



# Police Act 1997

## 1997 CHAPTER 50

### PART III

#### AUTHORISATION OF ACTION IN RESPECT OF PROPERTY

##### *Authorisations*

#### **92 Effect of authorisation under Part III.**

No entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorised by an authorisation having effect under this Part.

#### **93 Authorisations to interfere with property etc.**

- (1) Where subsection (2) applies, an authorising officer may authorise—
  - (a) the taking of such action, in respect of such property in the relevant area, as he may specify, or
  - (b) the taking of such action in the relevant area as he may specify, in respect of wireless telegraphy.
- (2) This subsection applies where the authorising officer believes—
  - (a) that it is necessary for the action specified to be taken on the ground that it is likely to be of substantial value in the prevention or detection of serious crime, and
  - (b) that what the action seeks to achieve cannot reasonably be achieved by other means.
- (3) An authorising officer shall not give an authorisation under this section except on an application made—
  - (a) if the authorising officer is within subsection (5)(a) to (e), by a member of his police force,
  - (b) if the authorising officer is within subsection (5)(f), by a member of the National Criminal Intelligence Service,

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- (c) if the authorising officer is within subsection (5)(g), by a member of the National Crime Squad, or
  - (d) if the authorising officer is within subsection (5)(h), by a customs officer.
- (4) For the purposes of subsection (2), conduct which constitutes one or more offences shall be regarded as serious crime if, and only if,—
- (a) it involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose, or
  - (b) the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more,
- and, where the authorising officer is within subsection (5)(h), it relates to an assigned matter within the meaning of section 1(1) of the <sup>M1</sup>Customs and Excise Management Act 1979.
- (5) In this section “authorising officer” means—
- (a) the chief constable of a police force maintained under section 2 of the <sup>M2</sup>Police Act 1996 (maintenance of police forces for areas in England and Wales except London);
  - (b) the Commissioner, or an Assistant Commissioner, of Police of the Metropolis;
  - (c) the Commissioner of Police for the City of London;
  - (d) the chief constable of a police force maintained under or by virtue of section 1 of the <sup>M3</sup>Police (Scotland) Act 1967 (maintenance of police forces for areas in Scotland);
  - (e) the Chief Constable or a Deputy Chief Constable of the Royal Ulster Constabulary;
  - (f) the Director General of the National Criminal Intelligence Service;
  - (g) the Director General of the National Crime Squad; or
  - (h) the customs officer designated by the Commissioners of Customs and Excise for the purposes of this paragraph.
- (6) In this section “relevant area”—
- (a) in relation to a person within paragraph (a), (b) or (c) of subsection (5), means the area in England and Wales for which his police force is maintained;
  - (b) in relation to a person within paragraph (d) of that subsection means the area in Scotland for which his police force is maintained;
  - (c) in relation to a person within paragraph (e) of that subsection, means Northern Ireland;
  - (d) in relation to the Director General of the National Criminal Intelligence Service, means the United Kingdom;
  - (e) in relation to the Director General of the National Crime Squad, means England and Wales; and
  - (f) in relation to the customs officer designated for the purposes of paragraph (h) of that subsection, means the United Kingdom,
- and in each case includes the adjacent United Kingdom waters.
- (7) The powers conferred by, or by virtue of, this section are additional to any other powers which a person has as a constable either at common law or under or by virtue of any other enactment and are not to be taken to affect any of those other powers.

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#### Marginal Citations

- M1** 1979 c. 2.  
**M2** 1996 c. 16.  
**M3** 1967 c. 77.

## 94 Authorisations given in absence of authorising officer.

- (1) Subsection (2) applies where it is not reasonably practicable for an authorising officer to consider an application for an authorisation under section 93 and—
- (a) if the authorising officer is within paragraph (b) or (e) of section 93(5), it is also not reasonably practicable for the application to be considered by any of the other persons within the paragraph concerned; or
  - (b) if the authorising officer is within paragraph (a), (c), (d), [<sup>F1</sup>(f) ,(g) or (h)] of section 93(5), it is also not reasonably practicable for the application to be considered by his designated deputy.
- (2) Where this subsection applies, the powers conferred on the authorising officer by section 93 may, in an urgent case, be exercised—
- (a) where the authorising officer is within paragraph (a) or (d) of subsection (5) of that section, by a person holding the rank of assistant chief constable in his force;
  - (b) where the authorising officer is within paragraph (b) of that subsection, by a person holding the rank of commander in the metropolitan police force;
  - (c) where the authorising officer is within paragraph (c) of that subsection, by a person holding the rank of commander in the City of London police force;
  - (d) where the authorising officer is within paragraph (e) of that subsection, by a person holding the rank of assistant chief constable in the Royal Ulster Constabulary;
  - (e) where the authorising officer is within paragraph (f) or (g) of that subsection by a person designated for the purposes of this section by the Director General of the National Criminal Intelligence Service or, as the case may be, of the National Crime Squad;
  - (f) where the authorising officer is within paragraph (h) of that subsection, by a customs officer designated by the Commissioners of Customs and Excise for the purposes of this section.
- (3) A police member of the National Criminal Intelligence Service or the National Crime Squad appointed under section 9(1)(b) or 55(1)(b) may not be designated under subsection (2)(e) unless—
- [<sup>F2</sup>he holds the rank of assistant chief constable in that Service or Squad].
- (4) In subsection (1), “designated deputy”—
- (a) in the case of an authorising officer within paragraph (a) or (d) of section 93(5), means the person holding the rank of assistant chief constable designated to act in his absence under section 12(4) of the <sup>M4</sup>Police Act 1996 or, as the case may be, section 5(4) of the <sup>M5</sup>Police (Scotland) Act 1967;
  - (b) in the case of an authorising officer within paragraph (c) of section 93(5), means the person authorised to act in his absence under section 25 of the <sup>M6</sup>City of London Police Act 1839; <sup>F3</sup> . . .

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- (c) in the case of an authorising officer within paragraph (f) or (g) of section 93(5), means the person designated to act in his absence under section 8 or 54 <sup>F4</sup>and.
- (d) in the case of an authorising officer within paragraph (h) of section 93(5), means the customs officer designated by the Commissioners of Customs and Excise to act in his absence for the purposes of this paragraph.]

#### Textual Amendments

- F1** Words in s. 94(1) substituted (30.9.1998) by 1998 c. 37, s. 113(1); S.I. 1998/2327, art. 2
- F2** Words in s. 94(3) substituted (for s. 94(3)(a)(b)) (30.9.1998) by 1998 c. 37, s. 113(2); S.I. 1998/2327, art. 2
- F3** Word in s. 94(4) repealed (30.9.1998) by 1998 c. 37, s. 113(3), s. 120(2), Sch. 10; S.I. 1998/2327, art. 2
- F4** S. 94(4)(d) and the word “and” preceding it inserted (30.9.1998) by 1998 c. 37, s. 113(3); S.I. 1998/2327, art. 2

#### Marginal Citations

- M4** 1996 c. 16.
- M5** 1967 c. 77.
- M6** 1839 c. xciv.

## 95 Authorisations: form and duration etc.

- (1) An authorisation shall be in writing, except that in an urgent case an authorisation (other than one given by virtue of section 94) may be given orally.
- (2) An authorisation shall, unless renewed under subsection (3), cease to have effect—
  - (a) if given orally or by virtue of section 94, at the end of the period of 72 hours beginning with the time when it took effect;
  - (b) in any other case, at the end of the period of three months beginning with the day on which it took effect.
- (3) If at any time before an authorisation would cease to have effect the authorising officer who gave the authorisation, or in whose absence it was given, considers it necessary for the authorisation to continue to have effect for the purpose for which it was issued, he may, in writing, renew it for a period of three months beginning with the day on which it would cease to have effect.
- (4) A person shall cancel an authorisation given by him if satisfied that the action authorised by it is no longer necessary.
- (5) An authorising officer shall cancel an authorisation given in his absence if satisfied that the action authorised by it is no longer necessary.
- (6) If the authorising officer who gave the authorisation is within paragraph (b) or (e) of section 93(5), the power conferred on that person by subsections (3) and (4) above shall also be exercisable by each of the other persons within the paragraph concerned.
- (7) Nothing in this section shall prevent a designated deputy from exercising the powers conferred on an authorising officer within paragraph (a), (c), (d), (f) or (g) of section 93(5) by subsections (3), (4) and (5) above.

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## **96 Notification of authorisations etc.**

- (1) Where a person gives, renews or cancels an authorisation, he shall, as soon as is reasonably practicable and in accordance with arrangements made by the Chief Commissioner, give notice in writing that he has done so to a Commissioner appointed under section 91(1)(b).
- (2) Subject to subsection (3), a notice under this section shall specify such matters as the Secretary of State may by order prescribe.
- (3) A notice under this section of the giving or renewal of an authorisation shall specify—
  - (a) whether section 97 applies to the authorisation or renewal, and
  - (b) where that section does not apply by virtue of subsection (3) of that section, the grounds on which the case is believed to be one of urgency.
- (4) Where a notice is given to a Commissioner under this section, he shall, as soon as is reasonably practicable, scrutinise the notice.
- (5) An order under subsection (2) shall be made by statutory instrument.
- (6) A statutory instrument which contains an order under subsection (2) shall not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

### **Commencement Information**

- II** S. 96 wholly in force at 22.2.1999; s. 96 not in force at Royal Assent see s. 135; s. 96 in force for certain purposes at 1.9.1997 by [S.I. 1997/1930](#), [art. 2](#)(with art. 2(3)); s. 96 in force at 22.2.1999 insofar as not already in force by [S.I. 1999/151](#), [art. 2](#)

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