STATUTORY INSTRUMENTS

2018 No. 354

INVESTIGATORY POWERS

The Investigatory Powers (Review of Notices and Technical Advisory Board) Regulations 2018

Made - - - - 8th March 2018
Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 90(1), 245, 257(1) and 267(1)(b) of the Investigatory Powers Act 2016(**1**).

In accordance with section 267(3)(e), (h) and (j) of that Act, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Investigatory Powers (Review of Notices and Technical Advisory Board) Regulations 2018.

(2) Subject to paragraph (3), these Regulations come into force on the day on which section 245 of the Act (Technical Advisory Board) comes into force.

(3) The following paragraphs of regulation 4 come into force on the day on which section 90(1) of the Act (power to refer retention notices back to the Secretary of State for review) comes into force for all purposes—

(a) paragraphs (1) and (2), so far as they apply to persons to whom a retention notice is given, and

(b) paragraph (3).

(4) In these Regulations, "the Act" means the Investigatory Powers Act 2016.

Period and circumstances in which notices may be referred for review

2.—(1) A person to whom a retention notice, national security notice or technical capability notice is given may, where paragraph (2) applies, refer the notice back to the Secretary of State within 28 days of the day on which the notice is given.

(2) This paragraph applies if the person to whom the notice is given considers that any requirement or restriction imposed by, or obligation or step specified in, the notice is unreasonable.

(**1**) 2016 c. 25.

(3) In this regulation, references to a notice being given include references to notice of the variation of a retention notice being published in accordance with section 94(2) of the Act.

Membership of the Technical Advisory Board

3.—(1) The Technical Advisory Board must consist of at least thirteen members but no more than fifteen members.

(2) Six members (and no more than six members) must be persons holding an office, rank or position with either—

(a) a person on whom obligations may be imposed by virtue of retention notices under Part 4 of the Act, national security notices under section 252 of the Act or technical capability notices under section 253 of the Act, or

(b) a person representing the interests of such persons.

(3) The members to whom paragraph (2) applies must be persons with sufficient knowledge and experience to be likely effectively to represent the interests of persons on whom obligations may be imposed by virtue of retention notices under Part 4 of the Act, national security notices under section 252 of the Act or technical capability notices under section 253 of the Act.

(4) Six members (and no more than six members) must be persons holding an office, rank or position with either—

(a) a person entitled to apply for warrants under Part 2, 5, 6 or 7 of the Act or authorisations under Part 3 of the Act, or

(b) a person representing the interests of such persons.

(5) The members to whom paragraph (4) applies must be persons with sufficient knowledge and experience to be likely effectively to represent the interests of persons entitled to apply for warrants under Part 2, 5, 6 or 7 of the Act, or authorisations under Part 3 of the Act.

(6) One member must be appointed, and two further members may be appointed, who are not persons to whom paragraph (2) or (4) applies.

(7) One such member must be appointed chair and one other such member may be appointed deputy chair.

Quorum

4. The quorum of the Technical Advisory Board is to be seven members of whom—

(a) three are members to whom regulation 2(2) applies,

(b) three are members to whom regulation 2(4) applies, and

(c) one is a member to whom regulation 2(6) applies.

Ben Wallace
Minister of State
Home Office

8th March 2018