



# Regulation of Investigatory Powers Act 2000

## 2000 CHAPTER 23

### PART II

#### SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES

##### *Supplemental provision for Part II*

#### **47 Power to extend or modify authorisation provisions.**

- (1) The Secretary of State may by order do one or both of the following—
  - (a) apply this Part, with such modifications as he thinks fit, to any such surveillance that is neither directed nor intrusive as may be described in the order;
  - (b) provide for any description of directed surveillance to be treated for the purposes of this Part as intrusive surveillance.
- (2) No order shall be made under this section unless a draft of it has been laid before Parliament and approved by a resolution of each House.

#### **48 Interpretation of Part II.**

- (1) In this Part—
  - [<sup>F1</sup>“CMA” means the Competition and Markets Authority;]
  - “covert human intelligence source” shall be construed in accordance with section 26(8);
  - “directed” and “intrusive”, in relation to surveillance, shall be construed in accordance with section 26(2) to (6);
  - <sup>F2</sup> ...

*Status: Point in time view as at 29/05/2018.*

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“private vehicle” means (subject to subsection (7)(a)) any vehicle which is used primarily for the private purposes of the person who owns it or of a person otherwise having the right to use it;

“residential premises” means (subject to subsection (7)(b)) so much of any premises as is for the time being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation (including hotel or prison accommodation that is so occupied or used);

“senior authorising officer” means a person who by virtue of subsection (6) of section 32 is a senior authorising officer for the purposes of that section;

“surveillance” shall be construed in accordance with subsections (2) to (4);

“surveillance device” means any apparatus designed or adapted for use in surveillance.

- (2) Subject to subsection (3), in this Part “surveillance” includes—
- (a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
  - (b) recording anything monitored, observed or listened to in the course of surveillance; and
  - (c) surveillance by or with the assistance of a surveillance device.
- (3) References in this Part to surveillance do not include references to—
- (a) any conduct of a covert human intelligence source for obtaining or recording (whether or not using a surveillance device) any information which is disclosed in the presence of the source;
  - (b) the use of a covert human intelligence source for so obtaining or recording information; or
  - (c) any such entry on or interference with property or with wireless telegraphy as would be unlawful unless authorised under—
    - (i) section 5 of the <sup>M1</sup>Intelligence Services Act 1994 (warrants for the intelligence services); or
    - (ii) Part III of the <sup>M2</sup>Police Act 1997 (powers of the police and of [<sup>F3</sup>officers of Revenue and Customs].)
- (4) References in this Part to surveillance include references to the interception of a communication in the course of its transmission by means of a postal service or telecommunication system if, and only if—
- (a) the communication is one sent by or intended for a person who has consented to the interception of communications sent by or to him; and
  - (b) there is no interception warrant authorising the interception.
- (5) References in this Part to an individual holding an office or position with a public authority include references to any member, official or employee of that authority.
- (6) For the purposes of this Part the activities of a covert human intelligence source which are to be taken as activities for the benefit of a particular public authority include any conduct of his as such a source which is in response to inducements or requests made by or on behalf of that authority.
- (7) In subsection (1)—
- (a) the reference to a person having the right to use a vehicle does not, in relation to a motor vehicle, include a reference to a person whose right to use the

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vehicle derives only from his having paid, or undertaken to pay, for the use of the vehicle and its driver for a particular journey; and

- (b) the reference to premises occupied or used by any person for residential purposes or otherwise as living accommodation does not include a reference to so much of any premises as constitutes any common area to which he has or is allowed access in connection with his use or occupation of any accommodation.

(8) In this section—

“premises” includes any vehicle or moveable structure and any other place whatever, whether or not occupied as land;

“vehicle” includes any vessel, aircraft or hovercraft.

#### Textual Amendments

- F1** Definition in s. 48 inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 142(b)** (with art. 3)
- F2** Definition in s. 48 omitted (1.4.2014) by virtue of [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 142(a)** (with art. 3)
- F3** Words in s. 48(3)(c)(ii) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, **Sch. 12 para. 18**; S.I. 2008/219, **art. 2(b)**

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

- C1** S. 48(1) modified (temp.) (29.5.2018) by [The Investigatory Powers Act 2016 \(Commencement No. 5 and Transitional and Saving Provisions\) Regulations 2018 \(S.I. 2018/652\)](#), **reg. 19(5)**

#### Marginal Citations

- M1** 1994 c. 13.  
**M2** 1997 c. 50.

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