

(a) there are exceptional and compelling circumstances that make it necessary to authorise or require the interception,

(b) the public interest in obtaining the information would outweigh the public interest in the confidentiality of items subject to legal privilege, and

(c) there are no other means by which the information may reasonably be obtained.

As with any interception warrant, the decision to grant an interception warrant relating to privileged material will be subject to review by a judicial commissioner.

### Forward view

The Act that has just received royal assent is not perfect; the protections are not as comprehensive as the legal community felt was appropriate. However, the measures introduced will help to protect legally privileged communications from being inappropriately accessed.

The changes, following advocacy from the Law Society and others, will give greater protection to legally privileged material accidentally caught in a legitimate search, ensuring its retention is subject to a public interest test. We were pleased the Government agreed to sensible changes to strengthen protections of legal professional privilege.

With the number of moves to weaken the protection of legal professional privilege we have seen recently, the Law Society and its international counterparts will remain vigilant to ensure that this core principle of our justice system is maintained.

Robert BOURNS

President of the Law Society of England and Wales

London, United Kingdom

robert.bourns@lawsociety.org.uk

1. Article 6 provides for the right to a fair trial, while Article 8 provides a right to privacy.

2. *Campbell v United Kingdom* (1992) 15 EHRR 137, *Foxley v United Kingdom* (2000) 31 EHRR 637.

3. *Balabel v Air India* [1988] 1 Ch 317.

4. *Three Rivers (N° 6)* [2005] 1 AC 610.

5. *Property Alliance Group Ltd v The Royal Bank of Scotland PLC* [2015] EWHC 3187 (Ch).

6. *Three Rivers (N° 6)*.

7. Longmore LJ, in *Kuwait Airways Corp v Iraqi Airways Co (N° 6)* [2005] 1 WLR 2734.

8. N.B. the Regulation of Investigatory Powers Act 2000 contains a sunset clause mandating its repeal at the conclusion of 2016.

9. *McE* [2009] UKHL 15.

10. *R (Morgan Grenfell & Co Ltd) v Special Commissioners of Income Tax* [2003] 1 AC 563.

11. *Three Rivers District Council v Governor and Company of the Bank of England (No 6)* [2005] 1 AC 610.

12. *Belhadj and Others v Security Service and Others* [2015] UKIPTrib 13\_132-H.

13. Anderson, D. *A Question of Trust: Report of the Investigatory Powers Review* [Anderson Report] (London: The Stationery Office, 2015), p. 8.

**Uia** Union Internationale des Avocats  
International Association of Lawyers  
Unión Internacional de Abogados

**Uia BAR LEADERS' BRIEFING**

**United Nations, Geneva**  
**The Key Event for Bar Leaders**

**2017**  
**2 JUNE**

**SAVE THE DATE**

[www.uianet.org](http://www.uianet.org)