



# Police Act 1997

## 1997 CHAPTER 50

### PART III

#### AUTHORISATION OF ACTION IN RESPECT OF PROPERTY

##### *Authorisations*

### 93 Authorisations to interfere with property etc.

- (1) Where subsection (2) applies, an authorising officer may authorise—
- (a) the taking of such action, in respect of such property in the relevant area, as he may specify,
  - <sup>F1</sup>[(ab) the taking of such action falling within subsection (1A), in respect of property outside the relevant area, as he may specify, or]
  - (b) the taking of such action in the relevant area as he may specify, in respect of wireless telegraphy.
- <sup>F2</sup>(1A) The action falling within this subsection is action for maintaining or retrieving any equipment, apparatus or device the placing or use of which in the relevant area has been authorised under this Part or Part II of the Regulation of Investigatory Powers Act 2000 or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by Part II of that Act of 2000.
- (1B) Subsection (1) applies where the authorising officer is a customs officer [<sup>F3</sup>or an officer of the Office of Fair Trading] with the omission of—
- (a) the words “in the relevant area”, in each place where they occur; and
  - (b) paragraph (ab).]
- (2) This subsection applies where the authorising officer believes—
- (a) that it is necessary for the action specified to be taken [<sup>F4</sup>for the purpose of preventing or detecting] serious crime, and

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[<sup>F5</sup>(b) that the taking of the action is proportionate to what the action seeks to achieve.]

[<sup>F6</sup>(2A) Subsection (2) applies where the authorising officer is the Chief Constable or the Deputy Chief Constable of the [<sup>F7</sup>Police Service of Northern Ireland] as if the reference in subsection (2)(a) to preventing or detecting serious crime included a reference to the interests of national security.

[<sup>F8</sup>(2AA) Where the authorising officer is the chairman of the Office of Fair Trading, the only purpose falling within subsection (2)(a) is the purpose of preventing or detecting an offence under section 188 of the Enterprise Act 2002.]

(2B) The matters to be taken into account in considering whether the requirements of subsection (2) are satisfied in the case of any authorisation shall include whether what it is thought necessary to achieve by the authorised action could reasonably be achieved by other means.]

(3) An authorising officer shall not give an authorisation under this section except on an application made—

- (a) if the authorising officer is within subsection (5)(a) to [<sup>F9</sup>(ea) or (ee)], by a member of his police force,
- [<sup>F10</sup>(aa) if the authorising officer is within subsection (5)(eb) to (ed), by a member, as the case may be, of the Royal Navy Regulating Branch, the Royal Military Police or the Royal Air Force Police;]
- (b) if the authorising officer is within subsection (5)(f), by a member of the National Criminal Intelligence Service,
- (c) if the authorising officer is within subsection (5)(g), by a member of the National Crime Squad, or
- (d) if the authorising officer is within subsection (5)(h), by a customs officer [<sup>F11</sup>, or
- (e) if the authorising officer is within subsection (5)(i), by an officer of the Office of Fair Trading.]

(4) For the purposes of subsection (2), conduct which constitutes one or more offences shall be regarded as serious crime if, and only if,—

- (a) it involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose, or
- (b) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more,

and, where the authorising officer is within subsection (5)(h), it relates to an assigned matter within the meaning of section 1(1) of the <sup>M1</sup>Customs and Excise Management Act 1979.

(5) In this section “authorising officer” means—

- (a) the chief constable of a police force maintained under section 2 of the <sup>M2</sup>Police Act 1996 (maintenance of police forces for areas in England and Wales except London);
- (b) the Commissioner, or an Assistant Commissioner, of Police of the Metropolis;
- (c) the Commissioner of Police for the City of London;

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- (d) the chief constable of a police force maintained under or by virtue of section 1 of the <sup>M3</sup>Police (Scotland) Act 1967 (maintenance of police forces for areas in Scotland);
  - (e) the Chief Constable or a Deputy Chief Constable of the [<sup>F7</sup>Police Service of Northern Ireland];
  - [<sup>F12</sup>(ea) the Chief Constable of the Ministry of Defence Police;
  - (eb) the Provost Marshal of the Royal Navy Regulating Branch;
  - (ec) the Provost Marshal of the Royal Military Police;
  - (ed) the Provost Marshal of the Royal Air Force Police;
  - (ee) the Chief Constable of the <sup>F13</sup>British Transport Police;]
  - (f) the Director General of the National Criminal Intelligence Service;
  - (g) the Director General of the National Crime Squad [<sup>F14</sup>or any person holding the rank of assistant chief constable in that Squad who is designated for the purposes of this paragraph by that Director General]; or
  - (h) [<sup>F15</sup>any] customs officer designated by the Commissioners of Customs and Excise for the purposes of this paragraph [<sup>F16</sup>; or
  - (i) the chairman of the Office of Fair Trading.]
- (6) In this section “relevant area”—
- (a) in relation to a person within paragraph (a), (b) or (c) of subsection (5), means the area in England and Wales for which his police force is maintained;
  - (b) in relation to a person within paragraph (d) of that subsection means the area in Scotland for which his police force is maintained;
  - (c) in relation to a person within paragraph (e) of that subsection, means Northern Ireland;
  - [<sup>F17</sup>(ca) in relation to a person within paragraph (ea), means any place where, under section 2 of the <sup>M4</sup>Ministry of Defence Police Act 1987, the members of the Ministry of Defence Police have the powers and privileges of a constable;
  - (cb) in relation to a person within paragraph (ee), means the United Kingdom;]
  - (d) in relation to the Director General of the National Criminal Intelligence Service, means the United Kingdom;
  - (e) in relation to the Director General of the National Crime Squad, means England and Wales; <sup>F18</sup> . . .
  - <sup>F18</sup>(f) . . . . .
- and in each case includes the adjacent United Kingdom waters.
- [<sup>F19</sup>(6A) For the purposes of any authorisation by a person within paragraph (eb), (ec) or (ed) of subsection (5) property is in the relevant area or action in respect of wireless telegraphy is taken in the relevant area if, as the case may be—
- (a) the property is owned, occupied, in the possession of or being used by a person subject to service discipline; or
  - (b) the action is taken in relation to the use of wireless telegraphy by such a person.
- (6B) For the purposes of this section a person is subject to service discipline—
- (a) in relation to the Royal Navy Regulating Branch, if he is subject to the <sup>M5</sup>Naval Discipline Act 1957 or is a civilian to whom Parts I and II of that Act for the time being apply by virtue of section 118 of that Act ;
  - (b) in relation to the Royal Military Police, if he is subject to military law or is a civilian to whom Part II of the <sup>M6</sup>Army Act 1955 for the time being applies by virtue of section 209 of that Act; and

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- (c) in relation to the Royal Air Force Police, if he is subject to air-force law or is a civilian to whom Part II of the <sup>M7</sup>Air Force Act 1955 for the time being applies by virtue of section 209 of that Act.]
- (7) The powers conferred by, or by virtue of, this section are additional to any other powers which a person has as a constable either at common law or under or by virtue of any other enactment and are not to be taken to affect any of those other powers.

#### Textual Amendments

- F1** S. 93(1)(ab) substituted for word “or” (25.9.2000) by 2000 c. 23, s. 75(2) (with s. 82(3)); S.I. 2000/2543, art. 2
- F2** S. 93(1A)(1B) inserted (25.9.2000) by 2000 c. 23, s. 75(3) (with s. 82(3)); S.I. 2000/2543, art. 2
- F3** Words in s. 93(1B) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(a), 279; S.I. 2003/1397, art. 2(1), Sch.
- F4** Words in s. 93(2)(a) substituted (25.9.2000) by 2000 c. 23, s. 75(4)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F5** S. 93(2)(b) substituted (25.9.2000) by 2000 c. 23, s. 75(4)(b) (with s. 82(3)); S.I. 2000/2543, art. 2
- F6** S. 93(2A)(2B) inserted (25.9.2000) by 2000 c. 23, s. 75(5) (with s. 82(3)); S.I. 2000/2543, art. 2
- F7** Words in s. 93(2A)(5)(e) substituted (4.11.2001) by 2000 c. 32, s. 78(1), Sch. 6 para. 20(2)(b); S.R. 2001/396, art. 2, Sch.
- F8** S. 93(2AA) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(b), 279; S.I. 2003/1397, art. 2(1), Sch.
- F9** Words in s. 93(3)(a) substituted (25.9.2000) by 2000 c. 23, s. 82(1), Sch. 4 para. 8(2)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F10** S. 93(3)(aa) inserted (25.9.2000) by 2000 c. 23, s. 82, Sch. 4 para. 8(2)(b) (with s. 82(3)); S.I. 2000/2543, art. 2
- F11** S. 93(3)(e) and word inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(c), 279; S.I. 2003/1397, art. 2(1), Sch.
- F12** S. 93(5)(ea)-(ee) inserted (25.9.2000) by 2000 c. 23, s. 75(6)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F13** S. 93 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), Sch. 5 para. 4; S.I. 2004/1572, art. 3(jjj)
- F14** Words in s. 93(5)(g) inserted (25.9.2000) by 2000 c. 23, s. 75(6)(b) (with s. 82(3)); S.I. 2000/2543, art. 2
- F15** Word in s. 93(5)(h) substituted (25.9.2000) by 2000 c. 23, s. 75(6)(c) (with s. 82(3)); S.I. 2000/2543, art. 2
- F16** S. 93(5)(i) and word inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 200(2)(d), 279; S.I. 2003/1397, art. 2(1), Sch.
- F17** S. 93(6)(ca)(cb) inserted (25.9.2000) by 2000 c. 23, s. 75(7) (with s. 82(3)); S.I. 2000/2543, art. 2
- F18** S. 93(6)(f) 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
- F19** S. 93(6A)(6B) inserted (25.9.2000) by 2000 c. 23, s. 75(8) (with s. 82(3)); S.I. 2000/2543, art. 2

#### Modifications etc. (not altering text)

- C1** S. 93 amended (S.) (29.9.2000) by 2000 asp 11, s. 23(5) (with s. 30); S.S.I. 2000/341, art. 2

#### Marginal Citations

- M1** 1979 c. 2.  
**M2** 1996 c. 16.  
**M3** 1967 c. 77.  
**M4** 1987 c. 4.  
**M5** 1957 c. 53.  
**M6** 1955 c. 18.

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**M7** 1955 c. 19.

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