



Regulation of Investigatory Powers (Scotland) Act 2000

2000 asp 11

Authorisation of surveillance and human intelligence sources

16 Appeals against decisions by Surveillance Commissioners

- (1) A chief constable of a police force [^{F1}or the Director General [^{F2}or the Deputy Director General] of the Scottish Crime and Drug Enforcement Agency] may appeal to the Chief Surveillance Commissioner against any of the following—
 - (a) any refusal of an ordinary Surveillance Commissioner to approve an authorisation for the carrying out of intrusive surveillance;
 - (b) any decision of such a Commissioner to quash or cancel such an authorisation;
 - (c) any decision of such a Commissioner to make an order under section 15 above for the destruction of records.
- (2) A designated deputy of a chief constable or a person specified in or designated under subsection (4) of section 12 above, who granted an authorisation under that section, shall also be entitled to appeal under this section.
- (3) An appeal under this section must be brought within the period of seven days beginning with the day on which the refusal or decision appealed against is reported to the appellant.
- (4) Subject to subsection (5) below, the Chief Surveillance Commissioner, on an appeal under this section, shall allow the appeal—
 - (a) if satisfied that there were reasonable grounds for being satisfied that the requirements of section 10(2)(a) and (b) above were satisfied in relation to the authorisation at the time in question; or
 - (b) if not satisfied that the authorisation is one of which notice was given in accordance with section 13(3)(b) above without there being any reasonable grounds for being satisfied that the case was one of urgency.
- (5) If, on an appeal falling within subsection (1)(b) above, the Chief Surveillance Commissioner—
 - (a) is satisfied that grounds exist which justify the quashing or cancellation under section 15 above of the authorisation in question; but

Status: Point in time view as at 28/03/2011. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Regulation of Investigatory Powers (Scotland) Act 2000, Section 16. (See end of Document for details)

- (b) considers that the authorisation should have been quashed or cancelled from a different time from that from which it was quashed or cancelled by the ordinary Surveillance Commissioner against whose decision the appeal is brought,

the Chief Surveillance Commissioner may modify the ordinary Surveillance Commissioner's decision to quash or cancel the authorisation, and any related decision for the destruction of records, so as to give effect to the decision under section 15 above that the Chief Surveillance Commissioner considers should have been made.

- (6) Where, on appeal under this section against a decision to quash or cancel an authorisation, the Chief Surveillance Commissioner allows the appeal the Commissioner shall also quash any related order for the destruction of records relating to information obtained by the authorised conduct.

- (7) In this section "designated deputy" has the same meaning as in section 12 above.

Textual Amendments

- F1** Words in s. 16(1) inserted (1.4.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp10), ss. 101, 104, {Sch. 6 para. 9(9)}; [S.S.I. 2007/84](#), [art. 3\(3\)](#)
- F2** Words in s. 16(1) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 106\(7\)](#), 206(1); [S.S.I. 2011/178](#), [art. 2](#), Sch.

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