

## SCHEDULE 1

Further provision in relation to investigations under regulation 36 (investigations by the Commissioner)

### PART 2

#### Consequential Amendments

##### **Amendment of the Police Act 1997**

**9.**—(1) Part 3 of the Police Act 1997(1) is amended as follows.

(2) In section 93(authorisations to interfere with property etc.)—

(a) in subsection (3), after paragraph (aaa) insert—

“(aab) if the authorising officer is within subsection (5)(edb), by the investigating officer designated to take charge of the investigation under regulation 36(2)(a) of the Service Police (Complaints etc.) Regulations 2023 or a person designated under paragraph (2)(b) of that regulation to assist the person designated under sub-paragraph (a);”;

(b) after subsection (3ZA) insert—

“(3ZB) An authorisation under this section may be given by the authorising officer within subsection (5)(edb) only where it relates to the carrying out of the functions of the Service Police Complaints Commissioner.”;

(c) in subsection (5), after paragraph (eda) insert—

“(edb) the Service Police Complaints Commissioner;”;

(d) in subsection (6A) substitute “or (eda)” with “, (eda) or (edb)”.

(3) In section 94 (authorisations given in absence of authorising officer) in subsection (2), after paragraph (dca) insert—

“(dcb) where the authorising officer is within paragraph (edb) of that subsection, by a person designated by the Service Police Complaints Commissioner for the purposes of this section;”.

##### **Amendment of the Regulation of Investigatory Powers Act 2000**

**10.**—(1) Parts 2 and 4 of the Regulation of Investigatory Powers Act 2000(2) are amended as follows.

(2) In section 32 (authorisation of intrusive surveillance)—

(a) after subsection (3A), insert—

“(3B) In the case of an authorisation granted by the Service Police Complaints Commissioner, the authorisation is necessary on grounds falling within subsection (3) only if it is necessary for the purpose of carrying out the functions of the Commissioner.”.

(b) in subsection (6), after paragraph (ia) insert—

“(ib) the Service Police Complaints Commissioner;”.

(3) In section 33 (rules for grant of authorisations)—

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(1) 1997 c. 50.

(2) 2000 c. 23.

*Status: This is the original version (as it was originally made).*

- (a) after subsection (2) insert—
  - “(2A) A person who is a designated person for the purposes of section 28 or 29 by reference to that person’s office or position as a member of staff of the Service Police Complaints Commissioner, or as the Commissioner, must not grant an authorisation except on an application made by a person designated under regulation 36(2) of the 2023 Regulations;”;
- (b) after subsection (3ZZA) insert—
  - “(3ZZB) The Service Police Complaints Commissioner must not grant an authorisation for the carrying out of intrusive surveillance except—
    - (a) on an application made by a person designated under regulation 36(2) of the 2023 Regulations; and
    - (b) in the case of an authorisation for the carrying out of any intrusive surveillance in relation to any residential premises, where those premises are in the area of operation of a police force mentioned in subsection (6)(d).”;
- (c) in subsection (5)(a), after “member of a police force,” insert “a person designated under regulation 36(2) of the 2023 Regulations.”;
- (4) In section 34 (grant of authorisations in the senior officer’s absence)—
  - (a) in subsection (1)(a)(3), after “a member of the tri-service serious crime unit,” in the second place where those words occur, insert “a person designated under regulation 36(2) of the 2023 Regulations;”;
  - (b) in subsection (2)(a)(4), after “Provost Marshal for serious crime or” insert “the Service Police Complaints Commissioner or”;
  - (c) in subsection (4), after paragraph (ha), insert—
    - “(hb) a person is entitled to act for the Service Police Complaints Commissioner if the person is designated by the Commissioner for the purposes of this paragraph as a person entitled so to act in an urgent case;”;
- (5) In section 35 (notification of authorisations for intrusive surveillance)—
  - (a) in subsection (1)(5) after “tri-service serious crime unit,” insert “Service Police Complaints Commissioner;”;
  - (b) in subsection (10)(6)—
    - (i) in the opening words, after the words “tri-service serious crime unit,” insert “Service Police Complaints Commissioner;”;
    - (ii) after paragraph (aa) insert—
      - “(ab) the Service Police Complaints Commissioner;”.
- (6) In section 36 (approval required for authorisation to take effect)—
  - (a) in subsection (1) after paragraph (aa)(7) insert—
    - “(ab) a person who has been designated under regulation 36(2) of the 2023 Regulations;”;

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(3) Paragraph (a) was amended to insert “members of the tri service crime unit” by paragraph 16(2) of Schedule 5 to the 2021 Act; there are other amendments that are not relevant to these Regulations.

(4) Paragraph (a) was amended to insert “as Provost Marshal for serious crime” by paragraph 16(3) of Schedule 5 to the 2021 Act.

(5) Subsection (1) was amended for the purposes of the tri-service serious crime unit by paragraph 17(2) of Schedule 5 the 2021 Act; there are other amendments not relevant to these Regulations.

(6) Subsection (10) was amended to add the words “tri-service serious crime unit”, by paragraph 17(3)(a) of Schedule 5 to the 2021 Act; there are other amendments not relevant to these Regulations.

(7) Paragraph (aa) was inserted by paragraph 18(2) of Schedule 5 to the 2021 Act.

(b) in subsection (6)(8) after paragraph (aa) insert—

“(ab) where the authorisation was granted by the Service Police Complaints Commissioner or by a person entitled to act for the Commissioner by virtue of section 34(4)(hb), the Commissioner;”.

(7) In section 37(1) (quashing of police and customs authorisations etc.), after paragraph (a) insert—

“(ab) a person designated under regulation 36(2) of the 2023 Regulations;”.

(8) In section 46(3) (restrictions on authorisations extending to Scotland), after paragraph (dza) insert—

“(dzb) the Service Police Complaints Commissioner;”.

(9) In section 48 (interpretation of Part II), in subsection (1) at the appropriate place insert—

“the 2023 Regulations” means the Service Police (Complaints etc.) Regulations 2023;”.

(10) In section 65 (the Tribunal), in subsection (6) after paragraph (c) insert—

“(cza) the Service Police Complaints Commissioner;”.

(11) In section 68(7) (Tribunal procedure), after paragraph (da) insert—

“(db) the Service Police Complaints Commissioner and every member of the Commissioner’s staff;”.

(12) In Part 1 of Schedule 1 (authorisation of surveillance and covert human intelligence sources: relevant public authorities for the purposes of section 28 and 29), after paragraph 19A insert—

“**19B.** The Service Police Complaints Commissioner.”.

### **Amendment of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010**

**11.**—(1) The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010(9) is amended as follows.

(2) In Part 1 of Schedule 1 (offices etc and restrictions in respect of public authorities specified in Part 1 of Schedule 1 to the Act), after the entry relating to the Royal Air Force Police, insert—

“The Service Police Complaints Commissioner	A senior investigating officer	An investigating officer	Paragraph (b)”
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(8) Section 36(6) is amended by section 12 of, and paragraph 18(3)(a) of Schedule 5 to, the 2021 Act; there are other amendments not relevant to these Regulations.

(9) [S.I. 2010/521](#).