



Intelligence Services Act 1994

1994 CHAPTER 13

Authorisation of certain actions

5 Warrants: general.

- (1) No entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorised by a warrant issued by the Secretary of State under this section.
- (2) The Secretary of State may, on an application made by the Security Service, the Intelligence Service or GCHQ, issue a warrant under this section authorising the taking^{F1}... of such action as is specified in the warrant in respect of any property so specified or in respect of wireless telegraphy so specified if the Secretary of State—
 - (a) thinks it necessary for the action to be taken [^{F2}for the purpose of] assisting, as the case may be,—
 - (i) the Security Service in carrying out any of its functions under the 1989 Act; or
 - (ii) the Intelligence Service in carrying out any of its functions under section 1 above; or
 - (iii) GCHQ in carrying out any function which falls within section 3(1)(a) above; and
 - [^{F3}(b) is satisfied that the taking of the action is proportionate to what the action seeks to achieve;]
 - (c) is satisfied that satisfactory arrangements are in force under section 2(2)(a) of the 1989 Act (duties of the Director-General of the Security Service), section 2(2)(a) above or section 4(2)(a) above with respect to the disclosure of information obtained by virtue of this section and that any information obtained under the warrant will be subject to those arrangements.
- [^{F4}(2A) The matters to be taken into account in considering whether the requirements of subsection (2)(a) and (b) are satisfied in the case of any warrant shall include whether what it is thought necessary to achieve by the conduct authorised by the warrant could reasonably be achieved by other means.]

[^{F5}(3) ^{F6}.....]

Changes to legislation: Intelligence Services Act 1994, Section 5 is up to date with all changes known to be in force on or before 17 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3A) A warrant issued on the application of the Security Service for the purposes of the exercise of their function under section 1(4) of the ^{M1}Security Service Act 1989 [^{F7}, or on the application of the Intelligence Service or GCHQ for the purposes of the exercise of their functions by virtue of section 1(2)(c) or 3(2)(c),] may not relate to property in the British Islands unless it authorises the taking of action in relation to conduct within subsection (3B) below.
- (3B) Conduct is within this subsection if it constitutes (or, if it took place in the United Kingdom, would constitute) one or more offences, and either—
- (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.]
- (4) Subject to subsection (5) below, the Security Service may make an application under subsection (2) above for a warrant to be issued authorising that Service (or a person acting on its behalf) to take such action as is specified in the warrant on behalf of the Intelligence Service or GCHQ and, where such a warrant is issued, the functions of the Security Service shall include the carrying out of the action so specified, whether or not it would otherwise be within its functions.
- (5) The Security Service may not make an application for a warrant by virtue of subsection (4) above except where the action proposed to be authorised by the warrant—
- (a) is action in respect of which the Intelligence Service or, as the case may be, GCHQ could make such an application; and
 - (b) is to be taken otherwise than in support of the prevention or detection of serious crime.

Textual Amendments

- F1** Words in s. 5(2) omitted (13.2.2017) by virtue of [Investigatory Powers Act 2016 \(c. 25\), ss. 251\(3\)\(a\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2017/137](#), reg. 2(r)
- F2** Words in s. 5(2)(a) substituted (25.9.2000) by [2000 c. 23, s. 74\(1\)\(a\)](#) (with s. 82(3)); [S.I. 2000/2543](#), [art. 2](#)
- F3** S. 5(2)(b) substituted (25.9.2000) by [2000 c. 23, s. 74\(1\)\(b\)](#) (with s. 82(3)); [S.I. 2000/2543](#), [art. 2](#)
- F4** S. 5(2A) inserted (25.9.2000) by [2000 c. 23, s. 74\(2\)](#) (with s. 82(3)); [S.I. 2000/2543](#), [art. 2](#)
- F5** S. 5(3)(3A)(3B) substituted for s. 5(3) (14.10.1996) by [1996 c. 35, s. 2](#); [S.I. 1996/2454](#), [art. 2](#)
- F6** S. 5(3) omitted (13.2.2017) by virtue of [Investigatory Powers Act 2016 \(c. 25\), ss. 251\(3\)\(b\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2017/137](#), reg. 2(r)
- F7** Words in s. 5(3A) inserted (13.2.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 251\(3\)\(c\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2017/137](#), reg. 2(r)

Modifications etc. (not altering text)

- C1** S. 5: Certain functions transferred (S.) (1.7.1999) by [S.I. 1999/1750](#), art. 2, [Sch. 1](#)
S. 5 amended (2.10.2000) by [2000 c. 23, s. 59\(2\)\(a\)](#) (with s. 82(3)); [S.I. 2000/2543](#), [art. 3](#)
- C2** S. 5: certain functions made exercisable (S.) (30.6.1999) by [S.I. 1999/1748](#), art. 3, [Sch. 1 para. 15\(1\)](#)
- C3** S. 5(1) extended (with modifications) (Jersey, Guernsey) (15.12.1994) by [S.I. 1994/2955](#), art. 2, [Sch.](#)

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Commencement Information

- II** S. 5 wholly in force at 15.12.1994; S. 5 not in force at Royal Assent, see s. 12(2); s. 5 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by [S.I. 1994/2734](#), [art. 2](#)

Marginal Citations

- M1** [1989 c. 5](#).

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Changes and effects yet to be applied to :

- s. 5(3B)(b) by [2000 c. 43 Sch. 7 para. 119](#)