

# REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Grant, renewal and duration of authorisations*

#### **Section 19: General rules about grant, renewal and duration**

75. This section sets out the general rules for authorisations, including their granting, renewal, and duration.
76. *Subsection (1)* provides that, in urgent cases, an authorising officer may give an oral authorisation. All other authorisations must be in writing.
77. *Subsection (2)* provides that a single authorisation may be given, combining two or more authorisations under this Act. When this occurs, the provisions of this Act which relate to one type of activity only shall apply to those parts of the authorisation which authorises that type of activity. Further provisions for combined authorisations are in section 11(4).
78. *Subsection (3)* provides that oral authorisations and those granted by officers entitled to act in urgent cases in the absence of the authorising officer or his designated deputy will expire after 72 hours, beginning with the time when the grant or renewal of an authorisation takes effect.
79. Except where granted or renewed orally or by an officer entitled to act in urgent cases, authorisations for the use of covert human intelligence sources will last for 12 months, beginning with the day on which the grant or renewal takes effect.
80. Authorisations for the use of intrusive or directed surveillance will last for 3 months. The time limits in *subsection (3)* are all subject to *subsection (8)*.
81. *Subsection (4)* provides that an authorisation may be renewed at any time before it ceases to have effect by any person entitled to grant a new authorisation of the same type. The same conditions attach to a renewal of surveillance as to the original authorisation. However, before renewal of an authorisation for the conduct or use of a covert human intelligence source, *subsection (6)* requires there to be a review of the use made of that source, the tasks given to that source and the information so obtained.
82. *Subsection (5)* applies sections 6 to 18 in relation to renewal of authorisations on the same basis as those sections apply to grants of authorisations.
83. *Subsections (6) and (7)* impose conditions for the renewal of an authorisation for the conduct or use of a covert human intelligence source. The person who is empowered to renew the authorisation must be satisfied that a review has been carried out of the matters mentioned in *subsection (7)* and has, for the purpose of deciding whether he should renew the authorisation, considered the results of that review. The matters which must be reviewed are specified in *subsection (7)* and are the use made of the source in

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the period since the grant or, as the case may be, latest renewal of the authorisation and the tasks given to the source during that period and the information obtained from the conduct or the use of the source.

84. *Subsection (8)* gives power to the Scottish Ministers to specify by order shorter periods than those mentioned in *subsection (3)*.
85. *Subsection (9)* provides that a renewal of an authorisation shall take effect not from the time of renewal but from the day the authorisation would have ceased to have effect, but for the renewal.

### ***Section 20: Cancellation of authorisations***

86. *Subsection (1)* sets out when the person who granted or renewed an authorisation must cancel it.
87. *Subsection (2)* provides that where an authorisation was granted or renewed by a person entitled to act for any other person, then that other person must cancel it in accordance with *subsection (1)*. However, by virtue of *subsection (3)*, where it is not practicable for this person to cancel it, an authorising officer's deputy (defined in *subsections (6) and (7)*) who granted an authorisation is also under a duty to cancel an authorisation in those cases where he would have had the power to act on the authorising officer's behalf.
88. *Subsections (4) and (5)* provide for the Scottish Ministers to make regulations setting out how the duty for cancelling authorisations should be performed where the authorising officer is no longer available and on whom such a duty should fall.
89. *Subsections (6) and (7)* define the references to a person's deputy and designated deputy.