



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART V

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Miscellaneous*

#### 73 Conduct in relation to wireless telegraphy.

F1 .....

##### **Textual Amendments**

F1 S. 73 repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 125, 126, [Sch. 9 Pt. 1](#) (with [Sch. 8 Pt. 1](#))

#### 74 Warrants under the Intelligence Services Act 1994.

(1) In subsection (2) of section 5 of the <sup>M1</sup>Intelligence Services Act 1994 (the circumstances in which the Secretary of State may issue a warrant authorising interference with property or wireless telegraphy)—

(a) in paragraph (a), for “on the ground that it is likely to be of substantial value in” there shall be substituted “for the purpose of”; and

(b) for paragraph (b) there shall be substituted—

“(b) is satisfied that the taking of the action is proportionate to what the action seeks to achieve;”.

(2) After that subsection, there shall be inserted—

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

- “(2A) The matters to be taken into account in considering whether the requirements of subsection (2)(a) and (b) are satisfied in the case of any warrant shall include whether what it is thought necessary to achieve by the conduct authorised by the warrant could reasonably be achieved by other means.”
- (3) In each of sections 6(1)(b) and 7(5)(b) of that Act (warrants issued under the hand of a senior official of the Secretary of State’s department), the words “of his department” shall be omitted.
- (4) In section 11 of that Act (interpretation), for paragraph (1)(d) there shall be substituted—
- “(d) “senior official” has the same meaning as in the Regulation of Investigatory Powers Act 2000;”.

#### Marginal Citations

M1 1994 c. 13.

## 75 Authorisations under Part III of the Police Act 1997.

- (1) Section 93 of the <sup>M2</sup>Police Act 1997 (authorisations to interfere with property etc.) shall be amended as follows.
- (2) In subsection (1) (the action that the authorising officer may authorise), for “or” at the end of paragraph (a) there shall be substituted—
- “(ab) the taking of such action falling within subsection (1A), in respect of property outside the relevant area, as he may specify, or”.
- (3) After that subsection there shall be inserted—
- “(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 with the omission of—
- (a) the words “in the relevant area”, in each place where they occur; and
- (b) paragraph (ab).”
- (4) In subsection (2) (the grounds on which action may be authorised)—
- (a) in paragraph (a), for the words from “on the ground” to “detection of” there shall be substituted “for the purpose of preventing or detecting”; and
- (b) for paragraph (b) there shall be substituted—
- “(b) that the taking of the action is proportionate to what the action seeks to achieve.”
- (5) After subsection (2) there shall be inserted—
- “(2A) Subsection (2) applies where the authorising officer is the Chief Constable or the Deputy Chief Constable of the Royal Ulster Constabulary as if

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

the reference in subsection (2)(a) to preventing or detecting serious crime included a reference to the interests of national security.

(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.”

(6) In subsection (5) (the meaning of authorising officer)—

(a) after paragraph (e) there shall be inserted—

- “(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 British Transport Police;”;

(b) <sup>F2</sup>.....

(c) in paragraph (h), for the word “the”, in the first place where it occurs, there shall be substituted “any”.

(7) In subsection (6) (the meaning of relevant area), after paragraph (c) there shall be inserted—

- “(ca) in relation to a person within paragraph (ea), means any place where, under section 2 of the <sup>M3</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;”.

(8) After that subsection there shall be inserted—

“(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>M4</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>M5</sup>Army Act 1955 for the time being applies by virtue of section 209 of that Act; and
- (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>M6</sup>Air Force Act 1955 for the time being applies by virtue of section 209 of that Act.”

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

#### Textual Amendments

**F2** S. 75(6)(b) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 174, 178, Sch. 4 para. 153, [Sch. 17](#); [S.I. 2006/378](#), [art. 4\(1\)](#), Sch. paras. 10, 13(hh) (subject to [art. 4\(2\)-\(7\)](#))

#### Marginal Citations

**M2** 1997 c. 50.

**M3** 1987 c. 4.

**M4** 1957 c. 53.

**M5** 1955 c. 18.

**M6** 1955 c. 19.

## 76 Surveillance etc. operations beginning in Scotland.

- (1) Subject to subsection (2), where—
- (a) an authorisation under the relevant Scottish legislation has the effect of authorising the carrying out in Scotland of the conduct described in the authorisation,
  - (b) the conduct so described is or includes conduct to which Part II of this Act applies, and
  - (c) circumstances arise by virtue of which some or all of the conduct so described can for the time being be carried out only outwith Scotland,
- section 27 of this Act shall have effect for the purpose of making lawful the carrying out outwith Scotland of the conduct so described as if the authorisation, so far as is it relates to conduct to which that Part applies, were an authorisation duly granted under that Part.
- (2) Where any such circumstances as are mentioned in paragraph (c) of subsection (1) so arise as to give effect outwith Scotland to any authorisation granted under the relevant Scottish legislation, that authorisation shall not authorise any conduct outwith Scotland at any time after the end of the period of three weeks beginning with the time when the circumstances arose.
- (3) Subsection (2) is without prejudice to the operation of subsection (1) in relation to any authorisation on the second or any subsequent occasion on which any such circumstances as are mentioned in subsection (1)(c) arise while the authorisation remains in force.
- (4) In this section “the relevant Scottish legislation” means an enactment contained in or made under an Act of the Scottish Parliament which makes provision, corresponding to that made by Part II, for the authorisation of conduct to which that Part applies.

### [<sup>F3</sup>76A Foreign surveillance operations **E+W+N.I.**

- (1) This section applies where—
- (a) a foreign police or customs officer is carrying out relevant surveillance outside the United Kingdom which is lawful under the law of the country or territory in which it is being carried out;
  - (b) circumstances arise by virtue of which the surveillance can for the time being be carried out only in the United Kingdom; and

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

- (c) it is not reasonably practicable in those circumstances for a United Kingdom officer to carry out the surveillance in the United Kingdom in accordance with an authorisation under Part 2 or the Regulation of Investigatory Powers (Scotland) Act 2000.
- (2) “Relevant surveillance” means surveillance which—
  - (a) is carried out in relation to a person who is suspected of having committed a relevant crime; and
  - (b) is, for the purposes of Part 2, directed surveillance or intrusive surveillance.
- (3) “Relevant crime” means crime which—
  - (a) falls within Article 40(7) of the Schengen Convention; or
  - (b) is crime for the purposes of any other international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.
- (4) Relevant surveillance carried out by the foreign police or customs officer in the United Kingdom during the permitted period is to be lawful for all purposes if—
  - (a) the condition mentioned in subsection (6) is satisfied;
  - (b) the officer carries out the surveillance only in places to which members of the public have or are permitted to have access, whether on payment or otherwise; and
  - (c) conditions specified in any order made by the Secretary of State with the consent of the Scottish Ministers are satisfied in relation to its carrying out;but no surveillance is lawful by virtue of this subsection if the officer subsequently seeks to stop and question the person in the United Kingdom in relation to the relevant crime.
- (5) The officer is not to be subject to any civil liability in respect of any conduct of his which is incidental to any surveillance that is lawful by virtue of subsection (4).
- (6) The condition in this subsection is satisfied if, immediately after the officer enters the United Kingdom—
  - (a) he notifies a person designated by the [<sup>F4</sup>Director General of the National Crime Agency] of that fact; and
  - (b) (if the officer has not done so before) he requests an application to be made for an authorisation under Part 2, or the Regulation of Investigatory Powers (Scotland) Act 2000, for the carrying out of the surveillance.
- (7) “The permitted period” means the period of five hours beginning with the time when the officer enters the United Kingdom.
- (8) But a person designated by an order made by the Secretary of State may notify the officer that the surveillance is to cease being lawful by virtue of subsection (4) when he gives the notification.
- (9) The Secretary of State is not to make an order under subsection (4) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (10) In this section references to a foreign police or customs officer are to a police or customs officer who, in relation to a country or territory other than the United Kingdom, is an officer for the purposes of—
  - (a) Article 40 of the Schengen Convention; or

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

- (b) any other international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.

(11) In this section—

“the Schengen Convention” means the Convention implementing the Schengen Agreement of 14th June 1985;

“United Kingdom officer” means—

- (a) a member of a police force;  
 (b) [<sup>F5</sup>a National Crime Agency officer;]  
 (c) <sup>F6</sup>...  
 (d) [<sup>F7</sup>an officer of Revenue and Customs.]]

#### Extent Information

- E1** This version extends to England, Wales and Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

- F3** S. 76A inserted (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), ss. 83, 94; S.I. 2004/786, art. 3(1)(2)
- F4** Words in s. 76A(6)(a) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 98\(2\)](#); S.I. 2013/1682, art. 3(v)
- F5** Words in s. 76A(11) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 98\(3\)](#); S.I. 2013/1682, art. 3(v)
- F6** Words in s. 76A(11) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 2 para. 33\(23\)](#)
- F7** Words in s. 76A(11) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 26](#); S.I. 2008/219, art. 2(b)

## 76A Foreign surveillance operations **S**

(1) This section applies where—

- (a) a foreign police or customs officer is carrying out relevant surveillance outside the United Kingdom which is lawful under the law of the country or territory in which it is being carried out;
- (b) circumstances arise by virtue of which the surveillance can for the time being be carried out only in the United Kingdom; and
- (c) it is not reasonably practicable in those circumstances for a United Kingdom officer to carry out the surveillance in the United Kingdom in accordance with an authorisation under Part 2 or the Regulation of Investigatory Powers (Scotland) Act 2000.

(2) “Relevant surveillance” means surveillance which—

- (a) is carried out in relation to a person who is suspected of having committed a relevant crime; and
- (b) is, for the purposes of Part 2, directed surveillance or intrusive surveillance.

(3) “Relevant crime” means crime which—

- (a) falls within Article 40(7) of the Schengen Convention; or

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

- (b) is crime for the purposes of any other international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.
- (4) Relevant surveillance carried out by the foreign police or customs officer in the United Kingdom during the permitted period is to be lawful for all purposes if—
- (a) the condition mentioned in subsection (6) is satisfied;
  - (b) the officer carries out the surveillance only in places to which members of the public have or are permitted to have access, whether on payment or otherwise; and
  - (c) conditions specified in any order made by the Secretary of State with the consent of the Scottish Ministers are satisfied in relation to its carrying out;
- but no surveillance is lawful by virtue of this subsection if the officer subsequently seeks to stop and question the person in the United Kingdom in relation to the relevant crime.
- (5) The officer is not to be subject to any civil liability in respect of any conduct of his which is incidental to any surveillance that is lawful by virtue of subsection (4).
- (6) The condition in this subsection is satisfied if, immediately after the officer enters the United Kingdom—
- (a) he notifies a person designated by the [<sup>F4</sup>Director General of the National Crime Agency] of that fact; and
  - (b) (if the officer has not done so before) he requests an application to be made for an authorisation under Part 2, or the Regulation of Investigatory Powers (Scotland) Act 2000, for the carrying out of the surveillance.
- (7) “The permitted period” means the period of five hours beginning with the time when the officer enters the United Kingdom.
- (8) But a person designated by an order made by the Secretary of State may notify the officer that the surveillance is to cease being lawful by virtue of subsection (4) when he gives the notification.
- (9) The Secretary of State is not to make an order under subsection (4) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (10) In this section references to a foreign police or customs officer are to a police or customs officer who, in relation to a country or territory other than the United Kingdom, is an officer for the purposes of—
- (a) Article 40 of the Schengen Convention; or
  - (b) any other international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.
- (11) In this section—
- “the Schengen Convention” means the Convention implementing the Schengen Agreement of 14th June 1985;
  - “United Kingdom officer” means—
    - (a) a member of a police force;
    - (b) [<sup>F5</sup>a National Crime Agency officer;]
    - (c) <sup>F6</sup>...

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

(d) [<sup>F7</sup>an officer of Revenue and Customs.]

#### Extent Information

- E2** This version extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

#### Textual Amendments

- F4** Words in s. 76A(6)(a) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 98\(2\)](#); S.I. 2013/1682, art. 3(v)
- F5** Words in s. 76A(11) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 98\(3\)](#); S.I. 2013/1682, art. 3(v)
- F6** Words in s. 76A(11) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 2 para. 33\(23\)](#)
- F7** Words in s. 76A(11) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 26](#); S.I. 2008/219, [art. 2\(b\)](#)

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

- C4** S. 76A(11) modified (S.) (1.4.2007) by [The Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(Consequential Provisions and Modifications\) Order 2007 \(S.I. 2007/1098\)](#), arts. 1(3), 6, [Sch. para. 4\(16\)](#)

### Supplemental

#### 77 Ministerial expenditure etc.

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State for or in connection with the carrying out of his functions under this Act; and
- (b) any increase attributable to this Act in the sums which are payable out of money so provided under any other Act.

#### [<sup>F8</sup>77A Procedure for order of sheriff under section 23A or 32A: Scotland

- (1) This section applies to an application to the sheriff for an order under section 23A or 32A.
- (2) Rules of court must make provision for the purposes of ensuring that an application to which this section applies is dealt with in private and must, in particular—
  - (a) require the sheriff to determine an application in private,
  - (b) secure that any hearing is to be held in private, and
  - (c) ensure that notice of an application (or of any order being made) is not given to—
    - (i) the person to whom the authorisation or notice which is the subject of the application or order relates, or
    - (ii) such a person's representatives.
- (3) The Court of Session's power under section 32 of the Sheriff Courts (Scotland) Act 1971 to regulate and prescribe the procedure and practice to be followed in relation



*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

to an application to which this section applies is subject to, but is not otherwise constrained by, sections 23B and 32B and this section.

#### Textual Amendments

**F8** Ss. 77A, 77B inserted (1.11.2012 for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 15](#) (with s. 97); S.I. 2012/2075, art. 4(e)

### **77B Procedure for order of district judge under section 23A or 32A: Northern Ireland**

- (1) The Lord Chancellor may by order make further provision about the procedure and practice to be followed in relation to an application to a district judge (magistrates' courts) in Northern Ireland for an order under section 23A or 32A.
- (2) Such an order may, in particular, provide—
  - (a) for the manner in which, and time within which, an application may be made,
  - (b) that the district judge (magistrates' courts) is to determine an application—
    - (i) in chambers,
    - (ii) in the absence of the person to whom the authorisation or notice which is the subject of the application relates,
  - (c) that any hearing is to be held in private,
  - (d) that notice of an order given is not to be given to—
    - (i) the person to whom the authorisation or notice which is the subject of the order relates, or
    - (ii) such a person's legal representatives.
- (3) An order of the Lord Chancellor under this section may not make provision which, if it were contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Northern Ireland Assembly and would deal with a transferred matter (within the meaning of section 4(1) of the Northern Ireland Act 1998).
- (4) The power of the Magistrates' Courts Rules Committee under Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to regulate and prescribe the procedure and practice to be followed in relation to an application to a district judge (magistrates' courts) in Northern Ireland for an order under section 23A or 32A is subject to, but is not otherwise constrained by, sections 23B and 32B and any order made under this section.]

#### Textual Amendments

**F8** Ss. 77A, 77B inserted (1.11.2012 for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 15](#) (with s. 97); S.I. 2012/2075, art. 4(e)

### **78 Orders, regulations and rules.**

- (1) This section applies to any power of the Secretary of State [<sup>F9</sup>or the Lord Chancellor] to make any order, regulations or rules under any provision of this Act.
- (2) The powers to which this section applies shall be exercisable by statutory instrument.

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

- (3) A statutory instrument which contains any order made in exercise of a power to which this section applies (other than the power to appoint a day under section 83(2)) but which contains neither—
- (a) an order a draft of which has been approved for the purposes of section 12(10), 13(3), 22(9), [F1023A(6),] 25(5), 28(5), 29(6), 30(7), [F1132A(7),] 35(5), 41(6), 47(2), 66(3), 67(11) [F12, 71(9) or 76A(9)] nor
  - (b) the order to which section 35(7) applies,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing any regulations made in exercise of a power to which this section applies shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Any order, regulations or rules made in exercise of a power to which this section applies may—
- (a) make different provisions for different cases;
  - (b) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State [F13 or (as the case may be) the Lord Chancellor] thinks fit.

#### Textual Amendments

- F9** Words in s. 78(1) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 16(a)** (with s. 97); S.I. 2012/2075, art. 4(d)
- F10** Words in s. 78(3)(a) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 16(b)(i)** (with s. 97); S.I. 2012/2075, art. 4(d)
- F11** Words in s. 78(3)(a) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 16(b)(ii)** (with s. 97); S.I. 2012/2075, art. 4(d)
- F12** Words in s. 78(3)(a) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 80**; S.I. 2004/786, art. 3(1)(2)
- F13** Words in s. 78(5) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 16(c)** (with s. 97); S.I. 2012/2075, art. 4(d)

## 79 Criminal liability of directors etc.

- (1) Where an offence under any provision of this Act other than a provision of Part III is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,
- he (as well as the body corporate) shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where an offence under any provision of this Act other than a provision of Part III—
- (a) is committed by a Scottish firm, and
  - (b) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner of the firm,
- he (as well as the firm) shall be guilty of that offence and liable to be proceeded against and punished accordingly.

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

- (3) In this section “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

## 80 General saving for lawful conduct.

Nothing in any of the provisions of this Act by virtue of which conduct of any description is or may be authorised by any warrant, authorisation or notice, or by virtue of which information may be obtained in any manner, shall be construed—

- (a) as making it unlawful to engage in any conduct of that description which is not otherwise unlawful under this Act and would not be unlawful apart from this Act;
- (b) as otherwise requiring—
  - (i) the issue, grant or giving of such a warrant, authorisation or notice, or
  - (ii) the taking of any step for or towards obtaining the authority of such a warrant, authorisation or notice,before any such conduct of that description is engaged in; or
- (c) as prejudicing any power to obtain information by any means not involving conduct that may be authorised under this Act.

## 81 General interpretation.

- (1) In this Act—

“apparatus” includes any equipment, machinery or device and any wire or cable;

“Assistant Commissioner of Police of the Metropolis” includes the Deputy Commissioner of Police of the Metropolis;

“Assistant Surveillance Commissioner” means any person holding office under section 63;

“civil proceedings” means any proceedings in or before any court or tribunal that are not criminal proceedings;

“communication” includes—

- (a) (except in the definition of “postal service” in section 2(1)) anything transmitted by means of a postal service;
- (b) anything comprising speech, music, sounds, visual images or data of any description; and
- (c) signals serving either for the impartation of anything between persons, between a person and a thing or between things or for the actuation or control of any apparatus;

“criminal”, in relation to any proceedings or prosecution, shall be construed in accordance with subsection (4);

<sup>F14</sup> . . . . .

“document” includes a map, plan, design, drawing, picture or other image;

“enactment” includes—

- (a) an enactment passed after the passing of this Act; and
- (b) an enactment contained in Northern Ireland legislation;

“GCHQ” has the same meaning as in the <sup>M7</sup>Intelligence Services Act 1994;

“Her Majesty’s forces” has the same meaning as in the <sup>M8</sup>[<sup>F15</sup>Armed Forces Act 2006];

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

“intelligence service” means the Security Service, the Secret Intelligence Service or GCHQ;

“interception” and cognate expressions shall be construed (so far as it is applicable) in accordance with section 2;

“interception warrant” means a warrant under section 5;

[<sup>F16</sup> “justice of the peace” does not include a justice of the peace in Northern Ireland;]

“legal proceedings” means civil or criminal proceedings in or before any court or tribunal [<sup>F17</sup> or proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006];

“modification” includes alterations, additions and omissions, and cognate expressions shall be construed accordingly;

“ordinary Surveillance Commissioner” means a Surveillance Commissioner other than the Chief Surveillance Commissioner;

“person” includes any organisation and any association or combination of persons;

“police force” means any of the following—

- (a) any police force maintained under section 2 of the <sup>M9</sup>Police Act 1996 (police forces in England and Wales outside London);
- (b) the metropolitan police force;
- (c) the City of London police force;
- (d) [<sup>F18</sup>the Police Service of Scotland;]
- (e) the Royal Ulster Constabulary;
- (f) the Ministry of Defence Police;
- (g) the [<sup>F19</sup>Royal Navy Police];
- (h) the Royal Military Police;
- (i) the Royal Air Force Police;
- (j) the British Transport Police;

“postal service” and “public postal service” have the meanings given by section 2(1);

“private telecommunication system”, “public telecommunications service” and “public telecommunication system” have the meanings given by section 2(1);

“public authority” means any public authority within the meaning of section 6 of the <sup>M10</sup>Human Rights Act 1998 (acts of public authorities) other than a court or tribunal;

“senior official” means, subject to subsection (7), a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service;

“statutory”, in relation to any power or duty, means conferred or imposed by or under any enactment or subordinate legislation;

“subordinate legislation” means any subordinate legislation (within the meaning of the <sup>M11</sup>Interpretation Act 1978) or any statutory rules (within the meaning of the <sup>M12</sup>Statutory Rules (Northern Ireland) Order 1979);

“Surveillance Commissioner” means a Commissioner holding office under section 91 of the <sup>M13</sup>Police Act 1997 and “Chief Surveillance Commissioner” shall be construed accordingly;

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

“telecommunication system” and “telecommunications service” have the meanings given by section 2(1);

“the Tribunal” means the tribunal established under section 65;

“wireless telegraphy” has the same meaning as in the [<sup>F20</sup>the Wireless Telegraphy Act 2006] and, in relation to wireless telegraphy, “interfere” has the same meaning as in that Act;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the <sup>M14</sup>Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

(2) In this Act—

- (a) references to crime are references to conduct which constitutes one or more criminal offences or is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom would constitute one or more criminal offences; and
- (b) references to serious crime are references to crime that satisfies the test in subsection (3)(a) or (b).

(3) Those tests are—

- (a) that the offence or one of the offences that is or would be constituted by the conduct 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;
- (b) that the conduct 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.

(4) In this Act “criminal proceedings” includes—[<sup>F21</sup>proceedings before a court in respect of a service offence within the meaning of the Armed Forces Act 2006,] and references in this Act to criminal prosecutions shall be construed accordingly.

(5) For the purposes of this Act detecting crime shall be taken to include—

- (a) establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed; and
- (b) the apprehension of the person by whom any crime was committed;

and any reference in this Act to preventing or detecting serious crime shall be construed accordingly, except that, in Chapter I of Part I, it shall not include a reference to gathering evidence for use in any legal proceedings.

(6) In this Act—

- (a) references to a person holding office under the Crown include references to any servant of the Crown and to any member of Her Majesty’s forces; and
- (b) references to a member of a police force, in relation to the [<sup>F22</sup>Royal Navy Police], the Royal Military Police or the Royal Air Force Police, do not include references to any member of [<sup>F23</sup>that force who is not for the time being attached to or serving either with that force or with another of those police forces].

(7) If it appears to the Secretary of State that it is necessary to do so in consequence of any changes to the structure or grading of the [<sup>F24</sup>statutory civil service (or any part of it)], he may by order make such amendments of the definition of “senior official” in subsection (1) as appear to him appropriate to preserve, so far as practicable, the effect of that definition.

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

- [<sup>F25</sup>(8) In subsection (7) “the statutory civil service” means—
- (a) the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act), but
  - (b) also includes the Government Communications Headquarters.]
- [<sup>F26</sup>(9) References in this Act to provision which, if it were contained in an Act of the Northern Ireland Assembly, would deal with a Northern Ireland transferred matter or (as the case may be) a transferred matter (see sections 23A(7)(b), 32A(8)(c) and 77B(3)) do not include references to any such provision which would be ancillary to other provision (whether in the Act of the Northern Ireland Assembly or previously enacted) which deals with an excepted or reserved matter (within the meaning given by section 4(1) of the Northern Ireland Act 1998).]

### Textual Amendments

- F14** S. 81(1): definition of "customs officer" repealed (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 92, 94, [Sch. 12 para. 27](#), [Sch. 14](#); S.I. 2008/219, [art. 2\(d\)\(ii\)](#)
- F15** S. 81(1): words in the definition of "Her Majesty's forces" substituted (28.3.2009 for certain purposes, otherwise 30.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(2\)\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F16** S. 81(1): definition inserted (1.4.2005) by 2002 c. 26, ss. 10, 87, [Sch. 4 para. 40](#); S.R. 2005/109, [art. 2](#), [Sch.](#)
- F17** S. 81(1): words in the definition of "legal proceedings" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(2\)\(b\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F18** S. 81(1): para. (d) in the definition of "police force" substituted (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. 2 para. 33\(24\)](#)
- F19** S. 81(1): words in the definition of "police force" substituted (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(2\)\(c\)](#); S.I. 2007/1442, [art. 2\(1\)](#)
- F20** S. 81(1): words in the definition of "wireless telegraphy" substituted (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 123, 126, [Sch. 7 para. 24](#)
- F21** S. 81(4): words substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) for s. 81(4)(a)-(c) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(3\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F22** Words in s. 81(6)(b) substituted (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(4\)\(a\)](#); S.I. 2007/1442, [art. 2\(1\)](#)
- F23** Words in s. 81(6)(b) substituted (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(4\)\(b\)](#); S.I. 2007/1442, [art. 2\(1\)](#)
- F24** Words in s. 81(7) substituted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), ss. 19, 52(2), [Sch. 2 para. 11\(2\)](#); S. I. 2010/2703, [art. 2\(a\)](#)
- F25** S. 81(8) inserted (11.11.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), ss. 19, 52(2), [Sch. 2 para. 11\(3\)](#); S. I. 2010/2703, [art. 2\(a\)](#)
- F26** S. 81(9) inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 17](#) (with s. 97); S.I. 2012/2075, [art. 4\(d\)](#)

### Modifications etc. (not altering text)

- C1** S. 81(5) applied (25.9.2000) by 1989 c. 5, [s. 1\(5\)](#) (as inserted (25.9.2000) by 2000 c. 23, ss. 82, 83(2), [Sch. 4 para. 4\(1\)](#))  
S. 81(5) applied (25.9.2000) by 1994 c. 13, [s. 11\(1A\)](#) (as inserted (25.9.2000) by 2000 c. 23, ss. 82, 83(2), [Sch. 4 para. 6](#) (with s. 82(3)))

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

- C2** S. 81(5) applied (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 42\(3\), 178; S.I. 2005/3495, art. 2\(1\)\(f\)](#) (subject to [art. 2\(2\)](#))
- C3** S. 81(5) applied (24.12.2008) by Counter-Terrorism Act 2008, (c. 28), {ss. 21(4)}, 91, 100 (with s. 101(2)); [S.I. 2008/3296, art. 2](#)

#### Marginal Citations

- M7** 1994 c. 13.  
**M8** 1955 c. 18.  
**M9** 1996 c. 16.  
**M10** 1998 c. 42.  
**M11** 1978 c. 30.  
**M12** [S.I. 1979/1573 \(N.I. 12\)](#).  
**M13** 1997 c. 50.  
**M14** 1971 c. 80.

## 82 Amendments, repeals and savings etc.

- (1) The enactments specified in Schedule 4 (amendments consequential on the provisions of this Act) shall have effect with the amendments set out in that Schedule.
- (2) The enactments mentioned in Schedule 5 are hereby repealed to the extent specified in the third column of that Schedule.
- (3) For the avoidance of doubt it is hereby declared that nothing in this Act <sup>F27</sup> . . . affects any power conferred on [<sup>F28</sup>a postal operator (within the meaning of [<sup>F29</sup>Part 3 of the Postal Services Act 2011])] by or under any enactment to open, detain or delay any postal packet or to deliver any such packet to a person other than the person to whom it is addressed.
- (4) Where any warrant under the <sup>M15</sup>Interception of Communications Act 1985 is in force under that Act at the time when the repeal by this Act of section 2 of that Act comes into force, the conduct authorised by that warrant shall be deemed for the period which—
  - (a) begins with that time, and
  - (b) ends with the time when that warrant would (without being renewed) have ceased to have effect under that Act,as if it were conduct authorised by an interception warrant issued in accordance with the requirements of Chapter I of Part I of this Act.
- (5) In relation to any such warrant, any certificate issued for the purposes of section 3(2) of the <sup>M16</sup>Interception of Communications Act 1985 shall have effect in relation to that period as if it were a certificate issued for the purposes of section 8(4) of this Act.
- (6) Sections 15 and 16 of this Act shall have effect as if references to interception warrants and to section 8(4) certificates included references, respectively, to warrants under section 2 of the <sup>M17</sup>Interception of Communications Act 1985 and to certificates under section 3(2) of that Act; and references in sections 15 and 16 of this Act to intercepted or certified material shall be construed accordingly.

#### Textual Amendments

- F27** Words in s. 82(3) repealed (26.3.2001) by [S.I. 2001/1149, art. 3\(2\), Sch. 2](#) (with [art. 4\(11\)](#))
- F28** Words in s. 82(3) substituted (26.3.2001) by [S.I. 2001/1149, art. 3\(1\), Sch. 1 para. 135\(3\)](#) (with [art. 4\(8\)](#))

*Status: Point in time view as at 12/07/2016.*

*Changes to legislation: Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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)*

**F29** Words in s. 82(3) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), ss. 91, 93(3), **Sch. 12 para. 160**; S.I. 2011/2329, **art. 3(1)**

#### **Commencement Information**

**I1** S. 82 wholly in force; s. 82 not in force at Royal Assent see s. 83(2); s. 82(1)(2) in force for certain purposes at 25.9.2000 and s. 82 in force to the extent that it is not already in force at 2.10.2000 by [S.I. 2000/2543](#), **arts. 2, 3** (subject to transitional provisions in [arts. 5, 6](#))

#### **Marginal Citations**

**M15** 1985 c. 56.

**M16** 1985 c. 56.

**M17** 1985 c. 56.

### **83 Short title, commencement and extent.**

- (1) This Act may be cited as the Regulation of Investigatory Powers Act 2000.
- (2) The provisions of this Act, other than this section, shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed under this subsection for different purposes.
- (3) This Act extends to Northern Ireland.

#### **Subordinate Legislation Made**

**P1** S. 83(2) power partly exercised: different dates appointed for specified provisions by [S.I. 2000/2543](#) (with transitional provisions in art. 5, 6); s. 83(2) power partly exercised: 13.8.2001 appointed for other specified provisions by [S.I. 2001/2727](#); s. 83(2) power partly exercised: 5.1.2004 appointed for specified provisions by [S.I. 2003/3140](#), art. 2; s. 83(2) power partly exercised: 1.10.2007 appointed for specified provisions by [S.I. 2007/2196](#), art. 2



**Status:**

Point in time view as at 12/07/2016.

**Changes to legislation:**

Regulation of Investigatory Powers Act 2000, Part V is up to date with all changes known to be in force on or before 19 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.