



Regulation of Investigatory Powers (Scotland) Act 2000

2000 asp 11

Authorisation of surveillance and human intelligence sources

16 Appeals against decisions by [^{F1}Judicial Commissioners]

(1) [^{F2}A person who granted an authorisation for the carrying out of intrusive surveillance] may appeal to the [^{F3}Investigatory Powers Commissioner] against any of the following

- (a) any refusal of [^{F4}a Judicial Commissioner (other than the Investigatory Powers Commissioner)] to approve [^{F5}the authorisation];
- (b) any decision of such a Commissioner to quash or cancel [^{F6}the] authorisation;
- (c) any decision of such a Commissioner to make an order under section 15 above for the destruction of records.

[^{F7}(1A) Where an authorisation for the carrying out of intrusive surveillance is granted by a senior officer of the Police Service designated by the chief constable under section 10(1A)(a), the chief constable shall also be entitled to appeal under this section.

(1B) Where an authorisation for the carrying out of intrusive surveillance is granted by a staff officer designated by the Police Investigations and Review Commissioner under section 12ZA(2), the Commissioner shall also be entitled to appeal under this section.”.]

^{F8}(2)

(3) An appeal under this section must be brought within the period of seven days beginning with the day on which the refusal or decision appealed against is reported to the appellant.

(4) Subject to subsection (5) below, the [^{F9}Investigatory Powers Commissioner] , on an appeal under this section, shall allow the appeal—

- (a) if satisfied that there were reasonable grounds for being satisfied that the requirements of section 10(2)(a) and (b) above were satisfied in relation to the authorisation at the time in question; or

Changes to legislation: There are currently no known outstanding effects for the Regulation of Investigatory Powers (Scotland) Act 2000, Section 16. (See end of Document for details)

- (b) if not satisfied that the authorisation is one of which notice was given in accordance with section 13(3)(b) above without there being any reasonable grounds for being satisfied that the case was one of urgency.
- (5) If, on an appeal falling within subsection (1)(b) above, the [^{F9}Investigatory Powers Commissioner] —
- (a) is satisfied that grounds exist which justify the quashing or cancellation under section 15 above of the authorisation in question; but
- (b) considers that the authorisation should have been quashed or cancelled from a different time from that from which it was quashed or cancelled by the [^{F10}Judicial Commissioner] against whose decision the appeal is brought, the [^{F9}Investigatory Powers Commissioner] may modify the [^{F11}Judicial Commissioner's] decision to quash or cancel the authorisation, and any related decision for the destruction of records, so as to give effect to the decision under section 15 above that the [^{F9}Investigatory Powers Commissioner] considers should have been made.
- (6) Where, on appeal under this section against a decision to quash or cancel an authorisation, the [^{F9}Investigatory Powers Commissioner] allows the appeal the Commissioner shall also quash any related order for the destruction of records relating to information obtained by the authorised conduct.

^{F8}(7)

Textual Amendments

- F1** Words in s. 16 heading substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), s. 272\(1\), Sch. 10 para. 87](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(j)
- F2** Words in s. 16(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 7 para. 15\(8\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F3** Words in s. 16(1) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(5\)\(b\)](#), 272(1) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F4** Words in s. 16(1)(a) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(5\)\(e\)](#), 272(1) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F5** Words in s. 16(1)(a) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 7 para. 15\(8\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F6** Word in s. 16(1)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 7 para. 15\(8\)\(c\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F7** S. 16(1A)(1B) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 7 para. 15\(8\)\(d\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F8** S. 16(2)(7) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 8 Pt. 1](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F9** Words in s. 16(4)-(6) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(5\)\(b\)](#), 272(1) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F10** Words in s. 16(5)(b) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(5\)\(f\)](#), 272(1) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F11** Words in s. 16(5) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(5\)\(g\)](#), 272(1) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)

Changes to legislation: *There are currently no known outstanding effects for the Regulation of Investigatory Powers (Scotland) Act 2000, Section 16. (See end of Document for details)*

Modifications etc. (not altering text)

- C1** S. 16 excluded (26.9.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 8 para. 26(d)** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/940, reg. 3(g)(ii)

Changes to legislation:

There are currently no known outstanding effects for the Regulation of Investigatory Powers (Scotland) Act 2000, Section 16.