



# Crime (Overseas Production Orders) Act 2019

## 2019 CHAPTER 5

### *Overseas production orders*

#### **3 Meaning of “electronic data” and “excepted electronic data”**

- (1) This section applies for the purposes of this Act.
- (2) “Electronic data” means data stored electronically.
- (3) “Excepted electronic data” means electronic data that is—
  - (a) an item subject to legal privilege, or
  - (b) a personal record which is a confidential personal record.
- (4) Where the person against whom an overseas production order is sought is a telecommunications operator, this Act applies as if references to excepted electronic data included electronic data that is communications data [<sup>F1</sup>, other than communications data to which subsection (4A) applies].

[<sup>F2</sup>(4A) This subsection applies to communications data which is comprised in, included as part of, attached to or logically associated with electronic data which, apart from this subsection, may be specified or described in the application for the overseas production order.]

- (5) Where an application for an overseas production order is made for the purposes of a terrorist investigation other than a terrorist financing investigation, this Act applies as if references to excepted electronic data did not include electronic data that is a personal record which is a confidential personal record.
- (6) “Item subject to legal privilege”—
  - (a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
  - (b) in relation to Scotland, has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (see section 412 of that Act);

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*Changes to legislation: There are currently no known outstanding effects for the Crime (Overseas Production Orders) Act 2019, Section 3. (See end of Document for details)*

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- (c) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 12 of that Order).
- (7) “Personal record” means a record concerning an individual (“P”) (whether living or dead) who can be identified from the record and relating to—
- (a) P's physical or mental health,
  - (b) spiritual counselling or assistance given, or to be given, to P, or
  - (c) counselling or assistance given, or to be given, to P for the purposes of P's personal welfare by—
    - (i) any voluntary organisation,
    - (ii) any individual who by reason of an office or occupation has responsibilities for P's personal welfare, or
    - (iii) any individual who by reason of an order of a court has responsibilities for P's supervision.
- (8) A personal record is a “confidential personal record” if—
- (a) it was created in circumstances giving rise to an obligation of confidence owed to P and the obligation continues to be owed, or
  - (b) it is held subject to a restriction on disclosure, or an obligation of secrecy, contained in an enactment (whenever passed or made).
- (9) In this section—
- “communications data” and “telecommunications operator” have the same meaning as in the Investigatory Powers Act 2016 (see section 261 of that Act);
- “terrorist financing investigation” has the same meaning as in Part 1 of Schedule 5A to the Terrorism Act 2000 (see paragraph 4 of that Schedule);
- “terrorist investigation” has the same meaning as in the Terrorism Act 2000 (see section 32 of that Act).

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#### **Textual Amendments**

- F1** Words in s. 3(4) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(d), [Sch. 5 para. 2\(2\)](#)
- F2** S. 3(4A) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(d), [Sch. 5 para. 2\(3\)](#)
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#### **Commencement Information**

- I1** S. 3 in force at 9.10.2019 for E.W.S. by [S.I. 2019/1318](#), [reg. 2\(2\)\(c\)](#)
- I2** S. 3 in force at 9.10.2019 for specified purposes for N.I. by [S.I. 2019/1318](#), [reg. 2\(3\)](#)
- I3** S. 3 in force at 22.2.2021 by [S.I. 2021/146](#), [reg. 4\(c\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Crime (Overseas Production Orders) Act 2019, Section 3.