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Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART IV

SCRUTINY ETC. OF INVESTIGATORY POWERS AND OF THE FUNCTIONS OF THE INTELLIGENCE SERVICES

Codes of practice

71   Issue and revision of codes of practice.

(1) The Secretary of State shall issue one or more codes of practice relating to the exercise and performance of the powers and duties mentioned in subsection (2).

(2) Those powers and duties are those (excluding any power to make subordinate legislation) that are conferred or imposed otherwise than on the Surveillance Commissioners by or under—

    (a)   Parts I to III of this Act;

    (b)   section 5 of the [M1]Intelligence Services Act 1994 (warrants for interference with property or wireless telegraphy for the purposes of the intelligence services); and

    (c)   Part III of the [M2]Police Act 1997 (authorisation by the police or customs and excise of interference with property or wireless telegraphy).

(3) Before issuing a code of practice under subsection (1), the Secretary of State shall—

    (a)   prepare and publish a draft of that code; and

    (b)   consider any representations made to him about the draft;

and the Secretary of State may incorporate in the code finally issued any modifications made by him to the draft after its publication.

(4) The Secretary of State shall lay before both Houses of Parliament every draft code of practice prepared and published by him under this section.

2

Regulation of Investigatory Powers Act 2000 (c. 23)
Part IV – Scrutiny etc. of investigatory powers and of the functions of the intelligence services
Document Generated: 2024-06-17

(5) A code of practice issued by the Secretary of State under this section shall not be brought into force except in accordance with an order made by the Secretary of State.

(6) An order under subsection (5) may contain such transitional provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with the bringing into force of the code brought into force by that order.

(7) The Secretary of State may from time to time—

    (a) revise the whole or any part of a code issued under this section; and

    (b) issue the revised code.

(8) Subsections (3) to (6) shall apply (with appropriate modifications) in relation to the issue of any revised code under this section as they apply in relation to the first issue of such a code.

(9) The Secretary of State shall not make an order containing provision for any of the purposes of this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Commencement Information

I1   S. 71 not in force at Royal Assent see s. 83(2); s. 71 in force for certain purposes at 25.9.2000 and 2.10.2000 by S.I. 2000/2543, arts. 2, 3; s. 71 in force for certain other purposes at 13.8.2001 by S.I. 2001/2727, art. 2; s. 71 in force for further certain purposes at 1.10.2007 by S.I. 2007/2196, **art. 2(h)**

Marginal Citations

M1   1994 c. 13.

M2   1997 c. 50.

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72   Effect of codes of practice.

(1) A person exercising or performing any power or duty in relation to which provision may be made by a code of practice under section 71 shall, in doing so, have regard to the provisions (so far as they are applicable) of every code of practice for the time being in force under that section.

(2) A failure on the part of any person to comply with any provision of a code of practice for the time being in force under section 71 shall not of itself render him liable to any criminal or civil proceedings.

(3) A code of practice in force at any time under section 71 shall be admissible in evidence in any criminal or civil proceedings.

(4) If any provision of a code of practice issued or revised under section 71 appears to—

    (a) the court or tribunal conducting any civil or criminal proceedings,

    (b) the Tribunal,

    (c) a relevant Commissioner carrying out any of his functions under this Act,

    (d) a Surveillance Commissioner carrying out his functions under this Act or the [M3]Police Act 1997, or

    (e) any Assistant Surveillance Commissioner carrying out any functions of his under section 63 of this Act,

Regulation of Investigatory Powers Act 2000 (c. 23) 3
Part IV – Scrutiny etc. of investigatory powers and of the functions of the intelligence services
Document Generated: 2024-06-17
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to be relevant to any question arising in the proceedings, or in connection with the exercise of that jurisdiction or the carrying out of those functions, in relation to a time when it was in force, that provision of the code shall be taken into account in determining that question.

(5) In this section "relevant Commissioner" means the Interception of Communications Commissioner, the Intelligence Services Commissioner or the Investigatory Powers Commissioner for Northern Ireland.

Commencement Information
I2 S. 72 not in force at Royal Assent see s. 83(2); s. 72 in force for certain purposes at 25.9.2000 and s. 72 in force at 2.10.2000 for certain other purposes by S.I. 2000/2543, arts. 2, 3; s. 72 in force for certain other purposes at 13.8.2001 by S.I. 2001/2727, art. 2; s. 72 in force for further certain purposes at 1.10.2007 by S.I. 2007/2196, **art. 2(h)**

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M3 1997 c. 50.

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