

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019, Paragraph 18. (See end of Document for details)

SCHEDULES

SCHEDULE 3

BORDER SECURITY

Modifications etc. (not altering text)

- C1** Sch. 3 modified (30.9.2020 immediately after the amendments by S.I. 2020/915, art. 5 come into force) by [The Channel Tunnel \(Arrangements with the Kingdom of the Netherlands\) Order 2020 \(S.I. 2020/916\)](#), arts. 1(3), **6**
- C1** Sch. 3 modified by [S.I. 1994/1405](#), **art. 7** (as amended (coming into force in accordance with art. 1(3) of the amending S.I.) by [The Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2020 \(S.I. 2020/915\)](#), arts. 1(3), **11**)
- C1** Sch. 3 modified by [S.I. 1993/1813](#), **Sch. 4 para. 7** (as inserted (12.2.2019 for specified purposes; 13.8.2020 in so far as not already in force) by [Counter Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(1)(g), [Sch. 3 para. 63\(1\)](#) (with s. 25(9), **Sch. 3 para. 63(2)**); [S.I. 2020/792](#), **reg. 2(g)**)

PART 1

POWERS

Power to make and retain copies

- 18 (1) This paragraph applies in relation to a copy consisting of or including confidential material that is retained by virtue of paragraph 17(3)(d) or (e), other than a copy in respect of which an authorisation is granted under paragraph 20.
- (2) The Investigatory Powers Commissioner (“the Commissioner”) must be informed of the copy's retention as soon as is reasonably practicable.
- (3) The Commissioner may authorise the retention and use of the copy if both of the following two conditions are met.
- (4) The first condition is that it appears to the Commissioner that there are reasonable grounds to believe that it is necessary to retain the copy—
- (a) in the interests of national security,
 - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security,
 - (c) for the purpose of preventing or detecting an act of serious crime, or
 - (d) for the purpose of preventing death or significant injury.
- (5) The second condition is that the Commissioner is satisfied that—
- (a) arrangements are in place that are sufficient for ensuring that any confidential material contained in the copy is retained securely, and

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- (b) the material will be used only so far as necessary and proportionate for a relevant purpose.
- (6) If the Commissioner does not proceed under sub-paragraph (3) in relation to a copy, the Commissioner must (subject to sub-paragraph (7)) direct that the copy is destroyed.
- (7) Sub-paragraph (6) does not apply if the copy is further retained under a power conferred by paragraph 17(3)(b) or (c).
- (8) In authorising the retention and use of a copy under sub-paragraph (3) the Commissioner may impose whatever conditions the Commissioner thinks appropriate in relation to its retention and use.
- (9) For the purposes of sub-paragraph (5)(b), the use of material is necessary for a relevant purpose if it is necessary—
 - (a) in the interests of national security,
 - (b) in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security,
 - (c) for the purpose of preventing or detecting serious crime, or
 - (d) for the purpose of preventing death or significant injury.
- (10) In this paragraph “confidential material” has the meaning given by paragraph 12(10) and (11).

Commencement Information

- I1** Sch. 3 para. 18 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
- I2** Sch. 3 para. 18 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), **reg. 2(g)**

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