

Changes to legislation: Protection of Freedoms Act 2012, Part 3 is up to date with all changes known to be in force on or before 07 May 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) View outstanding changes

SCHEDULES

SCHEDULE 9

CONSEQUENTIAL AMENDMENTS

PART 3

SAFEGUARDS FOR CERTAIN SURVEILLANCE UNDER RIPA

Regulation of Investigatory Powers Act 2000

6 The Regulation of Investigatory Powers Act 2000 is amended as follows.

Commencement Information

II Sch. 9 para. 6 in force at 1.11.2012 by S.I. 2012/2075, art. 4(d)

F17

Textual Amendments

F1 Sch. 9 para. 8 repealed (22.7.2020) by Investigatory Powers Act 2016 (c. 25), s. 272(1), Sch. 10 Pt. 8 (with Sch. 9 paras. 7, 8, 10); S.I. 2020/766, reg. 2(e)(iv)

F18

Textual Amendments

F1 Sch. 9 para. 8 repealed (22.7.2020) by Investigatory Powers Act 2016 (c. 25), s. 272(1), Sch. 10 Pt. 8 (with Sch. 9 paras. 7, 8, 10); S.I. 2020/766, reg. 2(e)(iv)

9 (1) Section 43 (general rules about grant, renewal and duration of authorisations relating to surveillance and human intelligence sources) is amended as follows.

(2) After subsection (1) insert—

“(1A) Subsection (1)(a) does not apply in relation to an authorisation under section 28 or 29 to which section 32A applies.”

(3) In subsection (9)(c) after “section” insert “ 32A or ”.

Commencement Information

I2 Sch. 9 para. 9 in force at 1.11.2012 by S.I. 2012/2075, art. 4(d)

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F2¹⁰

Textual Amendments

F2 Sch. 9 paras. 10, 11 repealed (30.8.2018) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 10 Pt. 8](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2018/940](#), reg. 2(1)(h)(ii) (with reg. 2(2))

Commencement Information

I3 Sch. 9 para. 10 in force at 1.11.2012 by [S.I. 2012/2075](#), [art. 4\(d\)](#)

F2¹¹

Textual Amendments

F2 Sch. 9 paras. 10, 11 repealed (30.8.2018) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 10 Pt. 8](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2018/940](#), reg. 2(1)(h)(ii) (with reg. 2(2))

Commencement Information

I4 Sch. 9 para. 11 in force at 1.11.2012 by [S.I. 2012/2075](#), [art. 4\(d\)](#)

- 12 (1) Section 65 (the Tribunal) is amended as follows.
- (2) In subsection (7) after “but” insert “, subject to subsection (7ZA), ”.
- (3) After subsection (7) insert—
- “(7ZA) The exception in subsection (7) so far as conduct is authorised by, or takes place with the permission of, a judicial authority does not include conduct authorised by an approval given under section 23A or 32A.”

Commencement Information

I5 [Sch. 9 para. 12](#) in force at 1.11.2012 by [S.I. 2012/2075](#), [art. 4\(d\)](#)

- 13 In section 67(7) (powers of the Tribunal), at the end of paragraph (a) (and before “and”), insert—
- “(aa) an order quashing an order under section 23A or 32A by the relevant judicial authority (within the meaning of that section);”.

Commencement Information

I6 [Sch. 9 para. 13](#) in force at 1.11.2012 by [S.I. 2012/2075](#), [art. 4\(d\)](#)

- 14 In section 71(2) (issue and revision of codes of practice) after “Commissioners” insert “ or the relevant judicial authority (within the meaning of section 23A or 32A) ”.

Commencement Information

I7 [Sch. 9 para. 14](#) in force at 1.11.2012 by [S.I. 2012/2075](#), [art. 4\(d\)](#)

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15 After section 77 (Ministerial expenditure etc.) insert—

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

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).

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- (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.”

Commencement Information

I8 Sch. 9 para. 15 in force at 1.11.2012 for specified purposes by S.I. 2012/2075, art. 4(e)

- 16 In section 78 (orders, regulations and rules)—
- (a) in subsection (1) after “the Secretary of State” insert “ or the Lord Chancellor ”,
- (b) in subsection (3)(a)—
- ^{F3}(i)
- (ii) after “30(7),” insert “ 32A(7), ”, and
- (c) in subsection (5) after “the Secretary of State” insert “ or (as the case may be) the Lord Chancellor ”.

Textual Amendments

F3 Sch. 9 para. 16(b)(i) repealed (22.7.2020) by Investigatory Powers Act 2016 (c. 25), s. 272(1), Sch. 10 Pt. 8 (with Sch. 9 paras. 7, 8, 10); S.I. 2020/766, reg. 2(e)(iv)

Commencement Information

I9 Sch. 9 para. 16 in force at 1.11.2012 by S.I. 2012/2075, art. 4(d)

- 17 After section 81(8) (general interpretation) insert—
- “(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).”

Commencement Information

I10 Sch. 9 para. 17 in force at 1.11.2012 by S.I. 2012/2075, art. 4(d)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/2234 art. 13 by [S.I. 2014/831 art. 2\(2\)](#)
- specified provision(s) transitional provisions and savings for commencing S.I. 2013/1814 by [S.I. 2013/1813 art. 2-9](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 7A inserted by [2019 c. 3 Sch. 2 para. 20](#)