



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART II

#### SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES

##### *Grant, renewal and duration of authorisations*

#### **43 General rules about grant, renewal and duration.**

- (1) An authorisation under this Part—
- may be granted or renewed orally in any urgent case in which the entitlement to act of the person granting or renewing it is not confined to urgent cases; and
  - in any other case, must be in writing.

[<sup>F1</sup>(1A) Subsection (1)(a) does not apply in relation to an authorisation under section 28 or 29 to which section 32A applies.]

- (2) A single authorisation may combine two or more different authorisations under this Part; but the provisions of this Act that are applicable in the case of each of the authorisations shall apply separately in relation to the part of the combined authorisation to which they are applicable.
- (3) Subject to subsections (4) and (8), an authorisation under this Part shall cease to have effect at the end of the following period—
- in the case of an authorisation which—
    - has not been renewed and was granted either orally or by a person whose entitlement to act is confined to urgent cases, or
    - was last renewed either orally or by such a person,the period of seventy-two hours beginning with the time when the grant of the authorisation or, as the case may be, its latest renewal takes effect;

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- (b) in a case not falling within paragraph (a) in which the authorisation is for the conduct or the use of a covert human intelligence source, the period of twelve months beginning with the day on which the grant of the authorisation or, as the case may be, its latest renewal takes effect; and
  - (c) in any case not falling within paragraph (a) or (b), the period of three months beginning with the day on which the grant of the authorisation or, as the case may be, its latest renewal takes effect.
- (4) Subject to subsection (6), an authorisation under this Part may be renewed, at any time before the time at which it ceases to have effect, by any person who would be entitled to grant a new authorisation in the same terms.
- (5) Sections 28 to 41 shall have effect in relation to the renewal of an authorisation under this Part as if references to the grant of an authorisation included references to its renewal.
- (6) A person shall not renew an authorisation for the conduct or the use of a covert human intelligence source, unless he—
- (a) is satisfied that a review has been carried out of the matters mentioned in subsection (7); and
  - (b) has, for the purpose of deciding whether he should renew the authorisation, considered the results of that review.
- [<sup>F2</sup>(6A) The relevant judicial authority (within the meaning given by subsection (7) of section 32A) shall not make an order under that section approving the renewal of an authorisation for the conduct or the use of a covert human intelligence source unless the relevant judicial authority—
- (a) is satisfied that a review has been carried out of the matters mentioned in subsection (7) below, and
  - (b) has, for the purpose of deciding whether to make the order, considered the results of that review.]
- (7) The matters mentioned in [<sup>F3</sup>subsections (6) and (6A)] are—
- (a) the use made of the source in the period since the grant or, as the case may be, latest renewal of the authorisation; and
  - (b) the tasks given to the source during that period and the information obtained from the conduct or the use of the source.
- (8) The Secretary of State may by order provide in relation to authorisations of such descriptions as may be specified in the order that subsection (3) is to have effect as if the period at the end of which an authorisation of a description so specified is to cease to have effect were such period shorter than that provided for by that subsection as may be fixed by or determined in accordance with that order.
- (9) References in this section to the time at which, or the day on which, the grant or renewal of an authorisation takes effect are references—
- (a) in the case of the grant of an authorisation to which paragraph (c) does not apply, to the time at which or, as the case may be, day on which the authorisation is granted;
  - (b) in the case of the renewal of an authorisation to which paragraph (c) does not apply, to the time at which or, as the case may be, day on which the authorisation would have ceased to have effect but for the renewal; and

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- (c) in the case of any grant or renewal that takes effect under subsection (2) of section [F<sup>4</sup>32A or] 36 at a time or on a day later than that given by paragraph (a) or (b), to the time at which or, as the case may be, day on which the grant or renewal takes effect in accordance with that subsection.
- (10) In relation to any authorisation granted by a member of any of the intelligence services, and in relation to any authorisation contained in a warrant issued by the Secretary of State on the application of a member of any of the intelligence services, this section has effect subject to the provisions of section 44.

#### Textual Amendments

- F1** S. 43(1A) inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 9\(2\)](#) (with s. 97); [S.I. 2012/2075, art. 4\(d\)](#)
- F2** S. 43(6A) inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 38\(2\)\(a\), 120](#) (with s. 97); [S.I. 2012/2075, art. 4\(b\)](#) (with art. 6)
- F3** Words in s. 43(7) substituted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 38\(2\)\(b\), 120](#) (with s. 97); [S.I. 2012/2075, art. 4\(b\)](#) (with art. 6)
- F4** Words in s. 43(9)(c) inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 9\(3\)](#) (with s. 97); [S.I. 2012/2075, art. 4\(d\)](#)

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

- C1** S. 43(3) modified (6.11.2000) by [S.I. 2000/2793, art. 6](#) (as amended (10.8.2021 for specified purposes, 15.9.2021 for specified purposes, 30.9.2021 in so far as not already in force) by [Covert Human Intelligence Sources \(Criminal Conduct\) Act 2021 \(c. 4\), ss. 2\(7\), 9\(2\)](#) (with s. 2(9)); [S.I. 2021/605, reg. 2\(a\)\(b\)\(c\)](#))
- S.43 applied (with modifications) (16.3.2001) by [S.I. 2001/1057, art. 4](#)
- C2** S. 43(3) modified (1.2.2010) by [The Regulation of Investigatory Powers \(Covert Human Intelligence Sources: Matters Subject to Legal Privilege\) Order 2009 \(S.I. 2009/3404\), art. 8](#)
- C3** S. 43(3) modified (18.2.2010) by [The Regulation of Investigatory Powers \(Covert Human Intelligence Sources: Matters Subject to Legal Privilege\) Order 2010 \(S.I. 2010/123\), art. 8](#)
- C4** S. 43(3) modified (1.1.2014) by [The Regulation of Investigatory Powers \(Covert Human Intelligence Sources: Relevant Sources\) Order 2013 \(S.I. 2013/2788\), arts. 1, 3](#) (with art. 17)

## 44 Special rules for intelligence services authorisations.

- (1) Subject to subsection (2), a warrant containing an authorisation for the carrying out of intrusive surveillance—
- (a) shall not be issued on the application of a member of any of the intelligence services, and
- (b) if so issued shall not be renewed,
- except under the hand of the Secretary of State [F<sup>5</sup>or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive.]
- (2) In an urgent case in which—
- (a) an application for a warrant containing an authorisation for the carrying out of intrusive surveillance has been made by a member of any of the intelligence services, and

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- (b) the Secretary of State has himself [<sup>F6</sup>or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) have themselves] expressly authorised the issue of the warrant in that case,  
the warrant may be issued (but not renewed) under the hand of a senior official [<sup>F7</sup>or as the case may be, a member of the staff of the Scottish Administration who is a member of the Senior Civil Service and is designated by the Scottish Ministers as a person under whose hand a warrant may be issued in such a case (in this section referred to as “a designated official”)]
- (3) Subject to subsection (6), a warrant containing an authorisation for the carrying out of intrusive surveillance which—
- (a) was issued, on the application of a member of any of the intelligence services, under the hand of a senior official [<sup>F8</sup>or, as the case may be, a designated official] and
- (b) has not been renewed under the hand of the Secretary of State [<sup>F9</sup>or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 3 of the Scotland Act 1998), a member of the Scottish Executive],
- shall cease to have effect at the end of the second working day following the day of the issue of the warrant, instead of at the time provided for by section 43(3).
- (4) Subject to subsections (3) and (6), where any warrant for the carrying out of intrusive surveillance which is issued or was last renewed on the application of a member of any of the intelligence services, the warrant (unless renewed or, as the case may be, renewed again) shall cease to have effect at the following time, instead of at the time provided for by section 43(3), namely—
- (a) in the case of a warrant that has not been renewed, at the end of the period of six months beginning with the day on which it was issued; and
- (b) in any other case, at the end of the period of six months beginning with the day on which it would have ceased to have effect if not renewed again.
- (5) Subject to subsection (6), where—
- (a) an authorisation for the carrying out of directed surveillance is granted by a member of any of the intelligence services, and
- (b) the authorisation is renewed by an instrument endorsed under the hand of the person renewing the authorisation with a statement that the renewal is believed to be necessary on grounds falling within section 32(3)(a) or (c),
- the authorisation (unless renewed again) shall cease to have effect at the end of the period of six months beginning with the day on which it would have ceased to have effect but for the renewal, instead of at the time provided for by section 43(3).
- (6) The Secretary of State may by order provide in relation to authorisations of such descriptions as may be specified in the order that subsection (3), (4) or (5) is to have effect as if the period at the end of which an authorisation of a description so specified is to cease to have effect were such period shorter than that provided for by that subsection as may be fixed by or determined in accordance with that order.
- (7) Notwithstanding anything in section 43(2), in a case in which there is a combined warrant containing both—
- (a) an authorisation for the carrying out of intrusive surveillance, and
- (b) an authorisation for the carrying out of directed surveillance,

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the reference in subsection (4) of this section to a warrant for the carrying out of intrusive surveillance is a reference to the warrant so far as it confers both authorisations.

#### Textual Amendments

- F5** Words in s. 44(1) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), [Sch. 3 Pt. II para. 8\(a\)](#) (with [art. 6](#))
- F6** Words in s. 44(2) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), [Sch. 3 Pt. II para. 8\(b\)\(i\)](#) (with [art. 6](#))
- F7** Words inserted at the end of s. 44(2) (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), [Sch. 3 Pt. II para. 8\(b\)\(ii\)](#) (with [art. 6](#))
- F8** Words in s. 44(3)(a) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), [Sch. 3 Pt. II para. 8\(c\)\(i\)](#) (with [art. 6](#))
- F9** Words in s. 44(3)(b) inserted (S.) (15.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 4(1), [Sch. 3 Pt. II para. 8\(c\)\(ii\)](#) (with [art. 6](#))

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

- C5** S. 44 excluded by 2016 c. 25, Sch. 8 para. 27(4) (as inserted (26.7.2018) by [The Investigatory Powers \(Codes of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/905\)](#), arts. 1(3), [6](#))
- C6** S. 44(1)(2)(b) modified (S.) (14.12.2000) by [S.I. 2000/3253](#), arts. 1(1)(2), 2, [Sch. 1 para. 5](#) (with [art. 6](#))
- C7** S. 44(1)(2)(b): functions transferred to the Scottish Ministers (S.) (15.12.2000) by virtue of [S.I. 2000/3253](#), arts. 1(1)(3), 3, [Sch. 2](#) (with [art. 6](#))

## 45 Cancellation of authorisations.

- (1) The person who granted or, as the case may be, last renewed an authorisation under this Part shall cancel it if—
- he is satisfied that the authorisation is one in relation to which the requirements of section 28(2)(a) and (b), 29(2)(a) and (b) or, as the case may be, 32(2)(a) and (b) are no longer satisfied; or
  - in the case of an authorisation under section 29, he is satisfied that arrangements for the source's case that satisfy the requirements mentioned in subsection (2)(c) of that section no longer exist.
- (2) Where an authorisation under this Part was granted or, as the case may be, last renewed—
- by a person entitled to act for any other person, or
  - by the deputy of any other person,
- that other person shall cancel the authorisation if he is satisfied as to either of the matters mentioned in subsection (1).
- (3) Where an authorisation under this Part was granted or, as the case may be, last renewed by a person whose deputy had power to grant it, that deputy shall cancel the authorisation if he is satisfied as to either of the matters mentioned in subsection (1).
- (4) The Secretary of State may by regulations provide for the person by whom any duty imposed by this section is to be performed in a case in which it would otherwise fall on a person who is no longer available to perform it.

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- (5) Regulations under subsection (4) may provide for the person on whom the duty is to fall to be a person appointed in accordance with the regulations.
- (6) The references in this section 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>F10</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; <sup>F11</sup> . . . [<sup>F12</sup>and]
  - (c) in relation to the Chief Constable of the Royal Ulster Constabulary, to the Deputy Chief Constable of the Royal Ulster Constabulary; <sup>F13</sup> . . .
  - <sup>F13</sup>(ca) . . . . .
  - (d) <sup>F14</sup> . . . . .
  - (e) <sup>F14</sup> . . . . .
- (7) In this section “designated deputy” has the same meaning as in section 34.

#### Textual Amendments

- F10** S. 45(6)(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(14)(a)**
- F11** Word in s. 45(6)(b) omitted (1.4.2007) by virtue of [The Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(Consequential Provisions and Modifications\) Order 2007 \(S.I. 2007/1098\)](#), arts. 1(3), 6, **Sch. para. 4(7)(a)**
- F12** Word in s. 45(6) inserted (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(14)(b)**
- F13** S. 45(6)(ca) and word omitted (1.4.2013) by virtue of [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(14)(c)**
- F14** S. 45(6)(d)(e) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 174, 178, **Sch. 4 para. 143(b)**, **Sch. 17**; S.I. 2006/378, **art. 4(1)**, **Sch. paras. 10, 13(hh)** (subject to art. 4(2)-(7))

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

- C8** S. 45 applied (with modifications) (16.3.2001) by [S.I. 2001/1057](#), **art. 5**
- C9** S. 45(1): functions transferred to the Scottish Ministers (15.12.2000) by virtue of [S.I. 2000/3253](#), arts. 1(1)(3), 3, **Sch. 2** (with **art. 6**)
- C10** S. 45(1)(a) modified (S.) (14.12.2000) by [S.I. 2000/3253](#), arts. 1(1), 2, **Sch. 1 para. 5** (with **art. 6**)

#### Marginal Citations

- M1** 1996 c. 16.

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