification of warrants);
- (g) section 35(1) to (5), (6)(a) and (e) and (7) (persons who may make modifications);
- (h) section 36 (further provision about modifications);
- (i) section 37 (notification of major modifications);
- (j) section 38 (approval of major modifications made in urgent cases);
- (k) section 39 (cancellation of warrants);
- (l) section 40 (special rules for certain mutual assistance warrants) so far as not already in force;
- (m) section 41 (implementation of warrants);
- (n) section 42 (service of warrants);
- (o) section 43 (duty of operators to assist with implementation);
- (p) sections 44 to 51 (other forms of lawful interception);
- (q) section 52 (interception in accordance with overseas requests);
- (r) section 55 (additional safeguards for items subject to legal privilege);
- (s) section 56 (exclusion of matters from legal proceedings etc.);
- (t) section 57 (duty not to make unauthorised disclosures);
- (u) section 58(1), (2) and (4) to (9) (section 57: meaning of “excepted disclosure”) ^{M3};
- (v) section 59 (offence of making unauthorised disclosures);
- (w) Schedule 3 (exceptions to section 56).

Marginal Citations

M3 [Section 58](#) was amended by paragraph 74(2) of Schedule 9 to the [Policing and Crime Act 2017 \(c. 3\)](#).

Equipment interference provisions coming into force on 27th June 2018

9. The following provisions of Part 5 of the 2016 Act (equipment interference) come into force on 27th June 2018—

- (a) in section 102 (power to issue warrants to the intelligence services: the Secretary of State)
 - (i) subsections (1) to (3) so far as not already in force;
 - (ii) subsection (4) to the extent it applies if 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;
- (b) section 103 (power to issue warrants to intelligence services: the Scottish Ministers) so far as not already in force;
- (c) section 104 (power to issue warrants to the Chief of Defence Intelligence) so far as not already in force;
- (d) section 109 (approval of warrants issued in urgent cases);
- (e) section 110 (failure to approve warrants issued in urgent cases);
- (f) section 116 (duration of warrants);
- (g) section 117 (renewal of warrants) so far as relating to warrants under any of sections 102 to 104;

- (h) section 118 (modification of warrants issued by the Secretary of State or Scottish Ministers);
- (i) section 119 (persons who may make modifications under section 118);
- (j) section 120 (further provision about modifications under section 118);
- (k) section 121 (notification of modifications);
- (l) section 122 (approval of modifications under section 118 made in urgent cases);
- (m) section 125 (cancellation of warrants) so far as relating to warrants under any of sections 102 to 104;
- (n) section 126 (implementation of warrants);
- (o) section 127 (service of warrants);
- (p) section 128(1) and (5) to (7) (duty of telecommunications operators to assist with implementation);
- (q) section 131 (additional safeguards for items subject to legal privilege);
- (r) section 132 (duty not to make unauthorised disclosures);
- (s) section 133 (section 132: meaning of “excepted disclosure”) ^{M4};
- (t) section 134 (offence of making unauthorised disclosure).

Marginal Citations

M4 Section 133 was amended by paragraph 74(5) of Schedule 9 to the Policing and Crime Act 2017.

Bulk warrant provisions coming into force on 27th June 2018

10. The following provisions of Part 6 of the 2016 Act (bulk warrants) come into force on 27th June 2018—

- (a) Chapter 1 (bulk interception warrants) so far as not already in force;
- (b) Chapter 3 (bulk equipment interference warrants) so far as not already in force.

Oversight provisions coming into force on 27th June 2018

11. The following provisions of Part 8 of the 2016 Act (oversight arrangements) come into force on 27th June 2018—

- (a) in section 229 (main oversight functions)—
 - (i) subsections (1), (2) and (9) so far as not already in force;
 - (ii) subsection (8) so far as it relates to paragraphs (b) and (c);
- (b) in section 231 (error reporting)—
 - (i) subsections (1) to (8);
 - (ii) subsection (9) for the purposes of—
 - (aa) paragraph (a) to the extent that it applies to an error by an intelligence service or the Ministry of Defence relating to interception or equipment interference;
 - (bb) paragraph (b) to the extent that it applies to an error by a public authority exercising any function conferred by the 2016 Act;

- (c) in section 234 (annual and other reports), subsection (2) (matters that must be included in an annual report) so far as it relates to—
 - (i) paragraph (d);
 - (ii) paragraph (e) to the extent it applies to information about the operational purposes specified during the year in warrants issued under Chapter 1 or 3 of Part 6;
- (d) section 235 (investigation and information powers) so far as not already in force;
- (e) in section 243 (functions of the Tribunal in relation to this Act etc.)—
 - (i) subsection (1)(b);
 - (ii) subsection (1)(c) so far as it inserts paragraphs—
 - (aa) (czd), (cze) and (czk);
 - (bb) (czl)(i) so far as that paragraph applies to any failure to cancel a warrant under Part 2 or 5 or Chapter 1 or 3 of Part 6 of the 2016 Act;
 - (iii) subsection (1)(f);
 - (iv) subsection (1)(h) so far as inserted subsection (7ZB) of section 65 of RIPA applies to conduct which is, or purports to be, conduct falling within—
 - (aa) subsection (5)(bb), (cze) or (czk), or
 - (bb) subsection (5)(czl)(i) so far as it applies to any failure to cancel a warrant under Part 2 or 5 or Chapter 1 or 3 of Part 6 of the 2016 Act;
 - (v) subsection (1)(i) so far as it inserts paragraph (a) of subsection (8) of section 65 of RIPA so far as that paragraph applies to a warrant under Part 2 or 5 or Chapter 1 or 3 of Part 6 of the 2016 Act;
 - (vi) subsection (1)(j);
 - (vii) subsection (5)(a) and (f).

Miscellaneous provisions coming into force on 27th June 2018

- 12.** The following provisions of the 2016 Act come into force on 27th June 2018—
- (a) section 249 (payment towards certain compliance costs) so far as not already in force;
 - (b) section 259 (amendments of the Wireless Telegraphy Act 2006);
 - (c) section 271(1) (minor and consequential provision) for the purpose of the provisions coming into force in accordance with paragraph (g) of this regulation and regulation 13;
 - (d) section 248 (combination of warrants and authorisations) for the purpose of the provisions of Schedule 8 coming into force in accordance with paragraph (e) of this regulation;
 - (e) in Schedule 8—
 - (i) paragraph 16 (combined warrants: general) so far as not already in force;
 - (ii) paragraphs 20 to 23 (rules about issue etc. applying in relation to combined warrants) so far as not already in force;
 - (iii) paragraph 25 (certain rules in RIPA not applying to combined warrants);
 - (iv) paragraphs 27 to 32 (special rules about the application of this Act to combined warrants);
 - (f) in Schedule 9 (transitional, transitory and saving provision)—
 - (i) paragraph 1 (lawful interception of communications);
 - (ii) paragraph 10 (general saving for lawful conduct);
 - (g) in Schedule 10 (minor and consequential provision)—

- (i) paragraphs 1 to 4;
- (ii) in paragraph 6—
 - (aa) sub-paragraph (4) (amendment of the definition of “interception” and cognate expressions) for the purposes of the references to interception in sections 21(1), 26(4)(b), 48(4) and 65(5)(b) of RIPA;
 - (bb) sub-paragraph (5) (amendment of the definitions of “postal service” and “public postal service” for the purpose of the references to postal services in sections 48(4), 65(4) and (5) and 67(3) of RIPA;
- (iii) paragraphs 7, 8, 9 to 35, 37, 39, 41 to 44, 50 to 52, 64, 65 and 101(1) and (2).

Repeals coming into force on 27th June 2018

13. Paragraph 45 of Schedule 10 (repeal of Chapter 1 of Part 1 of RIPA) comes into force on 27th June 2018 so far as it omits the following provisions of RIPA—

- (a) in section 1 (unlawful interception) ^{M5}—
 - (i) subsections (1) to (3);
 - (ii) subsection (4), except for the purpose of requests by or on behalf of—
 - (aa) the Director General of the National Crime Agency;
 - (bb) the Commissioner of Police of the Metropolis;
 - (cc) the Chief Constable of the Police Service of Northern Ireland;
 - (dd) the chief constable of the Police Service of Scotland, or
 - (ee) the Commissioners for Her Majesty's Revenue and Customs;
 - (iii) subsections (5) to (8);
- (b) section 3 (lawful interception without an interception warrant) ^{M6};
- (c) section 4 (power to provide for lawful interception) ^{M7};
- (d) sections 17 and 18 (exclusion of matters from legal proceedings and exceptions) ^{M8};
- (e) section 19 (offence for unauthorised disclosures) ^{M9}.

Marginal Citations

- M5** Section 1 was amended by S.I. 2011/1340 and 2017/730.
- M6** Section 3 was amended by paragraph 22 of Schedule 7 to the [Wireless Telegraphy Act 2006 \(c. 36\)](#), [section 100\(1\)](#) of the [Policing and Crime Act 2009 \(c. 26\)](#), [paragraph 2](#) of Schedule 8 to the [Counter-Terrorism and Security Act 2015 \(c. 6\)](#) and S.I. 2011/1340.
- M7** Section 4 was amended by paragraph 208 of Schedule 1 to the [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [paragraph 98](#) of Schedule 5 to the [Health and Social Care Act 2012 \(c. 7\)](#), [section 4\(4\)\(a\)](#) of the [Wales Act 2014 \(c. 29\)](#) and S.I. 2007/1388.
- M8** Section 17 was amended by paragraph 20 of Schedule 2 to the [Inquiries Act 2005 \(c. 12\)](#), [section 100\(2\)](#) of the [Policing and Crime Act 2009 \(c. 26\)](#), [paragraph 79](#) of Schedule 8 to the [Crime and Courts Act 2013 \(c. 22\)](#) and S.I. 2013/602. Section 18 was amended by paragraph 1 of Schedule 19 to the [Communications Act 2003 \(c. 21\)](#), [paragraph 21](#) of Schedule 2 and paragraph 1 of Schedule 3 to the [Inquiries Act 2005 \(c. 12\)](#), [paragraph 9\(3\)](#) of Schedule 1 to the [Prevention of Terrorism Act 2005 \(c. 2\)](#), [paragraph 23](#) of Schedule 7 to the [Wireless Telegraphy Act 2006](#), paragraph 169 of Schedule 16 to the [Armed Forces Act 2006 \(c. 52\)](#), [sections 69\(2\)](#) and 74 of the [Counter-Terrorism Act 2008 \(c. 28\)](#), [section 28](#) of the [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), [paragraph 4](#) of Schedule 7 to the by [Terrorism Prevention and Investigation Measures Act 2011](#)

(c. 23), **section 16(2)** of, and paragraph 11(2) of Schedule 2 to, the **Justice and Security Act 2013** (c. 18), **section 15(3)** of the **Counter-Terrorism and Security Act 2015** (c. 6) and S.I. 2001/1149 and 2007/1098.

M9 **Section 19** was amended by paragraph 80 of Schedule 8 to the **Crime and Courts Act 2013** and S.I. 2013/602.

Provisions coming into force on 8th August 2018

- 14.** The following provisions of the 2016 Act come into force on 8th August 2018—
- (a) section 13 (mandatory use of equipment interference warrants);
 - (b) section 271(1) (minor and consequential provision) for the purpose of the provisions coming into force in accordance with paragraph (c) of this regulation;
 - (c) paragraph 45 of Schedule 10 (repeal of Chapter 1 of Part 1 of RIPA) so far as it omits the following provisions of RIPA—
 - (i) in section 6 (application for issue of an interception warrant)^{M10}—
 - (aa) subsection (2)(a) to (c) and (i);
 - (bb) subsection (3) to the extent it applies to an application for the issue of an interception warrant made on behalf of a person specified in subsection (2) (a) to (c) or (i);
 - (ii) section 9(1)(b) (renewal of warrants)^{M11} to the extent it applies to warrants issued on an application made by or on behalf of the head of an intelligence service or the Chief of Defence Intelligence.

Marginal Citations

M10 **Section 6** was amended by section 78(2)(a) of the **Police (Northern Ireland) Act 2000** (c. 32), **paragraph 132(3)** of Schedule 4 to the **Serious Organised Crime and Police Act 2005** (c. 15), **paragraph 6** of Schedule 12 to the **Serious Crime Act 2007** (c. 27), **paragraph 78** of Schedule 8 to the **Crime and Courts Act 2013** and S.I. 2013/602.

M11 **Section 9(1)(b)** was amended by S.I. 2000/3253.

Changes to legislation:

There are currently no known outstanding effects for the The Investigatory Powers Act 2016 (Commencement No. 5 and Transitional and Saving Provisions) Regulations 2018, PART 1.