



Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

77 Ministerial expenditure etc.

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State for or in connection with the carrying out of his functions under this Act; and
- (b) any increase attributable to this Act in the sums which are payable out of money so provided under any other Act.

[^{F1}77A Procedure for order of sheriff under section 23A or 32A: Scotland

- (1) This section applies to an application to the sheriff for an order under section 23A or 32A.
- (2) Rules of court must make provision for the purposes of ensuring that an application to which this section applies is dealt with in private and must, in particular—
 - (a) require the sheriff to determine an application in private,
 - (b) secure that any hearing is to be held in private, and
 - (c) ensure that notice of an application (or of any order being made) is not given to—
 - (i) the person to whom the authorisation or notice which is the subject of the application or order relates, or
 - (ii) such a person's representatives.

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- (3) The Court of Session's power under section 32 of the Sheriff Courts (Scotland) Act 1971 to regulate and prescribe the procedure and practice to be followed in relation to an application to which this section applies is subject to, but is not otherwise constrained by, sections 23B and 32B and this section.

Textual Amendments

- F1** Ss. 77A, 77B inserted (1.11.2012 for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 15](#) (with s. 97); S.I. 2012/2075, art. 4(e)

77B Procedure for order of district judge under section 23A or 32A: Northern Ireland

- (1) The Lord Chancellor may by order make further provision about the procedure and practice to be followed in relation to an application to a district judge (magistrates' courts) in Northern Ireland for an order under section 23A or 32A.
- (2) Such an order may, in particular, provide—
- (a) for the manner in which, and time within which, an application may be made,
 - (b) that the district judge (magistrates' courts) is to determine an application—
 - (i) in chambers,
 - (ii) in the absence of the person to whom the authorisation or notice which is the subject of the application relates,
 - (c) that any hearing is to be held in private,
 - (d) that notice of an order given is not to be given to—
 - (i) the person to whom the authorisation or notice which is the subject of the order relates, or
 - (ii) such a person's legal representatives.
- (3) An order of the Lord Chancellor under this section may not make provision which, if it were contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Northern Ireland Assembly and would deal with a transferred matter (within the meaning of section 4(1) of the Northern Ireland Act 1998).
- (4) The power of the Magistrates' Courts Rules Committee under Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) to regulate and prescribe the procedure and practice to be followed in relation to an application to a district judge (magistrates' courts) in Northern Ireland for an order under section 23A or 32A is subject to, but is not otherwise constrained by, sections 23B and 32B and any order made under this section.]

Textual Amendments

- F1** Ss. 77A, 77B inserted (1.11.2012 for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 15](#) (with s. 97); S.I. 2012/2075, art. 4(e)

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78 Orders, regulations and rules.

- (1) This section applies to any power of the Secretary of State [^{F2}or the Lord Chancellor] to make any order, regulations or rules under any provision of this Act.
- (2) The powers to which this section applies shall be exercisable by statutory instrument.
- (3) A statutory instrument which contains any order made in exercise of a power to which this section applies (other than the power to appoint a day under section 83(2)) but which contains neither—
 - (a) an order a draft of which has been approved for the purposes of section ^{F3}... 22(9), [^{F4}23A(6),] 25(5), 28(5), 29(6), 30(7), [^{F5}32A(7),] 35(5), 41(6), 47(2), 66(3), 67(11) [^{F6}, 71(9) or 76A(9)] nor
 - (b) the order to which section 35(7) applies,shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing any regulations made in exercise of a power to which this section applies shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Any order, regulations or rules made in exercise of a power to which this section applies may—
 - (a) make different provisions for different cases;
 - (b) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State [^{F7}or (as the case may be) the Lord Chancellor] thinks fit.

Textual Amendments

- F2** Words in s. 78(1) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 16(a)** (with s. 97); S.I. 2012/2075, art. 4(d)
- F3** Words in s. 78(3)(a) omitted (12.3.2018) by virtue of Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 para. 48** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/341, reg. 2(o)
- F4** Words in s. 78(3)(a) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 16(b)(i)** (with s. 97); S.I. 2012/2075, art. 4(d)
- F5** Words in s. 78(3)(a) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 16(b)(ii)** (with s. 97); S.I. 2012/2075, art. 4(d)
- F6** Words in s. 78(3)(a) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 80**; S.I. 2004/786, art. 3(1)(2)
- F7** Words in s. 78(5) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 16(c)** (with s. 97); S.I. 2012/2075, art. 4(d)

79 Criminal liability of directors etc.

- (1) Where an offence under any provision of this Act other than a provision of Part III is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) any person who was purporting to act in any such capacity,he (as well as the body corporate) shall be guilty of that offence and liable to be proceeded against and punished accordingly.

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- (2) Where an offence under any provision of this Act other than a provision of Part III—
 - (a) is committed by a Scottish firm, and
 - (b) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner of the firm,
 he (as well as the firm) shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (3) In this section “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

80 General saving for lawful conduct.

Nothing in any of the provisions of this Act by virtue of which conduct of any description is or may be authorised by any warrant, authorisation or notice, or by virtue of which information may be obtained in any manner, shall be construed—

- (a) as making it unlawful to engage in any conduct of that description which is not otherwise unlawful under this Act and would not be unlawful apart from this Act;
- (b) as otherwise requiring—
 - (i) the issue, grant or giving of such a warrant, authorisation or notice, or
 - (ii) the taking of any step for or towards obtaining the authority of such a warrant, authorisation or notice,
 before any such conduct of that description is engaged in; or
- (c) as prejudicing any power to obtain information by any means not involving conduct that may be authorised under this Act.

81 General interpretation.

(1) In this Act—

“apparatus” includes any equipment, machinery or device and any wire or cable;

“Assistant Commissioner of Police of the Metropolis” includes the Deputy Commissioner of Police of the Metropolis;

^{F8}
...

“civil proceedings” means any proceedings in or before any court or tribunal that are not criminal proceedings;

“communication” includes—

- (a) (except in the definition of “postal service” in section 2(1)) anything transmitted by means of a postal service;
- (b) anything comprising speech, music, sounds, visual images or data of any description; and
- (c) signals serving either for the impartation of anything between persons, between a person and a thing or between things or for the actuation or control of any apparatus;

“criminal”, in relation to any proceedings or prosecution, shall be construed in accordance with subsection (4);

^{F9}
.....

“document” includes a map, plan, design, drawing, picture or other image;

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“enactment” includes—

- (a) an enactment passed after the passing of this Act; and
- (b) an enactment contained in Northern Ireland legislation;

“GCHQ” has the same meaning as in the ^{M1}Intelligence Services Act 1994;

“Her Majesty’s forces” has the same meaning as in the [^{F10}Armed Forces Act 2006];

“intelligence service” means the Security Service, the Secret Intelligence Service or GCHQ;

“interception” and cognate expressions shall be construed (so far as it is applicable) in accordance with section 2;

“interception warrant” means a warrant under section 5;

[^{F11}“the Investigatory Powers Commissioner” and “Judicial Commissioner” have the same meanings as in the Investigatory Powers Act 2016 (see section 263(1) of that Act);]

[^{F12}“justice of the peace” does not include a justice of the peace in Northern Ireland;]

“legal proceedings” means civil or criminal proceedings in or before any court or tribunal [^{F13}or proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006];

“modification” includes alterations, additions and omissions, and cognate expressions shall be construed accordingly;

^{F8} ...

“person” includes any organisation and any association or combination of persons;

“police force” means any of the following—

- (a) any police force maintained under section 2 of the ^{M2}Police Act 1996 (police forces in England and Wales outside London);
- (b) the metropolitan police force;
- (c) the City of London police force;
- (d) [^{F14}the Police Service of Scotland;]
- (e) the Royal Ulster Constabulary;
- (f) the Ministry of Defence Police;
- (g) the [^{F15}Royal Navy Police];
- (h) the Royal Military Police;
- (i) the Royal Air Force Police;
- (j) the British Transport Police;

“postal service” and “public postal service” have the meanings given by section 2(1);

“private telecommunication system”, “public telecommunications service” and “public telecommunication system” have the meanings given by section 2(1);

“public authority” means any public authority within the meaning of section 6 of the ^{M3}Human Rights Act 1998 (acts of public authorities) other than a court or tribunal;

“senior official” means, subject to subsection (7), a member of the Senior Civil Service or a member of the Senior Management Structure of Her Majesty’s Diplomatic Service;

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“statutory”, in relation to any power or duty, means conferred or imposed by or under any enactment or subordinate legislation;

“subordinate legislation” means any subordinate legislation (within the meaning of the ^{M4}Interpretation Act 1978) or any statutory rules (within the meaning of the ^{M5}Statutory Rules (Northern Ireland) Order 1979);

^{F8}
...

“telecommunication system” and “telecommunications service” have the meanings given by section 2(1);

“the Tribunal” means the tribunal established under section 65;

“wireless telegraphy” has the same meaning as in the [^{F16}the Wireless Telegraphy Act 2006] and, in relation to wireless telegraphy, “interfere” has the same meaning as in that Act;

“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 ^{M6}Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

(2) In this Act—

- (a) references to crime are references to conduct which constitutes one or more criminal offences or is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom would constitute one or more criminal offences; and
- (b) references to serious crime are references to crime that satisfies the test in subsection (3)(a) or (b).

(3) Those tests are—

- (a) that the offence or one of the offences that is or would be constituted by the conduct 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;
- (b) that the conduct 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.

(4) In this Act “criminal proceedings” includes—^{F17} proceedings before a court in respect of a service offence within the meaning of the Armed Forces Act 2006,] and references in this Act to criminal prosecutions shall be construed accordingly.

(5) For the purposes of this Act detecting crime shall be taken to include—

- (a) establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed; and
- (b) the apprehension of the person by whom any crime was committed;

and any reference in this Act to preventing or detecting serious crime shall be construed accordingly, except that, in Chapter I of Part I, it shall not include a reference to gathering evidence for use in any legal proceedings.

(6) In this Act—

- (a) references to a person holding office under the Crown include references to any servant of the Crown and to any member of Her Majesty’s forces; and
- (b) references to a member of a police force, in relation to the [^{F18}Royal Navy Police], the Royal Military Police or the Royal Air Force Police, do not include references to any member of [^{F19}that force who is not for the time being

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attached to or serving either with that force or with another of those police forces].

(7) If it appears to the Secretary of State that it is necessary to do so in consequence of any changes to the structure or grading of the [^{F20}statutory civil service (or any part of it)], he may by order make such amendments of the definition of “senior official” in subsection (1) as appear to him appropriate to preserve, so far as practicable, the effect of that definition.

[^{F21}(8) In subsection (7) “the statutory civil service” means—

- (a) the civil service within the meaning of Chapter 1 of Part 1 of the Constitutional Reform and Governance Act 2010 (see section 1(4) of that Act), but
- (b) also includes the Government Communications Headquarters.]

[^{F22}(9) References in this Act to provision which, if it were contained in an Act of the Northern Ireland Assembly, would deal with a Northern Ireland transferred matter or (as the case may be) a transferred matter (see sections 23A(7)(b), 32A(8)(c) and 77B(3)) do not include references to any such provision which would be ancillary to other provision (whether in the Act of the Northern Ireland Assembly or previously enacted) which deals with an excepted or reserved matter (within the meaning given by section 4(1) of the Northern Ireland Act 1998).]

Textual Amendments

- F8** Words in s. 81(1) omitted (1.9.2017) by virtue of [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 10 para. 83\(2\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(j)
- F9** S. 81(1): definition of “customs officer” repealed (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 92, 94, [Sch. 12 para. 27](#), [Sch. 14](#); S.I. 2008/219, [art. 2\(d\)\(ii\)](#)
- F10** S. 81(1): words in the definition of “Her Majesty’s forces” substituted (28.3.2009 for certain purposes, otherwise 30.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(2\)\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F11** Words in s. 81(1) inserted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 10 para. 83\(3\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, reg. 2(j)
- F12** S. 81(1): definition inserted (1.4.2005) by 2002 c. 26, ss. 10, 87, [Sch. 4 para. 40](#); S.R. 2005/109, [art. 2](#), [Sch.](#)
- F13** S. 81(1): words in the definition of “legal proceedings” inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(2\)\(b\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F14** S. 81(1): para. (d) in the definition of “police force” 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\(24\)](#)
- F15** S. 81(1): words in the definition of “police force” substituted (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(2\)\(c\)](#); S.I. 2007/1442, [art. 2\(1\)](#)
- F16** S. 81(1): words in the definition of “wireless telegraphy” substituted (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 123, 126, [Sch. 7 para. 24](#)
- F17** S. 81(4): words substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) for s. 81(4)(a)-(c) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(3\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F18** Words in s. 81(6)(b) substituted (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(4\)\(a\)](#); S.I. 2007/1442, [art. 2\(1\)](#)
- F19** Words in s. 81(6)(b) substituted (4.6.2007) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 175\(4\)\(b\)](#); S.I. 2007/1442, [art. 2\(1\)](#)

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- F20** Words in s. 81(7) substituted (11.11.2010) by Constitutional Reform and Governance Act 2010 (c. 25), ss. 19, 52(2), **Sch. 2 para. 11(2)**; S. I. 2010/2703, **art. 2(a)**
- F21** S. 81(8) inserted (11.11.2010) by Constitutional Reform and Governance Act 2010 (c. 25), ss. 19, 52(2), **Sch. 2 para. 11(3)**; S. I. 2010/2703, **art. 2(a)**
- F22** S. 81(9) inserted (1.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 17** (with s. 97); S.I. 2012/2075, art. 4(d)

Modifications etc. (not altering text)

- C1** S. 81(5) applied (25.9.2000) by 1989 c. 5, **s. 1(5)** (as inserted (25.9.200) by 2000 c. 23, ss. 82, 83(2), **Sch. 4 para. 4(1)**)
 S. 81(5) applied (25.9.2000) by 1994 c. 13, **s. 11(1A)** (as inserted (25.9.2000) by 2000 c. 23, ss. 82, 83(2), **Sch. 4 para. 6** (with s. 82(3)))
- C2** S. 81(5) applied (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 42(3)**, 178; S.I. 2005/3495, **art. 2(1)(f)** (subject to art. 2(2))
- C3** S. 81(5) applied (24.12.2008) by Counter-Terrorism Act 2008, (c. 28), {ss. 21(4)}, 91, 100 (with s. 101(2)); S.I. 2008/3296, **art. 2**

Marginal Citations

- M1** 1994 c. 13.
M2 1996 c. 16.
M3 1998 c. 42.
M4 1978 c. 30.
M5 S.I. 1979/1573 (N.I. 12).
M6 1971 c. 80.

82 Amendments, repeals and savings etc.

- (1) The enactments specified in Schedule 4 (amendments consequential on the provisions of this Act) shall have effect with the amendments set out in that Schedule.
- (2) The enactments mentioned in Schedule 5 are hereby repealed to the extent specified in the third column of that Schedule.
- (3) For the avoidance of doubt it is hereby declared that nothing in this Act^{F23} . . . affects any power conferred on [^{F24}a postal operator (within the meaning of [^{F25}Part 3 of the Postal Services Act 2011])] by or under any enactment to open, detain or delay any postal packet or to deliver any such packet to a person other than the person to whom it is addressed.
- (4) Where any warrant under the^{M7}Interception of Communications Act 1985 is in force under that Act at the time when the repeal by this Act of section 2 of that Act comes into force, the conduct authorised by that warrant shall be deemed for the period which—
 - (a) begins with that time, and
 - (b) ends with the time when that warrant would (without being renewed) have ceased to have effect under that Act,
 as if it were conduct authorised by an interception warrant issued in accordance with the requirements of Chapter I of Part I of this Act.
- (5) In relation to any such warrant, any certificate issued for the purposes of section 3(2) of the^{M8}Interception of Communications Act 1985 shall have effect in relation to that period as if it were a certificate issued for the purposes of section 8(4) of this Act.

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- (6) Sections 15 and 16 of this Act shall have effect as if references to interception warrants and to section 8(4) certificates included references, respectively, to warrants under section 2 of the ^{M9}Interception of Communications Act 1985 and to certificates under section 3(2) of that Act; and references in sections 15 and 16 of this Act to intercepted or certified material shall be construed accordingly.

Textual Amendments

- F23** Words in s. 82(3) repealed (26.3.2001) by [S.I. 2001/1149, art. 3\(2\)](#), [Sch. 2](#) (with [art. 4\(11\)](#))
- F24** Words in s. 82(3) substituted (26.3.2001) by [S.I. 2001/1149, art. 3\(1\)](#), [Sch. 1 para. 135\(3\)](#) (with [art. 4\(8\)](#))
- F25** Words in s. 82(3) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), ss. 91, 93\(3\)](#), [Sch. 12 para. 160](#); [S.I. 2011/2329, art. 3\(1\)](#)

Commencement Information

- II** S. 82 wholly in force; s. 82 not in force at Royal Assent see s. 83(2); s. 82(1)(2) in force for certain purposes at 25.9.2000 and s. 82 in force to the extent that it is not already in force at 2.10.2000 by [S.I. 2000/2543, arts. 2, 3](#) (subject to transitional provisions in [arts. 5, 6](#))

Marginal Citations

- M7** 1985 c. 56.
- M8** 1985 c. 56.
- M9** 1985 c. 56.

83 Short title, commencement and extent.

- (1) This Act may be cited as the Regulation of Investigatory Powers Act 2000.
- (2) The provisions of this Act, other than this section, shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed under this subsection for different purposes.
- (3) This Act extends to Northern Ireland.

Subordinate Legislation Made

- P1** S. 83(2) power partly exercised: different dates appointed for specified provisions by [S.I. 2000/2543](#) (with transitional provisions in [art. 5, 6](#)); s. 83(2) power partly exercised: 13.8.2001 appointed for other specified provisions by [S.I. 2001/2727](#); s. 83(2) power partly exercised: 5.1.2004 appointed for specified provisions by [S.I. 2003/3140](#); art. 2; s. 83(2) power partly exercised: 1.10.2007 appointed for specified provisions by [S.I. 2007/2196](#); art. 2

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