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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 54**

**INVESTIGATORY POWERS**

The Regulation of Investigatory Powers  
(Covert Surveillance and Property Interference  
– Code of Practice) (Scotland) Order 2018

*Made* - - - - *7th February 2018*

*Coming into force* - - *28th February 2018*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 24(5) of the Regulation of Investigatory Powers (Scotland) Act 2000(1) (“the Act”) and all other powers enabling them to do so.

The Scottish Ministers have:

- (a) under section 24(7) of the Act, revised the code of practice relating to covert surveillance issued under the Act and interference with property and wireless telegraphy under Part III of the Police Act 1997(2);
- (b) prepared and published the draft revised code of practice and considered any representations made to them about that draft in accordance with sections 24(3) and 24(8) of the Act; and
- (c) laid that draft revised code of practice before the Scottish Parliament in accordance with sections 24(4) and 24(8) of the Act.

In accordance with section 24(9) of the Act(3), a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. This Order may be cited as the Regulation of Investigatory Powers (Covert Surveillance and Property Interference – Code of Practice) (Scotland) Order 2018 and comes into force on 28th February 2018.

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(1) [2000 asp 11](#). Section 24 has been amended by paragraph 15 of schedule 7 of the Police and Fire Reform (Scotland) Act [2012 \(asp 8\)](#) and paragraph 92 of schedule 10 of the Investigatory Powers Act [2016 \(c.25\)](#).  
(2) [1997 c.50](#).  
(3) Section 24(9) has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act [2010 \(asp 10\)](#).

### **Revised code of practice – Covert Surveillance and Property Interference**

**2.**—(1) This article applies to the code of practice entitled “Covert Surveillance and Property Interference” which—

- (a) relates to the exercise and performance of powers and duties conferred and imposed by and under the Regulation of Investigatory Powers (Scotland) Act 2000 in relation to the use of covert surveillance and Part III of the Police Act 1997 in relation to interference with property and wireless telegraphy; and
- (b) was issued by the Scottish Ministers on 11th December 2017.

(2) The code of practice comes into force on 28th February 2018.

### **Revocation**

**3.** The Regulation of Investigatory Powers (Covert Surveillance and Property Interference – Code of Practice) (Scotland) Order 2015(4) is revoked.

St Andrew’s House,  
Edinburgh  
7th February 2018

*MICHAEL MATHESON*  
A member of the Scottish Government

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(4) [S.S.I. 2015/34](#).

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force the revised code of practice issued under section 24 of the Regulation of Investigatory Powers (Scotland) Act 2000 relating to covert surveillance under that Act and interference with property or wireless telegraphy under Part III of the Police Act 1997. A person carrying out a function to which the code applies must, in doing so, have regard to the provisions of the code to the extent that they are applicable.

The revised code of practice replaces the code of practice on covert surveillance and property interference issued by the Scottish Ministers on 28th November 2014 and brought into force on 2nd February 2015.