



Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART V

MISCELLANEOUS AND SUPPLEMENTAL

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.

78 Orders, regulations and rules

- (1) This section applies to any power of the Secretary of State 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.
- (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), 25(5), 28(5), 29(6), 30(7), 35(5), 41(6), 47(2), 66(3), 67(11) or 71(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.

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- (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 thinks fit.

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.
- (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—

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“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);

“customs officer” means an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979;

“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 Intelligence Services Act 1994;

“Her Majesty’s forces” has the same meaning as in the Army Act 1955;

“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;

“legal proceedings” means civil or criminal proceedings in or before any court or tribunal;

“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 Police Act 1996 (police forces in England and Wales outside London);
- (b) the metropolitan police force;
- (c) the City of London police force;
- (d) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967
- (e) the Royal Ulster Constabulary;

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- (f) the Ministry of Defence Police;
- (g) the Royal Navy Regulating Branch;
- (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 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 Interpretation Act 1978) or any statutory rules (within the meaning of the Statutory Rules (Northern Ireland) Order 1979);

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

“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 Wireless Telegraphy Act 1949 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 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—
- (a) proceedings in the United Kingdom or elsewhere before—
 - (i) a court-martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957; or
 - (ii) a disciplinary court constituted under section 50 of the Act of 1957;
 - (b) proceedings before the Courts-Martial Appeal Court; and
 - (c) proceedings before a Standing Civilian Court;
- 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 Royal Navy Regulating Branch, the Royal Military Police or the Royal Air Force Police, do not include references to any member of that Branch or Force who is not for the time being attached to or serving either with the Branch or Force of which he is a member 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 home civil service or diplomatic service, 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.

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 (except paragraphs 1 and 2 of Schedule 4) affects any power conferred on the Post Office 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 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,

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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 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 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.

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.