



Regulation of Investigatory Powers (Scotland) Act 2000

2000 asp 11

Authorisation of surveillance and human intelligence sources

7 Authorisation of covert human intelligence sources

- (1) Subject to the following provisions of this Act, the persons designated for the purposes of this section shall each have power to grant authorisations for the conduct or the use of a covert human intelligence source.
- (2) A person shall not grant an authorisation for the conduct or the use of a covert human intelligence source unless that person is satisfied—
 - (a) that the authorisation is necessary on grounds falling within subsection (3) below;
 - (b) that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and
 - (c) that arrangements exist for the source's case that satisfy the requirements of subsection (6) below and such other requirements as may be imposed by order made by the Scottish Ministers.
- (3) An authorisation is necessary on grounds falling within this subsection if it is necessary—
 - (a) for the purpose of preventing or detecting crime or of preventing disorder;
 - (b) in the interests of public safety; or
 - (c) for the purpose of protecting public health.
- (4) The Scottish Ministers may by order—
 - (a) prohibit the authorisation under this section of any such conduct or uses of covert human intelligence sources as may be described in the order; and
 - (b) impose requirements, in addition to those provided for by subsection (2) above, that must be satisfied before an authorisation is granted under this section for any such conduct or uses of covert human intelligence sources as may be described.
- (5) The conduct that is authorised by an authorisation for the conduct or the use of a covert human intelligence source is any conduct that—

Status: This is the original version (as it was originally enacted).

- (a) is comprised in any such activities involving conduct of a covert human intelligence source, or the use of a covert human intelligence source, as are specified or described in the authorisation;
 - (b) consists in conduct by or in relation to the person who is so specified or described as the person to whose actions as a covert human intelligence source the authorisation relates; and
 - (c) is carried out for the purposes of, or in connection with, the investigation or operation so specified or described.
- (6) For the purposes of this Act there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—
- (a) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have day-to-day responsibility for dealing with the source on behalf of that authority, and for the source's security and welfare;
 - (b) that there will at all times be another person holding an office, rank or position with the relevant investigating authority who will have general oversight of the use made of the source;
 - (c) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of the source;
 - (d) that the records relating to the source that are maintained by the relevant investigating authority will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Scottish Ministers; and
 - (e) that records maintained by the relevant investigating authority that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.
- (7) In this section “relevant investigating authority”, in relation to an authorisation for the conduct or the use of an individual as a covert human intelligence source, means (subject to subsection (8) below) the public authority for whose benefit the activities of that individual as such a source are to take place.
- (8) In the case of any authorisation for the conduct or the use of a covert human intelligence source whose activities are to be for the benefit of more than one public authority, the references in subsection (6) above to the relevant investigating authority are references to one of them (whether or not the same one in the case of each reference).