

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Authorisation of surveillance and human intelligence sources

Section 15: Quashing of authorisations etc.

58. This section gives Surveillance Commissioners the power to quash or cancel an authorisation for intrusive surveillance.
59. Under *subsection (1)*, an ordinary Surveillance Commissioner may quash an authorisation, with effect from the time of the grant of the authorisation or renewal, if he is satisfied that the criteria for authorisation in section 10 were not met at the time the authorisation was granted or renewed.
60. Alternatively, he may, under *subsection (2)*, cancel an authorisation if he is satisfied that there are no longer any reasonable grounds for being satisfied that the criteria in section 10 are met. In such a case, he may cancel the authorisation from the time that the criteria, in his opinion, ceased to be met.
61. *Subsection (3)* provides that if an authorisation was granted or renewed by way of the urgency procedure, and the ordinary Surveillance Commissioner is not satisfied that, at the time of grant or renewal, there were reasonable grounds for being satisfied that the case is one of urgency, he may quash the authorisation.
62. He may also, under *subsections (4) and (5)*, order the destruction of records. Where an authorisation is cancelled, he may order the destruction of records only from the time the authorisation no longer meets the criteria specified in section 10.
63. *Subsection (6)* provides that no order may be made under section 15 for the destruction of any records which are required for pending criminal or civil proceedings.
64. *Subsection (7)* provides that where an ordinary Surveillance Commissioner exercises a power conferred by this section, he must make a report of his actions, together with his reasons, as soon as reasonably practicable, to the most senior relevant person and to the Chief Surveillance Commissioner.
65. *Subsection (8)* provides that an order to destroy records does not become operative until after the period allowed for appealing against the decision or the dismissal of such an appeal.