



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART II

#### SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES

##### *Police and [F1Revenue and Customs] authorisations*

#### **36 Approval required for authorisations to take effect.**

- (1) This section applies where an authorisation for the carrying out of intrusive surveillance has been granted on the application of—
  - (a) a member of a police force;
  - [F1(aa) a member of the tri-service serious crime unit;]
  - [F2(ab) a person who has been designated under regulation 36(2) of the 2023 Regulations;]
  - [F3(b) a National Crime Agency officer;]
  - [F4(d) an officer of Revenue and Customs <sup>F5</sup>...;]
  - [F6(da) an immigration officer; or]
  - (e) [F7an officer of the CMA].
- (2) Subject to subsection (3), the authorisation shall not take effect until such time (if any) as—
  - (a) the grant of the authorisation has been approved by [F8a Judicial Commissioner] ; and
  - (b) written notice of the Commissioner's decision to approve the grant of the authorisation has been given, in accordance with subsection (4), to the person who granted the authorisation.
- (3) Where the person who grants the authorisation—
  - (a) believes that the case is one of urgency, and

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- (b) gives notice in accordance with section 35(3)(b), subsection (2) shall not apply to the authorisation, and the authorisation shall have effect from the time of its grant.
- (4) Where subsection (2) applies to the authorisation—
- (a) a [<sup>F9</sup>Judicial Commissioner] shall give his approval under this section to the authorisation if, and only if, he is satisfied that there are reasonable grounds for believing that the requirements of section 32(2)(a) and (b) are satisfied in the case of the authorisation; and
- (b) a [<sup>F9</sup>Judicial Commissioner ] who makes a decision as to whether or not the authorisation should be approved shall, as soon as reasonably practicable after making that decision, give written notice of his decision to the person who granted the authorisation.
- (5) If [<sup>F10</sup>a Judicial Commissioner] decides not to approve an authorisation to which subsection (2) applies, he shall make a report of his findings to the most senior relevant person.
- (6) In this section “the most senior relevant person” means—
- (a) where the authorisation was granted by the senior authorising officer with any police force who is not someone’s deputy, that senior authorising officer;
- [<sup>F11</sup>(aa) where the authorisation was granted by the Provost Marshal for serious crime or a person entitled to act for the Provost Marshal for serious crime by virtue of section 34(4)(ha), that Provost Marshal;]
- [<sup>F12</sup>(ab) where the authorisation was granted by the Service Police Complaints Commissioner or by a person entitled to act for the Commissioner by virtue of section 34(4)(hb), the Commissioner;]
- (b) where the authorisation was granted by the [<sup>F13</sup>Director General of the National Crime Agency], that Director General;
- (c) where the authorisation was granted by a senior authorising officer with a police force who is someone’s deputy, the senior authorising officer whose deputy granted the authorisation;
- [<sup>F14</sup>(d) where the authorisation was granted by a person designated for the purposes of section 32(6)(k), or by a person entitled to act for the [<sup>F15</sup>Director General of the National Crime Agency] by virtue of section 34(4)(j), that Director General;]
- (f) where the authorisation was granted by a person entitled to act for a senior authorising officer under section 34(4) [<sup>F16</sup>(a) to (h) or (i)], the senior authorising officer in the force in question who is not someone’s deputy; [<sup>F17</sup>and]
- [<sup>F18</sup>(g) where the authorisation was granted by an officer of Revenue and Customs, the officer of Revenue and Customs for the time being designated for the purposes of this paragraph by a written notice given to the [<sup>F19</sup>Investigatory Powers Commissioner ] by the Commissioners for Her Majesty’s Revenue [<sup>F20</sup>... Customs;]
- [<sup>F21</sup>(ga) where the authorisation was granted by a senior official designated under section 32(6)(ma) or entitled to act for such an official under section 34(4) (la), the senior official designated under section 32(6)(ma); and]
- (h) where the authorisation was granted by the [<sup>F22</sup>chair of the CMA] or a person entitled to act for [<sup>F23</sup>the chair of the CMA] by virtue of section 34(4)(m), [<sup>F24</sup>that chair].

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- (7) The references in subsection (6) to a person’s deputy are references to the following—
- (a) in relation to—
    - (i) a chief constable of a police force maintained under section 2 of the <sup>M1</sup>Police Act 1996,
    - (ii) the Commissioner of Police for the City of London, or
    - [<sup>F25</sup>(iii) the chief constable of the Police Service of Scotland,]to his designated deputy;
  - (b) in relation to the Commissioner of Police of the Metropolis, to an Assistant Commissioner of Police of the Metropolis; and
  - (c) in relation to the Chief Constable of the Royal Ulster Constabulary, to the Deputy Chief Constable of the Royal Ulster Constabulary;
- and in this subsection and that subsection “designated deputy” has the same meaning as in section 34.
- (8) Any notice that is required by any provision of this section to be given in writing may be given, instead, by being transmitted by electronic means.

#### Textual Amendments

- F1** S. 36(1)(aa) inserted (1.5.2022 for specified purposes, 5.12.2022 in so far as not already in force) by Armed Forces Act 2021 (c. 35), s. 24(1), **Sch. 5 para. 18(2)**; S.I. 2022/471, reg. 2(e); S.I. 2022/1095, reg. 4
- F2** S. 36(1)(ab) inserted (19.6.2023) by The Service Police (Complaints etc.) Regulations 2023 (S.I. 2023/624), reg. 1(1), **Sch. 1 para. 10(6)(a)**
- F3** S. 36(1)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 86(2)**; S.I. 2013/1682, art. 3(v)
- F4** S. 36(1)(d) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), ss. 88, 94, **Sch. 12 para. 14(a)**; S.I. 2008/219, **art. 2(b)**
- F5** Word in s. 36(1)(d) omitted (25.6.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 10(2)(a)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(i)
- F6** S. 36(1)(da) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 10(2)(b)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(i)
- F7** Words in s. 36(1)(e) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 138(2)** (with art. 3)
- F8** Words in s. 36(2)(a) substituted (1.9.2017) by Investigatory Powers Act 2016 (c. 25), **ss. 233(3)(a)**, 272(1) (with Sch. 9 paras. 7, 8, 10); S.I. 2017/859, reg. 2(e)
- F9** Words in s. 36(4)(a)(b) substituted (1.9.2017) by Investigatory Powers Act 2016 (c. 25), **ss. 233(3)(c)**, 272(1) (with Sch. 9 paras. 7, 8, 10); S.I. 2017/859, reg. 2(e)
- F10** Words in s. 36(5) substituted (1.9.2017) by Investigatory Powers Act 2016 (c. 25), **ss. 233(3)(a)**, 272(1) (with Sch. 9 paras. 7, 8, 10); S.I. 2017/859, reg. 2(e)
- F11** S. 36(6)(aa) inserted (1.5.2022 for specified purposes, 5.12.2022 in so far as not already in force) by Armed Forces Act 2021 (c. 35), s. 24(1), **Sch. 5 para. 18(3)(a)**; S.I. 2022/471, reg. 2(e); S.I. 2022/1095, reg. 4
- F12** S. 36(6)(ab) inserted (19.6.2023) by The Service Police (Complaints etc.) Regulations 2023 (S.I. 2023/624), reg. 1(1), **Sch. 1 para. 10(6)(b)**
- F13** Words in s. 36(6)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 86(3)**; S.I. 2013/1682, art. 3(v)
- F14** S. 36(6)(d) substituted (1.4.2006) for s. 36(6)(d)(e) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 178, **Sch. 4 para. 140(3)(b)**; S.I. 2006/378, **art. 4(1)**, Sch. para. 10 (subject to art. 4(2)-(7))

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- F15** Words in s. 36(6)(d) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 86(3)**; S.I. 2013/1682, art. 3(v)
- F16** Words in s. 36(6)(f) substituted (1.5.2022 for specified purposes, 5.12.2022 in so far as not already in force) by Armed Forces Act 2021 (c. 35), s. 24(1), **Sch. 5 para. 18(3)(b)**; S.I. 2022/471, reg. 2(e); S.I. 2022/1095, reg. 4
- F17** Word in s. 36(6)(f) repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 10)
- F18** S. 36(6)(g) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), ss. 88, 94, **Sch. 12 para. 14(b)**; S.I. 2008/219, **art. 2(b)**
- F19** Words in s. 36(6)(g) substituted (1.9.2017) by Investigatory Powers Act 2016 (c. 25), **ss. 233(3)(b)**, 272(1) (with Sch. 9 paras. 7, 8, 10); S.I. 2017/859, reg. 2(e)
- F20** Word in s. 36(6)(g) omitted (25.6.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 10(3)(a)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(i)
- F21** S. 36(6)(ga) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 10(3)(b)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(i)
- F22** Words in s. 36(6)(h) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 138(3)(a)** (with art. 3)
- F23** Words in s. 36(6)(h) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 138(3)(b)** (with art. 3)
- F24** Words in s. 36(6)(h) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 138(3)(c)** (with art. 3)
- F25** S. 36(7)(a)(iii) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 33(13)**

**Modifications etc. (not altering text)**

- C1** S. 36 excluded (27.6.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 8 para. 25(b)** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/652, reg. 12(e)(iii)

**Marginal Citations**

- M1** 1996 c. 16.

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