

# Investigatory Powers Bill

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AMENDMENTS  
TO BE MOVED  
ON REPORT

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**Clause 1**

LORD JANVRIN  
THE MARQUESS OF LOTHIAN

Page 1, line 5, at beginning insert –

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

**Clause 2**

BARONESS HAMWEE  
LORD LESTER OF HERNE HILL

Page 3, line 5, leave out paragraph (a)

LORD PADDICK  
BARONESS HAMWEE

*[As an amendment to the eighth amendment published on sheet HL Bill 62(b)]*

leave out “sensitive information” and insert “information of particular sensitivity”

**Clause 34**

LORD PADDICK  
BARONESS HAMWEE

Page 27, line 9, after “adding” insert “or varying”

Page 27, line 11, after “adding” insert “or varying”

**Clause 96**

LORD PADDICK  
BARONESS HAMWEE

Page 74, line 9, after “person” insert “(but not more than 50 persons)”

**After Clause 144**

LORD BUTLER OF BROCKWELL  
LORD JANVRIN  
THE MARQUESS OF LOTHIAN

Insert the following new Clause—

**“Offence of breaching safeguards relating to examination of material under bulk interception warrants**

- (1) A person commits an offence if—
  - (a) the person selects for examination any intercepted content or secondary data obtained under a bulk interception warrant,
  - (b) the person knows or believes that the selection of that intercepted content or secondary data for examination does not comply with a requirement imposed by section 143 or 144, and
  - (c) the person deliberately selects that intercepted content or secondary data for examination in breach of that requirement.
- (2) 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.
- (3) No proceedings for any offence which is an offence by virtue of this section may be instituted—
  - (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.”

**After Clause 160**

LORD BUTLER OF BROCKWELL  
LORD JANVRIN  
THE MARQUESS OF LOTHIAN

Insert the following new Clause—

**“Offence of breaching safeguards relating to examination of data**

- (1) A person commits an offence if—
  - (a) the person selects for examination any communications data obtained under a bulk acquisition warrant,
  - (b) the person knows or believes that the selection of that data for examination does not comply with a requirement imposed by section 160, and
  - (c) the person deliberately selects that data for examination in breach of that requirement.
- (2) 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.
- (3) No proceedings for any offence which is an offence by virtue of this section may be instituted—
  - (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.”

**After Clause 180**

LORD BUTLER OF BROCKWELL  
LORD JANVRIN  
THE MARQUESS OF LOTHIAN

Insert the following new Clause—

**“Offence of breaching safeguards relating to examination of material**

- (1) A person commits an offence if—

**After Clause 180 - continued**

- (a) the person selects for examination any material obtained under a bulk equipment interference warrant,
  - (b) the person knows or believes that the selection of that material does not comply with a requirement imposed by section 179 or 180, and
  - (c) the person deliberately selects that material in breach of that requirement.
- (2) 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.
- (3) No proceedings for any offence which is an offence by virtue of this section may be instituted –
- (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.”

**After Clause 202**

LORD BUTLER OF BROCKWELL  
 LORD JANVRIN  
 THE MARQUESS OF LOTHIAN

Insert the following new Clause –

**“Offence of breaching safeguards relating to examination of material**

- (1) A person commits an offence if –
- (a) the person selects for examination any data contained in a bulk personal dataset retained in reliance on a class BPD warrant or a specific BPD warrant,
  - (b) the person knows or believes that the selection of that data is in breach of a requirement specified in subsection (2), and
  - (c) the person deliberately selects that data in breach of that requirement.

**After Clause 202 - continued**

- (2) The requirements specified in this subsection are that any selection for examination of the data—
- (a) is carried out only for the specified purposes (see subsection (3)),
  - (b) is necessary and proportionate, and
  - (c) if the data is protected data, satisfies any conditions imposed under section (*Protected data: power to impose conditions*).
- (3) The selection for examination of the data is carried out only for the specified purposes if the data is selected for examination only so far as is necessary for the operational purposes specified in the warrant in accordance with section 194.

In this subsection, “specified in the warrant” means specified in the warrant at the time of the selection of the data for examination.

- (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.
- (5) No proceedings for any offence which is an offence by virtue of this section may be instituted—
- (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.”

**Clause 205**

EARL HOWE

Page 162, line 7, at end insert—

- “(8A) Subsection (8) does not apply to the function of the Investigatory Powers Commissioner of making a recommendation under subsection (4)(e) or making an appointment under section (*Members of the Panel*)(1).

**Clause 205 - continued**

- (8B) The delegation under subsection (8) to any extent of functions by the Investigatory Powers Commissioner does not prevent the exercise of the functions to that extent by that Commissioner.
- (8C) Any function exercisable by a Judicial Commissioner or any description of Judicial Commissioners is exercisable by any of the Judicial Commissioners or (as the case may be) any of the Judicial Commissioners of that description.
- (8D) Subsection (8C) does not apply to—
  - (a) any function conferred on the Investigatory Powers Commissioner by name (except so far as its exercise by any of the Judicial Commissioners or any description of Judicial Commissioners is permitted by a delegation under subsection (8)), or
  - (b) any function conferred on, or delegated under subsection (8) to, any other particular named Judicial Commissioner.”

**Clause 207**

## EARL HOWE

Page 164, line 40, leave out from “to” to end of line 2 on page 165 and insert “any of the following functions of a Judicial Commissioner —

- (a) deciding—
  - (i) whether to serve, vary or cancel a monetary penalty notice under section 7 or paragraph 16 of Schedule 1, a notice of intent under paragraph 4 of that Schedule or an information notice under Part 2 of that Schedule, or
  - (ii) the contents of any such notice,
- (b) deciding whether to approve the issue, modification or renewal of a warrant,
- (c) deciding whether to direct the destruction of material or how otherwise to deal with the situation where—
  - (i) a warrant issued, or modification made, for what was considered to be an urgent need is not approved, or
  - (ii) an item subject to legal privilege is retained, following its examination, for purposes other than the destruction of the item,
- (d) deciding whether to—
  - (i) approve the grant, modification or renewal of an authorisation, or
  - (ii) quash or cancel an authorisation or renewal,
- (e) deciding whether to approve—
  - (i) the giving or varying of a retention notice under Part 4 or a notice under section 228 or 229, or
  - (ii) the giving of a notice under section 86(10)(b) or 233(9)(b),
- (f) participating in a review under section 86 or 233,
- (g) deciding whether to approve an authorisation under section 200(3)(b),
- (h) deciding whether to give approval under section (*Additional safeguards for items subject to legal privilege: examination*)(4),

**Clause 207 - continued**

- (i) deciding whether to approve the giving or varying of a direction under section 203(3),
- (j) making a decision under section 209(1),
- (k) deciding whether to order the destruction of records under section 103 of the Police Act 1997, section 37 of the Regulation of Investigatory Powers Act 2000 or section 15 of the Regulation of Investigatory Powers (Scotland) Act 2000,
- (l) deciding whether to make an order under section 103(6) of the Police Act 1997 (order enabling the taking of action to retrieve anything left on property in pursuance of an authorisation),
- (m) deciding –
  - (i) an appeal against, or a review of, a decision by another Judicial Commissioner, and
  - (ii) any action to take as a result.”

**Clause 212**

LORD JANVRIN  
THE MARQUESS OF LOTHIAN

Page 169, line 33, at end insert –

- “( ) information about the following kinds of warrants issued, considered or approved during the year –
- (i) targeted interception warrants or targeted examination warrants of the kind referred to in section 17(2),
  - (ii) targeted equipment interference warrants relating to matters within paragraph (b), (c), (e), (f), (g) or (h) of section 96(1), and
  - (iii) targeted examination warrants under Part 5 relating to matters within any of paragraphs (b) to (e) of section 96(2),”

Page 170, line 33, at end insert –

- “(11) Subsection (11) applies if the Prime Minister receives a report from the Investigatory Powers Commissioner under subsection (1) or (4) which relates to an investigation, inspection or audit carried out by the Commissioner following a decision to do so of which the Intelligence and Security Committee of Parliament was informed under section 214(2).
- (12) The Prime Minister must send to the Intelligence and Security Committee of Parliament a copy of the report so far as it relates to –
- (a) the investigation, inspection or audit concerned, and
  - (b) the functions of the Committee falling within section 2 of the Justice and Security Act 2013.”

**Clause 216**

EARL HOWE

Page 172, line 4, at end insert –

- “(3) The Scottish Ministers may pay to the Judicial Commissioners such allowances as the Scottish Ministers consider appropriate in respect of the exercise by the Commissioners of functions which relate to the exercise by Scottish public authorities of devolved functions.
- (4) In subsection (3) –
- “devolved function” means a function that does not relate to reserved matters (within the meaning of the Scotland Act 1998), and
- “Scottish public authority” has the same meaning as in the Scotland Act 1998.”

Page 172, line 4, at end insert –

- “(5) The Investigatory Powers Commissioner or any other Judicial Commissioner may, to such extent as the Commissioner concerned may decide, delegate the exercise of functions of that Commissioner to any member of staff of the Judicial Commissioners or any other person acting on behalf of the Commissioners.
- (6) Subsection (5) does not apply to –
- (a) the function of the Investigatory Powers Commissioner of making a recommendation under section 205(4)(e) or making an appointment under section (*Members of the Panel*)(1),
- (b) any function which falls within section 207(8), or
- (c) any function under section 55(3) or 125(3) of authorising a disclosure,
- but, subject to this and the terms of the delegation, does include functions which have been delegated to a Judicial Commissioner by the Investigatory Powers Commissioner.
- (7) The delegation under subsection (5) to any extent of functions by the Investigatory Powers Commissioner or any other Judicial Commissioner does not prevent the exercise of the functions to that extent by the Commissioner concerned.”

**Clause 221**

EARL HOWE

Page 175, line 33, after “system;” insert –

- “(bb) the issue, modification, renewal or service of a warrant under Part 2 or Chapter 1 of Part 6 of the Investigatory Powers Act 2016 (interception of communications);”

Page 175, line 36, leave out “the Investigatory Powers Act 2016” and insert “that Act”

Page 175, line 40, leave out “or varying”



**Clause 221 - continued**

Page 175, line 41, after “or” insert “the issue, modification, renewal or service”

Page 175, line 49, after “Act;” insert –

- “(czd) conduct of a kind which may be required or permitted by a warrant under Part 5 or Chapter 3 of Part 6 of that Act (equipment interference);
- (cze) the issue, modification, renewal or service of a warrant under Part 5 or Chapter 3 of Part 6 of that Act;
- (czf) the issue, modification, renewal or service of a warrant under Part 7 of that Act (bulk personal dataset warrants);
- (czg) the giving of an authorisation under section 200(3)(b) (authorisation for the retention, or retention and examination, of material following expiry of bulk personal dataset warrant);
- (czh) the giving or varying of a direction under section 203 of that Act (directions where no bulk personal dataset warrant required);
- (czi) conduct of a kind which may be required by a notice under section 228 or 229 of that Act (national security or technical capability notices);
- (czj) the giving or varying of such a notice;
- (czk) the giving of an authorisation under section 143(5)(c) or 179(5)(c) of that Act (certain authorisations to examine intercepted content or protected material);
- (czl) any failure to –
  - (i) cancel a warrant under Part 2, 5, 6 or 7 of that Act, or an authorisation under Part 3 of that Act;
  - (ii) cancel a notice under Part 3 of that Act;
  - (iii) revoke a notice under Part 4, or section 228 or 229, of that Act; or
  - (iv) revoke a direction under section 203 of that Act;
- (czm) any conduct in connection with any conduct falling within paragraph (c), (czb), (czd) or (czi);”

Page 175, line 49, at end insert –

- “( ) in subsection (6) (limitation for certain purposes of what is conduct falling within subsection (5)) –
  - (i) after “on behalf of” insert “an immigration officer or”, and
  - (ii) after paragraph (d) insert –
    - “(dza) the Competition and Markets Authority;”
- ( ) after subsection (6) insert –
  - “(6A) Subsection (6) does not apply to anything mentioned in paragraph (d) or (f) of subsection (5) which also falls within paragraph (czd) of that subsection.””

Page 175, line 49, at end insert –

- “( ) in subsection (7) after “if” insert “it is conduct of a public authority and”,”

**Clause 221 - continued**

Page 176, line 8, leave out “(5)(cza) or (czc)” and insert “(5)(bb), (cza), (czc), (cze), (czf), (czg), (czh), (czj), (czk) or (czl) or (so far as the conduct is, or purports to be, the giving of a notice under section 49) subsection (5)(e)”

Page 176, line 14, after “Act;” insert –

“(bb) a direction under section 203 of that Act;

(bc) a notice under section 228 or 229 of that Act;”

Page 176, line 24, after “Act;” insert –

“(azb) an order quashing or revoking a direction under section 203 of that Act;

(azc) an order quashing or revoking a notice under section 228 or 229 of that Act;”

Page 176, line 31, after “2016” insert “or under section 228 or 229 of that Act or direction under section 203 of that Act”

Page 176, line 41, after second “section” insert “228 or”

Page 176, line 48, after “Act” insert “or a notice under section 228 or 229 of that Act”

**Clause 225**

LORD PADDICK  
BARONESS HAMWEE

Page 178, line 12, leave out from “receive” to end of line 14 and insert “their relevant costs”

Page 178, line 18, leave out “of a contribution”

Page 178, line 26, at end insert –

“( ) In the event that the Secretary of State determines that the appropriate contribution shall not in all cases be the full amount of the relevant costs, he or she shall make regulations providing for the basis on which the relevant costs are to be calculated”.

**Clause 229**

LORD HARRIS OF HARINGEY  
LORD PADDICK  
BARONESS HAMWEE

Page 181, line 32, at end insert –

“( ) For the purposes of this section, “electronic protection” does not include electronic protection applied directly by the communications device or operating system of the end user which has the effect of encrypting the communications data in transit such that the relevant telecommunications operator does not have a means to access the associated communications data or content.”

**Clause 231**

LORD PADDICK  
BARONESS HAMWEE

Page 183, line 1, after “State” insert –

“(a) may not require removal which has the effect of making any communications or data less secure, and  
(b) ”

**Clause 247**

EARL HOWE

Page 199, line 12, leave out “and (6)” and insert “to (6A)”

**Schedule 3**

LORD BUTLER OF BROCKWELL  
LORD JANVRIN  
THE MARQUESS OF LOTHIAN

Page 212, line 4, leave out “or 56” and insert “, 56 or (*Offence of breaching safeguards relating to examination of material under bulk interception warrants*)”

Page 216, line 1, leave out “or 56” and insert “, 56 or (*Offence of breaching safeguards relating to examination of material under bulk interception warrants*)”

**Schedule 7**

BARONESS HAMWEE  
LORD PADDICK

Page 231, line 26, after “profession” insert “or in the case of personal records is held by a health authority”

# Investigatory Powers Bill

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*6 October 2016*

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