



Intelligence Services Act 1994

1994 CHAPTER 13

The Secret Intelligence Service

1 The Secret Intelligence Service

- (1) There shall continue to be a Secret Intelligence Service (in this Act referred to as “the Intelligence Service”) under the authority of the Secretary of State; and, subject to subsection (2) below, its functions shall be—
 - (a) to obtain and provide information relating to the actions or intentions of persons outside the British Islands; and
 - (b) to perform other tasks relating to the actions or intentions of such persons.
- (2) The functions of the Intelligence Service shall be exercisable only—
 - (a) in the interests of national security, with particular reference to the defence and foreign policies of Her Majesty’s Government in the United Kingdom; or
 - (b) in the interests of the economic well-being of the United Kingdom; or
 - (c) in support of the prevention or detection of serious crime.

2 The Chief of the Intelligence Service

- (1) The operations of the Intelligence Service shall continue to be under the control of a Chief of that Service appointed by the Secretary of State.
- (2) The Chief of the Intelligence Service shall be responsible for the efficiency of that Service and it shall be his duty to ensure—
 - (a) that there are arrangements for securing that no information is obtained by the Intelligence Service except so far as necessary for the proper discharge of its functions and that no information is disclosed by it except so far as necessary—
 - (i) for that purpose;
 - (ii) in the interests of national security;
 - (iii) for the purpose of the prevention or detection of serious crime; or
 - (iv) for the purpose of any criminal proceedings; and

Status: This is the original version (as it was originally enacted).

- (b) that the Intelligence Service does not take any action to further the interests of any United Kingdom political party.
- (3) Without prejudice to the generality of subsection (2)(a) above, the disclosure of information shall be regarded as necessary for the proper discharge of the functions of the Intelligence Service if it consists of—
 - (a) the disclosure of records subject to and in accordance with the Public Records Act 1958; or
 - (b) the disclosure, subject to and in accordance with arrangements approved by the Secretary of State, of information to the Comptroller and Auditor General for the purposes of his functions.
- (4) The Chief of the Intelligence Service shall make an annual report on the work of the Intelligence Service to the Prime Minister and the Secretary of State and may at any time report to either of them on any matter relating to its work.

GCHQ

3 The Government Communications Headquarters

- (1) There shall continue to be a Government Communications Headquarters under the authority of the Secretary of State; and, subject to subsection (2) below, its functions shall be—
 - (a) to monitor or interfere with electromagnetic, acoustic and other emissions and any equipment producing such emissions and to obtain and provide information derived from or related to such emissions or equipment and from encrypted material; and
 - (b) to provide advice and assistance about—
 - (i) languages, including terminology used for technical matters, and
 - (ii) cryptography and other matters relating to the protection of information and other material,to the armed forces of the Crown, to Her Majesty's Government in the United Kingdom or to a Northern Ireland Department or to any other organisation which is determined for the purposes of this section in such manner as may be specified by the Prime Minister.
- (2) The functions referred to in subsection (1)(a) above shall be exercisable only—
 - (a) in the interests of national security, with particular reference to the defence and foreign policies of Her Majesty's Government in the United Kingdom; or
 - (b) in the interests of the economic well-being of the United Kingdom in relation to the actions or intentions of persons outside the British Islands; or
 - (c) in support of the prevention or detection of serious crime.
- (3) In this Act the expression "GCHQ" refers to the Government Communications Headquarters and to any unit or part of a unit of the armed forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

4 The Director of GCHQ

- (1) The operations of GCHQ shall continue to be under the control of a Director appointed by the Secretary of State.
- (2) The Director shall be responsible for the efficiency of GCHQ and it shall be his duty to ensure—
 - (a) that there are arrangements for securing that no information is obtained by GCHQ except so far as necessary for the proper discharge of its functions and that no information is disclosed by it except so far as necessary for that purpose or for the purpose of any criminal proceedings; and
 - (b) that GCHQ does not take any action to further the interests of any United Kingdom political party.
- (3) Without prejudice to the generality of subsection (2)(a) above, the disclosure of information shall be regarded as necessary for the proper discharge of the functions of GCHQ if it consists of—
 - (a) the disclosure of records subject to and in accordance with the Public Records Act 1958; or
 - (b) the disclosure, subject to and in accordance with arrangements approved by the Secretary of State, of information to the Comptroller and Auditor General for the purposes of his functions.
- (4) The Director shall make an annual report on the work of GCHQ to the Prime Minister and the Secretary of State and may at any time report to either of them on any matter relating to its work.

Authorisation of certain actions

5 Warrants: general

- (1) No entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorised by a warrant issued by the Secretary of State under this section.
- (2) The Secretary of State may, on an application made by the Security Service, the Intelligence Service or GCHQ, issue a warrant under this section authorising the taking, subject to subsection (3) below, of such action as is specified in the warrant in respect of any property so specified or in respect of wireless telegraphy so specified if the Secretary of State—
 - (a) thinks it necessary for the action to be taken on the ground that it is likely to be of substantial value in assisting, as the case may be,—
 - (i) the Security Service in carrying out any of its functions under the 1989 Act; or
 - (ii) the Intelligence Service in carrying out any of its functions under section 1 above; or
 - (iii) GCHQ in carrying out any function which falls within section 3(1) (a) above; and
 - (b) is satisfied that what the action seeks to achieve cannot reasonably be achieved by other means; and
 - (c) is satisfied that satisfactory arrangements are in force under section 2(2)(a) of the 1989 Act (duties of the Director-General of the Security Service), section 2(2)(a) above or section 4(2)(a) above with respect to the disclosure

of information obtained by virtue of this section and that any information obtained under the warrant will be subject to those arrangements.

- (3) A warrant authorising the taking of action in support of the prevention or detection of serious crime may not relate to property in the British Islands.
- (4) Subject to subsection (5) below, the Security Service may make an application under subsection (2) above for a warrant to be issued authorising that Service (or a person acting on its behalf) to take such action as is specified in the warrant on behalf of the Intelligence Service or GCHQ and, where such a warrant is issued, the functions of the Security Service shall include the carrying out of the action so specified, whether or not it would otherwise be within its functions.
- (5) The Security Service may not make an application for a warrant by virtue of subsection (4) above except where the action proposed to be authorised by the warrant—
 - (a) is action in respect of which the Intelligence Service or, as the case may be, GCHQ could make such an application; and
 - (b) is to be taken otherwise than in support of the prevention or detection of serious crime.

6 Warrants: procedure and duration, etc

- (1) A warrant shall not be issued except—
 - (a) under the hand of the Secretary of State; or
 - (b) in an urgent case where the Secretary of State has expressly authorised its issue and a statement of that fact is endorsed on it, under the hand of a senior official of his department.
- (2) A warrant shall, unless renewed under subsection (3) below, cease to have effect—
 - (a) if the warrant was under the hand of the Secretary of State, at the end of the period of six months beginning with the day on which it was issued; and
 - (b) in any other case, at the end of the period ending with the second working day following that day.
- (3) If at any time before the day on which a warrant would cease to have effect the Secretary of State considers it necessary for the warrant to continue to have effect for the purpose for which it was issued, he may by an instrument under his hand renew it for a period of six months beginning with that day.
- (4) The Secretary of State shall cancel a warrant if he is satisfied that the action authorised by it is no longer necessary.
- (5) In the preceding provisions of this section “warrant” means a warrant under section 5 above.
- (6) As regards the Security Service, this section and section 5 above have effect in place of section 3 (property warrants) of the 1989 Act, and accordingly—
 - (a) a warrant issued under that section of the 1989 Act and current when this section and section 5 above come into force shall be treated as a warrant under section 5 above, but without any change in the date on which the warrant was in fact issued or last renewed; and
 - (b) section 3 of the 1989 Act shall cease to have effect.

7 Authorisation of acts outside the British Islands

- (1) If, apart from this section, a person would be liable in the United Kingdom for any act done outside the British Islands, he shall not be so liable if the act is one which is authorised to be done by virtue of an authorisation given by the Secretary of State under this section.
- (2) In subsection (1) above “liable in the United Kingdom” means liable under the criminal or civil law of any part of the United Kingdom.
- (3) The Secretary of State shall not give an authorisation under this section unless he is satisfied—
 - (a) that any acts which may be done in reliance on the authorisation or, as the case may be, the operation in the course of which the acts may be done will be necessary for the proper discharge of a function of the Intelligence Service; and
 - (b) that there are satisfactory arrangements in force to secure—
 - (i) that nothing will be done in reliance on the authorisation beyond what is necessary for the proper discharge of a function of the Intelligence Service; and
 - (ii) that, in so far as any acts may be done in reliance on the authorisation, their nature and likely consequences will be reasonable, having regard to the purposes for which they are carried out; and
 - (c) that there are satisfactory arrangements in force under section 2(2)(a) above with respect to the disclosure of information obtained by virtue of this section and that any information obtained by virtue of anything done in reliance on the authorisation will be subject to those arrangements.
- (4) Without prejudice to the generality of the power of the Secretary of State to give an authorisation under this section, such an authorisation—
 - (a) may relate to a particular act or acts, to acts of a description specified in the authorisation or to acts undertaken in the course of an operation so specified;
 - (b) may be limited to a particular person or persons of a description so specified; and
 - (c) may be subject to conditions so specified.
- (5) An authorisation shall not be given under this section except—
 - (a) under the hand of the Secretary of State; or
 - (b) in an urgent case where the Secretary of State has expressly authorised it to be given and a statement of that fact is endorsed on it, under the hand of a senior official of his department.
- (6) An authorisation shall, unless renewed under subsection (7) below, cease to have effect—
 - (a) if the authorisation was given under the hand of the Secretary of State, at the end of the period of six months beginning with the day on which it was given;
 - (b) in any other case, at the end of the period ending with the second working day following the day on which it was given.
- (7) If at any time before the day on which an authorisation would cease to have effect the Secretary of State considers it necessary for the authorisation to continue to have effect for the purpose for which it was given, he may by an instrument under his hand renew it for a period of six months beginning with that day.

- (8) The Secretary of State shall cancel an authorisation if he is satisfied that any act authorised by it is no longer necessary.

The Commissioner, the Tribunal and the investigation of complaints

8 The Commissioner

- (1) The Prime Minister shall appoint as a Commissioner for the purposes of this Act a person who holds or has held high judicial office within the meaning of the Appellate Jurisdiction Act 1876.
- (2) The Commissioner shall hold office in accordance with the terms of his appointment and there shall be paid to him by the Secretary of State such allowances as the Treasury may determine.
- (3) In addition to his functions under the subsequent provisions of this Act, the Commissioner shall keep under review the exercise by the Secretary of State of his powers under sections 5 to 7 above, except in so far as the powers under sections 5 and 6 above relate to the Security Service.
- (4) It shall be the duty of—
- (a) every member of the Intelligence Service,
 - (b) every member of GCHQ, and
 - (c) every official of the department of the Secretary of State,
- to disclose or give to the Commissioner such documents or information as he may require for the purpose of enabling him to discharge his functions.
- (5) The Commissioner shall make an annual report on the discharge of his functions to the Prime Minister and may at any time report to him on any matter relating to his discharge of those functions.
- (6) The Prime Minister shall lay before each House of Parliament a copy of each annual report made by the Commissioner under subsection (5) above together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (7) below.
- (7) If it appears to the Prime Minister, after consultation with the Commissioner, that the publication of any matter in a report would be prejudicial to the continued discharge of the functions of the Intelligence Service or, as the case may be, GCHQ, the Prime Minister may exclude that matter from the copy of the report as laid before each House of Parliament.
- (8) The Secretary of State may, after consultation with the Commissioner and with the approval of the Treasury as to numbers, provide the Commissioner with such staff as the Secretary of State thinks necessary for the discharge of his functions.

9 Investigation of complaints

- (1) There shall be a Tribunal for the purpose of investigating complaints about the Intelligence Service or GCHQ in the manner specified in Schedule 1 to this Act.

- (2) The Commissioner shall have the functions conferred on him by Schedule 1 to this Act and give the Tribunal all such assistance in discharging their functions under that Schedule as they may require.
- (3) Schedule 2 to this Act shall have effect with respect to the constitution, procedure and other matters relating to the Tribunal.
- (4) The decisions of the Tribunal and the Commissioner under Schedule 1 to this Act (including decisions as to their jurisdictions) shall not be subject to appeal or liable to be questioned in any court.

The Intelligence and Security Committee

10 The Intelligence and Security Committee

- (1) There shall be a Committee, to be known as the Intelligence and Security Committee and in this section referred to as “the Committee”, to examine the expenditure, administration and policy of—
 - (a) the Security Service;
 - (b) the Intelligence Service; and
 - (c) GCHQ.
- (2) The Committee shall consist of nine members—
 - (a) who shall be drawn both from the members of the House of Commons and from the members of the House of Lords; and
 - (b) none of whom shall be a Minister of the Crown.
- (3) The members of the Committee shall be appointed by the Prime Minister after consultation with the Leader of the Opposition, within the meaning of the Ministerial and other Salaries Act 1975; and one of those members shall be so appointed as Chairman of the Committee.
- (4) Schedule 3 to this Act shall have effect with respect to the tenure of office of members of, the procedure of and other matters relating to, the Committee; and in that Schedule “the Committee” has the same meaning as in this section.
- (5) The Committee shall make an annual report on the discharge of their functions to the Prime Minister and may at any time report to him on any matter relating to the discharge of those functions.
- (6) The Prime Minister shall lay before each House of Parliament a copy of each annual report made by the Committee under subsection (5) above together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (7) below.
- (7) If it appears to the Prime Minister, after consultation with the Committee, that the publication of any matter in a report would be prejudicial to the continued discharge of the functions of either of the Services or, as the case may be, GCHQ, the Prime Minister may exclude that matter from the copy of the report as laid before each House of Parliament.

Supplementary

11 Interpretation and consequential amendments

- (1) In this Act—
 - (a) “the 1989 Act” means the Security Service Act 1989;
 - (b) “the Commissioner” means the Commissioner appointed under section 8 above;
 - (c) “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
 - (d) “senior official” in relation to a department is a reference to an officer of or above Grade 3 or, as the case may require, Diplomatic Service Senior Grade;
 - (e) “wireless telegraphy” has the same meaning as in the Wireless Telegraphy Act 1949 and, in relation to wireless telegraphy, “interfere” has the same meaning as in that Act;
 - (f) “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.
- (2) In consequence of the preceding provisions of this Act, the 1989 Act, the Official Secrets Act 1989 and the Official Secrets Act 1989 (Prescription) Order 1990 shall have effect subject to the amendments in Schedule 4 to this Act.

12 Short title, commencement and extent

- (1) This Act may be cited as the Intelligence Services Act 1994.
- (2) This Act shall come into force on such day as the Secretary of State may by an order made by statutory instrument appoint, and different days may be so appointed for different provisions or different purposes.
- (3) This Act extends to Northern Ireland.
- (4) Her Majesty may by Order in Council direct that any of the provisions of this Act specified in the Order shall extend, with such exceptions, adaptations and modifications as appear to Her to be necessary or expedient, to the Isle of Man, any of the Channel Islands or any colony.