
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 205

INVESTIGATORY POWERS

**The Regulation of Investigatory Powers
(Source Records) (Scotland) Regulations 2002**

<i>Made</i>	- - - -	<i>26th April 2002</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>29th April 2002</i>
<i>Coming into force</i>	- -	<i>20th May 2002</i>

The Scottish Ministers, in exercise of the powers conferred by section 7(6)(d) of the Regulation of Investigatory Powers (Scotland) Act 2000(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Regulation of Investigatory Powers (Source Records) (Scotland) Regulations 2002 and shall come into force on 20th May 2002.

Interpretation

2. In these Regulations—

“the 2000 Act” means the Regulation of Investigatory Powers (Scotland) Act 2000;

“relevant investigating authority” has the meaning given by section 7(7) of the 2000 Act, but the qualification in section 7(8) does not apply;

“source” means a covert human intelligence source; and

“undercover operative” means a source who holds an office, rank or position with a relevant investigating authority.

Particulars to be contained in records

3. The following matters are specified for the purposes of section 7(6)(d) of the 2000 Act (as being matters particulars of which must be included in the records relating to each source):—

(a) the identity of the source;

(b) the identity, where known, used by the source;

- (c) any relevant investigating authority other than the authority maintaining the records;
- (d) the means by which the source is referred to within each relevant investigating authority;
- (e) any other significant information connected with the security and welfare of the source;
- (f) any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (e) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
- (g) the date when, and the circumstances in which, the source was recruited;
- (h) the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in section 7(6)(a) to (c) of the 2000 Act or in any order made by the Scottish Ministers under section 7(2)(c);
- (i) the periods during which those persons have discharged those responsibilities;
- (j) the tasks given to the source and the demands made of him or her in relation to their activities as a source;
- (k) all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- (l) the information obtained by each relevant investigating authority by the conduct or use of the source;
- (m) any dissemination by that authority of information obtained in that way; and
- (n) in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

St Andrew's House,
Edinburgh
26th April 2002

R J SIMPSON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 7(2)(c) of the Regulation of Investigatory Powers (Scotland) Act 2000 (“the 2000 Act”) a person may not grant an authorisation for the conduct or use of a covert human intelligence source unless they are satisfied that arrangements exist that satisfy the requirements of section 7(6) of that Act. Section 7(6)(d) provides that the arrangements must be adequate to ensure that the records relating to the source contain particulars of certain matters as may be specified by the Scottish Ministers. Those matters are specified in these Regulations (regulation 3).

In some cases, the activities of the source will be for the benefit of more than one public authority. By virtue of section 7(8) of the 2000 Act, the records relating to the source must be kept by one of those authorities. The matters specified in the Regulations, however, relate to the source’s contact with each of them.