
STATUTORY INSTRUMENTS

2019 No. 939

ELECTRONIC COMMUNICATIONS

The Communications Data Acquisition Regulations 2019

Made - - - - *14th May 2019*
Laid before Parliament *16th May 2019*
Coming into force in accordance with regulation 1(2)

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in respect of matters relating to electronic communications, in exercise of the powers conferred by that section makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Communications Data Acquisition Regulations 2019.

(2) These Regulations come into force on the day after the day on which they are laid before Parliament.

(3) In these Regulations “the 2016 Act” means the Investigatory Powers Act 2016⁽³⁾.

Amendment of section 73 of the Investigatory Powers Act 2016

2. In section 73 of the 2016 Act (local authorities as relevant public authorities)⁽⁴⁾ for subsection (3A) substitute—

“(3A) In subsection (3)—

“collaboration agreement” means an agreement under section 78 that falls within subsection (1)(b)(iii) of that section,

“subscribing authority” has the same meaning as in section 78,

“supplying authority” has the same meaning as in section 78.”.

(1) [S.I. 2001/3495](#).

(2) [1972 c. 68](#). Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act [2006 \(c. 51\)](#), and paragraph 1 of Schedule 1 to the European Union (Amendment) Act [2008 \(c. 7\)](#).

(3) [2016 c. 25](#).

(4) Section 73 was amended by [S.I. 2018/1123](#).

Amendment of section 78 of the Investigatory Powers Act 2016

- 3.—(1) Section 78 of the 2016 Act (collaboration agreements)(5) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), before “officers” insert “designated senior officers of that authority or other”;
 - (b) for paragraph (b) substitute—
 - “(b) either—
 - (i) a designated senior officer of the supplying authority is permitted to grant authorisations under section 61 or 61A to officers of the subscribing authority,
 - (ii) officers of the supplying authority are permitted to be granted authorisations under section 61 or 61A by a designated senior officer of the subscribing authority, or
 - (iii) officers of the supplying authority act as single points of contact for officers of the subscribing authority.”.
- (3) For subsection (2) substitute—
- “(2) The persons by whom, or to whom, authorisations may be granted (or who may act as single points of contact) under a collaboration agreement are additional to those persons by whom, or to whom, authorisations would otherwise be granted under this Part (or who could otherwise act as single points of contact).”.
- (4) After subsection (2) insert—
- “(3) In a case falling within subsection (1)(b)(i)—
 - (a) section 61 has effect as if—
 - (i) in subsection (2) the reference to an officer of the authority were a reference to an officer of the subscribing authority, and
 - (ii) in subsection (6)(b)(ii) the reference to an officer of the same relevant public authority as an authorised officer included a reference to an officer of the supplying authority,
 - (b) section 61A has effect as if—
 - (i) in subsection (2) the reference to an officer of the relevant public authority were a reference to an officer of the subscribing authority, and
 - (ii) in subsection (6)(b)(ii) the reference to an officer of the same relevant public authority as an authorised officer included a reference to an officer of the supplying authority, and
 - (c) this Part has effect as if the designated senior officer of the supplying authority had the power to grant an authorisation under section 61 or 61A to officers of the subscribing authority, and had other functions in relation to the authorisation, which were the same as (and subject to no greater or lesser restrictions than) the power and other functions which the designated senior officer of the subscribing authority who would otherwise have dealt with the authorisation would have had.
 - (4) In a case falling within subsection (1)(b)(ii)—
 - (a) section 61 has effect as if—

(5) Section 78 was amended by [S.I. 2018/1123](#).

- (i) in subsection (2) the reference to an officer of the authority were a reference to an officer of the supplying authority, and
 - (ii) in subsection (6)(b)(ii) the reference to an officer of the same relevant public authority as an authorised officer included a reference to an officer of the subscribing authority, and
- (b) section 61A has effect as if—
- (i) in subsection (2) the reference to an officer of the relevant public authority were a reference to an officer of the supplying authority, and
 - (ii) in subsection (6)(b)(ii) the reference to an officer of the same relevant public authority as an authorised officer included a reference to an officer of the subscribing authority.”.

(5) In subsection (5), for “Where officers of the supplying authority act as single points of contact for officers of the subscribing authority,”, substitute “In a case falling within subsection (1)(b)(iii),”.

Amendment of section 80 of the Investigatory Powers Act 2016

4.—(1) Section 80 of the 2016 Act (police collaboration agreements)(6) is amended as follows.

(2) In subsection (1), for paragraph (b) substitute—

“(b) under the terms of the agreement—

- (i) a designated senior officer of force 1 is permitted to grant authorisations under section 61 or 61A to officers of the collaborating police force,
- (ii) officers of force 1 are permitted to be granted authorisations under section 61 or 61A by a designated senior officer of the collaborating police force, or
- (iii) officers of force 1 act as single points of contact for officers of the collaborating police force.”.

(3) For subsection (2) substitute—

“(2) The persons by whom, or to whom, authorisations may be granted (or who may act as single points of contact) under a police collaboration agreement are additional to those persons by whom, or to whom, authorisations would otherwise be granted under this Part (or who could otherwise act as single points of contact).”.

(4) After subsection (2) insert—

“(3) In a case falling within subsection (1)(b)(i)—

- (a) section 61 has effect as if—
 - (i) in subsection (2) the reference to an officer of the authority were a reference to an officer of the collaborating police force, and
 - (ii) in subsection (6)(b)(ii) the reference to an officer of the same relevant public authority as an authorised officer included a reference to an officer of force 1,
- (b) section 61A has effect as if—
 - (i) in subsection (2) the reference to an officer of the relevant public authority were a reference to an officer of the collaborating police force, and
 - (ii) in subsection (6)(b)(ii) the reference to an officer of the same relevant public authority as an authorised officer included a reference to an officer of force 1, and

(6) Section 80 was amended by [S.I. 2018/1123](#).

- (c) this Part has effect as if the designated senior officer of force 1 had the power to grant an authorisation under section 61 or 61A to officers of the collaborating police force, and had other functions in relation to the authorisation, which were the same as (and subject to no greater or lesser restrictions than) the power and other functions which the designated senior officer of the collaborating police force who would otherwise have dealt with the authorisation would have had.
- (4) In a case falling within subsection (1)(b)(ii)—
 - (a) section 61 has effect as if—
 - (i) in subsection (2) the reference to an officer of the authority were a reference to an officer of force 1, and
 - (ii) in subsection (6)(b)(ii) the reference to an officer of the same relevant public authority as an authorised officer included a reference to an officer of the collaborating police force, and
 - (b) section 61A has effect as if—
 - (i) in subsection (2) the reference to an officer of the relevant public authority were a reference to an officer of force 1, and
 - (ii) in subsection (6)(b)(ii) the reference to an officer of the same relevant public authority as an authorised officer included a reference to an officer of the collaborating police force.”.
- (5) In subsection (5), for “Where officers of force 1 act as single points of contact for officers of the collaborating police force,” substitute “In a case falling within subsection (1)(b)(iii).”.

Amendment of section 86 of the Investigatory Powers Act 2016

5. In section 86 of the 2016 Act (Part 3: interpretation)(7), in subsection (1), in the definition of “authorisation” after “or 61A” insert “(including sections 61 and 61A as modified by sections 78 and 80)”.

Consequential amendment of the Data Retention and Acquisition Regulations 2018

6. Paragraphs 18(2), (3) and (5) and 19(2), (3) and (5) of Schedule 1 to the Data Retention and Acquisition Regulations 2018 (amendments of the 2016 Act)(8) are revoked.

14th May 2019

Ben Wallace
Minister of State
Home Office

(7) Section 86 was amended by [S.I. 2018/1123](#).

(8) [S.I. 2018/1123](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Investigatory Powers Act 2016 (c. 25) (“the 2016 Act”) to enable police forces and other public authorities (except local authorities) to continue to share designated senior officers for the purposes of acquiring communications data under the 2016 Act.

Some police forces and other public authorities share designated senior officers for the purposes of authorising the acquisition of communications data under the Regulation of Investigatory Powers Act 2000 (c. 23) (“RIPA”). Part 3 of the 2016 Act replaces the provisions of RIPA providing for the acquisition of communications data by police forces and other public authorities. Section 78 and section 80 in Part 3 of the 2016 Act as originally enacted would have allowed the practice of sharing designated senior officers to continue after the transition from RIPA to the 2016 Act.

Before Part 3 of the 2016 Act came into force, it was amended by the Data Retention and Acquisition Regulations 2018 (S.I. 2018/1123) (“the 2018 Regulations”). These amendments were made in response to the judgment of the Court of Justice of the European Union in joined cases C-203/15 and C-698/15, setting out safeguards required in order that a communications data retention regime is compliant with EU law. So far as relevant to these Regulations, the 2018 Regulations provided for independent authorisation by the Investigatory Powers Commissioner (new section 60A of the 2016 Act), amended section 61 of the 2016 Act which provides for internal authorisation of certain requests by a designated senior officer, and inserted a provision for authorisation by designated senior officers in urgent cases. The 2018 Regulations also amended the 2016 Act so that local authorities could only acquire communications data following an authorisation from the Investigatory Powers Commissioner under the new section 60A. The consequential amendments to the 2016 Act in the 2018 Regulations removed the provisions from section 78 and section 80 allowing for collaboration in relation to designated senior officers. As a result of these amendments the 2016 Act only allowed for collaboration agreements relating to the sharing of single points of contact.

Regulation 3 and regulation 4 of these Regulations partially restore section 78 and section 80 of the 2016 Act to the form in which originally enacted so that police forces and other public authorities will be able to continue sharing designated senior officers when acquiring communications data under section 61 of the 2016 Act. The Regulations also add provisions to section 78 and section 80 to allow the sharing of designated senior officers when acquiring communications data under section 61A.

Regulation 2 amends section 73 of the 2016 Act to ensure that the definition of “collaboration agreement” in relation to a local authority continues to be limited to an agreement allowing the sharing of single points of contact. Local authorities are not able to acquire communications data under section 61 or section 61A of the 2016 Act, and so do not have designated senior officers.

Regulation 5 amends the definition of “authorisation” in section 86 of the 2016 Act so that it takes account of the modifications to section 61 and section 61A made by sections 78 and 80 of that Act. In consequence of the amendments to section 78 and section 80 of the 2016 Act, regulation 6 revokes amending provisions of the Data Retention and Acquisition Regulations 2018.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.