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## SCHEDULES

### SCHEDULE 4

#### CONSEQUENTIAL AMENDMENTS

##### *The Police Act 1997 (c. 50)*

- 8 (1) In section 91(9) of the <sup>M1</sup>Police Act 1997 (staff for Surveillance Commissioners)—
- (a) after “Chief Commissioner” there shall be inserted “ and subject to the approval of the Treasury as to numbers ”; and
  - (b) after “Commissioners” there shall be inserted “ and any Assistant Surveillance Commissioners holding office under section 63 of the Regulation of Investigatory Powers Act 2000 ”.
- (2) In section 93(3) of that Act (persons who may make an application to an authorising officer within section 93(5))—
- (a) in paragraph (a), for “(e)” there shall be substituted “ (ea) or (ee) ”; and
  - (b) after that paragraph there shall be inserted—
    - “(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;”.
- (3) In section 94(1) of that Act (circumstances in which authorisations may be given in absence of authorising officer), in paragraph (b), for “, (f), (g) or (h)” there shall be substituted “ or (f) ”, and after that paragraph there shall be inserted “or
- (c) if the authorising officer is within paragraph (g) of section 93(5), it is also not reasonably practicable for the application to be considered either—
    - (i) by any other person designated for the purposes of that paragraph; or
    - (ii) by the designated deputy of the Director General of the National Crime Squad.”
- (4) In section 94(2) of that Act (persons who may act in absence of the authorising officer)—
- (a) after paragraph (d), there shall be inserted—
    - “(da) where the authorising officer is within paragraph (ea) of that subsection, by a person holding the rank of deputy or assistant chief constable in the Ministry of Defence Police;
    - (db) where the authorising officer is within paragraph (eb) of that subsection, by a person holding the position of assistant Provost Marshal in the Royal Navy Regulating Branch;

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- (dc) where the authorising officer is within paragraph (ec) or (ed) of that subsection, by a person holding the position of deputy Provost Marshal in the Royal Military Police or, as the case may be, in the Royal Air Force Police;
  - (dd) where the authorising officer is within paragraph (ee) of that subsection, by a person holding the rank of deputy or assistant chief constable in the British Transport Police;”;
  - (b) in paragraph (e), the words “or (g)” and “or, as the case may be, of the National Crime Squad” shall be omitted; and
  - (c) after that paragraph, there shall be inserted—
    - “(ea) where the authorising officer is within paragraph (g) of that subsection, by a person designated for the purposes of this paragraph by the Director General of the National Crime Squad as a person entitled to act in an urgent case;”.
- (5) In section 94(3) of that Act (rank of police members of the National Crime Intelligence Squad and National Crime Squad entitled to act), after “(2)(e)” there shall be inserted “ or (2)(ea) ”.
- (6) In section 95 of that Act (authorisations: form and duration etc.)—
- (a) in each of subsections (4) and (5), for the words from “the action” onwards there shall be substituted “ the authorisation is one in relation to which the requirements of paragraphs (a) and (b) of section 93(2) are no longer satisfied. ”; and
  - (b) in subsection (6), for “or (e)” there shall be substituted “ , (e) or (g) ”.
- (7) In section 97 of that Act (authorisations requiring approval), in subsection (6), the words from “(and paragraph 7” onwards shall be omitted, and after that subsection there shall be inserted—
- “(6A) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed, in the case of an authorisation given by or in the absence of a person within paragraph (b), (e) or (g) of section 93(5), as a reference to the Commissioner of Police, Chief Constable or, as the case may be, Director General mentioned in the paragraph concerned.”
- (8) In section 103(7) of that Act (quashing authorisations), for the words from “and paragraph 7” onwards there shall be substituted “ and subsection (6A) of section 97 shall apply for the purposes of this subsection as it applies for the purposes of subsection (6) of that section. ”
- (9) In section 105 of that Act (appeals by authorising officers: supplementary), in subsection (1)(a), the word “and” shall be inserted at the end of sub-paragraph (i), and sub-paragraph (iii) and the word “and” immediately preceding it shall be omitted.
- (10) In section 107 of that Act—
- (a) in subsection (2) (report of Chief Surveillance Commissioner on the discharge of his functions under Part III of that Act)—
    - (i) for “the discharge of functions under this Part” there shall be substituted “ the matters with which he is concerned ”; and
    - (ii) for “any matter relating to those functions” there shall be substituted “ anything relating to any of those matters ”;

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- (b) in subsection (4) (matters that may be excluded from a report), for “the prevention or detection of serious crime or otherwise” there shall be substituted “ any of the purposes for which authorisations may be given or granted under this Part of this Act 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 or ”; and
- (c) after subsection (5) (duty to co-operate with the Chief Surveillance Commissioner) there shall be inserted the subsections set out in subparagraph (11).
- (11) The subsections inserted after subsection (5) of section 107 of that Act are as follows—
- “(5A) It shall be the duty of—
- (a) every person by whom, or on whose application, there has been given or granted any authorisation the function of giving or granting which is subject to review by the Chief Commissioner,
  - (b) every person who has engaged in conduct with the authority of such an authorisation,
  - (c) every person who holds or has held any office, rank or position with the same public authority as a person falling within paragraph (a),
  - (d) every person who holds or has held any office, rank or position with any public authority for whose benefit (within the meaning of Part II of the Regulation of Investigatory Powers Act 2000) activities which are or may be subject to any such review have been or may be carried out, and
  - (e) every person to whom a notice under section 49 of the Regulation of Investigatory Powers Act 2000 (notices imposing a disclosure requirement in respect of information protected by a key) has been given in relation to any information obtained by conduct to which such an authorisation relates,
- to disclose or provide to the Chief Commissioner all such documents and information as he may require for the purpose of enabling him to carry out his functions.
- (5B) It shall be the duty of every Commissioner to give the tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000 all such assistance (including his opinion as to any issue falling to be determined by that tribunal) as that tribunal may require—
- (a) in connection with the investigation of any matter by that tribunal; or
  - (b) otherwise for the purposes of that tribunal’s consideration or determination of any matter.
- (5C) In this section “public authority” means any public authority within the meaning of section 6 of the <sup>M2</sup>Human Rights Act 1998 (acts of public authorities) other than a court or tribunal.”
- (12) In section 108(1) of that Act after “In this Part—” there shall be inserted—
- ““Assistant Commissioner of Police of the Metropolis” includes the Deputy Commissioner of Police of the Metropolis;”.

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(13) In Part VII of that Act, before section 134 there shall be inserted—

**Meaning of “prevention” and “detection”.**

“133A Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention” and “detection”) shall apply for the purposes of this Act as it applies for the purposes of the provisions of that Act not contained in Chapter I of Part I.”

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**Marginal Citations**

**M1** 1997 c. 50.

**M2** 1998 c. 42.

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