

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chief Surveillance Commissioner

Section 21: Functions of Chief Surveillance Commissioner

90. This section outlines the functions of the Chief Surveillance Commissioner, who is appointed under section 2(1) of this Act, in keeping under review the use of powers or duties conferred or imposed by this Act.
91. *Subsection (3)* imposes a duty upon the Chief Surveillance Commissioner to give the Tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000 all such assistance (including his opinion as to any issue falling to be determined by the Tribunal) as is appropriate in connection with the investigation of any matter by it or otherwise for the purposes of the Tribunal's consideration or determination of any matter.
92. *Subsection (4)* makes it clear that *subsection (1)* does not apply in the case of any power of the Scottish Ministers to make, amend or revoke any subordinate legislation. Accordingly, the Chief Surveillance Commissioner does not have a function to review the exercise of any such power.

Section 22: Co-operation with and reports by Commissioner

93. *Subsection (1)* requires that all those who may be involved in requesting, authorising, carrying out or using the products of surveillance or covert human intelligence sources should disclose or provide to the Surveillance Commissioner all documents and information required by that Commissioner.
94. *Subsection (2)* imposes a duty upon the Chief Surveillance Commissioner to make a report to the Scottish Ministers with respect to any case where he considers that there has been a contravention of the provisions of the Act in relation to any matter with which the Commissioner is concerned and where the contravention has not been the subject of a report made to the Scottish Ministers by the Tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000.
95. *Subsection (3)* imposes a duty upon the Chief Surveillance Commissioner to make an annual report to the Scottish Ministers with respect to the carrying out of his functions under the Act.
96. *Subsection (4)* requires the Scottish Ministers to lay before the Scottish Parliament a copy of every annual report made by the Chief Surveillance Commissioner under subsection (3), together with a statement as to whether any matter has been excluded from that copy in pursuance of the provisions of subsection (5).

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

97. *Subsection (5)* provides that the Scottish Ministers may exclude from the copy of any annual report to be made by the Chief Surveillance Commissioner such matters which it appears to them should not be published because it would be contrary to the public interests, prejudicial to the prevention or detection of serious crime or prejudicial to the continued discharge of the functions of any public authorities whose activities include activities that are subject to the review by the Commissioner.