

These notes relate to the Regulation of Investigatory Powers (Scotland) Act 2000 (asp 11) which received Royal Assent on 28 September 2000

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Authorisation of surveillance and human intelligence sources

Section 16: Appeals against decisions by Surveillance Commissioners

66. *Subsections (1) and (2)* provide that a senior authorising officer, or a designated deputy or other person granting an intrusive surveillance authorisation in the absence of the chief constable may appeal to the Chief Surveillance Commissioner against:
- a refusal of a Surveillance Commissioner to approve an authorisation or renewal;
 - a decision by a Surveillance Commissioner to quash or cancel an authorisation; or
 - a decision to make an order for the destruction of records.
67. *Subsection (3)* imposes a time limit of 7 days for making an appeal.
68. *Subsection (4)* provides that the Chief Surveillance Commissioner must allow an appeal if:
- he is satisfied that the criteria set out in section 10 were met at the time in question; and
 - he is not satisfied that the urgency procedure has been abused.
69. By virtue of *subsection (5)*, in relation to appeals against decisions to quash or cancel authorisations, the Chief Surveillance Commissioner may modify the decision if he considers that there were grounds for the action which the Surveillance Commissioner has taken but such action should have taken effect at a different time. In such cases, he may modify the Surveillance Commissioner's decision to that which he considers should have been made.
70. Where an appeal against a decision to quash or cancel an authorisation is allowed, *subsection (6)* provides that the Chief Surveillance Commissioner shall quash any related order for the destruction of records.