SCHEDULES

SCHEDULE 3

BORDER SECURITY

PART 1

POWERS

Power to make and retain copies

22 (1) This paragraph applies after the Investigatory Powers Commissioner has considered any representations made about an authorisation in accordance with paragraph 21.

(2) The Commissioner must—
(a) approve the grant of the authorisation, or
(b) cancel the authorisation.

(3) A decision under sub-paragraph (2) must be made—
(a) after the end of the period for making representations referred to in paragraph 21(4), and
(b) before the end of three working days beginning with the first working day after the day on which the authorisation is granted.

(4) If the decision under sub-paragraph (2) is to approve the grant of the authorisation, the retention and use of the copy may continue in accordance with the conditions on which the authorisation was granted (subject to any further conditions or variation of the existing conditions that the Commissioner specifies).

(5) If the decision under sub-paragraph (2) is to cancel the authorisation, any further use of the copy must stop as soon as possible.

(6) If the Commissioner cancels the authorisation the Commissioner may direct that—
(a) the copy is destroyed, and
(b) all reasonable steps are taken to secure that any information derived from the copy is also destroyed.

(7) Sub-paragraphs (5) and (6) do not apply if the copy is further retained under a power conferred by paragraph 17(3)(b) or (c).

(8) The Commissioner must inform each affected party of the Commissioner's decision under sub-paragraph (2).

(9) The requirement under this paragraph to provide information to the person from whom the article was taken from which the copy was made applies only so far as it is reasonably practicable to do so.

(10) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, exercises a function under this paragraph in relation to a copy, an affected party may ask the Investigatory Powers Commissioner to decide whether to approve the way in which the function was exercised.

(11) Nothing in this paragraph affects the lawfulness of—

(a) anything done under an authorisation before it cancelled;

(b) if anything is in the process of being done under an authorisation when it is cancelled—

(i) anything done before that thing could be stopped, or

(ii) anything done which it is not reasonably practicable to stop.