



# Intelligence Services Act 1994

## 1994 CHAPTER 13

An Act to make provision about the Secret Intelligence Service and the Government Communications Headquarters, including provision for the issue of warrants and authorisations enabling certain actions to be taken and for the issue of such warrants and authorisations to be kept under review; to make further provision about warrants issued on applications by the Security Service; to establish a procedure for the investigation of complaints about the Secret Intelligence Service and the Government Communications Headquarters; to make provision for the establishment of an Intelligence and Security Committee to scrutinise all three of those bodies; and for connected purposes. [26th May 1994]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Commencement Information

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

### *The Secret Intelligence Service*

#### **1 The Secret Intelligence Service.**

- (1) There shall continue to be a Secret Intelligence Service (in this Act referred to as “the Intelligence Service”) under the authority of the Secretary of State; and, subject to subsection (2) below, its functions shall be—
- (a) to obtain and provide information relating to the actions or intentions of persons outside the British Islands; and
  - (b) to perform other tasks relating to the actions or intentions of such persons.

*Status: Point in time view as at 08/02/2007.*

*Changes to legislation: Intelligence Services Act 1994 is up to date with all changes known to be in force on or before 08 July 2023. 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)*

- (2) The functions of the Intelligence Service shall be exercisable only—
- (a) in the interests of national security, with particular reference to the defence and foreign policies of Her Majesty's Government in the United Kingdom; or
  - (b) in the interests of the economic well-being of the United Kingdom; or
  - (c) in support of the prevention or detection of serious crime.

#### Commencement Information

**I2** S. 1 wholly in force at 15.12.1994; S. 1 not in force at Royal Assent, see s. 12(2); s. 1 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2

## 2 The Chief of the Intelligence Service.

- (1) The operations of the Intelligence Service shall continue to be under the control of a Chief of that Service appointed by the Secretary of State.
- (2) The Chief of the Intelligence Service shall be responsible for the efficiency of that Service and it shall be his duty to ensure—
- (a) that there are arrangements for securing that no information is obtained by the Intelligence Service except so far as necessary for the proper discharge of its functions and that no information is disclosed by it except so far as necessary—
    - (i) for that purpose;
    - (ii) in the interests of national security;
    - (iii) for the purpose of the prevention or detection of serious crime; or
    - (iv) for the purpose of any criminal proceedings; and
  - (b) that the Intelligence Service does not take any action to further the interests of any United Kingdom political party.
- (3) Without prejudice to the generality of subsection (2)(a) above, the disclosure of information shall be regarded as necessary for the proper discharge of the functions of the Intelligence Service if it consists of—
- (a) the disclosure of records subject to and in accordance with the <sup>M1</sup>Public Records Act 1958; or
  - (b) the disclosure, subject to and in accordance with arrangements approved by the Secretary of State, of information to the Comptroller and Auditor General for the purposes of his functions.
- (4) The Chief of the Intelligence Service shall make an annual report on the work of the Intelligence Service to the Prime Minister and the Secretary of State and may at any time report to either of them on any matter relating to its work.

#### Commencement Information

**I3** S. 2 wholly in force at 15.12.1994; S. 2 not in force at Royal Assent, see s. 12(2); s. 2 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** 1958 c. 51.

*Status: Point in time view as at 08/02/2007.*

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## GCHQ

### 3 The Government Communications Headquarters.

- (1) There shall continue to be a Government Communications Headquarters under the authority of the Secretary of State; and, subject to subsection (2) below, its functions shall be—
  - (a) to monitor or interfere with electromagnetic, acoustic and other emissions and any equipment producing such emissions and to obtain and provide information derived from or related to such emissions or equipment and from encrypted material; and
  - (b) to provide advice and assistance about—
    - (i) languages, including terminology used for technical matters, and
    - (ii) cryptography and other matters relating to the protection of information and other material,to the armed forces of the Crown, to Her Majesty's Government in the United Kingdom or to a Northern Ireland Department or to any other organisation which is determined for the purposes of this section in such manner as may be specified by the Prime Minister.
- (2) The functions referred to in subsection (1)(a) above shall be exercisable only—
  - (a) in the interests of national security, with particular reference to the defence and foreign policies of Her Majesty's Government in the United Kingdom; or
  - (b) in the interests of the economic well-being of the United Kingdom in relation to the actions or intentions of persons outside the British Islands; or
  - (c) in support of the prevention or detection of serious crime.
- (3) In this Act the expression "GCHQ" refers to the Government Communications Headquarters and to any unit or part of a unit of the armed forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

#### Commencement Information

- I4** S. 3 wholly in force at 15.12.1994; S. 3 not in force at Royal Assent, see s. 12(2); s. 3 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2

### 4 The Director of GCHQ.

- (1) The operations of GCHQ shall continue to be under the control of a Director appointed by the Secretary of State.
- (2) The Director shall be responsible for the efficiency of GCHQ and it shall be his duty to ensure—
  - (a) that there are arrangements for securing that no information is obtained by GCHQ except so far as necessary for the proper discharge of its functions and that no information is disclosed by it except so far as necessary for that purpose or for the purpose of any criminal proceedings; and
  - (b) that GCHQ does not take any action to further the interests of any United Kingdom political party.

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- (3) Without prejudice to the generality of subsection (2)(a) above, the disclosure of information shall be regarded as necessary for the proper discharge of the functions of GCHQ if it consists of—
- (a) the disclosure of records subject to and in accordance with the <sup>M2</sup>Public Records Act 1958; or
  - (b) the disclosure, subject to and in accordance with arrangements approved by the Secretary of State, of information to the Comptroller and Auditor General for the purposes of his functions.
- (4) The Director shall make an annual report on the work of GCHQ to the Prime Minister and the Secretary of State and may at any time report to either of them on any matter relating to its work.

#### Commencement Information

**I5** S. 4 wholly in force at 15.12.1994; S. 4 not in force at Royal Assent, see s. 12(2); s. 4 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

**M2** 1958 c. 51.

### *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, subject to subsection (3) below, 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 [<sup>F1</sup>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
  - [<sup>F2</sup>(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.

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- [<sup>F3</sup>(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.]
- [<sup>F4</sup>(3) A warrant issued 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) above may not relate to property in the British Islands.
- (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 <sup>M3</sup>Security Service Act 1989 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)(a) substituted (25.9.2000) by 2000 c. 23, s. 74(1)(a) (with s. 82(3)); S.I. 2000/2543, art. 2
- F2** 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
- F3** S. 5(2A) inserted (25.9.2000) by 2000 c. 23, s. 74(2) (with s. 82(3)); S.I. 2000/2543, art. 2
- F4** 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

#### 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

**I6** 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

**M3** [1989 c. 5](#).

## 6 Warrants: procedure and duration, etc.

(1) A warrant shall not be issued except—

- (a) under the hand of the Secretary of State <sup>[F5]</sup>or in the case of a warrant by the Scottish Minister (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive] ; or
- (b) in an urgent case where the Secretary of State has expressly authorised its issue and a statement of that fact is endorsed on it, under the hand of a senior official <sup>F6</sup> . . . <sup>[F7]</sup>; or
- (c) in an urgent case where, the Scottish Ministers have (by virtue of provision made under section 63 of the Scotland Act 1998) expressly authorised its issue and a statement of that fact is endorsed thereon, under the hand of a member of the staff of the Scottish Administration who is in 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.]]<sup>F8</sup> or
- (d) in an urgent case where the Secretary of State has expressly authorised the issue of warrants in accordance with this paragraph by specified senior officials and a statement of that fact is endorsed on the warrant, under the hand of any of the specified officials.]

<sup>[F9]</sup>(1A) But a warrant issued in accordance with subsection (1)(d) may authorise the taking of an action only if the action is an action in relation to property which, immediately before the issue of the warrant, would, if done outside the British Islands, have been authorised by virtue of an authorisation under section 7 that was in force at that time.”

(1B) A senior official who issues a warrant in accordance with subsection (1)(d) must inform the Secretary of State about the issue of the warrant as soon as practicable after issuing it.]

(2) A warrant shall, unless renewed under subsection (3) below, cease to have effect—

- (a) if the warrant was under the hand of the Secretary of State <sup>[F10]</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], 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 ending with the <sup>[F11]</sup>fifth] working day following that day.

(3) If at any time before the day on which a warrant would cease to have effect the Secretary of State considers it necessary for the warrant to continue to have effect for the purpose for which it was issued, he may by an instrument under his hand renew it for a period of six months beginning with that day.

(4) The Secretary of State shall cancel a warrant if he is satisfied that the action authorised by it is no longer necessary.

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- (5) In the preceding provisions of this section “warrant ” means a warrant under section 5 above.
- (6) As regards the Security Service, this section and section 5 above have effect in place of section 3 (property warrants) of the 1989 Act, and accordingly—
- (a) a warrant issued under that section of the 1989 Act and current when this section and section 5 above come into force shall be treated as a warrant under section 5 above, but without any change in the date on which the warrant was in fact issued or last renewed; and
  - (b) section 3 of the 1989 Act shall cease to have effect.

#### Textual Amendments

- F5** Words in s. 6(1)(a) inserted (1.7.1999) by [S.I. 1999/1750, art. 6\(1\), Sch. 5 para. 14\(2\)\(a\)\(i\)](#)
- F6** Words in s. 6(1)(b) repealed (25.9.2000) by [2000 c. 23, ss. 74\(3\), 82\(2\), Sch. 5 \(with s. 82\(3\)\)](#); [S.I. 2000/2543, art. 2](#)
- F7** S. 6(1)(c) and word immediately before it inserted (1.7.1999) by [S.I. 1999/1750, art. 6\(1\), Sch. 5 para. 14\(1\)\(2\)\(a\)\(ii\)](#)
- F8** S. 6(1)(d) and word inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), ss. 31\(2\), 39\(2\)](#); [S.I. 2006/1013, art. 2\(2\)\(b\)](#)
- F9** S. 6(1A)(1B) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), ss. 31\(3\), 39\(2\)](#); [S.I. 2006/1013, art. 2\(2\)\(b\)](#)
- F10** Words in s. 6(2) inserted (1.7.1999) by [S.I. 1999/1750, art. 6\(1\), Sch. 5 para. 14\(1\)\(2\)\(b\)](#)
- F11** Word in s. 6(2)(b) substituted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), ss. 31\(4\), 39\(2\)](#); [S.I. 2006/1013, art. 2\(2\)\(b\)](#)

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

- C4** S. 6 amended (2.10.2000) by [2000 c. 23, s. 59\(2\)\(a\) \(with s. 82\(3\)\)](#); [S.I. 2000/2543, art. 3](#)
- C5** S. 6: certain functions transferred (1.7.1999) by [S.I. 1999/1750, art. 2, Sch. 1](#)
- C6** S. 6(6) extended (with modifications) (Jersey, Guernsey) (15.12.1994) by [S.I. 1994/2955, art. 2, Sch.](#)

#### Commencement Information

- I7** S. 6 wholly in force at 15.12.1994; S. 6 not in force at Royal Assent, see s. 12(2); s. 6 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by [S.I. 1994/2734, art. 2](#)

## 7 Authorisation of acts outside the British Islands.

- (1) If, apart from this section, a person would be liable in the United Kingdom for any act done outside the British Islands, he shall not be so liable if the act is one which is authorised to be done by virtue of an authorisation given by the Secretary of State under this section.
- (2) In subsection (1) above “liable in the United Kingdom ” means liable under the criminal or civil law of any part of the United Kingdom.
- (3) The Secretary of State shall not give an authorisation under this section unless he is satisfied—
- (a) that any acts which may be done in reliance on the authorisation or, as the case may be, the operation in the course of which the acts may be done will be necessary for the proper discharge of a function of the Intelligence Service [<sup>F12</sup>or GCHQ]; and

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- (b) that there are satisfactory arrangements in force to secure—
    - (i) that nothing will be done in reliance on the authorisation beyond what is necessary for the proper discharge of a function of the Intelligence Service [<sup>F12</sup>or GCHQ]; and
    - (ii) that, in so far as any acts may be done in reliance on the authorisation, their nature and likely consequences will be reasonable, having regard to the purposes for which they are carried out; and
  - (c) that there are satisfactory arrangements in force under section 2(2)(a) [<sup>F13</sup>or 4(2)(a)] above with respect to the disclosure of information obtained by virtue of this section and that any information obtained by virtue of anything done in reliance on the authorisation will be subject to those arrangements.
- (4) Without prejudice to the generality of the power of the Secretary of State to give an authorisation under this section, such an authorisation—
- (a) may relate to a particular act or acts, to acts of a description specified in the authorisation or to acts undertaken in the course of an operation so specified;
  - (b) may be limited to a particular person or persons of a description so specified; and
  - (c) may be subject to conditions so specified.
- (5) An authorisation shall not be given under this section except—
- (a) under the hand of the Secretary of State; or
  - (b) in an urgent case where the Secretary of State has expressly authorised it to be given and a statement of that fact is endorsed on it, under the hand of a senior official <sup>F14</sup> . . .
- (6) An authorisation shall, unless renewed under subsection (7) below, cease to have effect—
- (a) if the authorisation was given under the hand of the Secretary of State, at the end of the period of six months beginning with the day on which it was given;
  - (b) in any other case, at the end of the period ending with the [<sup>F15</sup>fifth] working day following the day on which it was given.
- (7) If at any time before the day on which an authorisation would cease to have effect the Secretary of State considers it necessary for the authorisation to continue to have effect for the purpose for which it was given, he may by an instrument under his hand renew it for a period of six months beginning with that day.
- (8) The Secretary of State shall cancel an authorisation if he is satisfied that any act authorised by it is no longer necessary.
- [<sup>F16</sup>(9) For the purposes of this section the reference in subsection (1) to an act done outside the British Islands includes a reference to any act which—
- (a) is done in the British Islands; but
  - (b) is or is intended to be done in relation to apparatus that is believed to be outside the British Islands, or in relation to anything appearing to originate from such apparatus;
- and in this subsection “apparatus ” has the same meaning as in the Regulation of Investigatory Powers Act 2000 (c. 23).]
- [<sup>F17</sup>(10) Where—
- (a) a person is authorised by virtue of this section to do an act outside the British Islands in relation to property,



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- (b) the act is one which, in relation to property within the British Islands, is capable of being authorised by a warrant under section 5,
  - (c) a person authorised by virtue of this section to do that act outside the British Islands, does the act in relation to that property while it is within the British Islands, and
  - (d) the act is done in circumstances falling within subsection (11) or (12),
- this section shall have effect as if the act were done outside the British Islands in relation to that property.
- (11) An act is done in circumstances falling within this subsection if it is done in relation to the property at a time when it is believed to be outside the British Islands.
  - (12) An act is done in circumstances falling within this subsection if it —
    - (a) is done in relation to property which was mistakenly believed to be outside the British Islands either when the authorisation under this section was given or at a subsequent time or which has been brought within the British Islands since the giving of the authorisation; but
    - (b) is done before the end of the fifth working day after the day on which the presence of the property in the British Islands first becomes known.
  - (13) In subsection (12) the reference to the day on which the presence of the property in the British Islands first becomes known is a reference to the day on which it first appears to a member of the Intelligence Service or of GCHQ, after the relevant time—
    - (a) that the belief that the property was outside the British Islands was mistaken; or
    - (b) that the property is within those Islands.
  - (14) In subsection (13) ‘the relevant time’ means, as the case may be—
    - (a) the time of the mistaken belief mentioned in subsection (12)(a); or
    - (b) the time at which the property was, or was most recently, brought within the British Islands.]

#### Textual Amendments

- F12** Words in s. 7(3)(a) and (b)(i) inserted (14.12.2001) by 2001 c. 24, **ss. 116(1)(a)**, 127(2)(h)
- F13** Words in s. 7(3)(c) inserted (14.12.2001) by 2001 c. 24, **ss. 116(1)(b)**, 127(2)(h)
- F14** Words in s. 7(5)(b) repealed (25.9.2000) by 2000 c. 23, **ss. 74(3)**, 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**
- F15** Word in s. 7(6)(b) substituted (13.4.2006) by Terrorism Act 2006 (c. 11), **ss. 31(5)**, 39(2); S.I. 2006/1013, **art. 2(2)(b)**
- F16** S. 7(9) inserted (14.12.2001) by 2001 c. 24, **ss. 116(2)**, 127(2)(h)
- F17** S. 7(10)-(14) inserted (13.4.2006) by Terrorism Act 2006 (c. 11), **ss. 31(6)**, 39(2); S.I. 2006/1013, **art. 2(2)(b)**

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

- C7** S. 7 amended (2.10.2000) by 2000 c. 23, **s. 59(2)(a)** (with s. 82(3)); S.I. 2000/2543, **art. 3**

#### Commencement Information

- I8** S. 7 wholly in force at 15.12.1994; S. 7 not in force at Royal Assent, see s. 12(2); s. 7 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, **art. 2**

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*The Commissioner, the Tribunal and the investigation of complaints*

F188 .....

**Textual Amendments**

**F18** S. 8 repealed (2.10.2000) by 2000 c. 23, ss. 59(8), 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 3**

F199 .....

**Textual Amendments**

**F19** S. 9 repealed (2.10.2000) by 2000 c. 23, ss. 70(2)(b), 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 3** (with transitional provisions in **art. 6**)

*The Intelligence and Security Committee*

**10 The Intelligence and Security Committee.**

- (1) There shall be a Committee, to be known as the Intelligence and Security Committee and in this section referred to as “the Committee”, to examine the expenditure, administration and policy of—
  - (a) the Security Service;
  - (b) the Intelligence Service; and
  - (c) GCHQ.
- (2) The Committee shall consist of nine members—
  - (a) who shall be drawn both from the members of the House of Commons and from the members of the House of Lords; and
  - (b) none of whom shall be a Minister of the Crown.
- (3) The members of the Committee shall be appointed by the Prime Minister after consultation with the Leader of the Opposition, within the meaning of the<sup>M4</sup> Ministerial and other Salaries Act 1975; and one of those members shall be so appointed as Chairman of the Committee.
- (4) Schedule 3 to this Act shall have effect with respect to the tenure of office of members of, the procedure of and other matters relating to, the Committee; and in that Schedule “the Committee” has the same meaning as in this section.
- (5) The Committee shall make an annual report on the discharge of their functions to the Prime Minister and may at any time report to him on any matter relating to the discharge of those functions.
- (6) The Prime Minister shall lay before each House of Parliament a copy of each annual report made by the Committee under subsection (5) above together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (7) below.

*Status: Point in time view as at 08/02/2007.*

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- (7) If it appears to the Prime Minister, after consultation with the Committee, that the publication of any matter in a report would be prejudicial to the continued discharge of the functions of either of the Services or, as the case may be, GCHQ, the Prime Minister may exclude that matter from the copy of the report as laid before each House of Parliament.

#### Commencement Information

**I9** S. 10 wholly in force at 15.12.1994; S. 10 not in force at Royal Assent, see s. 12(2); s. 10 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

**M4** 1975 c. 27.

### Supplementary

## 11 Interpretation and consequential amendments.

(1) In this Act—

(a) “the 1989 Act ” means the <sup>M5</sup>Security Service Act 1989;

<sup>F20</sup>(b) .....

(c) “Minister of the Crown ” has the same meaning as in the <sup>M6</sup>Ministers of the Crown Act 1975;

<sup>F21</sup>(d) “senior official ” has the same meaning as in the Regulation of Investigatory Powers Act 2000;]

(e) “wireless telegraphy ” has the same meaning as in <sup>F22</sup>the Wireless Telegraphy Act 2006] and, in relation to wireless telegraphy, “interfere ” has the same meaning as in that Act;

(f) “working day ” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the <sup>M7</sup>Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

<sup>F23</sup>(1A) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention ” and “detection ”), so far as it relates to serious crime, shall apply]

<sup>F24</sup>(a) for the purposes of section 3 above, as it applies for the purposes of Chapter 1 of Part 1 of that Act; and

(b) for the other purposes of this Act, as it applies for the purposes of the provisions of that Act not contained in that Chapter.]

(2) In consequence of the preceding provisions of this Act, the 1989 Act, the <sup>M8</sup>Official Secrets Act 1989 and the <sup>M9</sup>Official Secrets Act 1989 (Prescription) Order 1990 shall have effect subject to the amendments in Schedule 4 to this Act.

#### Textual Amendments

**F20** S. 11(1)(b) repealed (2.10.2000) by [2000 c. 23](#), s. 82(2), [Sch. 5](#) (with s. 82(3)); [S.I. 2000/2543](#), [art. 3](#)

**F21** S. 11(d) substituted (25.9.2000) by [2000 c. 23](#), s. 74(4) (with s. 82(3)); [S.I. 2000/2543](#), [art. 2](#)

**F22** Words in s. 11(1)(e) substituted (8.2.2007) by [Wireless Telegraphy Act 2006](#) (c. 36), s. 126(2), [Sch. 7 para. 14](#)

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**F23** S. 11(1A) inserted (25.9.2000) by 2000 c. 23, s. 82(1), **Sch. 4 para. 6** (with s. 82(3)); S.I. 2000/2543, **art. 2**

**F24** S. 11(1A)(a)(b) substituted for words (14.12.2001) by 2001 c. 24, **ss. 116(3), 127(2)(h)**

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

**C8** S. 11(1) extended (with modifications) (Jersey, Guernsey) (15.12.1994) by S.I. 1994/2955, **art. 2, Sch.**

#### **Commencement Information**

**I10** S. 11 wholly in force at 15.12.1994; S. 11 not in force at Royal Assent, see s. 12(2); s. 11 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**

**M5** 1989 c. 5.

**M6** 1975 c. 26.

**M7** 1971 c. 80.

**M8** 1989 c. 6.

**M9** S.I. 1990/200.

## **12 Short title, commencement and extent.**

- (1) This Act may be cited as the Intelligence Services Act 1994.
- (2) This Act shall come into force on such day as the Secretary of State may by an order made by statutory instrument appoint, and different days may be so appointed for different provisions or different purposes.
- (3) This Act extends to Northern Ireland.
- (4) Her Majesty may by Order in Council direct that any of the provisions of this Act specified in the Order shall extend, with such exceptions, adaptations and modifications as appear to Her to be necessary or expedient, to the Isle of Man, any of the Channel Islands or any colony.

#### **Subordinate Legislation Made**

**P1** S. 12(2) power fully exercised (15.10.1994): different dates appointed for the Act by S.I. 1994/2734, **art. 2**

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

**C9** S. 12(1) extended (with modifications)(Jersey, Guernsey) (15.12.1994) by S.I. 1994/2955, **art. 2, Sch.**

#### **Commencement Information**

**I11** S. 12 wholly in force at 15.12.1994; s. 12 not in force at Royal Assent see s. 12(2); s. 12 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734

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## SCHEDULES

### <sup>F25</sup>SCHEDULE 1

#### Textual Amendments

**F25** Sch. 1 repealed (2.10.2000) by 2000 c. 23, ss. 70(2)(b), 82(2), Sch. 5 (with s. 82(3)); S.I. 2000/2543, art. 3 (with transitional provisions in art. 6)

### <sup>F30</sup>SCHEDULE 2

#### Textual Amendments

**F30** Sch. 2 repealed (2.10.2000) by 2000 c. 23, ss. 70(2)(b), 82(2), Sch. 5 (with s. 82(3)); S.I. 2000/2543, art. 3 (with transitional provisions in art. 6)

### SCHEDULE 3

Section 10(4).

#### THE INTELLIGENCE AND SECURITY COMMITTEE

##### *Tenure of office*

- 1 (1) Subject to the provisions of this paragraph, a member of the Committee shall hold office for the duration of the Parliament in which he is appointed.
- (2) A member of the Committee shall vacate office—
- (a) if he ceases to be a member of the House of Commons;
  - (b) if he ceases to be a member of the House of Lords;
  - (c) if he becomes a Minister of the Crown; or
  - (d) if he is required to do so by the Prime Minister on the appointment, in accordance with section 10(3) of this Act, of another person as a member in his place.
- (3) A member of the Committee may resign at any time by notice to the Prime Minister.
- (4) Past service is no bar to appointment as a member of the Committee.

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#### Commencement Information

**I30** Sch. 3 para. 1 wholly in force at 15.12.1994; Sch. 3 para. 1 not in force at Royal Assent, see s. 12(2); Sch. 3 para. 1 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2

#### *Procedure*

- 2
- (1) Subject to the following provisions of this Schedule, the Committee may determine their own procedure.
  - (2) If on any matter there is an equality of voting among the members of the Committee, the Chairman shall have a second or casting vote.
  - (3) The Chairman may appoint one of the members of the Committee to act, in his absence, as chairman at any meeting of the Committee, but sub-paragraph (2) above shall not apply to a chairman appointed under this sub-paragraph.
  - (4) The quorum of the Committee shall be three.

#### Commencement Information

**I31** Sch. 3 para. 2 wholly in force at 15.12.1994; Sch. 3 para. 2 not in force at Royal Assent, see s. 12(2); Sch. 3 para. 2 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2

#### *Access to information*

- 3
- (1) If the Director-General of the Security Service, the Chief of the Intelligence Service or the Director of GCHQ is asked by the Committee to disclose any information, then, as to the whole or any part of the information which is sought, he shall either—
    - (a) arrange for it to be made available to the Committee subject to and in accordance with arrangements approved by the Secretary of State; or
    - (b) inform the Committee that it cannot be disclosed either—
      - (i) because it is sensitive information (as defined in paragraph 4 below) which, in his opinion, should not be made available under paragraph (a) above; or
      - (ii) because the Secretary of State has determined that it should not be disclosed.
  - (2) The fact that any particular information is sensitive information shall not prevent its disclosure under sub-paragraph (1)(a) above if the Director-General, the Chief or the Director (as the case may require) considers it safe to disclose it.
  - (3) Information which has not been disclosed to the Committee on the ground specified in sub-paragraph (1)(b)(i) above shall be disclosed to them if the Secretary of State considers it desirable in the public interest.
  - (4) The Secretary of State shall not make a determination under sub-paragraph (1)(b)(ii) above with respect to any information on the grounds of national security alone and, subject to that, he shall not make such a determination unless the information appears to him to be of such a nature that, if he were requested to produce it before a

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Departmental Select Committee of the House of Commons, he would think it proper not to do so.

- (5) The disclosure of information to the Committee in accordance with the preceding provisions of this paragraph shall be regarded for the purposes of the 1989 Act or, as the case may be, this Act as necessary for the proper discharge of the functions of the Security Service, the Intelligence Service or, as the case may require, GCHQ.

#### Commencement Information

**I32** Sch. 3 para. 3 wholly in force at 15.12.1994; Sch. 3 para. 3 not in force at Royal Assent, see s. 12(2); Sch. 3 para. 3 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2

#### *Sensitive information*

- 4 The following information is sensitive information for the purposes of paragraph 3 above—
- (a) information which might lead to the identification of, or provide details of, sources of information, other assistance or operational methods available to the Security Service, the Intelligence Service or GCHQ;
  - (b) information about particular operations which have been, are being or are proposed to be undertaken in pursuance of any of the functions of those bodies; and
  - (c) information provided by, or by an agency of, the Government of a territory outside the United Kingdom where that Government does not consent to the disclosure of the information.

#### Commencement Information

**I33** Sch. 3 para. 4 wholly in force at 15.12.1994; Sch. 3 para. 4 not in force at Royal Assent, see s. 12(2); Sch. 3 para. 4 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2

## SCHEDULE 4

Section 11(2).

### CONSEQUENTIAL AMENDMENTS

#### *The Security Service Act 1989*

- 1 (1) In section 2 of the <sup>M13</sup>Security Service Act 1989 (duties of the Director-General of the Security Service) in subsection (2) after the words “serious crime” there shall be inserted “or for the purpose of any criminal proceedings”.
- (2) After subsection (3) of that section there shall be inserted the following subsection—
- “(3A) Without prejudice to the generality of subsection (2)(a) above, the disclosure of information shall be regarded as necessary for the proper discharge of the functions of the Security Service if it consists of—

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- (a) the disclosure of records subject to and in accordance with the Public Records Act 1958; or
- (b) the disclosure, subject to and in accordance with arrangements approved by the Secretary of State, of information to the Comptroller and Auditor General for the purposes of his functions.”

**Commencement Information**

**I34** Sch. 4 para. 1 wholly in force at 15.12.1994; Sch. 4 para. 1 not in force at Royal Assent, see s. 12(2); Sch. 4 para. 1 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**

**M13** 1989 c. 5.

- 2 In section 4(3) of that Act (Security Service Commissioner to review exercise of powers by Secretary of State), for the words “powers under section 3 above” there shall be substituted “ powers, so far as they relate to applications made by the Service, under sections 5 and 6 of the Intelligence Services Act 1994. ”

**Commencement Information**

**I35** Sch. 4 para. 2 wholly in force at 15.12.1994; Sch. 4 para. 2 not in force at Royal Assent, see s. 12(2); Sch. 4 para. 2 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2

- 3 In paragraph 4(1) of Schedule 1 to that Act (Security Service Commissioner to investigate whether the Secretary of State acted properly in issuing or renewing warrant), after the words “section 3 of this Act ” there shall be inserted “ or section 5 of the Intelligence Services Act 1994 ”.

**Commencement Information**

**I36** Sch. 4 para. 3 wholly in force at 15.12.1994; Sch. 4 para. 3 not in force at Royal Assent, see s. 12(2); Sch. 4 para. 3 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2

*The Official Secrets Act 1989*

- 4 In section 4 of the <sup>M14</sup>Official Secrets Act 1989 (disclosure of information which results in commission of an offence etc.) in subsection (3)(b) after the words “under section 3 of the Security Service Act 1989 ” there shall be inserted “ or under section 5 of the Intelligence Services Act 1994 or by an authorisation given under section 7 of that Act ”.

**Commencement Information**

**I37** Sch. 4 para. 4 wholly in force at 15.12.1994; Sch. 4 para. 4 not in force at Royal Assent, see s. 12(2); Sch. 4 para. 4 in force at 2.11.1994 for certain purposes and wholly in force at 15.12.1994 by S.I. 1994/2734, art. 2



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#### Marginal Citations

**M14** 1989 c. 6.

#### *The Official Secrets Act 1989 (Prescription) Order 1990*

5 At the end of Schedule 3 to the <sup>M15</sup>Official Secrets Act 1989 (Prescription) Order 1990 (bodies giving official authorisations etc.) there shall be added the following entry—

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“The Tribunal established under section 9 of the Intelligence Services Act 1994. Section 7(5)”.

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#### Commencement Information

**I38** Sch. 4 para. 5 wholly in force at 15.12.1994; Sch. 4 para. 5 not in force at Royal Assent, see s. 12(2); Sch. 4 para. 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

**M15** S.I. 1990/200.

**Status:**

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**Changes to legislation:**

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