



Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART IV

SCRUTINY ETC. OF INVESTIGATORY POWERS AND OF THE FUNCTIONS OF THE INTELLIGENCE SERVICES

The Tribunal

65 The Tribunal.

- (1) There shall, for the purpose of exercising the jurisdiction conferred on them by this section, be a tribunal consisting of such number of members as Her Majesty may by Letters Patent appoint.
- (2) The jurisdiction of the Tribunal shall be—
 - (a) to be the only appropriate tribunal for the purposes of section 7 of the ^{M1}Human Rights Act 1998 in relation to any proceedings under subsection (1) (a) of that section (proceedings for actions incompatible with Convention rights) which fall within subsection (3) of this section;
 - (b) to consider and determine any complaints made to them which, in accordance with subsection (4) ^{F1}. . . , are complaints for which the Tribunal is the appropriate forum;
 - (c) to consider and determine any reference to them by any person that he has suffered detriment as a consequence of any prohibition or restriction, by virtue of section 17, on his relying in, or for the purposes of, any civil proceedings on any matter; and
 - (d) to hear and determine any other such proceedings falling within subsection (3) as may be allocated to them in accordance with provision made by the Secretary of State by order.
- (3) Proceedings fall within this subsection if—

Status: Point in time view as at 01/11/2012. This version of this provision has been superseded.

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- (a) they are proceedings against any of the intelligence services;
 - (b) they are proceedings against any other person in respect of any conduct, proposed conduct, by or on behalf of any of those services;
 - (c) they are proceedings brought by virtue of section 55(4);^[F2] or]
 - (ca) ^{F3}
 - (cb) ^{F3}
 - (d) they are proceedings relating to the taking place in any challengeable circumstances of any conduct falling within subsection (5).
- (4) The Tribunal is the appropriate forum for any complaint if it is a complaint by a person who is aggrieved by any conduct falling within subsection (5) which he believes—
- (a) to have taken place in relation to him, to any of his property, to any communications sent by or to him, or intended for him, or to his use of any postal service, telecommunications service or telecommunication system; and
 - (b) to have taken place in challengeable circumstances or to have been carried out by or on behalf of any of the intelligence services.
- (4A) ^{F4}
- (5) Subject to subsection (6), conduct falls within this subsection if (whenever it occurred) it is—
- (a) conduct by or on behalf of any of the intelligence services;
 - (b) conduct for or in connection with the interception of communications in the course of their transmission by means of a postal service or telecommunication system;
 - (c) conduct to which Chapter II of Part I applies;
 - ^[F5](ca) the carrying out of surveillance by a foreign police or customs officer (within the meaning of section 76A);]
 - (d) [^{F6}other] conduct to which Part II applies;
 - (e) the giving of a notice under section 49 or any disclosure or use of a key to protected information;
 - (f) any entry on or interference with property or any interference with wireless telegraphy.
- (6) For the purposes only of subsection (3), nothing mentioned in paragraph (d) or (f) of subsection (5) shall be treated as falling within that subsection unless it is conduct by or on behalf of a person holding any office, rank or position with—
- (a) any of the intelligence services;
 - (b) any of Her Majesty's forces;
 - (c) any police force;
 - ^[F7](d) the Serious Organised Crime Agency; or]
 - ^[F8](da) the Scottish Crime and Drug Enforcement Agency;]
 - ^[F9](f) the Commissioners for Her Majesty's Revenue and Customs;]
- and section 48(5) applies for the purposes of this subsection as it applies for the purposes of Part II.
- (7) For the purposes of this section conduct takes place in challengeable circumstances if—
- (a) it takes place with the authority, or purported authority, of anything falling within subsection (8); or

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(b) the circumstances are such that (whether or not there is such authority) it would not have been appropriate for the conduct to take place without it, or at least without proper consideration having been given to whether such authority should be sought;

but [^{F10}, subject to subsection (7ZA),] conduct does not take place in challengeable circumstances to the extent that it is authorised by, or takes place with the permission of, a judicial authority.

[^{F11}(7ZA) The exception in subsection (7) so far as conduct is authorised by, or takes place with the permission of, a judicial authority does not include conduct authorised by an approval given under section 23A or 32A.]

[^{F12}(7A) For the purposes of this section conduct also takes place in challengeable circumstances if it takes place, or purports to take place, under section 76A.]

(8) The following fall within this subsection—

- (a) an interception warrant or a warrant under the ^{M2}Interception of Communications Act 1985;
- (b) an authorisation or notice under Chapter II of Part I of this Act;
- (c) an authorisation under Part II of this Act or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by that Part;
- (d) a permission for the purposes of Schedule 2 to this Act;
- (e) a notice under section 49 of this Act; or
- (f) an authorisation under section 93 of the ^{M3}Police Act 1997.

(9) Schedule 3 (which makes further provision in relation to the Tribunal) shall have effect.

(10) In this section—

- (a) references to a key and to protected information shall be construed in accordance with section 56;
- (b) references to the disclosure or use of a key to protected information taking place in relation to a person are references to such a disclosure or use taking place in a case in which that person has had possession of the key or of the protected information; and
- (c) references to the disclosure of a key to protected information include references to the making of any disclosure in an intelligible form (within the meaning of section 56) of protected information by a person who is or has been in possession of the key to that information;

and the reference in paragraph (b) to a person's having possession of a key or of protected information shall be construed in accordance with section 56.

(11) In this section “judicial authority” means—

- (a) any judge of the High Court or of the Crown Court or any Circuit Judge;
- (b) any judge of the High Court of Justiciary or any sheriff;
- (c) any justice of the peace;
- (d) any county court judge or resident magistrate in Northern Ireland;
- (e) any person holding any such judicial office as entitles him to exercise the jurisdiction of a judge of the Crown Court or of a justice of the peace.

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Textual Amendments

- F1** Words in s. 65(2)(b) omitted (21.1.2011) by virtue of [Identity Documents Act 2010 \(c. 40\)](#), ss. 12, 14(2), [Sch. para. 14\(2\)](#)
- F2** Word at the end of s. 65(3)(c) inserted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), ss. 12, 14(2), [Sch. para. 14\(3\)\(a\)](#)
- F3** S. 65(3)(ca)(cb) and word omitted (21.1.2011) by virtue of [Identity Documents Act 2010 \(c. 40\)](#), ss. 12, 14(2), [Sch. para. 14\(3\)\(b\)](#)
- F4** S. 65(4A) omitted (21.1.2011) by virtue of [Identity Documents Act 2010 \(c. 40\)](#), ss. 12, 14(2), [Sch. para. 14\(4\)](#)
- F5** S. 65(5)(ca) inserted (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), ss. 90, 94, [Sch. 5 para. 79\(a\)\(i\)](#); S.I. 2004/786, [art. 3\(1\)\(2\)](#)
- F6** Word in s. 65(5)(d) inserted (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), ss. 90, 94, [Sch. 5 para. 79\(a\)\(ii\)](#); S.I. 2004/786, [art. 3\(1\)\(2\)](#)
- F7** S. 65(6)(d) substituted (1.4.2006) for s. 65(6)(d)(e) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 151](#); S.I. 2006/378, [art. 4\(1\)](#), [Sch. para. 10](#) (subject to [art. 4\(2\)-\(7\)](#))
- F8** S. 65(6)(da) inserted (1.4.2007) by [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\(14\)](#)
- F9** S. 65(6)(f) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 24](#); S.I. 2008/219, [art. 2\(b\)](#)
- F10** Words in s. 65(7) inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 12\(2\)](#) (with s. 97); S.I. 2012/2075, [art. 4\(d\)](#)
- F11** S. 65(7ZA) inserted (1.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 12\(3\)](#) (with s. 97); S.I. 2012/2075, [art. 4\(d\)](#)
- F12** S. 65(7A) inserted (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), ss. 90, 94, [Sch. 5 para. 79\(b\)](#); S.I. 2004/786, [art. 3\(1\)\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 65 extended (S.) (29.9.2000) by [2000 asp 11](#), [ss. 23\(1\)\(2\)](#), [32\(2\)](#) (with s. 30); S.I. 2000/341, [art. 2](#)

Commencement Information

- I1** S. 65 partly in force; s. 65 not in force at Royal Assent see s. 83(2); s. 65(1)(2)(a)(b)(3)(a)(b)(d)(4)(5)(a)(b)(d)(f)(6)(7)(8)(a)(c)(f)(9)(11) in force at 2.10.2000 by [S.I. 2000/2543](#), [art. 3](#) (subject to transitional provisions in [art. 6](#)); s. 65(5)(c)(8)(b) in force at 5.1.2004 by [S.I. 2003/3140](#), [art. 2](#); s. 65(3)(c)(5)(e)(8)(d)(e)(10) in force at 1.10.2007 by [S.I. 2007/2196](#), [art. 2\(f\)](#)

Marginal Citations

- M1** 1998 c.42
M2 1985 c. 56.
M3 1997 c. 50.

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