

SCHEDULE 7
MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS RELATING TO PART 1

Regulation of Investigatory Powers (Scotland) Act 2000 (asp 11)

- 15 (1) The Regulation of Investigatory Powers (Scotland) Act 2000 is amended as follows.
- (2) In section 5 (lawful surveillance etc.), in subsection (3)(b), for “a police force” substitute “the Police Service”.
- (3) In section 8(3) (entitlement to grant authorisations)—
- (a) for paragraph (a) substitute—
“*(aa)* the Police Service;”,
 - (b) after paragraph (c) insert—
“*(ca)* the Police Investigations and Review Commissioner;”.
- (4) In section 10(1A) (persons who may authorise intrusive surveillance)—
- (a) in paragraph (a), for “every police force” substitute “the Police Service and any other senior officer of the Police Service who is designated by the chief constable for the purposes of this section”,
 - (b) after paragraph (a) insert—
“*(aa)* the Police Investigations and Review Commissioner;”.
- (5) In section 11 (rules for grant of authorisations)—
- (a) in subsection (1)—
 - (i) for “a police force” substitute “the Police Service”,
 - (ii) for “member of the same force” substitute “constable of the Police Service”,
 - (b) for subsection (2) substitute—
“*(2)* An authorisation for the carrying out of intrusive surveillance shall not be granted by the chief constable or any other senior officer of the Police Service except on an application by a constable of the Police Service.”,
 - (c) after subsection (2) insert—
“*(2A)* The Police Investigations and Review Commissioner shall not grant an authorisation for the carrying out of intrusive surveillance except—
 - (a) on an application by one of the Commissioner’s staff officers; and
 - (b) where the intrusive surveillance is to be carried out in relation to an investigation carried out in pursuance of paragraph (b)(i) of section 33A of the Police, Public Order and Criminal Justice (Scotland) Act 2006.”,
 - (d) in subsection (4)—
 - (i) in paragraph (a)—

Status: This is the original version (as it was originally enacted).

- (A) for the words from “by” to “Agency” substitute “—
 - (i) by, or on the application of, a constable of the Police Service;”,
- (B) after the words inserted by paragraph (A) insert—
 - “(ii) by the Police Investigations and Review Commissioner; or
 - (iii) by, or on the application of, a staff officer of the Police Investigations and Review Commissioner”,
- (ii) in paragraph (b)(i), for the words from “member” to “or” substitute “constable of the Police Service, the Police Service; or
 - (ia) where that individual is the Police Investigations and Review Commissioner or a staff officer of that Commissioner, the Commissioner.”.

(6) After section 12 insert—

“12ZA Grant of authorisation in cases of urgency: Police Investigations and Review Commissioner

- (1) This section applies in the case of an application to the Police Investigations and Review Commissioner for an authorisation for the carrying out of intrusive surveillance where the case is urgent.
 - (2) If it is not reasonably practicable, having regard to the urgency of the case, for the application to be considered by the Police Investigations and Review Commissioner, the application may be made to and considered by any staff officer of the Commissioner whom the Commissioner designates for the purposes of this section.”.
- (7) In section 14(5)(a) (approval required for authorisations to take effect), for the words from “member” to “and” substitute “constable of the Police Service, the chief constable of the Police Service; and
- (aa) in relation to an authorisation granted on an application by a staff officer of the Police Investigations and Review Commissioner, the Police Investigations and Review Commissioner.”.
- (8) In section 16 (appeals against decisions by Surveillance Commissioners)—
- (a) in the opening words of subsection (1), for the words from “A” to “Agency” substitute “A person who granted an authorisation for the carrying out of intrusive surveillance”,
 - (b) in subsection (1)(a), for the words from “an”, where second occurring, to “surveillance” substitute “the authorisation”,
 - (c) in subsection (1)(b), for “such an” substitute “the”,
 - (d) after subsection (1) insert—
 - “(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.

Status: This is the original version (as it was originally enacted).

- (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.”.”.
- (9) In section 18 (information to be provided to the Surveillance Commissioners)—
- (a) in paragraph (a), for “member of a police force” substitute “constable of the Police Service”,
 - (b) after that paragraph insert—
 - “(aa) the Police Investigations and Review Commissioner and every staff officer of the Commissioner.”.
- (10) In section 20 (cancellation of authorisations) after subsection (2) insert—
- “(2A) Where an authorisation under this Act was granted or, as the case may be, last renewed by a senior officer of the Police Service and it is not reasonably practicable for that senior officer to cancel it under subsection (1) above, any senior officer of the Police Service designated by the chief constable for the purposes of section 10 above may cancel the authorisation if satisfied as to either of the matters mentioned in subsection (1) above.
- (2B) Where an authorisation under this Act was granted or, as the case may be, last renewed by the Police Investigations and Review Commissioner and it is not reasonably practicable for the Commissioner to cancel it under subsection (1) above, any person designated by the Commissioner for the purposes of section 12ZA above may cancel the authorisation if satisfied as to either of the matters mentioned in subsection (1) above.”.
- (11) In section 23(5)(b) (complaints to the Tribunal)—
- (a) for “a police force” substitute “the Police Service”,
 - (b) after the words inserted by sub-paragraph (a) insert “or to the Police Investigations and Review Commissioner”,
 - (c) repeal the words “or to the Scottish Crime and Drug Enforcement Agency”.
- (12) In section 24(2)(b) (issue and revision of codes of practice)—
- (a) for “a police force” substitute “the Police Service”,
 - (b) after the words inserted by sub-paragraph (a) insert “or to the Police Investigations and Review Commissioner”,
 - (c) repeal the words “or to the Scottish Crime and Drug Enforcement Agency”.
- (13) In section 26(4)(c) (effect of codes of practice)—
- (a) for “a police force” substitute “the Police Service”,
 - (b) after the words inserted by sub-paragraph (a) insert “or the Police Investigations and Review Commissioner”.
- (14) In section 31(interpretation)—
- (a) in subsection (1), for the definition of “police force” substitute—
 - ““Police Service” means the Police Service of Scotland;”,
 - (b) after the definition of “residential premises” insert—
 - ““senior officer” has the same meaning as in the Police and Fire Reform (Scotland) Act 2012 (asp 8);”,

Status: This is the original version (as it was originally enacted).

(c) after subsection (4) insert—

“(4A) References in this Act to a staff officer of the Police Investigations and Review Commissioner are references to any person who—

- (a) is a member of the Commissioner’s staff appointed under paragraph 7A of schedule 4 to the Police, Public Order and Criminal Justice (Scotland) Act 2006; or
- (b) is a member of the Commissioner’s staff appointed under paragraph 7 of that schedule to whom paragraph 7B(2) of that schedule applies.”.