



Police Act 1997

1997 CHAPTER 50

PART III

AUTHORISATION OF ACTION IN RESPECT OF PROPERTY

Appeals

104 Appeals by authorising officers.

- (1) An authorising officer who gives an authorisation, or in whose absence it is given, may, within the prescribed period, appeal to the [^{F1}Investigatory Powers Commissioner (except where the original decision was made by that Commissioner)] against—
 - (a) any refusal to approve the authorisation or any renewal of it under section 97;
 - (b) any decision to quash the authorisation, or any renewal of it, under subsection (1) of section 103;
 - (c) any decision to quash the authorisation, or any renewal of it, under subsection (2) of that section;
 - (d) any decision to cancel the authorisation under subsection (4) of that section;
 - (e) any decision to order the destruction of records under subsection (5) of that section;
 - (f) any refusal to make an order under subsection (6) of that section;
 - ^{F2}(g)
- (2) In subsection (1), “the prescribed period” means the period of seven days beginning with the day on which the refusal, decision or, as the case may be, determination appealed against is reported to the authorising officer.
- (3) In determining an appeal within subsection (1)(a), the [^{F3}Investigatory Powers Commissioner] shall, if he is satisfied that there are reasonable grounds for believing the matters specified in section 93(2), allow the appeal and direct [^{F4}the Judicial Commissioner concerned] to approve the authorisation or renewal under that section.
- (4) In determining—

Changes to legislation: Police Act 1997, Cross Heading: Appeals is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) an appeal within subsection (1)(b), ^{F5} . . .
- (b)
- the [^{F3}Investigatory Powers Commissioner] shall allow the appeal unless he is satisfied that, at the time the authorisation was given or, as the case may be, renewed there were no reasonable grounds for believing the matters specified in section 93(2).
- (5) In determining—
- (a) an appeal within subsection (1)(c), ^{F5} . . .
- (b)
- the [^{F3}Investigatory Powers Commissioner] shall allow the appeal unless he is satisfied as mentioned in section 103(2).
- (6) In determining—
- (a) an appeal within subsection (1)(d) or (e), ^{F5} . . .
- (b)
- the [^{F3}Investigatory Powers Commissioner] shall allow the appeal unless he is satisfied that at the time to which the decision relates there were no reasonable grounds for believing the matters specified in section 93(2).
- (7) In determining an appeal within subsection (1)(f), the [^{F3}Investigatory Powers Commissioner] shall allow the appeal and order that the authorisation shall be effective to the extent mentioned in section 103(6), for such period as he shall specify, if he is satisfied that there are reasonable grounds for making such an order.
- (8) Where an appeal is allowed under this section, the [^{F3}Investigatory Powers Commissioner] shall—
- (a) in the case of an appeal within subsection (1)(b) or (c), also quash any order made by [^{F6}the Judicial Commissioner concerned] to destroy records relating to information obtained by virtue of the authorisation concerned, ^{F7} . . .
- (b)

Textual Amendments

- F1** Words in s. 104(1) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(e\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F2** S. 104(1)(g) repealed (25.9.2000) by [2000 c. 23, s. 82\(2\)](#), [Sch. 5](#) (with s. 82(3)); S.I. 2000/2543, [art. 2](#)
- F3** Words in s. 104(3)-(8) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(a\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F4** Words in s. 104(3) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(f\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F5** S. 104(4)(b)(5)(b)(6)(b) and the word “or” immediately preceding them repealed (25.9.2000) by [2000 c. 23, s. 82\(2\)](#), [Sch. 5](#) (with s. 82(3)); S.I. 2000/2543, [art. 2](#)
- F6** Words in s. 104(8)(a) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(f\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F7** S. 104(8)(b) and the word “and” immediately preceding it repealed (25.9.2000) by [2000 c. 23, s. 82\(2\)](#), [Sch. 5](#) (with s. 82(3)); S.I. 2000/2543, [art. 2](#)

Modifications etc. (not altering text)

- C1** [S. 104](#) excluded (26.9.2018) by [Investigatory Powers Act 2016 \(c. 25\), s. 272\(1\)](#), [Sch. 8 para. 24\(1\)\(d\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2018/940, reg. 3(g)(ii)

Changes to legislation: Police Act 1997, Cross Heading: Appeals is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

105 Appeals by authorising officers: supplementary.

- (1) Where the [^{F8}Investigatory Powers Commissioner] determines an appeal under section 104—
- (a) he shall give notice of his determination—
 - (i) to the authorising officer concerned, [^{F9}and]
 - (ii) to [^{F10}the Judicial Commissioner] against whose refusal, decision or determination the appeal was made, ^{F11} . . .
 - (iii)
 - (b) if he dismisses the appeal, he shall make a report of his findings—
 - (i) to the authorising officer concerned,
 - (ii) to [^{F12}the Judicial Commissioner] against whose refusal, decision or determination the appeal was made, and
 - (iii) ^{F13} . . . to the Prime Minister [and the Scottish Ministers].
- (2) Subject to subsection (1)(b), the [^{F8}Investigatory Powers Commissioner] shall not give any reasons for a determination under section 104.
- (3) Nothing in section 104 shall prevent a designated deputy from exercising the powers conferred by subsection (1) of that section on an authorising officer within paragraph (a) [^{F14}or (c)] of section 93(5).

Textual Amendments

- F8** Words in s. 105(1)(2) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(a\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2017/859, reg. 2\(e\)](#)
- F9** Word in s. 105(1)(a)(i) inserted (25.9.2000) by [2000 c. 23, s. 82\(1\), Sch. 4 para. 8\(9\)](#) (with s. 82(3)); [S.I. 2000/2543, art. 2](#)
- F10** Words in s. 105(1)(a)(ii) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(g\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2017/859, reg. 2\(e\)](#)
- F11** S. 105(1)(a)(iii) and the word “and” immediately preceding it repealed (25.9.2000) by [2000 c. 23, s. 82\(1\)\(2\), Sch. 4 para. 8\(9\), Sch. 5](#) (with s. 82(3)); [S.I. 2000/2543, art. 2](#)
- F12** Words in s. 105(1)(b)(ii) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(g\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2017/859, reg. 2\(e\)](#)
- F13** Words in s. 105(1)(b)(iii) omitted (1.9.2017) by virtue of [Investigatory Powers Act 2016 \(c. 25\), s. 272\(1\), Sch. 10 para. 73](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2017/859, reg. 2\(j\)](#)
- F14** Words in s. 105(3) substituted (E.W.N.I.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\), art. 1\(2\), Sch. 1 para. 6\(5\)](#); and (S.) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), sch. 7 para. 14\(5\)](#); [S.S.I. 2013/51, art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

Modifications etc. (not altering text)

- C2** Words in s. 105(1)(b)(iii) inserted (1.7.1999) by [S.I. 1999/1747, arts. 1, 3, Sch. 6 Pt. II para. 2\(3\)](#); [S.I. 1998/3178, art. 3](#)

^{F15}106

Textual Amendments

- F15** S. 106 repealed (25.9.2000) by [2000 c. 23, s. 82\(2\), Sch. 5](#) (with s. 82(3)); [S.I. 2000/2543, art. 2](#)

Changes to legislation:

Police Act 1997, Cross Heading: Appeals is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 112(2A) inserted by [2011 c. 24 \(N.I.\) s. 101](#)
- s. 112(2A) inserted by [2009 c. 26 s. 93](#) (This amendment not applied to [legislation.gov.uk](#). S. 93 repealed (10.9.2012) without ever being in force by 2012 c. 9, ss. 79(1), 120, Sch. 10 Pt. 6; S.I. 2012/2234, art. 2(cc))
- s. 113(3)(e) words inserted by [S.S.I. 2006/50 art. 2\(2\)](#)
- s. 113(3G) inserted by [2002 c. 32 Sch. 12 para. 14](#)
- s. 113(3G) inserted by 2002 c. 32, Sch. 12 para. 14 (as extended) by [2003 asp 5 s. 12\(1\)\(c\)](#)
- s. 113(3EA)(3EB) inserted by [S.I. 2003/417 \(N.I.\) art. 17\(4\)](#)
- s. 113(3EC)(3ED) inserted by [S.I. 2003/417 \(N.I.\) art. 47\(3\)](#)
- s. 113(4A) inserted by [2003 c. 44 Sch. 35 para. 3\(3\)](#)
- s. 113(4A) insertion by 2003 c. 44, Sch. 35 para. 3(3) extended to N.I. by [2005 c. 15 s. 167\(a\)](#)
- s. 113A(6A)-(6C) inserted by [2011 asp 1 s. 188\(b\)](#)
- s. 115(5)(ec) inserted by [2002 c. 32 Sch. 12 para. 15\(2\)](#)
- s. 115(5)(ec) inserted by 2002 c. 32, Sch. 12 para. 15(2) (as extended) by [2003 asp 5 s. 12\(1\)\(c\)](#)
- s. 115(5)(ga) inserted by [2001 c. 12 s. 21](#) (Amendment not applied to [legislation.gov.uk](#). S. 21 repealed (6.4.2006 for E.W.) by 2003 c. 44, Sch. 37 Pt. 11; S.I. 2006/751, art. 2(d))
- s. 115(6BB) inserted by [2002 c. 32 Sch. 12 para. 15\(3\)](#)
- s. 115(6BB) inserted by 2002 c. 32, Sch. 12 para. 15(3) (as extended) by [2003 asp 5 s. 12\(1\)\(c\)](#)
- s. 115(6EA) inserted by [S.I. 2003/417 \(N.I.\) art. 17\(5\)](#)
- s. 115(6EB) inserted by [S.I. 2003/417 \(N.I.\) art. 47\(4\)](#)
- s. 115(9A)(9B) inserted by [2003 c. 44 Sch. 35 para. 4\(5\)](#)
- s. 115(9A)(9B) insertion by 2003 c. 44, Sch. 35 para. 4(5) extended to N.I. by [2005 c. 15 s. 167\(a\)](#)
- s. 118(2ZA) inserted by [2009 c. 26 s. 95](#)
- s. 118(2ZA) words substituted by [S.I. 2012/3006 art. 37\(j\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 118(2ZA) by 2009 c. 26, s. 95 is still prospective)
- s. 121(a) inserted by [2006 asp 10 s. 3\(8\)\(a\)](#)
- Sch. 8A para. 34G inserted by [S.I. 2024/374 Sch. 5 para. 3](#)
- Sch. 8B para. 102(ea) inserted by [2023 c. 47 s. 3\(2\)](#)