



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART II

#### SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES

##### *Other authorisations*

#### **41 Secretary of State authorisations.**

- (1) The Secretary of State shall not grant an authorisation for the carrying out of intrusive surveillance except on an application made by—
  - (a) a member of any of the intelligence services;
  - (b) an official of the Ministry of Defence;
  - (c) a member of Her Majesty's forces;
  - (d) an individual holding an office, rank or position with any such public authority as may be designated for the purposes of this section as an authority whose activities may require the carrying out of intrusive surveillance.
- (2) Section 32 shall have effect in relation to the grant of an authorisation by the Secretary of State on the application of an official of the Ministry of Defence, or of a member of Her Majesty's forces, as if the only matters mentioned in subsection (3) of that section were—
  - (a) the interests of national security; and
  - (b) the purpose of preventing or detecting serious crime.
- (3) The designation of any public authority for the purposes of this section shall be by order made by the Secretary of State.
- (4) The Secretary of State may by order provide, in relation to any public authority, that an application for an authorisation for the carrying out of intrusive surveillance may

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be made by an individual holding an office, rank or position with that authority only where his office, rank or position is one prescribed by the order.

- (5) The Secretary of State may by order impose restrictions—
- (a) on the authorisations for the carrying out of intrusive surveillance that may be granted on the application of an individual holding an office, rank or position with any public authority designated for the purposes of this section; and
  - (b) on the circumstances in which, or the purposes for which, such authorisations may be granted on such an application.
- (6) The Secretary of State shall not make a designation under subsection (3) unless a draft of the order containing the designation has been laid before Parliament and approved by a resolution of each House.
- (7) References in this section to a member of Her Majesty’s forces do not include references to any member of Her Majesty’s forces who is a member of a police force by virtue of his service with the [<sup>F1</sup>Royal Navy Police] , the Royal Military Police or the Royal Air Force Police.

#### Textual Amendments

**F1** Words in s. 41(7) substituted (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 173](#); [S.I. 2007/1442](#), [art. 2\(1\)](#)

## 42 Intelligence services authorisations.

- (1) The grant by the Secretary of State [<sup>F2</sup>or, the Scottish Ministers (by virtue of provision under section 63 of the Scotland Act 1998)] on the application of a member of one of the intelligence services of any authorisation under this Part must be made by the issue of a warrant.
- (2) A single warrant issued by the Secretary of State [<sup>F2</sup>or, the Scottish Ministers (by virtue of provision under s. 63 of the Scotland Act 1998)] may combine both—
- (a) an authorisation under this Part; and
  - (b) an intelligence services warrant;
- but the provisions of this Act or the <sup>M1</sup>Intelligence Services Act 1994 that are applicable in the case of the authorisation under this Part or the intelligence services warrant shall apply separately in relation to the part of the combined warrant to which they are applicable.
- (3) Intrusive surveillance in relation to any premises or vehicle in the British Islands shall be capable of being authorised by a warrant issued under this Part on the application of a member of the Secret Intelligence Service or GCHQ only if the authorisation contained in the warrant is one satisfying the requirements of section 32(2)(a) otherwise than in connection with any functions of that intelligence service in support of the prevention or detection of serious crime.
- (4) Subject to subsection (5), the functions of the Security Service shall include acting on behalf of the Secret Intelligence Service or GCHQ in relation to—
- (a) the application for and grant of any authorisation under this Part in connection with any matter within the functions of the Secret Intelligence Service or GCHQ; and

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- (b) the carrying out, in connection with any such matter, of any conduct authorised by such an authorisation.
- (5) Nothing in subsection (4) shall authorise the doing of anything by one intelligence service on behalf of another unless—
- (a) it is something which either the other service or a member of the other service has power to do; and
  - (b) it is done otherwise than in connection with functions of the other service in support of the prevention or detection of serious crime.
- (6) In this section “intelligence services warrant” means a warrant under section 5 of the <sup>M2</sup>Intelligence Services Act 1994.

#### Textual Amendments

- F2** Words in s 42(1)(2) inserted (S.) (15.12.2000) by S.I. 2000/3253, arts. 1(1), 4(1), **Sch. 3 Pt. II para. 7(a)(b)** (with art. 6)

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

- C1** S. 42 modified (S.) (14.12.2000) by S.I. 2000/3253, arts. 1(1)(2), 2, **Sch. 1 para. 4(1)** (with art. 6)
- C2** S. 42: functions transferred to the Scottish Ministers (S.) (15.12.2000) by virtue of S.I. 2000/3253, arts. 1(1)(3), 3, **Sch. 2** (with art. 6)

#### Marginal Citations

- M1** 1994 c. 13.
- M2** 1994 c. 13.

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