



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Thursday 26 May 2016

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 8 to 207 and NC2 to NC18

CONSIDERATION OF BILL (REPORT STAGE)

INVESTIGATORY POWERS BILL

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Investigatory Powers Bill Programme (No. 2) Motion to be proposed by Secretary Theresa May.

*NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, PART 1;
NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, PART 8*

Secretary Theresa May

NC5

★ To move the following Clause—

“General duties in relation to privacy

- (1) Subsection (2) applies where a public authority is deciding whether—
 - (a) to issue, renew or cancel a warrant under Part 2, 5, 6 or 7,
 - (b) to modify such a warrant,
 - (c) to approve a decision to issue, renew or modify such a warrant,
 - (d) to grant, approve or cancel an authorisation under Part 3,
 - (e) to give a notice in pursuance of such an authorisation or under Part 4 or section 216, 217 or 220,
 - (f) to vary or revoke such a notice,

Investigatory Powers Bill, *continued*

- (g) to approve a decision to give a notice under section 216 or 217, or
 - (h) to apply for or otherwise seek any issue, grant, giving, modification, variation or renewal of a kind falling within paragraph (a), (b), (d), (e) or (f).
- (2) The public authority must have regard to—
- (a) whether what is sought to be achieved by the warrant, authorisation or notice could reasonably be achieved by other less intrusive means,
 - (b) the public interest in the integrity and security of telecommunication systems and postal services, and
 - (c) any other aspects of the public interest in the protection of privacy.
- (3) The duties under subsection (2)—
- (a) apply so far as they are relevant in the particular context, and
 - (b) are subject to the need to have regard to other considerations that are also relevant in that context.
- (4) The other considerations may, in particular, include—
- (a) the interests of national security or of the economic well-being of the United Kingdom,
 - (b) the public interest in preventing or detecting serious crime,
 - (c) other considerations which are relevant to—
 - (i) whether the conduct authorised or required by the warrant, authorisation or notice is proportionate, or
 - (ii) whether it is necessary to act for a purpose provided for by this Act,
 - (d) the requirements of the Human Rights Act 1998, and
 - (e) other requirements of public law.
- (5) In this section “public authority” includes the relevant judicial authority (within the meaning of section 66) where the relevant judicial authority is deciding whether to approve under that section an authorisation under Part 3.”

Member’s explanatory statement

This new clause imposes certain duties in relation to privacy.

Secretary Theresa May

NC6

★ To move the following Clause—

“Civil liability for certain unlawful interceptions

- (1) An interception of a communication is actionable at the suit or instance of—
 - (a) the sender of the communication, or
 - (b) the recipient, or intended recipient, of the communication,
 if conditions A to D are met.
- (2) Condition A is that the interception is carried out in the United Kingdom.
- (3) Condition B is that the communication is intercepted—
 - (a) in the course of its transmission by means of a private telecommunication system, or
 - (b) in the course of its transmission, by means of a public telecommunication system, to or from apparatus that is part of a private telecommunication system.

Investigatory Powers Bill, *continued*

- (4) Condition C is that the interception is carried out by, or with the express or implied consent of, a person who has the right to control the operation or use of the private telecommunication system.
- (5) Condition D is that the interception is carried out without lawful authority.
- (6) For the meaning of “interception” and other key expressions used in this section, see sections 3 to 5.”

Member’s explanatory statement

This amendment replicates the effect of section 1(3) of the Regulation of Investigatory Powers Act 2000. It provides for civil liability in certain cases where there has been unlawful interception of communications transmitted by means of private telecommunication systems, or to or from apparatus forming part of such a system.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

NC4

★ To move the following Clause—

“Offence of unlawful use of investigatory powers

- (1) A relevant person is guilty of an offence if—
 - (a) by way of conduct described in this Act, he knowingly or recklessly obtains the communications, communications data, secondary data, equipment data or personal information of an individual, and
 - (b) the person does not have lawful authority to make use of the investigatory power concerned.
- (2) Subsection (1) does not apply to a relevant person who shows that the person acted in the reasonable belief that the person had lawful authority to obtain the information referred to in subsection (1)(a).
- (3) In this section “relevant person” means a person who holds an office, rank or position with a relevant public authority (within the meaning of Part 3).
- (4) A person guilty of an offence under this section is liable—
 - (a) on summary conviction in England and Wales—
 - (i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003), or
 - (ii) to a fine, or to both;
 - (b) on summary conviction in Scotland—
 - (i) to imprisonment for a term not exceeding 12 months, or
 - (ii) to a fine not exceeding the statutory maximum, or to both;
 - (c) on summary conviction in Northern Ireland—
 - (i) to imprisonment for a term not exceeding 6 months, or
 - (ii) to a fine not exceeding the statutory maximum, or to both;
 - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

Investigatory Powers Bill, continued

- (5) The offence in this section shall have precedence over any other relevant offences in the Data Protection Act 1998, Wireless Telegraphy Act 2006, Computer Misuse Act 1990, and the common law offence of misfeasance in public office.”

Member's explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to provide for a unified offence for the misuse of intrusive investigatory powers at the beginning of the Bill, in Part 1, rather than having each offence scattered throughout the Bill or in other legislation.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

14

- ★ Clause 1, page 1, line 4, at end insert—

“() This Act sets out the extent to which certain investigatory powers may be used to interfere with an individual’s privacy.”

Member's explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to place privacy at the forefront of the legislation.

Secretary Theresa May

26

- ★ Clause 1, page 1, line 5, leave out “sets out” and insert “imposes certain duties in relation to privacy and contains other protections for privacy.

(1A) These other protections include”

Member's explanatory statement

This amendment is consequential on new clause 5.

Secretary Theresa May

27

- ★ Clause 1, page 1, line 8, leave out “It” and insert “This Part”

Member's explanatory statement

This amendment is consequential on new clause 5.

Secretary Theresa May

28

- ★ Clause 1, page 1, line 12, leave out “Other” and insert “Further”

Member's explanatory statement

This amendment is consequential on new clause 5.

Secretary Theresa May

29

- ★ Clause 1, page 2, line 1, after “exist” insert “—

(i) ”

Member's explanatory statement

This amendment is consequential on amendment 30.

Investigatory Powers Bill, *continued*

Secretary Theresa May

30

- ★ Clause 1, page 2, line 1, after “1998” insert “,
- (ii) in section 55 of the Data Protection Act 1998 (unlawful obtaining etc. of personal data),
 - (iii) in section 48 of the Wireless Telegraphy Act 2006 (offence of interception or disclosure of messages),
 - (iv) in sections 1 to 3A of the Computer Misuse Act 1990 (computer misuse offences),
 - (v) in the common law offence of misfeasance in public office,”

Member’s explanatory statement

This amendment lists certain existing offences which protect privacy.

Secretary Theresa May

31

- ★ Clause 1, page 2, line 4, after “circumstances” insert “(including under a warrant)”

Member’s explanatory statement

This amendment is consequential on new clause 5.

Secretary Theresa May

32

- ★ Clause 1, page 2, line 9, after “lawful” insert “in pursuance of an authorisation or under a warrant”

Member’s explanatory statement

This amendment is consequential on new clause 5.

Secretary Theresa May

33

- ★ Clause 1, page 2, line 12, after “data” insert “in pursuance of a notice”

Member’s explanatory statement

This amendment is consequential on new clause 5.

Secretary Theresa May

34

- ★ Clause 10, page 8, line 20, leave out “for the purpose of regulatory functions” and insert “in connection with the regulation of—

- (i) telecommunications operators, telecommunications services or telecommunication systems, or
- (ii) postal operators or postal services”

Member’s explanatory statement

This amendment ensures that the powers and duties excluded from clause 10(2) (and dealt with in clause 10(3)) by virtue of being regulatory powers are limited to those exercisable in connection with telecommunications or postal regulation.

Investigatory Powers Bill, *continued*

Mr Alistair Carmichael

NC1

To move the following Clause—

“Notification by the Investigatory Powers Commissioner

- (1) The Investigatory Powers Commissioner is to notify the subject or subjects of investigatory powers relating to the statutory functions identified in section 196, subsections (1), (2) and (3), including—
 - (a) the interception or examination of communications,
 - (b) the retention, accessing or examination of communications data or secondary data,
 - (c) equipment interference,
 - (d) access or examination of data retrieved from a bulk personal dataset,
 - (e) covert human intelligence sources,
 - (f) entry or interference with property.
- (2) The Investigatory Powers Commissioner must only notify subjects of investigatory powers under subsection (1) upon completion of the relevant conduct or the cancellation of the authorisation or warrant.
- (3) The notification under subsection (1) must be sent by writing within thirty days of the completion of the relevant conduct or cancellation of the authorisation or warrant.
- (4) The Investigatory Powers Commissioner must issue the notification under subsection (1) in writing, including details of—
 - (a) the conduct that has taken place, and
 - (b) the provisions under which the conduct has taken place, and
 - (c) any known errors that took place within the course of the conduct.
- (5) The Investigatory Powers Commissioner may postpone the notification under subsection (1) beyond the time limit under subsection (3) if the Commissioner assesses that notification may defeat the purposes of an on-going serious crime or national security operation or investigation.
- (6) The Investigatory Powers Commissioner must consult with the person to whom the warrant is addressed in order to fulfil an assessment under subsection (5).”

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

NC2

★ To move the following Clause—

“Referrals by the Intelligence and Security Committee of Parliament

- (1) Subsection (2) applies if the Intelligence and Security Committee of Parliament refers a matter to the Investigatory Powers Commissioner.

Investigatory Powers Bill, *continued*

- (2) The Investigatory Powers Commissioner must inform the Intelligence and Security Committee of Parliament of the outcome of any investigation, inspection or audit arising from such a referral.”

Member’s explanatory statement

To allow the Intelligence and Security Committee to refer matters, on behalf of Parliament, to the Commissioner and to provide a mechanism for the Committee to be informed of the outcome.

Stephen McPartland

NC16

- ★ To move the following Clause—

“Investigatory Powers Commissioner: obligation to notify

- (1) The Investigatory Powers Commissioner is to notify the subject or subjects of investigatory powers relating to the statutory functions identified in section 196, subsections (1), (2) and (3), including—
- (a) the interception or examination of communications,
 - (b) the retention, accessing or examination of communications data or secondary data,
 - (c) equipment interference,
 - (d) access or examination of data retrieved from a bulk personal dataset.
- (2) The Investigatory Powers Commissioner must only notify subjects of investigatory powers under subsection (1) upon completion of the relevant conduct or the cancellation of the authorisation or warrant.
- (3) The notification under subsection (1) must be sent by writing within ninety days of the completion of the relevant conduct or cancellation of the authorisation or warrant.
- (4) The Investigatory Powers Commissioner must issue the notification under subsection (1) in writing, including details of the provisions under which the conduct has taken place.
- (5) The Investigatory Powers Commissioner may postpone the notification under subsection (1) beyond the time limit under subsection (3) if the Commissioner assesses that notification may defeat the purposes of the on-going serious crime or national security operation or investigation.
- (6) The Investigatory Powers Commissioner must consult with the person to whom the warrant is addressed in order to fulfil an assessment under subsection (5).”

Mr Douglas Carswell

7

Clause 194, page 149, line 23, at end insert—

- “(3A) The term of office of a person appointed under subsection (1)(a) as Investigatory Powers Commissioner must not begin before the Intelligence and Security Committee of Parliament has consented to the proposed appointee.”

Member’s explanatory statement

This amendment would require the appointment of the Investigatory Powers Commissioner to be agreed by the Intelligence and Security Committee of Parliament.

 Investigatory Powers Bill, *continued*

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

146

★ Clause 194, page 149, line 35, at end insert—

“(7A) The Investigatory Powers Commissioner shall ensure that all judicial authorisation functions under this Act are carried out by different Commissioners from those who carry out the audit and inspection functions set out in this Part.”

Member’s explanatory statement

This amendment requires the Investigatory Powers Commissioner to ensure the separation of the judicial authorisation function from the ex post audit and inspection function.

Secretary Theresa May

35

★ Clause 196, page 151, line 18, at end insert—

“() the exercise of functions by virtue of sections 1 to 4 of the Prisons (Interference with Wireless Telegraphy) Act 2012,”

Member’s explanatory statement

This amendment gives oversight to the Investigatory Powers Commissioner in relation to authorisations to interfere with wireless telegraphy under the Prisons (Interference with Wireless Telegraphy) Act 2012.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

8

★ Clause 196, page 152, line 9, at end insert—

“(4A) In keeping matters under review in accordance with this section, the Investigatory Powers Commissioner must, in particular, keep under review the operation of safeguards to protect privacy.”

Member’s explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to make explicit that the Investigatory Powers Commissioner is required to scrutinise the underlying safeguards, procedures and processes relating to bulk powers, including the arrangements for the protection of, and control of access to, material obtained through their use.

Investigatory Powers Bill, *continued*

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

- 18**
- ★ Clause 197, page 153, line 8, after “Commissioner”, insert “or the Intelligence and Security Committee of Parliament”
Member’s explanatory statement
On behalf of the Intelligence and Security Committee of Parliament, to allow the Prime Minister to issue directions at the request of the ISC (in addition to the Commissioner).

Stephen McPartland

- 189**
- ★ Clause 198, page 153, line 21, leave out “if the Commissioner considers that—”

Stephen McPartland

- 190**
- ★ Clause 198, page 153, leave out line 23

Stephen McPartland

- 191**
- ★ Clause 198, page 153, leave out line 24

Stephen McPartland

- 192**
- ★ Clause 198, page 153, line 25, leave out subsection (2)

Stephen McPartland

- 193**
- ★ Clause 198, page 153, line 29, leave out subsection (3)

Stephen McPartland

- 194**
- ★ Clause 198, page 153, line 32, leave out subsection (4)

Stephen McPartland

- 195**
- ★ Clause 198, page 154, line 6, leave out from “having” to end of line 9

Mr Alistair Carmichael

- 2**
- Clause 198, page 154, line 10, leave out subsection (7)
-

Investigatory Powers Bill, *continued*

*NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, PART 2;
NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, PART 5;
NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO,
CHAPTER 1 OF PART 9*

Secretary Theresa May

NC7

★ To move the following Clause—

“Persons who may make modifications

- (1) A major modification may be made by—
 - (a) the Secretary of State, in the case of a warrant issued by the Secretary of State,
 - (b) a member of the Scottish Government, in the case of a warrant issued by the Scottish Ministers, or
 - (c) a senior official acting on behalf of the Secretary of State or (as the case may be) the Scottish Ministers.
- (2) A minor modification may be made by—
 - (a) the Secretary of State, in the case of a warrant issued by the Secretary of State,
 - (b) a member of the Scottish Government, in the case of a warrant issued by the Scottish Ministers,
 - (c) a senior official acting on behalf of the Secretary of State or (as the case may be) the Scottish Ministers,
 - (d) the person to whom the warrant is addressed, or
 - (e) a person who holds a senior position in the same public authority as the person mentioned in paragraph (d).
- (3) But if a person within subsection (2)(d) or (e) considers that there is an urgent need to make a major modification, that person (as well as a person within subsection (1)) may do so.
Section 31 contains provision about the approval of major modifications made in urgent cases.
- (4) Subsections (1) and (3) are subject to section (*Further provision about modifications*)(5) and (6) (special rules where section 24 or 25 applies in relation to the making of a major modification).
- (5) For the purposes of subsection (2)(e) a person holds a senior position in a public authority if—
 - (a) in the case of any of the intelligence services—
 - (i) the person is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service, or
 - (ii) the person holds a position in the intelligence service of equivalent seniority to such a person;
 - (b) in the case of the National Crime Agency, the person is a National Crime Agency officer of grade 2 or above;
 - (c) in the case of the metropolitan police force, the Police Service of Northern Ireland or the Police Service of Scotland, a person is of or above the rank of superintendent;
 - (d) in the case of Her Majesty’s Revenue and Customs, the person is a member of the Senior Civil Service;
 - (e) in the case of the Ministry of Defence—
 - (i) the person is a member of the Senior Civil Service, or

Investigatory Powers Bill, *continued*

- (ii) the person is of or above the rank of brigadier, commodore or air commodore.
- (6) In this section “senior official” means—
 - (a) in the case of a warrant issued by the Secretary of State, a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service;
 - (b) in the case of a warrant issued by the Scottish Ministers, a member of the staff of the Scottish Administration who is a member of the Senior Civil Service.”

Member’s explanatory statement

The new clause reproduces clause 30(5) to (8) and includes provision consequential on NC8.

Secretary Theresa May

NC8

- ★ To move the following Clause—

“Further provision about modifications

- (1) A person may make a modification within subsection (2) only if the person considers—
 - (a) that the modification is necessary on any relevant grounds (see subsection (3)), and
 - (b) that the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct.
- (2) The modifications within this subsection are—
 - (a) a major modification adding the name or description of a person, organisation or set of premises to which the warrant relates, and
 - (b) a minor modification adding any factor specified in the warrant in accordance with section 27(8).
- (3) In subsection (1)(a) “relevant grounds” means—
 - (a) in the case of a warrant issued by the Secretary of State, grounds falling within section 18;
 - (b) in the case of a warrant issued by the Scottish Ministers, grounds falling within section 19(4);

and for the purposes of subsection (1) any reference to the Secretary of State in section 18(3)(b) or the Scottish Ministers in section 19(4)(b) is to be read as a reference to the person making the modification.
- (4) Sections 24 (Members of Parliament etc.) and 25 (items subject to legal privilege) apply in relation to the making of a major modification within subsection (2)(a) above as they apply in relation to the issuing of a warrant.
- (5) Where section 24 applies in relation to the making of a major modification—
 - (a) the modification must be made by the Secretary of State, and
 - (b) the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.
- (6) Where section 25 applies in relation to the making of a major modification—
 - (a) the modification must be made by—
 - (i) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government, or

Investigatory Powers Bill, *continued*

- (ii) if a senior official acting on behalf of a person within subparagraph (i) considers that there is an urgent need to make the modification, that senior official, and
 - (b) except where the person making the modification considers that there is an urgent need to make it, the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.
- (7) In a case where section 24 or 25 applies in relation to the making of a major modification, section 21 (approval of warrants by Judicial Commissioners) applies in relation to the decision to make the modification as it applies in relation to a decision to issue a warrant, but as if—
- (a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the warrant as modified,
 - (b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification, and
 - (c) “relevant grounds” in that section had the meaning given by subsection (3) above.

Section 31 contains provision about the approval of major modifications made in urgent cases.

- (8) If, in a case where section 24 or 25 applies in relation to the making of a major modification, it is not reasonably practicable for the instrument making the modification to be signed by the Secretary of State or (as the case may be) a member of the Scottish Government in accordance with section 30(3), the instrument may be signed by a senior official designated by the Secretary of State or (as the case may be) the Scottish Ministers for that purpose.
- (9) In such a case, the instrument making the modification must contain a statement that—
 - (a) it is not reasonably practicable for the instrument to be signed by the person who took the decision to make the modification, and
 - (b) the Secretary of State or (as the case may be) a member of the Scottish Government has personally and expressly authorised the making of the modification.
- (10) If at any time a person mentioned in section (*Persons who may make modifications*)(2) considers that any factor specified in a warrant in accordance with section 27(8) is no longer relevant for identifying communications which, in the case of that warrant, are likely to be, or to include, communications falling within section 27(9)(a) or (b), the person must modify the warrant by removing that factor.
- (11) In this section “senior official” has the same meaning as in section (*Persons who may make modifications*).”

Member’s explanatory statement

The new clause reproduces (with some changes) clause 30(9) to (11) and (13). It requires Judicial Commissioner approval for major modifications in cases where clause 24 or 25 applies, and restricts who may make such modifications. It also provides that a modification adding a new address, number etc to a warrant under Chapter 1 of Part 2 may be made only if the necessity and proportionality tests in subsection (1) are met.

Investigatory Powers Bill, *continued*

Secretary Theresa May

NC9

- ★ To move the following Clause—

“Notification of major modifications

- (1) As soon as is reasonably practicable after a person makes a major modification of a warrant under this Chapter, a Judicial Commissioner must be notified of the modification and the reasons for making it.
- (2) But subsection (1) does not apply where—
 - (a) the modification is made by virtue of section (*Persons who may make modifications*)(3), or
 - (b) section 24 or 25 applies in relation to the making of the modification.
- (3) Where a major modification is made by a senior official in accordance with section (*Persons who may make modifications*)(1) or section (*Further provision about modifications*)(6)(a)(ii), the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the modification and the reasons for making it.
- (4) In this section “senior official” has the same meaning as in section (*Persons who may make modifications*).”

Member’s explanatory statement

The new clause provides that a Judicial Commissioner must be notified whenever a major modification of a warrant under Chapter 1 of Part 2 is made. This requirement does not apply in a case where the modification needs to be approved under clause 31. The clause also reproduces what was clause 30(12) and extends it to apply to cases where a senior official makes an urgent major modification in relation to which clause 25 applies.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

25

- ★ Clause 15, page 12, line 7, leave out “or” and insert “and”

Member’s explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to limit the potentially broad scope of thematic warrants involving people who “share a common purpose” by ensuring that they also must be engaged in a particular activity.

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

131

- ★ Clause 15, page 12, line 8, after “activity” insert “where each person is named or otherwise identified”

Member’s explanatory statement

These amendments seek to make more specific the currently very broadly worded thematic

Investigatory Powers Bill, *continued*

warrants in the Bill, to make it more likely that such thematic warrants will be compatible with the requirements of Article 8 ECHR as interpreted by the European Court of Human Rights.

Ms Harriet Harman
Fiona Bruce
Ms Karen Buck
Jeremy Lefroy
Amanda Solloway

132

- ★ Clause 15, page 12, line 11, after “operation” insert “where each person is named or otherwise identified”

Member’s explanatory statement

See amendment 131.

Secretary Theresa May

36

- ★ Clause 17, page 14, line 1, leave out subsection (4)

Member’s explanatory statement

This amendment is consequential on new clause 5.

Secretary Theresa May

37

- ★ Clause 19, page 16, line 4, leave out subsection (6)

Member’s explanatory statement

This amendment is consequential on new clause 5.

Secretary Theresa May

53

- ★ Clause 24, page 19, line 7, leave out subsection (2) and insert—

“() The Secretary of State may not issue the warrant without the approval of the Prime Minister.”

Member’s explanatory statement

In cases where clause 24 applies, the amendment requires the Prime Minister to approve the warrant.

Ms Harriet Harman
Fiona Bruce
Ms Karen Buck
Jeremy Lefroy
Amanda Solloway

137

- ★ Clause 24, page 19, line 8, after “Minister” insert “and give sufficient notice to the relevant Presiding Officer of the relevant legislature to enable the relevant Presiding Officer to be heard at the hearing before the Judicial Commissioner”

Investigatory Powers Bill, *continued*

Sir Edward Leigh

1

Clause 24, page 19, line 8, at end insert “and where the member is a member of the House of Commons he must also consult the Speaker of the House of Commons”

Member’s explanatory statement

This amendment would require the Secretary of State to consult the Speaker before deciding to issue a warrant that applied to an MP’s communications.

Ms Harriet Harman
Fiona Bruce
Ms Karen Buck
Jeremy Lefroy
Amanda Solloway

138

★ Clause 24, page 19, line 14, at end insert—

“(4) In this section “the relevant Presiding Officer” means—

- (a) the Speaker of the House of Commons,
- (b) the Lord Speaker of the House of Lords,
- (c) the Presiding Officer of the Scottish Parliament,
- (d) the Presiding Officer of the National Assembly for Wales,
- (e) the Speaker of the Northern Ireland Assembly,
- (f) the President of the European Parliament.”

Member’s explanatory statement

This amendment adds the safeguard of giving the Speaker, or other Presiding Officer, of the relevant legislature, sufficient notice before the Secretary of State decides whether to issue a warrant for targeted interception or examination of members’ communications, to enable the Speaker or Presiding Officer to be heard at the hearing before the Judicial Commissioner.

Ms Harriet Harman
Fiona Bruce
Ms Karen Buck
Jeremy Lefroy
Amanda Solloway

139

★ Clause 25, page 19, line 16, leave out subsections (1) to (3)

Member’s explanatory statement

This amendment removes the power to apply for a warrant the purpose of which is to authorise the interception, or selection for examination, of items subject to legal privilege.

Ms Harriet Harman
Fiona Bruce
Ms Karen Buck
Jeremy Lefroy
Amanda Solloway

140

★ Clause 25, page 19, line 44, leave out subsection (4)(c)

Member’s explanatory statement

See amendment 141.

Investigatory Powers Bill, *continued*

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

141

★ Clause 25, page 20, line 7, after “considers” insert—

“(a) that there are exceptional and compelling circumstances that make it necessary to authorise the interception, or (in the case of a targeted examination warrant) the selection for examination, of items subject to legal privilege, and

(b) ”

Member’s explanatory statement

These amendments introduce a threshold test for the interception or examination of communications likely to include items subject to legal privilege, reflecting the strong presumption against interference with lawyer-client confidentiality.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

19

★ Clause 29, page 22, line 25, leave out “before the end of the relevant” and insert “during the renewal”

Member’s explanatory statement

See amendment 20.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

20

★ Clause 29, page 23, line 4, at end insert—

“(4A) “The renewal period” means—

(a) in the case of an urgent warrant which has not been renewed, the relevant period;

(b) in any other case, the period of 30 days ending with the relevant period.”

Member’s explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to prohibit the possibility of a warrant being renewed immediately. Clauses 28 and 29 would currently theoretically allow for warrants of 12 months duration rather than the intended six.

Investigatory Powers Bill, *continued*

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

- ★ Clause 29, page 23, line 16, at end insert— 21
 “(8A) In this section “urgent warrant” has the same meaning as in section 28.”
Member’s explanatory statement
See amendment 20.

Stephen McPartland

- ★ Page 23, line 19, leave out Clause 30 147

Secretary Theresa May

- ★ Clause 30, page 23, line 27, at end insert— 54
 “() But a warrant may not be modified as mentioned in subsection (2)(a) if it relates only to a particular person or organisation, or to a single set of premises, as mentioned in section 15(1).”
Member’s explanatory statement
The amendment prevents the modification of a warrant under Chapter 1 of Part 2 that relates only to a particular person or organisation or to a single set of premises.

Secretary Theresa May

- ★ Clause 30, page 23, line 29, at end insert— 55
 “This is subject to section (*Further provision about modifications*)(8).”
Member’s explanatory statement
This amendment is consequential on NC8.

Secretary Theresa May

- ★ Clause 30, page 23, line 30, leave out “section” and insert “Chapter” 56
Member’s explanatory statement
This amendment is consequential on NC7, NC8 and NC9.

Secretary Theresa May

- ★ Clause 30, page 23, line 36, leave out subsections (5) to (14) 57
Member’s explanatory statement
This amendment is consequential on NC7 and NC8.

Investigatory Powers Bill, *continued*

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

142

★ Clause 30, page 24, line 45, at end insert—

“(10A) Section 21 (Approval of warrants by Judicial Commissioners) applies in relation to a decision to make a major modification of a warrant by adding a name or description as mentioned in subsection (2)(a) as it applies in relation to a decision to issue a warrant; and accordingly where section 21 applies a Judicial Commissioner must approve the modification.”

Member’s explanatory statement

This amendment seeks to ensure that major modifications of warrants require judicial approval.

Secretary Theresa May

58

★ Clause 30, page 25, line 21, at end insert—

“() Sections (*Persons who may make modifications*), (*Further provision about modifications*), (*Notification of major modifications*) and 31 contain further provision about making modifications under this section.”

Member’s explanatory statement

This amendment is consequential on NC7, NC8 and NC9.

Stephen McPartland

148

★ Page 25, line 22, leave out Clause 31

Secretary Theresa May

59

★ Clause 31, page 25, line 24, leave out “30(7)” and insert “(*Persons who may make modifications*)(3)”

Member’s explanatory statement

This amendment is consequential on NC7.

Secretary Theresa May

60

★ Clause 31, page 25, line 24, at end insert—

“() This section also applies where—

- (a) section 25 applies in relation to the making of a major modification of a warrant under this Chapter,
- (b) the person makes the modification without the approval of a Judicial Commissioner, and
- (c) the person considered that there was an urgent need to make the modification.”

Member’s explanatory statement

This amendment extends clause 31 to provide for the approval by Judicial Commissioners of certain major modifications made in urgent cases.

Investigatory Powers Bill, *continued*

Secretary Theresa May

61

- ★ Clause 31, page 25, line 25, leave out “a designated senior official” and insert “the appropriate person”
Member’s explanatory statement
See the explanatory statement for amendment 60.

Secretary Theresa May

62

- ★ Clause 31, page 25, line 27, at end insert—
 ““the appropriate person” is—
 (a) in a case falling within subsection (1), a designated senior official, and
 (b) in a case falling within subsection (2), a Judicial Commissioner,”
Member’s explanatory statement
See the explanatory statement for amendment 60.

Secretary Theresa May

63

- ★ Clause 31, page 25, line 32, leave out “30” and insert “(Persons who may make modifications)”
Member’s explanatory statement
This amendment is consequential on NC7.

Secretary Theresa May

64

- ★ Clause 31, page 25, line 33, leave out subsection (4)
Member’s explanatory statement
This amendment is consequential on amendment 67.

Secretary Theresa May

65

- ★ Clause 31, page 25, line 36, leave out “designated senior official” and insert “appropriate person”
Member’s explanatory statement
See the explanatory statement for amendment 60.

Secretary Theresa May

66

- ★ Clause 31, page 25, line 38, leave out “senior official’s” and insert “appropriate person’s”
Member’s explanatory statement
See the explanatory statement for amendment 60.

Secretary Theresa May

67

- ★ Clause 31, page 25, line 40, at end insert—
 “() As soon as is reasonably practicable after a designated senior official makes a decision under subsection (5)—
 (a) a Judicial Commissioner must be notified of—
 (i) the decision, and
 (ii) if the senior official has decided to approve the decision to make the modification, the modification in question, and

Investigatory Powers Bill, *continued*

- (b) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the matters mentioned in paragraph (a)(i) and (ii)."

Member's explanatory statement

This amendment provides that, where a designated senior official has decided whether to approve a modification, a Judicial Commissioner, and the person who issued the warrant, must be notified of the decision.

Secretary Theresa May

68

- ★ Clause 31, page 25, line 41, leave out "designated senior official" and insert "appropriate person"

Member's explanatory statement

See the explanatory statement for amendment 60.

Secretary Theresa May

69

- ★ Clause 31, page 25, line 43, leave out paragraph (a)

Member's explanatory statement

This amendment is consequential on amendment 67.

Secretary Theresa May

70

- ★ Clause 35, page 29, line 4, leave out "on a person outside the United Kingdom"

Member's explanatory statement

This amendment is consequential on amendment 71.

Secretary Theresa May

71

- ★ Clause 35, page 29, line 5, at end insert—

"() A copy of the warrant must be served in such a way as to bring the contents of the warrant to the attention of the person who the intercepting authority considers may be able to provide assistance in relation to it."

Member's explanatory statement

The amendment makes it clear that, where a person is required under clause 34 to provide assistance in relation to a warrant, a copy of the warrant must be served in such a way that the person is aware of the contents of the warrant and so can provide that assistance.

Secretary Theresa May

72

- ★ Clause 35, page 29, line 6, leave out "the person" and insert "a person outside the United Kingdom"

Member's explanatory statement

This amendment is consequential on amendment 71.

Investigatory Powers Bill, *continued*

Secretary Theresa May

73

- ★ Clause 35, page 29, line 19, after “person” insert “outside the United Kingdom”
Member’s explanatory statement
This amendment is consequential on amendment 71.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

15

- ★ Clause 45, page 34, line 42, leave out “C” and insert “D”
Member’s explanatory statement
Consequential upon amendment 16.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

16

- ★ Clause 45, page 35, line 7, at end insert—
 “(3A) Condition C is that the interception is carried out for the purpose of obtaining information about the communications of an individual who, both the interceptor and the person making the request have reasonable grounds for believing, is outside the United Kingdom.”
Member’s explanatory statement
On behalf of the Intelligence and Security Committee of Parliament, to reinstate the current safeguard in RIPA that the person being intercepted must be outside the UK.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

17

- ★ Clause 45, page 35, line 8, leave out “C” and insert “D”
Member’s explanatory statement
Consequential upon amendment 16.
-

Investigatory Powers Bill, *continued*

Secretary Theresa May

75

- ★ Clause 50, page 40, line 7, at end insert—

“() a disclosure made to the Intelligence and Security Committee of Parliament for the purposes of facilitating the carrying out of any of its functions.”

Member’s explanatory statement

This amendment makes it clear that disclosure may be made to the Intelligence and Security Committee without breaching clause 49.

Secretary Theresa May

76

- ★ Clause 50, page 40, line 35, after “Part” insert “or under Chapter 1 of Part 1 of RIPA”

Member’s explanatory statement

This amendment enables a disclosure of information to be made that relates to interception warrants under Chapter 1 of Part 1 of the Regulation of Investigatory Powers Act 2000 in general.

Secretary Theresa May

77

- ★ Clause 50, page 40, line 35, after “to” insert “any”

Member’s explanatory statement

This amendment is consequential on amendment 76.

Secretary Theresa May

74

- ★ Schedule 3, page 204, line 44, leave out sub-paragraph (3) and insert—

“() In a case where a person who is not a nominated person is or has been conducting an investigation under Part 1 of the Coroners and Justice Act 2009 into a person’s death, nothing in section 48(1) prohibits—

- (a) a disclosure to the person that there is intercepted material in existence which is, or may be, relevant to the investigation;
- (b) a disclosure to a person appointed as legal adviser to an inquest forming part of 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.”

Member’s explanatory statement

This amendment creates a further exception to clause 48 to enable intercepted material to be disclosed to the legal adviser to an inquest in order to determine whether it is or may be relevant.

Investigatory Powers Bill, *continued*

Secretary Theresa May

NC11

★ To move the following Clause—

“Persons who may make modifications under section 104

- (1) The persons who may make modifications under section 104 of a warrant are (subject to subsection (2))—
 - (a) in the case of a warrant issued by the Secretary of State under section 91 or 93—
 - (i) the Secretary of State,
 - (ii) a senior official acting on behalf of the Secretary of State;
 - (b) in the case of a warrant issued by the Scottish Ministers under section 92—
 - (i) a member of the Scottish Government, or
 - (ii) a senior official acting on behalf of the Scottish Ministers.
- (2) Any of the following persons may also make modifications under section 104 of a warrant, but only where the person considers that there is an urgent need to make the modification—
 - (a) the person to whom the warrant is addressed;
 - (b) a person who holds a senior position in the same public authority as the person mentioned in paragraph (a).

Section 105 contains provision about the approval of modifications made in urgent cases.
- (3) Subsection (2) is subject to section (*Further provision about modifications under section 104*)(4) and (5) (special rules where sections 94 and 100 apply in relation to the making of a modification under section 104).
- (4) For the purposes of subsection (2)(b), a person holds a senior position in a public authority if—
 - (a) in the case of any of the intelligence services—
 - (i) the person is a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service, or
 - (ii) the person holds a position in the intelligence service of equivalent seniority to such a person;
 - (b) in the case of the Ministry of Defence—
 - (i) the person is a member of the Senior Civil Service, or
 - (ii) the person is of or above the rank of brigadier, commodore or air commodore.”

Member’s explanatory statement

This new clause reproduces clause 104(6) to (8) and also includes provision consequential on NC12.

Investigatory Powers Bill, *continued*

Secretary Theresa May

NC12

★ To move the following Clause—

“Further provision about modifications under section 104

- (1) A modification, other than a modification removing any matter, name or description, may be made under section 104 only if the person making the modification considers—
 - (a) that the modification is necessary on any relevant grounds (see subsection (2)), and
 - (b) that the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct.
- (2) In subsection (1)(a), “relevant grounds” means—
 - (a) in the case of a warrant issued under section 91, grounds falling within section 91(5);
 - (b) in the case of a warrant issued under section 92, the purpose of preventing or detecting serious crime;
 - (c) in the case of a warrant issued under section 93, the interests of national security.
- (3) Sections 94 (Members of Parliament etc.) and 100 (items subject to legal privilege) apply in relation to the making of a modification to a warrant under section 104, other than a modification removing any matter, name or description, as they apply in relation to the issuing of a warrant.
- (4) Where section 94 applies in relation to the making of a modification—
 - (a) the modification must be made by the Secretary of State, and
 - (b) the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.
- (5) Where section 100 applies in relation to the making of a modification—
 - (a) the modification must be made by —
 - (i) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government, or
 - (ii) if a senior official acting on behalf of a person within subparagraph (i) considers that there is an urgent need to make the modification, that senior official, and
 - (b) except where the person making the modification considers that there is an urgent need to make it, the modification has effect only if the decision to make the modification has been approved by a Judicial Commissioner.
- (6) In a case where section 94 or 100 applies in relation to the making of a modification, section 97 (approval of warrants by Judicial Commissioners) applies in relation to the decision to make the modification as it applies in relation to a decision to issue a warrant, but as if—
 - (a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the modification, and
 - (b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification.

Section 105 contains provision about the approval of modifications made in urgent cases.
- (7) If, in a case where section 94 or 100 applies in relation to the making of a modification, it is not reasonably practicable for the instrument making the modification to be signed by the Secretary of State or (as the case may be) a member of the Scottish Government in accordance with section 104(3), the

Investigatory Powers Bill, *continued*

instrument may be signed by a senior official designated by the Secretary of State or (as the case may be) the Scottish Ministers for that purpose.

- (8) In such a case, the instrument making the modification must contain a statement that—
- (a) it is not reasonably practicable for the instrument to be signed by the person who took the decision to make the modification, and
 - (b) the Secretary of State or (as the case may be) a member of the Scottish Government has personally and expressly authorised the making of the modification.”

Member’s explanatory statement

This new clause reproduces (with some changes) clause 104(4), (5), (9) and (10). It requires Judicial Commissioner approval for modifications where clause 94 or 100 applies, and restricts who may make such modifications.

Secretary Theresa May

NC13

- ★ To move the following Clause—

“Notification of modifications

- (1) As soon as is reasonably practicable after a person makes a modification of a warrant under section 104, a Judicial Commissioner must be notified of the modification and the reasons for making it.
- (2) But subsection (1) does not apply where—
 - (a) the modification is to remove any matter, name or description included in the warrant in accordance with section 101(3) to (5),
 - (b) the modification is made by virtue of section (*Persons who may make modifications under section 104*)(2), or
 - (c) section 94 or 100 applies in relation to the making of the modification.
- (3) Where a modification is made by a senior official in accordance with section (*Persons who may make modifications under section 104*)(1) or section (*Further provision about modifications under section 104*)(5)(a)(ii), the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the modification and the reasons for making it.”

Member’s explanatory statement

This new clause provides that a Judicial Commissioner must be notified whenever a modification of a warrant is made under clause 104. This requirement does not apply in certain cases set out in subsection (2). It also reproduces what is currently clause 104(11) and (12) and extends it to cases where a senior official makes an urgent modification in relation to which clause 100 applies.

Stephen McPartland

178

- ★ Clause 90, page 68, line 24, leave out subsection (1)(b)

Investigatory Powers Bill, *continued*

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

- 133**
- ★ Clause 90, page 68, line 26, after “activity” insert “where each person is named or otherwise identified”
Member’s explanatory statement
See amendment 131.

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

- 134**
- ★ Clause 90, page 68, line 29, after “operation” insert “where each person is named or otherwise identified”
Member’s explanatory statement
See amendment 131.

Stephen McPartland

- 179**
- ★ Clause 90, page 68, line 31, leave out subsection (1)(e)

Stephen McPartland

- 180**
- ★ Clause 90, page 68, line 33, leave out subsection (1)(f)

Stephen McPartland

- 181**
- ★ Clause 90, page 68, line 35, leave out subsection (1)(g)

Stephen McPartland

- 182**
- ★ Clause 90, page 68, line 38, leave out subsection (1)(h)

Stephen McPartland

- 187**
- ★ Clause 90, page 68, line 41, at end insert—
 “(1A) A targeted equipment interference warrant may only be issued in relation to any of the matters that fall under subsection (1) if the persons, equipment, or location to which the warrant relates are named or specifically identified using a unique identifier.”

Investigatory Powers Bill, *continued*

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

- 135**
- ★ Clause 90, page 68, line 45, after “activity” insert “where each person is named or otherwise identified”
Member’s explanatory statement
See amendment 131.

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

- 136**
- ★ Clause 90, page 68, line 47, after “operation” insert “where each person is named or otherwise identified”
Member’s explanatory statement
See amendment 131.

Stephen McPartland

- 188**
- ★ Clause 90, page 69, line 4, at end insert—
 “(2A) A targeted examination warrant may only be issued in relation to any of the matters that fall under subsection (2) if the persons, equipment, or location to which the warrant relates are named or specifically identified using a unique identifier.”

Secretary Theresa May

- 38**
- ★ Clause 91, page 70, line 17, leave out subsection (7)
Member’s explanatory statement
This amendment is consequential on new clause 5.

Secretary Theresa May

- 39**
- ★ Clause 92, page 71, line 14, leave out subsection (3)
Member’s explanatory statement
This amendment is consequential on new clause 5.
-

Investigatory Powers Bill, *continued*

Secretary Theresa May

40

- ★ Clause 93, page 71, line 34, leave out subsection (2)
Member's explanatory statement
This amendment is consequential on new clause 5.

Secretary Theresa May

88

- ★ Clause 94, page 71, line 41, leave out “This section” and insert “Subsection (3)”
Member's explanatory statement
This amendment is consequential on amendment 91.

Secretary Theresa May

89

- ★ Clause 94, page 72, line 2, leave out “This section” and insert “Subsection (3)”
Member's explanatory statement
This amendment is consequential on amendment 91.

Secretary Theresa May

90

- ★ Clause 94, page 72, line 10, leave out subsection (3) and insert—
 “() The Secretary of State may not issue the warrant without the approval of the Prime Minister.”
Member's explanatory statement
In cases where clause 94 applies, this amendment requires the Prime Minister to approve the warrant.

Secretary Theresa May

91

- ★ Clause 94, page 72, line 11, at end insert—
 “(3A) Subsection (3B) applies where—
 (a) an application is made under section 96 to a law enforcement chief for a targeted equipment interference warrant, and
 (b) the purpose of the warrant is to obtain—
 (i) communications sent by, or intended for, a person who is a member of a relevant legislature, or
 (ii) a member of a relevant legislature’s private information.
 (3B) The law enforcement chief may not issue the warrant without the approval of the Secretary of State unless the law enforcement chief believes that the warrant (if issued) would authorise interference only with equipment which would be in Scotland at the time of the issue of the warrant or which the law enforcement chief believes would be in Scotland at that time.
 (3C) The Secretary of State may give approval for the purposes of subsection (3B) only with the approval of the Prime Minister.
 (3D) In a case where the decision whether to issue a targeted equipment interference warrant is to be taken by an appropriate delegate in relation to a law enforcement chief under section 96(3), the reference in subsection (3B) to the law enforcement chief is to be read as a reference to the appropriate delegate.”

Member's explanatory statement*Clause 94, as amended by amendment 90, requires the Secretary of State to obtain the approval of*

Investigatory Powers Bill, continued

the Prime Minister before a targeted equipment interference warrant is issued by the Secretary of State in circumstances where the purpose of the warrant is one set out in subsection (1)(b) of the clause. This amendment deals with the case where a law enforcement chief has power to decide to issue a targeted equipment interference warrant under clause 96. In similar circumstances, the law enforcement chief requires the approval of the Secretary of State before issuing a targeted equipment interference warrant. The approval of the Secretary of State may in turn only be given with the approval of the Prime Minister. There is an exception for the case where the warrant would authorise interference only with equipment which would be in Scotland at the time of the issue of the warrant (or which is believed to be in Scotland).

Secretary Theresa May

That clause 94 be transferred to the end of line 38 on page 76

Secretary Theresa May

92

★ Clause 96, page 74, line 8, at end insert—

“() A law enforcement chief who is the chairman, or a deputy chairman, of the Independent Police Complaints Commission may consider that the condition in subsection (1)(a) is satisfied only if the offence, or all of the offences, to which the serious crime relates are offences that are being investigated as part of an investigation by the Commission under Schedule 3 to the Police Reform Act 2002.”

Member’s explanatory statement

This amendment is related to amendment 125. It makes special provision about how clause 96(1)(a) applies where the law enforcement chief is the chairman, or a deputy chairman, of the Independent Police Complaints Commission.

Secretary Theresa May

41

★ Clause 96, page 74, line 14, leave out subsection (11)

Member’s explanatory statement

This amendment is consequential on new clause 5.

Stephen McPartland

183

★ Clause 101, page 78, leave out lines 21 to 27

Stephen McPartland

184

★ Clause 101, page 79, leave out lines 3 to 7

Stephen McPartland

185

★ Clause 101, page 79, leave out lines 8 to 12

Investigatory Powers Bill, *continued*

Stephen McPartland

186

- ★ Clause 101, page 79, leave out lines 14 to 19
-

Secretary Theresa May

93

- ★ Clause 103, page 81, line 35, leave out subsection (8)
Member's explanatory statement
This amendment is consequential on amendment 91.

Secretary Theresa May

94

- ★ Clause 103, page 81, line 43, leave out “Section” and insert “Sections
 (Members of Parliament etc.) and”
Member's explanatory statement
This amendment is consequential on amendment 91.

Secretary Theresa May

95

- ★ Clause 103, page 81, line 43, leave out “applies” and insert “apply”
Member's explanatory statement
This amendment is consequential on amendment 91.

Secretary Theresa May

96

- ★ Clause 103, page 81, line 44, leave out “it applies” and insert “they apply”
Member's explanatory statement
This amendment is consequential on amendment 91.
-

Stephen McPartland

149

- ★ Page 82, line 1, leave out Clause 104

Secretary Theresa May

97

- ★ Clause 104, page 82, line 19, at end insert—
 “() But—
 (a) where a targeted equipment interference warrant relates only to a matter specified in section 90(1)(a), only to a matter specified in section 90(1)(d), or only to both such matters, the details included in the warrant in accordance with section 101(3) may not be modified;
 (b) where a targeted examination warrant relates only to a matter specified in section 90(2)(a), the details included in the warrant in accordance with section 101(5) may not be modified.”

Member's explanatory statement

Where a targeted equipment interference warrant relates only to a particular person or organisation or to a particular location (or to both), this amendment prevents the details included

Investigatory Powers Bill, continued

in the warrant in accordance with clause 101(3) from being modified (so, for example, names cannot be added). It also provides for a comparable restriction on the modification of targeted examination warrants.

Secretary Theresa May 98

- ★ Clause 104, page 82, line 22, at end insert—
 “This is subject to section (*Further provision about modifications under section 104*)(7).”
Member’s explanatory statement
This amendment is consequential on NC12.

Secretary Theresa May 99

- ★ Clause 104, page 82, line 23, leave out subsections (4) to (12)
Member’s explanatory statement
This amendment is consequential on NC11, NC12 and NC13.

Secretary Theresa May 100

- ★ Clause 104, page 83, line 35, at end insert—
 “() Sections (*Persons who may make modifications under section 104*), (*Further provision about modifications under section 104*), (*Notification of modifications*) and 105 contain further provision about making modifications under this section.”
Member’s explanatory statement
This amendment is consequential on NC11, NC12 and NC13.

Stephen McPartland 150

- ★ Page 83, line 36, leave out Clause 105

Secretary Theresa May 101

- ★ Clause 105, page 83, line 38, leave out “104(7)” and insert “(*Persons who may make modifications under section 104*)(2)”
Member’s explanatory statement
This amendment is consequential on NC11.

Secretary Theresa May 102

- ★ Clause 105, page 83, line 38, at end insert—
 “(1A) This section also applies where—
 (a) section 100 applies in relation to the making of a modification under section 104,
 (b) the person making the modification does so without the approval of a Judicial Commissioner, and

Investigatory Powers Bill, *continued*

- (c) that person considered that there was an urgent need to make the modification.”

Member's explanatory statement

This amendment extends clause 105 to provide for the approval by a Judicial Commissioner of certain modifications made in urgent cases.

Secretary Theresa May

103

- ★ Clause 105, page 83, line 39, leave out “a designated senior official” and insert “the appropriate person”

Member's explanatory statement

See the explanatory statement for amendment 102.

Secretary Theresa May

104

- ★ Clause 105, page 83, line 41, leave out from “section,” to end of line 43 and insert ““the appropriate person” is—

“(a) in a case falling within subsection (1), a designated senior official, and

(b) in a case falling within subsection (1A), a Judicial Commissioner.”

Member's explanatory statement

See the explanatory statement for amendment 102.

Secretary Theresa May

105

- ★ Clause 105, page 83, line 44, leave out subsection (4)

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Theresa May

106

- ★ Clause 105, page 84, line 1, leave out “designated senior official” and insert “appropriate person”

Member's explanatory statement

See the explanatory statement for amendment 102.

Secretary Theresa May

107

- ★ Clause 105, page 84, line 3, leave out “senior official’s” and insert “appropriate person’s”

Member's explanatory statement

See the explanatory statement for amendment 102.

Secretary Theresa May

108

- ★ Clause 105, page 84, line 5, at end insert—

“() As soon as is reasonably practicable after a designated senior official makes a decision under subsection (5)—

(a) a Judicial Commissioner must be notified of—

(i) the decision, and

(ii) if the senior official has decided to approve the decision to make the modification, the modification in question, and

Investigatory Powers Bill, *continued*

- (b) the Secretary of State or (in the case of a warrant issued by the Scottish Ministers) a member of the Scottish Government must be notified personally of the matters mentioned in paragraph (a)(i) and (ii)."

Member's explanatory statement

This amendment provides that, where a designated senior official has decided whether to approve a modification, a Judicial Commissioner, and the person who issued the warrant, must be notified of the decision.

Secretary Theresa May

109

- ★ Clause 105, page 84, line 6, leave out "designated senior official" and insert "appropriate person"

Member's explanatory statement

See the explanatory statement for amendment 102.

Secretary Theresa May

110

- ★ Clause 105, page 84, line 8, leave out paragraph (a)

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Theresa May

111

- ★ Clause 105, page 84, line 17, leave out "a designated senior official" and insert "an appropriate person"

Member's explanatory statement

See the explanatory statement for amendment 102

Secretary Theresa May

112

- ★ Clause 105, page 84, line 19, leave out "designated senior official" and insert "appropriate person"

Member's explanatory statement

See the explanatory statement for amendment 102.

Secretary Theresa May

113

- ★ Clause 105, page 84, line 23, leave out "designated senior official" and insert "appropriate person"

Member's explanatory statement

See the explanatory statement for amendment 102.

Stephen McPartland

151

- ★ Page 84, line 34, leave out Clause 106

Investigatory Powers Bill, *continued*

Secretary Theresa May

114

- ★ Clause 106, page 85, line 7, at end insert—

“() But where a warrant relates only to a matter specified in section 90(1)(a), only to a matter specified in section 90(1)(d), or only to both such matters, the details included in the warrant in accordance with section 101(3) may not be modified.”

Member’s explanatory statement

Where a warrant issued by a law enforcement chief under Part 5 relates only to a particular person or organisation or to a particular location (or to both), this amendment prevents the details included in the warrant in accordance with clause 101(3) from being modified (so, for example, names cannot be added).

Secretary Theresa May

115

- ★ Clause 106, page 85, line 9, at the beginning insert “except in the case of a modification removing any matter, name or description,”

Member’s explanatory statement

This amendment provides that there is no requirement to satisfy a necessity or proportionality test where a modification is simply removing a matter, name or description from a warrant.

Secretary Theresa May

116

- ★ Clause 106, page 85, line 10, leave out “warrant as modified continues to be” and insert “modification is”

Member’s explanatory statement

This amendment alters the test that applies to the modification of a warrant issued under Part 5 by a law enforcement chief so that the person deciding whether to make the modification has to consider whether the modification itself (rather than the warrant as modified) satisfies the test of necessity.

Secretary Theresa May

117

- ★ Clause 106, page 85, line 12, leave out “warrant as so modified” and insert “modification”

Member’s explanatory statement

This amendment alters the test that applies to the modification of a warrant issued under Part 5 by a law enforcement chief so that the person deciding whether to make the modification has to consider whether the modification itself (rather than the warrant as modified) satisfies the proportionality test.

Secretary Theresa May

118

- ★ Clause 106, page 85, line 30, leave out “warrant as modified” and insert “modification”

Member’s explanatory statement

This amendment is consequential on amendments 116 and 117.

Secretary Theresa May

119

- ★ Clause 106, page 85, line 33, leave out subsection (7) and insert—

“(7) Sections 94 (Members of Parliament etc.) and 100 (items subject to legal privilege) apply in relation to the making of a modification to a warrant under

Investigatory Powers Bill, *continued*

section 106, other than a modification removing any matter, name or description, as they apply in relation to the issuing of a warrant.”

Member’s explanatory statement

This amendment is related to amendment 91 and provides for the special safeguards in clause 94 (as well as those in clause 100) to apply in relation to modifications of warrants issued by law enforcement chiefs (other than modifications removing a matter, name or description).

Secretary Theresa May

120

★ Clause 106, page 85, line 36, at end insert—

“() In the application of section 94 in accordance with subsection (7), subsection (3B) is to be read as if for the words from “unless” to the end of the subsection there were substituted “unless the law enforcement chief believes that the warrant (as modified) would authorise interference only with equipment which would be in Scotland at the time of the making of the modification or which the law enforcement chief believes would be in Scotland at that time”.

() Where section 94 applies in relation to the making of a modification to a warrant under section 106, subsection (3)(b) of this section has effect in relation to the making of the modification as if the words “except where the person making the modification considers that there is an urgent need to make it” were omitted.”

Member’s explanatory statement

This amendment is consequential on amendment 119.

Stephen McPartland

152

★ Page 85, line 40, leave out Clause 107

Stephen McPartland

173

★ Page 87, line 26, leave out Clause 109

Stephen McPartland

174

★ Page 88, line 7, leave out Clause 110

Secretary Theresa May

121

★ Clause 110, page 88, line 8, leave out “on a person outside the United Kingdom”

Member’s explanatory statement

This amendment is consequential on amendment 122.

Investigatory Powers Bill, continued

Secretary Theresa May

122

- ★ Clause 110, page 88, line 9, at end insert—

“() A copy of the warrant must be served in such a way as to bring the contents of the warrant to the attention of the person who the implementing authority considers may be able to provide assistance in relation to it.”

Member’s explanatory statement

This amendment makes it clear that, where a person is required under clause 109 to provide assistance in relation to a warrant, a copy of the warrant must be served in such a way that the person is aware of the contents of the warrant and so can provide assistance.

Stephen McPartland

175

- ★ Page 88, line 35, leave out Clause 111
-

Stephen McPartland

176

- ★ Clause 114, page 92, line 6, leave out subsection (3)(e)

Stephen McPartland

177

- ★ Clause 114, page 92, line 8, leave out subsection (3)(f)
-

Secretary Theresa May

123

- ★ Clause 115, page 92, line 37, at end insert—

“() a disclosure made to the Intelligence and Security Committee of Parliament for the purposes of facilitating the carrying out of any of its functions.”

Member’s explanatory statement

This amendment enables disclosure to be made to the Intelligence and Security Committee without breaching clause 114.

Secretary Theresa May

124

- ★ Clause 117, page 94, line 10, at end insert—

“() the chairman, or a deputy chairman, of the Independent Police Complaints Commission;”

Member’s explanatory statement

This amendment is consequential on amendment 92.

Investigatory Powers Bill, *continued*

Secretary Theresa May

That clause 117 be transferred to the end of line 36 on page 74

Secretary Theresa May

125

★ Schedule 6, page 214, line 37, at end insert—

“The chairman, or a deputy chairman, of the Independent Police Complaints Commission.

A member (other than the chair or a deputy chairman) of the Independent Police Complaints Commission who is designated by the chairman for the purpose.

A person designated under paragraph 19(2) of Schedule 3 to the Police Reform Act 2002 to take charge of, or to assist with, the investigation to which the warrant under section 96(1) relates (or would relate if issued).”

Member’s explanatory statement

This amendment adds to the list of those who are law enforcement chiefs for the purposes of clause 96 so that the chairman, or a deputy chairman, of the Independent Police Complaints Commission may issue a targeted equipment interference warrant. The amendment also sets who is an appropriate delegate, and who is an appropriate law enforcement officer, in relation the chairman (or a deputy chairman).

Secretary Theresa May

126

★ Schedule 6, page 215, line 29, at end insert—

“2A For the purpose of the fifth entry in Part 2 of the table, the reference to a staff officer of the Police Investigations and Review Commissioner is a reference to any person who—

(a) is a member of the Commissioner’s staff appointed under paragraph 7A of schedule 4 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), or

(b) is a member of the Commissioner’s staff appointed under paragraph 7 of that schedule to whom paragraph 7B(2) of that schedule applies.”

Member’s explanatory statement

This amendment amends Schedule 6 to provide a definition of “staff officer of the Police Investigations and Review Commissioner”.

Investigatory Powers Bill, *continued*

Secretary Theresa May

NC10

- ★ To move the following Clause—

“Approval of notices by Judicial Commissioners

- (1) In this section “relevant notice” means—
 - (a) a national security notice under section 216, or
 - (b) a technical capability notice under section 217.
- (2) In deciding whether to approve a decision to give a relevant notice, a Judicial Commissioner must review the Secretary of State’s conclusions as to the following matters—
 - (a) whether the notice is necessary as mentioned in section 216(1)(a) or (as the case may be) section 217(1)(a), and
 - (b) whether the conduct that would be required by the notice is proportionate to what is sought to be achieved by that conduct.
- (3) In doing so, the Judicial Commissioner must apply the same principles as would be applied by a court on an application for judicial review.
- (4) Where a Judicial Commissioner refuses to approve a decision to give a relevant notice, the Judicial Commissioner must give the Secretary of State written reasons for the refusal.
- (5) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve a decision to give a relevant notice, the Secretary of State may ask the Investigatory Powers Commissioner to decide whether to approve the decision to give the notice.”

Member’s explanatory statement

The new clause makes provision about the approval of national security and technical capability notices by Judicial Commissioners.

Secretary Theresa May

78

- ★ Clause 216, page 167, line 11, leave out from first “a” to end of line 16 and insert “national security notice under this section if—
- (a) the Secretary of State considers that the notice is necessary in the interests of national security,
 - (b) the Secretary of State considers that the conduct required by the notice is proportionate to what is sought to be achieved by that conduct, and
 - (c) the decision to give the notice has been approved by a Judicial Commissioner.
- () A “national security notice” is a notice requiring the operator to take such specified steps as the Secretary of State considers necessary in the interests of national security.”

Member’s explanatory statement

The effect of the amendment is that the approval of a Judicial Commissioner is required for the giving of national security notices.

Stephen McPartland

196

- ★ Clause 216, page 167, line 14, after “Secretary of State”, insert “and Investigatory Powers Commissioner consider”

Investigatory Powers Bill, *continued*

Stephen McPartland

197

- ★ Clause 216, page 167, line 31, after “Secretary of State”, insert “and Investigatory Powers Commissioner”

Secretary Theresa May

79

- ★ Clause 216, page 167, line 34, after “Sections” insert “(Approval of notices under section 216 or 217 by Judicial Commissioners) and”
Member’s explanatory statement
This amendment is consequential on amendment NC10.

Secretary Theresa May

80

- ★ Clause 217, page 167, line 36, leave out from second “a” to end of line 37 and insert “technical capability notice under this section if—
 - (a) the Secretary of State considers that the notice is necessary for securing that the operator has the capability to provide any assistance which the operator may be required to provide in relation to any relevant authorisation,
 - (b) the Secretary of State considers that the conduct required by the notice is proportionate to what is sought to be achieved by that conduct, and
 - (c) the decision to give the notice has been approved by a Judicial Commissioner.

() A “technical capability notice” is a notice—”

Member’s explanatory statement

The effect of the amendment is that the Secretary of State may give a technical capability notice only if the necessity and proportionality tests set out in the amendment are met and a Judicial Commissioner has approved the decision to give the notice.

Secretary Theresa May

81

- ★ Clause 217, page 168, line 2, at end insert—
 - ““relevant authorisation” means—
 - (c) any warrant issued under Part 2, 5 or 6, or
 - (d) any authorisation or notice given under Part 3;”

Member’s explanatory statement

This amendment is consequential on amendment 80.

Stephen McPartland

198

- ★ Clause 217, page 168, line 9, after “Secretary of State”, insert “and Investigatory Powers Commissioner consider”

Secretary Theresa May

82

- ★ Clause 217, page 168, line 13, leave out “(see subsection (9))”
Member’s explanatory statement
This amendment is consequential on amendment 80.

Investigatory Powers Bill, *continued*

Stephen McPartland

199

- ★ Clause 217, page 168, line 27, after “Secretary of State”, insert “and Investigatory Powers Commissioner”

Secretary Theresa May

83

- ★ Clause 217, page 168, line 35, leave out subsection (6)
Member’s explanatory statement
This amendment is consequential on amendment 80.

Stephen McPartland

200

- ★ Clause 217, page 168, line 36, after “Secretary of State”, insert “and Investigatory Powers Commissioner”

Stephen McPartland

201

- ★ Clause 217, page 168, line 40, after “Secretary of State”, insert “and Investigatory Powers Commissioner”

Secretary Theresa May

84

- ★ Clause 217, page 168, line 45, leave out subsection (9)
Member’s explanatory statement
This amendment is consequential on amendment 80.

Secretary Theresa May

85

- ★ Clause 217, page 169, line 1, after “Sections” insert “(*Approval of notices under section 216 or 217 by Judicial Commissioners*) and”
Member’s explanatory statement
This amendment is consequential on amendment NC10.

Stephen McPartland

202

- ★ Clause 218, page 169, line 6, after “Secretary of State”, insert “and Investigatory Powers Commissioner”

Stephen McPartland

203

- ★ Clause 218, page 169, line 8, after “Secretary of State”, insert “and Investigatory Powers Commissioner”

Stephen McPartland

204

- ★ Clause 218, page 169, line 20, after “Secretary of State”, insert “and Investigatory Powers Commissioner”

Investigatory Powers Bill, *continued*

Stephen McPartland

205

- ★ Clause 218, page 169, line 34, after “Secretary of State”, insert “and Investigatory Powers Commissioner”

Secretary Theresa May

86

- ★ Clause 218, page 169, line 17, leave out “Where the relevant notice” and insert “In the case of a technical capability notice that”
Member’s explanatory statement
This amendment clarifies that clause 218(4) is relevant only in relation to technical capability notices under clause 217.

Secretary Theresa May

87

- ★ Clause 218, page 170, line 9, at end insert—
“() Subsection (9) applies to a person to whom a national security notice is given despite any other duty imposed on the person by or under Part 1, or Chapter 1 of Part 2, of the Communications Act 2003.”
Member’s explanatory statement
The amendment makes it clear that a telecommunications operator that is given a national security notice must comply with it even if that would potentially conflict with any requirements imposed on the operator under Part 1 or Chapter 1 of Part 2 of the Communications Act 2003, which make provision about the functions of OFCOM and the regulation of electronic communications networks and services.

*NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, PART 6;
NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, PART 7*

Secretary Theresa May

42

- ★ Clause 121, page 98, line 13, leave out subsection (5)
Member’s explanatory statement
This amendment is consequential on new clause 5.
-

Investigatory Powers Bill, *continued*

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

9

★ Clause 125, page 99, line 33, leave out subsection (4) and insert—

“(4) The operational purposes specified in the warrant must be ones specified, in a list maintained by the heads of the intelligence services, as purposes which they consider are operational purposes for which intercepted content or secondary data obtained under bulk interception warrants may be selected for examination.”

Member’s explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to amend the Bill to provide for a designated list of operational purposes, such that only a purpose on that list may be specified in a warrant relating to bulk powers.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

10

★ Clause 125, page 99, line 37, leave out from “issued” to end of line 39 and insert “are specified in the list mentioned in subsection (4).”

(5A) An operational purpose may be specified in the list mentioned in subsection (4) only with the approval of the Secretary of State.

(5B) The Secretary of State may give such approval only if satisfied that the operational purpose is specified in a greater level of detail than the descriptions contained in section 121 subsections (1)(b) or (2).”

Member’s explanatory statement

To make clear that the Secretary of State must approve all operational purposes specified on the list.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

11

★ Clause 125, page 99, line 39, at end insert—

“(5C) The list of operational purposes mentioned in subsection (4) must be reviewed at least annually by the Prime Minister.”

Member’s explanatory statement

To ensure that the list of Operational Purposes is reviewed at least annually by the Prime Minister.

Investigatory Powers Bill, *continued*

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

12

★ Clause 125, page 99, line 39, at end insert—

“(5D) The Investigatory Powers Commissioner and Intelligence and Security Committee of Parliament (ISC) will be kept informed of any changes to the list of Operational Purposes in a timely manner.

(5E) Subject to subsection 201(7), the Investigatory Powers Commissioner must include in his Annual Report a summary of those Operational Purposes which, during the period of his report, have been specified in any warrants issued under Parts 6 and 7.”

Member’s explanatory statement

To ensure that the ISC and Commissioners are kept informed of changes to the list of Operational Purposes. To ensure that a summary of the Operational Purposes are published each year.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

22

★ Clause 127, page 100, line 12, leave out “before it would otherwise cease to have effect” and insert “during the renewal period”

Member’s explanatory statement

See amendment 20.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

23

★ Clause 127, page 100, line 34, at end insert—

“(2A) “The renewal period” means the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.”

Member’s explanatory statement

See amendment 20.

 Investigatory Powers Bill, *continued*

Stephen McPartland 153
 ★ Page 101, line 9, leave out Clause 128

Stephen McPartland 154
 ★ Page 102, line 25, leave out Clause 129

Secretary Theresa May 43
 ★ Clause 138, page 110, line 5, leave out subsection (4)
Member's explanatory statement
This amendment is consequential on new clause 5.

Stephen McPartland 155
 ★ Page 113, line 144, leave out Clause 144

Stephen McPartland 156
 ★ Page 114, line 19, leave out Clause 145

Secretary Theresa May 44
 ★ Clause 148, page 116, line 9, leave out “on a person outside the United Kingdom”
Member's explanatory statement
This amendment is consequential on amendment 45.

Secretary Theresa May 45
 ★ Clause 148, page 116, line 9, at end insert—
 “() A copy of the warrant must be served in such a way as to bring the contents of the
 warrant to the attention of the person who the implementing authority considers
 may be able to provide assistance in relation to it.”
Member's explanatory statement
The amendment makes it clear that, where a person is required under clause 147 to provide

Investigatory Powers Bill, continued

assistance in relation to a warrant, a copy of the warrant must be served in such a way that the person is aware of the contents of the warrant and so can provide that assistance.

Secretary Theresa May

- 46**
- ★ Clause 148, page 116, line 10, leave out “the person” and insert “a person outside the United Kingdom”
Member’s explanatory statement
This amendment is consequential on amendment 45.

Secretary Theresa May

- 47**
- ★ Clause 148, page 116, line 23, after “person” insert “outside the United Kingdom”
Member’s explanatory statement
This amendment is consequential on amendment 45.

Secretary Theresa May

- 48**
- ★ Clause 156, page 122, line 42, leave out subsection (4)
Member’s explanatory statement
This amendment is consequential on new clause 5.

Stephen McPartland

- 157**
- ★ Page 127, line 1, leave out Clause 164

Secretary Theresa May

- 127**
- ★ Clause 164, page 127, line 16, after “modification”, insert “adding or varying any operational purpose”
Member’s explanatory statement
This amendment restricts the application of clause 164(4) to cases where a major modification of a bulk equipment interference warrant adds or varies an operational purpose. It is consequential on amendment 128.

Secretary Theresa May

- 128**
- ★ Clause 164, page 127, line 20, at end insert—
 “() A major modification adding or varying any description of conduct—
 (a) must be made by the Secretary of State, and
 (b) may be made only if the Secretary of State considers—
 (i) that the modification is necessary on any of the grounds on which the Secretary of State considers the warrant to be necessary (see section 156(1)(b)), and

Investigatory Powers Bill, *continued*

- (ii) that the conduct authorised by the modification is proportionate to what is sought to be achieved by that conduct.”

Member’s explanatory statement

This amendment provides for both a necessity test and a proportionality test to apply in relation to a decision whether to make a major modification of a bulk equipment interference warrant by adding or varying a description of conduct.

Stephen McPartland

158

- ★ Page 128, line 14, leave out Clause 165
-

Secretary Theresa May

129

- ★ Clause 170, page 133, line 25, leave out “section” and insert “Part”

Member’s explanatory statement

This amendment is consequential on amendment 130.

Secretary Theresa May

130

- ★ Clause 173, page 134, line 32, at end insert—

““protected material”, in relation to a bulk equipment interference warrant, has the meaning given by section 170(9);”

Member’s explanatory statement

This amendment provides for the definition of “protected material” given by clause 170 to apply for the purposes of the Part.

Secretary Theresa May

NC14

- ★ To move the following Clause—

“Health records

- (1) Subsections (2) and (3) apply if—
 - (a) an application is made by or on behalf of the head of an intelligence service for the issue of a specific BPD warrant,
 - (b) the purpose, or one of the purposes of the warrant, is to authorise the retention, or the retention and examination, of health records.
- (2) The application must contain a statement that the purpose, or one of the purposes, of the warrant is to authorise the retention, or the retention and examination, of health records.

Investigatory Powers Bill, *continued*

- (3) The Secretary of State may issue the warrant only if the Secretary of State considers that there are exceptional and compelling circumstances that make it necessary to authorise the retention, or the retention and examination, of health records.
- (4) Subsection (5) applies if—
 - (a) an application is made by or on behalf of the head of an intelligence service for a specific BPD warrant,
 - (b) the head of the intelligence service considers that the bulk personal dataset includes, or is likely to include, health records, and
 - (c) subsections (2) and (3) do not apply.
- (5) The application must contain either—
 - (a) a statement that the head of the intelligence service considers that the bulk personal dataset includes health records, or
 - (b) a statement that the head of the intelligence service considers that it is likely that the bulk personal dataset includes health records and an assessment of how likely this is.
- (6) In this section, “health record” means a record, or a copy of a record, which—
 - (a) consists of information relating to the physical or mental health or condition of an individual,
 - (b) was made by or on behalf of a health professional in connection with the care of that individual, and
 - (c) was obtained by the intelligence service from a health professional or a health service body or from a person acting on behalf of a health professional or a health service body in relation to the record or the copy.
- (7) In subsection (6)—
 - “health professional” has the same meaning as in the Data Protection Act 1998 (see section 69 of that Act);
 - “health service body” has the meaning given by section 69(3) of that Act.”

Member’s explanatory statement

This amendment requires an intelligence service to take special steps when making an application for a specific BPD warrant relating to health records. In addition, where the purpose, or one of the purposes, of the warrant would be to authorise the retention, or the retention and examination, of health records, the Secretary of State may issue the warrant only if he or she considers that there are exceptional and compelling circumstances.

 Investigatory Powers Bill, *continued*

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

NC3

★ To move the following Clause—

“Restriction on use of class bulk personal dataset warrants

- (1) An intelligence service may not retain, or retain and examine, a bulk personal dataset in reliance on a class bulk personal dataset warrant if the head of the intelligence service considers—
 - (a) that the bulk personal dataset includes a large quantity of sensitive personal data, or
 - (b) that the nature of the bulk personal dataset, or the circumstances in which it was created, is or are such that its retention, or retention and examination, by the intelligence service raises issues which ought to be considered by the Secretary of State and a Judicial Commissioner on an application by the head of the intelligence service for a specific BPD warrant.
- (2) An intelligence service may not retain, or retain and examine, greater than twenty distinct bulk personal datasets in reliance on any class BPD warrant.
- (3) In subsection (2) “sensitive personal data” means personal data consisting of information about an individual (whether living or deceased) which is of a kind mentioned in section 2(a) to (f) of the Data Protection Act 1998.”

Member’s explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to place greater restrictions on the use of Class BPD warrants in relation to the retention/examination of sensitive personal data (relating to race, political opinions, religious beliefs, trade union membership, health, or sexual orientation). To cap the number of datasets which may be covered by any Class warrant.

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

24

★ Clause 178, page 137, line 17, leave out “and” and insert—

“(aa) a statement outlining the extent to which sensitive personal data as defined by section [Restriction on use of class BPD warrants] is expected to be part of the bulk personal dataset, and”

Member’s explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to require specific BPD warrant applications to set out the extent to which datasets may include sensitive personal data (relating to race, political opinions, religious beliefs, trade union membership, health, or sexual

Investigatory Powers Bill, *continued*

orientation), in order that the Secretary of State may properly assess the proportionality of obtaining the dataset.

Stephen McPartland

159

★ Page 142, line 13, leave out Clause 186

Stephen McPartland

160

★ Page 143, line 22, leave out Clause 187

*NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, PART 3;
NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, PART 4;
NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO,
CHAPTER 2 OF PART 9; REMAINING PROCEEDINGS ON CONSIDERATION*

Stephen McPartland

NC18

★ To move the following Clause—

“Persons who may apply for issue of warrant—

Each of the following organisations may appoint a designated senior officer responsible for applying for a communications data retention warrant—

- (a) a police force maintained under section 2 of the Police Act 1996,
 - (b) the Metropolitan Police Force,
 - (c) the City of London Police Force,
 - (d) the Police Service of Scotland,
 - (e) the Police Service of Northern Ireland,
 - (f) the British Transport Police Force,
 - (g) the Ministry of Defence Police,
 - (h) the Royal Navy Police,
 - (i) the Royal Military Police,
 - (j) the Royal Air Force Police,
 - (k) the Security Service,
 - (l) the Secret Intelligence Service,
 - (m) GCHQ, and
 - (n) the National Crime Agency.”
-

 Investigatory Powers Bill, *continued*

Mr Dominic Grieve
 Sir Alan Duncan
 Mr George Howarth
 Fiona Mactaggart
 Angus Robertson
 Mr Keith Simpson

Ms Gisela Stuart

13

- ★ Clause 54, page 44, line 28, leave out subsection (3)(b) and insert—
- “(b) the investigation or operation concerned is one where there is an exceptional need, in the interests of national security, to keep knowledge of it to an absolute minimum,
- (ba) there is an opportunity to obtain information where—
- (i) the opportunity is rare,
- (ii) the time to act is short, and
- (iii) the need to obtain the information is significant and in the interests of national security, or”

Member’s explanatory statement

On behalf of the Intelligence and Security Committee of Parliament, to amend the Bill to ensure that the exceptional national security-related circumstances under which there does not need to be a separation between those requesting and those authorising requests for communications data, is narrowly drawn.

Mr Alistair Carmichael

4

Page 46, line 40, leave out Clause 58

Stephen McPartland

164

- ★ Clause 58, page 46, line 41, leave out “maintain”

Stephen McPartland

165

- ★ Clause 58, page 46, line 41, leave out “operate”

Stephen McPartland

166

- ★ Clause 58, page 47, line 1, after “officer” insert “in exceptional circumstances”

Stephen McPartland

161

- ★ Clause 58, page 47, line 7, leave out “filtering arrangements” and insert “filtering regulations”

Investigatory Powers Bill, *continued*

Stephen McPartland

167

- ★ Clause 58, page 47, line 18, at end insert—
 - “(c) obtaining the approval of a Judicial Commissioner to the filtering regulations in the same way as if the data was to be obtained by a targeted interception warrant as set out in this Bill.”

Stephen McPartland

168

- ★ Clause 58, page 47, line 19, leave out subsection 3

Stephen McPartland

162

- ★ Clause 58, page 47, line 19, leave out “filtering arrangements” and insert “filtering regulations”

Stephen McPartland

163

- ★ Clause 58, page 47, line 27, leave out “filtering arrangements” and insert “filtering regulations”

Stephen McPartland

169

- ★ Clause 58, page 47, line 32, leave out “must consult” and insert “shall obtain the prior approval of”

Stephen McPartland

170

- ★ Clause 58, page 47, line 35, at end insert—
 - “(5A) Nothing in this section shall be used in respect of information which can be reasonably obtained by any other means under this Act.
 - (5B) Nothing in this section shall be used for the bulk collection of information.
 - (5C) The powers under this section shall only be used by the Secretary of State when no other power under this Act or other statute can achieve the same objective.”

Stephen McPartland

171

- ★ Clause 58, page 47, line 35, at end insert—
 - “(5A) The Secretary of State shall at least once a year make a report to Parliament detailing the filtering arrangements made under this clause.”

Mr Alistair Carmichael

5

Page 47, line 36, leave out Clause 59

Investigatory Powers Bill, *continued*

Mr Alistair Carmichael

6

Page 48, line 16, leave out Clause 60

Stephen McPartland

172

★ Clause 60, page 49, line 29, at end insert—

- “(10) All filtering arrangements under this Act shall not endure more than six months.
 (11) The Secretary of State shall not use any power under Part 3 of this Act unless such power cannot be exercised under any other statutory provision.
 (12) The Secretary of State shall ensure that the filtering arrangements are always used exceptionally and with regard to privacy rights.
 (13) The Secretary of State shall from time to time consider the proportionality and necessity of all filtering arrangements in place.
 (14) The Secretary of State shall terminate any filtering arrangements which are not proportionate or necessary.”
-

Secretary Theresa May

49

★ Clause 68, page 54, line 10, leave out “made an order under this section approving” and insert “approved”

Member’s explanatory statement*This amendment removes the need for a Judicial Commissioner to make an order when approving an authorisation under Part 3 to identify or confirm journalistic sources.*

Secretary Theresa May

50

★ Clause 68, page 54, line 12, leave out “an order under this section approving” and insert “approval of”

Member’s explanatory statement*This amendment is consequential on amendment 49.*

Ms Harriet Harman

Fiona Bruce

Ms Karen Buck

Jeremy Lefroy

Amanda Solloway

143

★ Clause 68, page 54, line 14, leave out “not”

Ms Harriet Harman

Fiona Bruce

Ms Karen Buck

Jeremy Lefroy

Amanda Solloway

144

★ Clause 68, page 54, line 15, at end insert “unless an application without such notice is required in order to avoid prejudice to the investigation.”

Investigatory Powers Bill, *continued*

Ms Harriet Harman
 Fiona Bruce
 Ms Karen Buck
 Jeremy Lefroy
 Amanda Solloway

145

★ Clause 68, page 54, line 15, at end insert—

“() Schedule 1 to the Police and Criminal Evidence Act 1984 shall apply to an application for an order under this section as if it were an application for an order under that Schedule.”

Member’s explanatory statement

This amendment seeks to ensure that the same level of protection is provided for journalists’ sources under the Bill as is currently provided in PACE.

Secretary Theresa May

51

★ Clause 68, page 54, line 25, at end insert—

“() In considering whether the position is as mentioned in subsection (5)(a) and (b), the Judicial Commissioner must, in particular, have regard to—

- (a) the public interest in protecting a source of journalistic information, and
- (b) the need for there to be another overriding public interest before a relevant public authority seeks to identify or confirm a source of journalistic information.”

Member’s explanatory statement

This amendment requires a Judicial Commissioner to have regard, in particular, to the public interest in protecting a source of journalistic information when deciding whether to approve an authorisation under Part 3 to identify or confirm a journalistic source.

Secretary Theresa May

52

★ Clause 68, page 54, line 27, leave out “make an order quashing” and insert “quash”

Member’s explanatory statement

This amendment removes the need for a Judicial Commissioner to make an order when quashing an authorisation under Part 3 to identify or confirm journalistic sources where the Commissioner has refused to approve the grant of the authorisation.

Mr Alistair Carmichael

3

Clause 78, page 62, line 22, leave out “therefore includes, in particular” and insert “does not include”

Investigatory Powers Bill, *continued*

Ms Harriet Harman
Fiona Bruce
Ms Karen Buck
Jeremy Lefroy
Amanda Solloway

NC15

★ To move the following Clause—

“Review of operational case for bulk powers

- (1) The Secretary of State must appoint the independent reviewer of terrorism legislation to review the operational case for the bulk powers contained in Parts 6 and 7 of this Act.
- (2) The independent reviewer must, in particular, consider the justification for the powers in the Act relating to—
 - (a) bulk interception,
 - (b) bulk acquisition,
 - (c) bulk equipment interference, and
 - (d) bulk personal datasets.
- (3) The independent reviewer must, so far as reasonably practicable, complete the review before 30 November 2016.
- (4) The independent reviewer must send to the Prime Minister a report on the outcome of the review as soon as reasonably practicable after completing the review.
- (5) On receiving a report under subsection (4), the Prime Minister must lay a copy of it before Parliament together with a statement as to whether any matter has been excluded from that copy under subsection (6).
- (6) If it appears to the Prime Minister that the publication of any matter in a report under subsection (4) would be contrary to the public interest or prejudicial to national security, the Prime Minister may exclude the matter from the copy of the report laid before Parliament.
- (7) The Secretary of State may pay to the independent reviewer—
 - (a) expenses incurred in carrying out the functions of the independent reviewer under this section, and
 - (b) such allowances as the Secretary of State determines.
- (8) The independent reviewer shall complete further reviews on a five-yearly basis and the provisions of this section other than subsection (3) shall apply.
- (9) In this section “the independent reviewer of terrorism legislation” means the person appointed under section 36(1) of the Terrorism Act 2006 (and “independent reviewer” is to be read accordingly).”

Member’s explanatory statement

This amendment provides for an independent review of the operational case for the bulk powers in the Bill, and further periodic reviews, to be undertaken by the independent reviewer of terrorism legislation.

Investigatory Powers Bill, *continued*

Stephen McPartland

NC17

★ To move the following Clause—

“Review of the Operation of this Act

- (1) The Secretary of State shall appoint an Independent Reviewer to prepare the first report on the operation of this Act within a period of 6 months beginning with the end of the initial period.
- (2) In subsection (1) “the initial period” is the period of 1 years and 6 months beginning with the day on which this Act is passed.
- (3) Subsequent reports will be prepared every 2 years after the first report in subsection (1).
- (4) A copy of the report is to be laid before Parliament, with provision made for a debate on the floor of both Houses and then approved by resolution of each House.”

Stephen McPartland

206

★ Page 172, line 24, leave out Clause 222

Stephen McPartland

207

★ Page 205, line 6, leave out Schedule 4

ORDER OF THE HOUSE [15 MARCH 2016]

That the following provisions shall apply to the Investigatory Powers Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 5 May 2016.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and up to and including Third Reading shall be taken in two days in accordance with the following provisions of this Order.
5. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the second day.
6. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on the second day.

Investigatory Powers Bill, *continued*

7. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

8. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.

INVESTIGATORY POWERS BILL PROGRAMME (NO. 2)

Secretary Theresa May

That the Order of 15 March 2016 (Investigatory Powers Bill (Programme)) in the last session of Parliament be varied as follows:

1. Paragraphs (5) and (6) of the Order shall be omitted.
2. Proceedings on Consideration shall be taken on the days and in the order shown in the first column of the following Table.
3. The proceedings shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

TABLE

<i>Proceedings</i>	<i>Time for conclusion of proceedings</i>
<i>First day</i>	
New Clauses and new Schedules relating to, and amendments to, Part 1; new Clauses and new Schedules relating to, and amendments to, Part 8	Three hours after the commencement of proceedings on the Motion for this Order
New Clauses and new Schedules relating to, and amendments to, Part 2; new Clauses and new Schedules relating to, and amendments to, Part 5; new Clauses and new Schedules relating to, and amendments to, Chapter 1 of Part 9	Six hours after the commencement of proceedings on the Motion for this Order
<i>Second day</i>	
New Clauses and new Schedules relating to, and amendments to, Part 6; new Clauses and new Schedules relating to, and amendments to, Part 7	Three hours after the commencement of proceedings on Consideration on the second day
New Clauses and new Schedules relating to, and amendments to, Part 3; new Clauses and new Schedules relating to, and amendments to, Part 4; new Clauses and new Schedules relating to, and amendments to, Chapter 2 of Part 9; remaining proceedings on Consideration	One hour before the moment of interruption

Investigatory Powers Bill, *continued*

4. Any proceedings in legislative grand committee and proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on the second day.
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