



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART II

#### SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES

*[<sup>F1</sup> Authorisations requiring judicial approval [<sup>F2</sup> or notification]*

#### Textual Amendments

- F1** Ss. 32A, 32B and cross-heading inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 38(1)**, 120 (with s. 97); S.I. 2012/2075, **art. 4(b)** (with art. 6)
- F2** Words in s. 32A cross-heading inserted (10.8.2021 for specified purposes, 15.9.2021 for specified purposes, 30.9.2021 in so far as not already in force) by [Covert Human Intelligence Sources \(Criminal Conduct\) Act 2021 \(c. 4\)](#), s. 9(2), **Sch. para. 3**; S.I. 2021/605, reg. 2(a)(b)(c)

#### **32A Authorisations requiring judicial approval**

- (1) This section applies where a relevant person has granted an authorisation under section 28 or 29.
- (2) The authorisation is not to take effect until such time (if any) as the relevant judicial authority has made an order approving the grant of the authorisation.
- (3) The relevant judicial authority may give approval under this section to the granting of an authorisation under section 28 if, and only if, the relevant judicial authority is satisfied that—
  - (a) at the time of the grant—
    - (i) there were reasonable grounds for believing that the requirements of section 28(2) were satisfied in relation to the authorisation, and

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- (ii) the relevant conditions were satisfied in relation to the authorisation, and
  - (b) at the time when the relevant judicial authority is considering the matter, there remain reasonable grounds for believing that the requirements of section 28(2) are satisfied in relation to the authorisation.
- (4) For the purposes of subsection (3) the relevant conditions are—
- (a) in relation to a grant by an individual holding an office, rank or position in a local authority in England or Wales, that—
    - (i) the individual was a designated person for the purposes of section 28,
    - (ii) the grant of the authorisation was not in breach of any restrictions imposed by virtue of section 30(3), and
    - (iii) any other conditions that may be provided for by an order made by the Secretary of State were satisfied,
  - (b) in relation to a grant, for any purpose relating to a Northern Ireland excepted or reserved matter, by an individual holding an office, rank or position in a district council in Northern Ireland, that—
    - (i) the individual was a designated person for the purposes of section 28,
    - (ii) the grant of the authorisation was not in breach of any restrictions imposed by virtue of section 30(3), and
    - (iii) any other conditions that may be provided for by an order made by the Secretary of State were satisfied, and
  - (c) in relation to any other grant by a relevant person, that any conditions that may be provided for by an order made by the Secretary of State were satisfied.
- (5) The relevant judicial authority may give approval under this section to the granting of an authorisation under section 29 if, and only if, the relevant judicial authority is satisfied that—
- (a) at the time of the grant—
    - (i) there were reasonable grounds for believing that the requirements of section 29(2), and any requirements imposed by virtue of section 29(7)(b), were satisfied in relation to the authorisation, and
    - (ii) the relevant conditions were satisfied in relation to the authorisation, and
  - (b) at the time when the relevant judicial authority is considering the matter, there remain reasonable grounds for believing that the requirements of section 29(2), and any requirements imposed by virtue of section 29(7)(b), are satisfied in relation to the authorisation.
- (6) For the purposes of subsection (5) the relevant conditions are—
- (a) in relation to a grant by an individual holding an office, rank or position in a local authority in England or Wales, that—
    - (i) the individual was a designated person for the purposes of section 29,
    - (ii) the grant of the authorisation was not in breach of any prohibition imposed by virtue of section 29(7)(a) or any restriction imposed by virtue of section 30(3), and
    - (iii) any other conditions that may be provided for by an order made by the Secretary of State were satisfied,

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- (b) in relation to a grant, for any purpose relating to a Northern Ireland excepted or reserved matter, by an individual holding an office, rank or position in a district council in Northern Ireland, that—
    - (i) the individual was a designated person for the purposes of section 29,
    - (ii) the grant of the authorisation was not in breach of any prohibition imposed by virtue of section 29(7)(a) or any restriction imposed by virtue of section 30(3), and
    - (iii) any other conditions that may be provided for by an order made by the Secretary of State were satisfied, and
  - (c) in relation to any other grant by a relevant person, that any conditions that may be provided for by an order made by the Secretary of State were satisfied.
- (7) In this section—
- “ local authority in England ” means—
    - (a) a district or county council in England,
    - (b) a London borough council,
    - (c) the Common Council of the City of London in its capacity as a local authority, or
    - (d) the Council of the Isles of Scilly,
  - “ local authority in Wales ” means any county council or county borough council in Wales,
  - “ Northern Ireland excepted or reserved matter ” means an excepted or reserved matter (within the meaning of section 4(1) of the Northern Ireland Act 1998),
  - “ Northern Ireland transferred matter ” means a transferred matter (within the meaning of section 4(1) of the Act of 1998),
  - “ relevant judicial authority ” means—
    - (a) in relation to England and Wales, a justice of the peace,
    - (b) in relation to Scotland, a sheriff, and
    - (c) in relation to Northern Ireland, a district judge (magistrates' courts) in Northern Ireland,
  - “ relevant person ” means—
    - (a) an individual holding an office, rank or position in a local authority in England or Wales,
    - (b) also, in relation to a grant for any purpose relating to a Northern Ireland excepted or reserved matter, an individual holding an office, rank or position in a district council in Northern Ireland, and
    - (c) also, in relation to any grant of a description that may be prescribed for the purposes of this subsection by an order made by the Secretary of State or every grant if so prescribed, a person of a description so prescribed.
- (8) No order of the Secretary of State—
- (a) may be made under subsection (7) unless a draft of the order has been laid before Parliament and approved by a resolution of each House;
  - (b) may be made under this section so far as it makes provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of the Scottish Parliament;
  - (c) may be made under this section so far as it makes provision which, if it were contained in an Act of the Northern Ireland Assembly, would be within the

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legislative competence of the Northern Ireland Assembly and would deal with a Northern Ireland transferred matter.

### **32B Procedure for judicial approval**

- (1) The public authority with which the relevant person holds an office, rank or position may apply to the relevant judicial authority for an order under section 32A approving the grant of an authorisation.
- (2) The applicant is not required to give notice of the application to—
  - (a) any person to whom the authorisation relates, or
  - (b) such a person's legal representatives.
- (3) Where, on an application under this section, the relevant judicial authority refuses to approve the grant of the authorisation concerned, the relevant judicial authority may make an order quashing the authorisation.
- (4) In this section “ relevant judicial authority ” and “ relevant person ” have the same meaning as in section 32A. ]

### **[<sup>F3</sup>32C Notification of criminal conduct authorisations**

- (1) This section applies where a person grants or cancels an authorisation under section 29B.
- (2) The person must give notice that the person has granted or cancelled the authorisation to a Judicial Commissioner.
- (3) A notice given for the purposes of subsection (2) must be given—
  - (a) in writing as soon as reasonably practicable and, in any event, before the end of the period of 7 days beginning with the day after that on which the authorisation to which it relates is granted or, as the case may be, cancelled; and
  - (b) in accordance with such arrangements made for the purposes of this paragraph by the Investigatory Powers Commissioner as are for the time being in force.
- (4) A notice under this section relating to the grant of an authorisation under section 29B must—
  - (a) set out the grounds on which the person giving the notice believes that the requirements of section 29B(4) are satisfied in relation to the authorisation; and
  - (b) specify the conduct that is authorised under section 29B by the authorisation.
- (5) Any notice that is required by this section to be given in writing may be given, instead, by being transmitted by electronic means.]

#### **Textual Amendments**

- F3** S. 32C inserted (10.8.2021 for specified purposes, 15.9.2021 for specified purposes, 30.9.2021 in so far as not already in force) by [Covert Human Intelligence Sources \(Criminal Conduct\) Act 2021 \(c. 4\)](#), ss. 6, 9(2); S.I. 2021/605, reg. 2(a)(b)(c)

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