



Police Act 1997

1997 CHAPTER 50

PART III

AUTHORISATION OF ACTION IN RESPECT OF PROPERTY

Authorisations requiring approval

97 Authorisations requiring approval.

- (1) An authorisation to which this section applies shall not take effect until—
 - (a) it has been approved in accordance with this section by [^{F1}a Judicial Commissioner], and
 - (b) the person who gave the authorisation has been notified under subsection (4).
- (2) Subject to subsection (3), this section applies to an authorisation if, at the time it is given, the person who gives it believes—
 - (a) that any of the property specified in the authorisation—
 - (i) is used wholly or mainly as a dwelling or as a bedroom in a hotel, or
 - (ii) constitutes office premises, or
 - (b) that the action authorised by it is likely to result in any person acquiring knowledge of—
 - (i) matters subject to legal privilege,
 - (ii) confidential personal information, or
 - (iii) confidential journalistic material.
- (3) This section does not apply to an authorisation where the person who gives it believes that the case is one of urgency.
- (4) Where [^{F2}a Judicial Commissioner] receives a notice under section 96 which specifies that this section applies to the authorisation, he shall as soon as is reasonably practicable—
 - (a) decide whether to approve the authorisation or refuse approval, and
 - (b) give written notice of his decision to the person who gave the authorisation.

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- (5) [^{F3}A Judicial Commissioner] shall approve an authorisation if, and only if, he is satisfied that there are reasonable grounds for believing the matters specified in section 93(2).
- (6) Where [^{F4}a Judicial Commissioner] refuses to approve an authorisation, he shall, as soon as is reasonably practicable, make a report of his findings to the authorising officer who gave it or in whose absence it was given ^{F5}....
- [^{F6}(6A) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed, in the case of an authorisation given by or in the absence of a person within paragraph (b) [^{F7}or (e)] of section 93(5), as a reference to the Commissioner of Police [^{F8}or, as the case may be, Chief Constable] mentioned in the paragraph concerned.]
- [^{F9}(6B) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed—
- (a) in the case of an authorisation given by a person within paragraph (f) of section 93(5), as a reference to that person, and
 - (b) in the case of an authorisation given in the absence of such a person, as a reference to a [^{F10}National Crime Agency officer] who is designated for the purposes of this section by the Director General of that Agency.]
- (7) This section shall apply in relation to a renewal of an authorisation as it applies in relation to an authorisation (the references in subsection (2)(a) and (b) to the authorisation being construed as references to the authorisation renewed).
- (8) In this section—
- “office premises” has the meaning given in section 1(2) of the ^{M1}Offices, Shops and Railway Premises Act 1963;
- “hotel” means premises used for the reception of guests who desire to sleep in the premises.

Textual Amendments

- F1** Words in s. 97(1)(a) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(b\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F2** Words in s. 97(4) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(c\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F3** Words in s. 97(5) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(h\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F4** Words in s. 97(6) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\), ss. 233\(2\)\(c\), 272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(e)
- F5** Words in s. 97(6) repealed (25.9.2000) by [2000 c. 23, s. 82\(1\)\(2\)](#), [Sch. 4 para. 8\(7\)](#), [Sch. 5](#) (with [s. 82\(3\)](#)); S.I. 2000/2543, [art. 2](#)
- F6** S. 97(6A) inserted (25.9.2000) by [2000 c. 23, s. 82\(1\)](#), [Sch. 4 para. 82\(3\)](#); S.I. 2000/2543, [art. 2](#)
- F7** Words in s. 97(6A) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\)](#), [Sch. 4 para. 100\(2\)\(a\)](#); S.I. 2006/378, [art. 4\(1\)](#), [Sch. para. 10](#)
- F8** Words in s. 97(6A) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\)](#), [Sch. 4 para. 100\(2\)\(b\)](#); S.I. 2006/378, [art. 4\(1\)](#), [Sch. para. 10](#)
- F9** S. 97(6B) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\)](#), [Sch. 4 para. 100\(3\)](#); S.I. 2006/378, [art. 4\(1\)](#), [Sch. para. 10](#)
- F10** Words in s. 97(6B)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\)](#), [Sch. 8 para. 58](#); S.I. 2013/1682, [art. 3\(v\)](#)

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Modifications etc. (not altering text)

- C1** S. 97 excluded (26.9.2018) by [Investigatory Powers Act 2016 \(c. 25\), s. 272\(1\), Sch. 8 para. 24\(1\)\(b\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2018/940, reg. 3\(g\)\(ii\)](#)

Marginal Citations

- M1** 1963 c. 41.

98 Matters subject to legal privilege.

- (1) Subject to subsection (5) below, in section 97 “matters subject to legal privilege” means matters to which subsection (2), (3) or (4) below applies.
- (2) This subsection applies to communications between a professional legal adviser and—
 - (a) his client, or
 - (b) any person representing his client,which are made in connection with the giving of legal advice to the client.
- (3) This subsection applies to communications—
 - (a) between a professional legal adviser and his client or any person representing his client, or
 - (b) between a professional legal adviser or his client or any such representative and any other person,which are made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- (4) This subsection applies to items enclosed with or referred to in communications of the kind mentioned in subsection (2) or (3) and made—
 - (a) in connection with the giving of legal advice, or
 - (b) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- (5) For the purposes of section 97—
 - (a) communications and items are not matters subject to legal privilege when they are in the possession of a person who is not entitled to possession of them, and
 - (b) communications and items held, or oral communications made, with the intention of furthering a criminal purpose are not matters subject to legal privilege.

99 Confidential personal information.

- (1) In section 97 “confidential personal information” means—
 - (a) personal information which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office, and which he holds in confidence, and
 - (b) communications as a result of which personal information—
 - (i) is acquired or created as mentioned in paragraph (a), and
 - (ii) is held in confidence.
- (2) For the purposes of this section “personal information” means information concerning an individual (whether living or dead) who can be identified from it and relating—

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- (a) to his physical or mental health, or
 - (b) to spiritual counselling or assistance given or to be given to him.
- (3) A person holds information in confidence for the purposes of this section if he holds it subject—
- (a) to an express or implied undertaking to hold it in confidence, or
 - (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment (including an enactment contained in an Act passed after this Act).

100 Confidential journalistic material.

- (1) In section 97 “confidential journalistic material” means—
- (a) material acquired or created for the purposes of journalism which—
 - (i) is in the possession of persons who acquired or created it for those purposes,
 - (ii) is held subject to an undertaking, restriction or obligation of the kind mentioned in section 99(3), and
 - (iii) has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism, and
 - (b) communications as a result of which information is acquired for the purposes of journalism and held as mentioned in paragraph (a)(ii).
- (2) For the purposes of subsection (1), a person who receives material, or acquires information, from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 112(2A) inserted by [2011 c. 24 \(N.I.\) s. 101](#)
- s. 112(2A) inserted by [2009 c. 26 s. 93](#) (This amendment not applied to [legislation.gov.uk](#). S. 93 repealed (10.9.2012) without ever being in force by 2012 c. 9, ss. 79(1), 120, Sch. 10 Pt. 6; S.I. 2012/2234, art. 2(cc))
- s. 113(3)(e) words inserted by [S.S.I. 2006/50 art. 2\(2\)](#)
- s. 113(3G) inserted by [2002 c. 32 Sch. 12 para. 14](#)
- s. 113(3G) inserted by 2002 c. 32, Sch. 12 para. 14 (as extended) by [2003 asp 5 s. 12\(1\)\(c\)](#)
- s. 113(3EA)(3EB) inserted by [S.I. 2003/417 \(N.I.\) art. 17\(4\)](#)
- s. 113(3EC)(3ED) inserted by [S.I. 2003/417 \(N.I.\) art. 47\(3\)](#)
- s. 113(4A) inserted by [2003 c. 44 Sch. 35 para. 3\(3\)](#)
- s. 113(4A) insertion by 2003 c. 44, Sch. 35 para. 3(3) extended to N.I. by [2005 c. 15 s. 167\(a\)](#)
- s. 113A(6A)-(6C) inserted by [2011 asp 1 s. 188\(b\)](#)
- s. 115(5)(ec) inserted by [2002 c. 32 Sch. 12 para. 15\(2\)](#)
- s. 115(5)(ec) inserted by 2002 c. 32, Sch. 12 para. 15(2) (as extended) by [2003 asp 5 s. 12\(1\)\(c\)](#)
- s. 115(5)(ga) inserted by [2001 c. 12 s. 21](#) (Amendment not applied to [legislation.gov.uk](#). S. 21 repealed (6.4.2006 for E.W.) by 2003 c. 44, Sch. 37 Pt. 11; S.I. 2006/751, art. 2(d))
- s. 115(6BB) inserted by [2002 c. 32 Sch. 12 para. 15\(3\)](#)
- s. 115(6BB) inserted by 2002 c. 32, Sch. 12 para. 15(3) (as extended) by [2003 asp 5 s. 12\(1\)\(c\)](#)
- s. 115(6EA) inserted by [S.I. 2003/417 \(N.I.\) art. 17\(5\)](#)
- s. 115(6EB) inserted by [S.I. 2003/417 \(N.I.\) art. 47\(4\)](#)
- s. 115(9A)(9B) inserted by [2003 c. 44 Sch. 35 para. 4\(5\)](#)
- s. 115(9A)(9B) insertion by 2003 c. 44, Sch. 35 para. 4(5) extended to N.I. by [2005 c. 15 s. 167\(a\)](#)
- s. 118(2ZA) inserted by [2009 c. 26 s. 95](#)
- s. 118(2ZA) words substituted by [S.I. 2012/3006 art. 37\(j\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 118(2ZA) by 2009 c. 26, s. 95 is still prospective)
- s. 121(a) inserted by [2006 asp 10 s. 3\(8\)\(a\)](#)
- Sch. 8A para. 34G inserted by [S.I. 2024/374 Sch. 5 para. 3](#)
- Sch. 8B para. 102(ea) inserted by [2023 c. 47 s. 3\(2\)](#)