
Status: Point in time view as at 15/12/1994.

Changes to legislation: There are currently no known outstanding effects for the Security Service Act 1989. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 5(1).

INVESTIGATION OF COMPLAINTS

Preliminary

- 1 Any person may complain to the Tribunal if he is aggrieved by anything which he believes the Service has done in relation to him or to any property of his; and, unless the Tribunal consider that the complaint is frivolous or vexatious, they shall investigate it in accordance with this Schedule.

Investigations and determinations

- 2 (1) The Tribunal shall investigate whether the complainant has been the subject of inquiries by the Service.
- (2) If the Tribunal find that the Service has made inquiries about the complainant but that those inquiries had ceased at the time when the complaint was made, they shall determine whether, at the time when the inquiries were instituted, the Service had reasonable grounds for deciding to institute inquiries about the complainant in the discharge of its functions.
- (3) If the Tribunal find that inquiries by the Service about the complainant were continuing at the time when the complaint was made, they shall determine whether, at that time, the Service had reasonable grounds for deciding to continue inquiries about the complainant in the discharge of its functions.
- (4) Where it appears to the Tribunal that the inquiries had been or were being made about the complainant on the ground of his membership of a category of persons regarded by the Service as requiring investigation in the discharge of its functions, the Tribunal shall regard the Service as having reasonable grounds for deciding to institute or continue inquiries about the complainant if the Tribunal consider that the Service had reasonable grounds for believing him to be a member of that category.
- 3 If and so far as the complainant alleges that the Service has disclosed information for use in determining whether he should be employed, or continue to be employed, by any person or in any office or capacity specified by him, the Tribunal shall investigate whether the Service has disclosed information for that purpose and, if the Tribunal find that it has done so, they shall determine whether the Service had reasonable grounds for believing the information to be true.

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- 4 (1) If and so far as the complainant alleges that anything has been done by the Service in relation to any property of his, the Tribunal shall refer the complaint to the Commissioner who shall investigate whether a warrant has been issued under section 3 of this Act [^{F1}or section 5 of the Intelligence Services Act 1994] in respect of that property and if he finds that such a warrant has been issued he shall, applying the principles applied by a court on an application for judicial review, determine whether the Secretary of State was acting properly in issuing or renewing the warrant.
- (2) The Commissioner shall inform the Tribunal of his conclusion on any complaint so far as referred to him under this paragraph.

Textual Amendments

F1 Words in [Sch. 1 para. 4\(1\)](#) inserted (15.12.1994) by [1994 c. 13, s. 11\(2\)](#), [Sch. 4 para. 3](#); [S.I. 1994/2734, art. 2](#)

Report of conclusions

- 5 (1) Where the Tribunal determine under paragraph 2 or 3 above that the Service did not have reasonable grounds for the decision or belief in question, they shall—
- (a) give notice to the complainant that they have made a determination in his favour under that paragraph; and
 - (b) make a report of their findings to the Secretary of State and to the Commissioner.
- (2) The Tribunal shall also give notice to the complainant of any determination in his favour by the Commissioner under paragraph 4 above.
- (3) Where in the case of any complaint no such determination as is mentioned in subparagraph (1) or (2) above is made by the Tribunal or the Commissioner the Tribunal shall give notice to the complainant that no determination in his favour has been made on his complaint.

Remedies

- 6 (1) Where the Tribunal give a complainant notice of such a determination as is mentioned in paragraph 5(1) above the Tribunal may—
- (a) if the determination is under paragraph 2 above, order inquiries by the Service about the complainant to be ended and any records relating to such inquiries to be destroyed;
 - (b) if the determination is under that paragraph or paragraph 3 above, direct the Secretary of State to pay to the complainant such sum by way of compensation as may be specified by the Tribunal.
- (2) Where the Tribunal give a complainant notice of such a determination as is mentioned in paragraph 5(2) above the Tribunal may—
- (a) quash any warrant in respect of any property of the complainant which the Commissioner has found to have been improperly issued or renewed and which he considers should be quashed;

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- (b) if the Commissioner considers that a sum should be paid to the complainant by way of compensation, direct the Secretary of State to pay to the complainant such sum as the Commissioner may specify.

References to the Commissioner

- 7 (1) If in a case investigated by the Tribunal under paragraph 2 above they consider that the Service may not be justified in regarding all members of a particular category as requiring investigation they shall refer that matter to the Commissioner.
- (2) If in any case investigated by the Tribunal—
- (a) the Tribunal's conclusions on the matters which they are required to investigate are such that no determination is made by them in favour of the complainant; but
- (b) it appears to the Tribunal from the allegations made by the complainant that it is appropriate for there to be an investigation into whether the Service has in any other respect acted unreasonably in relation to the complainant or his property,
- they shall refer that matter to the Commissioner.
- (3) The Commissioner may report any matter referred to him under this paragraph to the Secretary of State who may take such action in the light of the report as he thinks fit, including any action which the Tribunal have power to take or direct under paragraph 6 above.

Supplementary

- 8 (1) The persons who may complain to the Tribunal under this Schedule include any organisation and any association or combination of persons.
- (2) References in this Schedule to a complainant's property include references to any place where the complainant resides or works.
- 9 (1) No complaint shall be entertained under this Schedule if and so far as it relates to anything done before the date on which this Schedule comes into force.
- (2) Where any inquiries about a person were instituted before that date and no decision had been taken before that date to discontinue them, paragraph 2 above shall have effect as if they had been instituted on that date.

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SCHEDULE 2

Section 5(2).

THE TRIBUNAL

Constitution of the Tribunal

- 1 (1) The Tribunal shall consist of not less than three or more than five members each of whom shall be
- [^{F2}(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
 - (b) an advocate or solicitor in Scotland of at least 10 years' standing; or
 - (c) a Member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years standing.]
- (2) The members of the Tribunal shall be appointed by Her Majesty by Royal Warrant.
- (3) A member of the Tribunal shall vacate office at the end of the period of five years beginning with the day of his appointment but shall be eligible for re-appointment.
- (4) A member of the Tribunal may be relieved of office by Her Majesty at his own request.
- (5) A member of the Tribunal may be removed from office by Her Majesty on an Address presented to Her by both Houses of Parliament.

Textual Amendments

F2 Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), **Sch. 10 para. 74**

President and Vice-President

- 2 (1) Her Majesty may by Royal Warrant appoint as President or Vice-President of the Tribunal a person who is, or by virtue of that Warrant will be, a member of the Tribunal.
- (2) If at any time the President of the Tribunal is temporarily unable to carry out the functions of the President under this Schedule, the Vice-President shall carry out those functions.
- (3) A person shall cease to be President or Vice-President of the Tribunal if he ceases to be a member of the Tribunal.

Procedure

- 3 The functions of the Tribunal in relation to any complaint shall be capable of being carried out, in any place in the United Kingdom, by any two or more members of the Tribunal designated for the purpose by their President; and different members of the Tribunal may carry out functions in relation to different complaints at the same time.

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- 4 (1) It shall be the duty of every member of the Service to disclose or give to the Tribunal such documents or information as they may require for the purpose of enabling them to carry out their functions under this Act.
- (2) Subject to paragraph 6(2) below, the Tribunal shall carry out their functions under this Act in such a way as to secure that no document or information disclosed or given to the Tribunal by any person is disclosed without his consent to any complainant, to any person (other than the Commissioner) holding office under the Crown or to any other person; and accordingly the Tribunal shall not, except in reports under paragraph 5(1)(b) of Schedule 1 to this Act, give any reasons for a determination notified by them to a complainant.
- (3) Subject to sub-paragraph (2) above, the Tribunal may determine their own procedure.

Salaries and expenses

- 5 (1) The Secretary of State shall pay to the members of the Tribunal such remuneration and allowances as he may with the approval of the Treasury determine.
- (2) The Secretary of State shall defray such expenses of the Tribunal as he may with the approval of the Treasury determine.

Staff

- 6 (1) The Secretary of State may, after consultation with the Tribunal and with the approval of the Treasury as to numbers, provide the Tribunal with such staff as he thinks necessary for the proper discharge of their functions.
- (2) The Tribunal may authorise any member of their staff to obtain any documents or information on the Tribunal's behalf.

Parliamentary disqualification

- 7 (1) In Part II of Schedule 1 to the ^{M1}House of Commons Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted at the appropriate place—
- “The Tribunal established under the Security Service Act 1989”.
- (2) The same amendment shall be made in Part II of Schedule 1 to the ^{M2}Northern Ireland Assembly Disqualification Act 1975.

Marginal Citations

M1 1975 c. 24.

M2 1975 c. 25.

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