STATUTORY INSTRUMENTS

2017 No. 1240

TELECOMMUNICATIONS
DANGEROUS DRUGS

The Drug Dealing Telecommunications Restriction Orders Regulations 2017

Made - - - - 6th December 2017

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 80A(1), (5) to (8) and (9)(a), (d) to (h) and (k) of the Serious Crime Act 2015(**1**).

In accordance with section 80A(11) of that Act, a draft of these Regulations has been laid before and approved by resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Drug Dealing Telecommunications Restriction Orders Regulations 2017 and come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

"affected person"—

(a) in relation to an application for a DDTRO, means a person who would be likely to be affected by the order (if made); and

(b) in relation to a DDTRO that has been made, means a person who has been or is likely to be affected by the order;

"applicant" means the person who applies for a DDTRO;

"DDTRO" means a drug dealing telecommunications restriction order(**2**);

"device ID" includes—

(a) an International Mobile Equipment Identity (IMEI) number;

(b) a Mobile Equipment Identifier (MEID) number;

(**1**) 2015 c. 9. Section 80A was inserted by section 107 of the Digital Economy Act 2017 (c.30).
(**2**) "Drug dealing telecommunications restriction order" is defined in section 80A(2) of the Serious Crime Act 2015.

(c) an Electronic Serial Number (ESN);

(d) a Mobile Station International Subscriber Directory Number (MSISDN);

(e) an Integrated Circuit Card Identifier (ICCID);

(f) an International Mobile Subscriber Identity (IMSI);

(g) a mobile identification number (MIN) or mobile subscription identification number (MSIN);

(h) a media access control address (MAC);

(i) a Universal Device Identifier (UDID);

(j) an Android identifier number (Android_ID); or

(k) any other serial number or identification number,

used with a communications device;

"relevant item" means—

(a) a communication device(**3**); or

(b) a phone number or something else that may be used with a communication device, including a subscriber identity module (SIM) or device ID.

Power to make a DDTRO

3.—(1) The court(**4**) may make a DDTRO if the court—

(a) is satisfied that a relevant item identified in the order—

(i) has been, or is likely to have been, used; or

(ii) is likely to be used in the future,

in connection with drug dealing offences(**5**); and

(b) it has reasonable grounds to believe that the order would prevent or restrict the use of a communication device in connection with drug dealing offences.

(2) A DDTRO has effect—

(a) until the date, or the end of the period, that the order specifies (if any); or

(b) if no date or period is specified, until discharged under regulation 10.

(3) A DDTRO may provide for the order, or any specified requirements of it, not to apply in relation to any relevant item that the applicant discovers is not being used in connection with drug dealing offences.

(4) A DDTRO must specify the date and time on or before which the requirements of the order are to be complied with.

(5) The date and time specified for the purposes of paragraph (4) must be the end of the fifth working day after the date of the order unless the applicant requests that the court specify a different date and time and the court agrees that the request is reasonable.

(6) A DDTRO must include provision permitting the applicant and the communications provider(**6**) subject to the order to agree a date and time at which the requirements of the order must be complied with that is earlier than the date and time specified in the DDTRO.

(7) In this regulation, "working day" means a day other than—

(**3**) The expression "communication device" is defined in section 80A(12) of the Serious Crime Act 2015.
(**4**) The word "court" is defined in section 80A(12) of the Serious Crime Act 2015.
(**5**) The expression "drug dealing offences" is defined in section 80A(4) of the Serious Crime Act 2015.
(**6**) The expression "communications provider" is defined in section 80A(12) of the Serious Crime Act 2015.

(a) Saturday or Sunday;

(b) Christmas Day or Good Friday; or

(c) a day that is a bank holiday under the Banking and Financial Dealings Act 1971(**7**) in the part of the United Kingdom in which—

(i) in the case of a communications provider which is a company or limited liability partnership, it has its registered office;

(ii) in all other cases, the communications provider has its principal place of business.

Application for a DDTRO

4.—(1) A DDTRO may be made only on the application of—

(a) the Director General or Deputy Director General of the National Crime Agency; or

(b) a police officer of the rank of superintendent or above.

(2) An application for a DDTRO must—

(a) be made and heard without notice of the application or hearing having been given to an affected person or their legal representative; and

(b) be heard and determined in the absence of an affected person or their legal representative.

Notice and information to be given by the applicant

5.—(1) The applicant must, as soon as reasonably practicable after it has been made by the court —

(a) serve a copy of the DDTRO on the communications provider; and

(b) take reasonable steps to bring the making of the DDTRO to the attention of any other affected person of whom the applicant is, or ought reasonably to be, aware.

(2) Where—

(a) a DDTRO contains provision made by virtue of regulation 3(3); and

(b) the applicant discovers that a relevant item in relation to which the order, or any particular requirement of it, would apply (but for that provision) is not being used in connection with drug dealing offences,

the applicant must comply with the requirements in paragraph (3).

(3) The requirements are that—

(a) the applicant must as soon as reasonably practicable notify the communications provider of the discovery and inform the provider in writing that, accordingly, the order or provision does not apply in relation to that relevant item; and

(b) where the communications provider has already complied with the terms of the DDTRO, the applicant must as soon as reasonably practicable notify any other affected person of the discovery and inform them in writing that, accordingly, the order or provision does not apply in relation to that relevant item.

Information to be given by a communications provider

6. A communications provider required to comply with a DDTRO must notify—

(a) the applicant; and

(**7**) 1971 c. 80.