



# Intelligence Services Act 1994

## 1994 CHAPTER 13

### *Authorisation of certain actions*

#### **5 Warrants: general**

- (1) No entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorised by a warrant issued by the Secretary of State under this section.
- (2) The Secretary of State may, on an application made by the Security Service, the Intelligence Service or GCHQ, issue a warrant under this section authorising the taking, subject to subsection (3) below, of such action as is specified in the warrant in respect of any property so specified or in respect of wireless telegraphy so specified if the Secretary of State—
  - (a) thinks it necessary for the action to be taken on the ground that it is likely to be of substantial value in assisting, as the case may be,—
    - (i) the Security Service in carrying out any of its functions under the 1989 Act; or
    - (ii) the Intelligence Service in carrying out any of its functions under section 1 above; or
    - (iii) GCHQ in carrying out any function which falls within section 3(1)(a) above; and
  - (b) is satisfied that what the action seeks to achieve cannot reasonably be achieved by other means; and
  - (c) is satisfied that satisfactory arrangements are in force under section 2(2)(a) of the 1989 Act (duties of the Director-General of the Security Service), section 2(2)(a) above or section 4(2)(a) above with respect to the disclosure of information obtained by virtue of this section and that any information obtained under the warrant will be subject to those arrangements.
- (3) A warrant authorising the taking of action in support of the prevention or detection of serious crime may not relate to property in the British Islands.
- (4) Subject to subsection (5) below, the Security Service may make an application under subsection (2) above for a warrant to be issued authorising that Service (or a person acting on its behalf) to take such action as is specified in the warrant on behalf of the

Intelligence Service or GCHQ and, where such a warrant is issued, the functions of the Security Service shall include the carrying out of the action so specified, whether or not it would otherwise be within its functions.

- (5) The Security Service may not make an application for a warrant by virtue of subsection (4) above except where the action proposed to be authorised by the warrant—
- (a) is action in respect of which the Intelligence Service or, as the case may be, GCHQ could make such an application; and
  - (b) is to be taken otherwise than in support of the prevention or detection of serious crime.

## **6 Warrants: procedure and duration, etc**

- (1) A warrant shall not be issued except—
- (a) under the hand of the Secretary of State; or
  - (b) in an urgent case where the Secretary of State has expressly authorised its issue and a statement of that fact is endorsed on it, under the hand of a senior official of his department.
- (2) A warrant shall, unless renewed under subsection (3) below, cease to have effect—
- (a) if the warrant was under the hand of the Secretary of State, at the end of the period of six months beginning with the day on which it was issued; and
  - (b) in any other case, at the end of the period ending with the second working day following that day.
- (3) If at any time before the day on which a warrant would cease to have effect the Secretary of State considers it necessary for the warrant to continue to have effect for the purpose for which it was issued, he may by an instrument under his hand renew it for a period of six months beginning with that day.
- (4) The Secretary of State shall cancel a warrant if he is satisfied that the action authorised by it is no longer necessary.
- (5) In the preceding provisions of this section “warrant” means a warrant under section 5 above.
- (6) As regards the Security Service, this section and section 5 above have effect in place of section 3 (property warrants) of the 1989 Act, and accordingly—
- (a) a warrant issued under that section of the 1989 Act and current when this section and section 5 above come into force shall be treated as a warrant under section 5 above, but without any change in the date on which the warrant was in fact issued or last renewed; and
  - (b) section 3 of the 1989 Act shall cease to have effect.

## **7 Authorisation of acts outside the British Islands**

- (1) If, apart from this section, a person would be liable in the United Kingdom for any act done outside the British Islands, he shall not be so liable if the act is one which is authorised to be done by virtue of an authorisation given by the Secretary of State under this section.

- (2) In subsection (1) above “liable in the United Kingdom” means liable under the criminal or civil law of any part of the United Kingdom.
- (3) The Secretary of State shall not give an authorisation under this section unless he is satisfied—
  - (a) that any acts which may be done in reliance on the authorisation or, as the case may be, the operation in the course of which the acts may be done will be necessary for the proper discharge of a function of the Intelligence Service; and
  - (b) that there are satisfactory arrangements in force to secure—
    - (i) that nothing will be done in reliance on the authorisation beyond what is necessary for the proper discharge of a function of the Intelligence Service; and
    - (ii) that, in so far as any acts may be done in reliance on the authorisation, their nature and likely consequences will be reasonable, having regard to the purposes for which they are carried out; and
  - (c) that there are satisfactory arrangements in force under section 2(2)(a) above with respect to the disclosure of information obtained by virtue of this section and that any information obtained by virtue of anything done in reliance on the authorisation will be subject to those arrangements.
- (4) Without prejudice to the generality of the power of the Secretary of State to give an authorisation under this section, such an authorisation—
  - (a) may relate to a particular act or acts, to acts of a description specified in the authorisation or to acts undertaken in the course of an operation so specified;
  - (b) may be limited to a particular person or persons of a description so specified; and
  - (c) may be subject to conditions so specified.
- (5) An authorisation shall not be given under this section except—
  - (a) under the hand of the Secretary of State; or
  - (b) in an urgent case where the Secretary of State has expressly authorised it to be given and a statement of that fact is endorsed on it, under the hand of a senior official of his department.
- (6) An authorisation shall, unless renewed under subsection (7) below, cease to have effect—
  - (a) if the authorisation was given under the hand of the Secretary of State, at the end of the period of six months beginning with the day on which it was given;
  - (b) in any other case, at the end of the period ending with the second working day following the day on which it was given.
- (7) If at any time before the day on which an authorisation would cease to have effect the Secretary of State considers it necessary for the authorisation to continue to have effect for the purpose for which it was given, he may by an instrument under his hand renew it for a period of six months beginning with that day.
- (8) The Secretary of State shall cancel an authorisation if he is satisfied that any act authorised by it is no longer necessary.