

SCHEDULE 3

Article 4(1)

PART I

MODIFICATIONS OF THE WIRELESS TELEGRAPHY ACT 1949

1. The Wireless Telegraphy Act 1949⁽¹⁾ is amended as follows.
2. In section 5 (misleading messages and interception and disclosure of wireless telegraphy messages), in subsection (7)⁽²⁾, after paragraph (a) there is inserted the following paragraph:–
 - “(aa) in the case of an authority given by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive;”.

PART II

MODIFICATIONS OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000

3. The Regulation of Investigatory Powers Act 2000⁽³⁾ is amended as follows.
4. In section 7 (issue of warrants)–
 - (a) in paragraph (a) of subsection (1), after “Secretary of State” there is inserted “or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive”;
 - (b) in paragraph (b) of that subsection, after “(2)” there is inserted “(a) or (b)”;
 - (c) at the end of paragraph (b) there is inserted the following paragraph:–
 - “; or
 - (c) in a case falling within subsection (2)(aa), under the hand of a member of the staff of the Scottish Administration who is a member of the Senior Civil Service and who is designated by the Scottish Ministers as a person under whose hand a warrant may be issued in such a case.”; and
 - (d) in subsection (2) after paragraph (a) there is inserted–
 - “(aa) an urgent case in which the Scottish Ministers have themselves (by virtue of provision made under section 63 of the Scotland Act 1998) expressly authorised the use of the warrant in that case and a statement of that fact is endorsed on the warrant; and”.
5. In section 9 (duration, cancellation and renewal of warrants), in subsection (1)(b), after “Secretary of State” there is inserted “or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive”.
6. In section 10 (modification of warrants and certificates)–
 - (a) after subsection (4) there is inserted the following subsection:–
 - “(4A) Subject to subsections (5A), (6) and (8), a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) shall

(1) 1949 c. 54.

(2) Subsection (7) was inserted by the Regulation of Investigatory Powers Act 2000 (c. 23), section 73(3).

(3) 2000 c. 23.

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not be modified under this section except by an instrument under the hand of a member of the Scottish Executive or a member of the staff of the Scottish Administration who is a member of the Senior Civil Service and is designated by the Scottish Ministers as a person under whose hand an instrument may be issued in such a case (in this section referred to as “a designated official”);

(b) after subsection (5) there is inserted the following subsection:–

“(5A) Unscheduled parts of an interception warrant issued by the Scottish Ministers shall not be modified under the hand of a designated official except in an urgent case in which–

(a) they have themselves (by virtue of provision made under section 63 of the Scotland Act 1998) expressly authorised the modification; and

(b) a statement of that fact is endorsed on the modifying instrument”;

(c) in subsection (6), after “subsection (4)” there is inserted “or (4A)”; and

(d) in subsection (9)–

(i) in paragraph (a), after “Secretary of State” there is inserted “or, as the case may be, the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”; and

(ii) in paragraph (b), after “subsection (5)(b)” there is inserted “, (5A)(b)”.

7. In section 42 (intelligence services authorisations)–

(a) in subsection (1), after “Secretary of State” there is inserted “or, the Scottish Ministers (by virtue of provision under section 63 of the Scotland Act 1998)”; and

(b) in subsection (2), after “Secretary of State” there is inserted “or, the Scottish Ministers (by virtue of provision under section 63 of the Scotland Act 1998)”; and

8. In section 44 (special rules for intelligence service authorisations)–

(a) in subsection (1), after “Secretary of State” there is inserted “or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive”;

(b) in subsection (2)–

(i) in paragraph (b), after “himself” there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) have themselves”; and

(ii) at the end, there is inserted–

“or, as the case may be, a member of the staff of the Scottish Administration who is a member of the Senior Civil Service and is designated by the Scottish Ministers as a person under whose hand a warrant may be issued in such a case (in this section referred to as “a designated official”); and

(c) in subsection (3)–

(i) in paragraph (a), after “senior official” there is inserted “or, as the case may be, a designated official”; and

(ii) in paragraph (b), after “Secretary of State” there is inserted “or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive”.

9. In section 57 (Interception of Communications Commissioner)–

(a) after subsection (2)(a) there is inserted:–

- “(aa) the exercise and performance by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) of the powers and duties conferred or imposed on them by or under sections 5, 9 and 10;” and
- (b) in subsection (2)(d)(i), after “Secretary of State” there is inserted “,or the Scottish Ministers (by virtue of provision under section 63 of the Scotland Act 1998),”.
- 10.** In section 58 (co-operation with and reports by s.57 Commissioner)–
- (a) after subsection (5), there is inserted the following subsection:–
- “(5A) The Interception of Communications Commissioner may also, at any time, make any such other report to the First Minister on any matter relating to the carrying out of the Commissioner’s functions so far as they relate to the exercise by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) of their powers under sections 5, 9(1)(b) and (3), 10(1)(a) and (2) and 15(1) of this Act, as the Commissioner thinks fit.”;
- (b) after subsection (6), there is inserted the following subsection:–
- “(6A) The Prime Minister shall send a copy of every annual report made by the Interception of Communications Commissioner under subsection (4) which he lays in terms of subsection (6), together with a copy of the statement referred to in subsection (6), to the First Minister who shall forthwith lay that copy report and statement before the Scottish Parliament.”; and
- (c) in subsection (7), after “Commissioner”, there is inserted “and, if it appears relevant to do so, with the First Minister”.
- 11.** In section 59 (Intelligence Service Commissioner)–
- (a) in paragraph (a) of subsection (2), after “5 to 7 of”, there is inserted “, or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) of their powers under sections 5 and 6(3) and (4) of,”; and
- (b) in paragraph (b) of subsection (2)–
- (i) after “Secretary of State,” there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998),”;
- (ii) after “of this Act” there is inserted “or on them by Part II of this Act”.
- 12.** In section 60 (co-operation with and reports by s.59 Commissioner)–
- (a) in paragraph (b) of subsection (1), after “Secretary of State” there is inserted “and every member of staff of the Scottish Administration (by virtue of provision under section 63 of the Scotland Act 1998)”;
- (b) after subsection (3), there is inserted the following subsection:–
- “(3A) The Intelligence Services Commissioner may also, at any time, make any such other report to the First Minister on any matter relating to the carrying out of the Commissioner’s functions so far as they relate to the exercise by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) of their powers under sections 5 and 6(3) and (4) of the Intelligence Services Act 1994(4) or under Parts I and II of this Act, as the Commissioner thinks fit.”;
- (c) after subsection (4), there is inserted the following subsection:–
- “(4A) The Prime Minister shall send a copy of every annual report made by the Intelligence Services Commissioner under subsection (2) which he lays in terms of subsection (4), together with a copy of the statement referred to in subsection (4), to the

(4) 1994 c. 13.

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First Minister who shall forthwith lay that copy report and statement before the Scottish Parliament.”; and

- (d) in subsection (5), after “Commissioner”, there is inserted “and, if it appears relevant to do so, with the First Minister”.