

News story: Draft Technical Capability Regulations notified to European Commission following targeted consultation

The Home Office has notified the European Commission of regulations to help make companies maintain the technical capability to respond to warrants and authorisations from law enforcement, security and intelligence agencies.

The Investigatory Powers (Technical Capability) Regulations 2017 do not include any new powers but relate to powers already set out in the Investigatory Powers Act 2016 which enable the Secretary of State to give a “technical capability notice” to a telecommunications operator in relation to interception, communications data or equipment interference.

The purpose of a “technical capability notice” is to ensure that, when a warrant or authorisation is served on or given to an operator, that company has the capability to provide assistance in giving effect to it securely and quickly.

The use of these powers is vital in the fight against terrorism, crime and other national security threats.

Security Minister Ben Wallace said:

Technical advances present ever-evolving opportunities for terrorists, criminals and paedophiles.

These regulations will help make sure that we maintain the capabilities to confront this challenge, subject to strict safeguards.

The regulations do not impose requirements on telecommunications operators, but set out the specific obligations that may be imposed on operators in a “technical capability notice”, including those which relate to maintaining the capability to remove encryption in response to a specific warrant or authorisation.

The move comes after a targeted consultation which included hearing views from telecommunications operators that are likely to receive a notice; bodies that hold statutory functions in relation to operators, such as the Investigatory Powers Commissioner; and the Technical Advisory Board.

Following [notification](#) under the Technical Standards Directive, the regulations have been published and there will now be a three month standstill period, during which they can be considered by the European

Commission and Member States.

The secondary legislation will be subject to a debate and a vote in both Houses of Parliament before it can come into effect.