



Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART II

SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES

Police and [F1 Revenue and Customs] authorisations

35 Notification of authorisations for intrusive surveillance.

- (1) Where a person grants or cancels a [F1 police, [F2 the National Crime Agency], [F3 Revenue and Customs [F4, immigration]]] [F5 or CMA] authorisation for the carrying out of intrusive surveillance, he shall give notice that he has done so to [F6 a Judicial Commissioner] .
- (2) A notice given for the purposes of subsection (1)—
 - (a) must be given in writing as soon as reasonably practicable after the grant or, as the case may be, cancellation of the authorisation to which it relates;
 - (b) must be given in accordance with any such arrangements made for the purposes of this paragraph by the [F7 Investigatory Powers Commissioner] as are for the time being in force; and
 - (c) must specify such matters as the Secretary of State may by order prescribe.
- (3) A notice under this section of the grant of an authorisation shall, as the case may be, either—
 - (a) state that the approval of a [F8 Judicial Commissioner] is required by section 36 before the grant of the authorisation will take effect; or
 - (b) state that the case is one of urgency and set out the grounds on which the case is believed to be one of urgency.
- (4) Where a notice for the purposes of subsection (1) of the grant of an authorisation has been received by [F9 a Judicial Commissioner] , he shall, as soon as practicable—

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- (a) scrutinise the authorisation; and
 - (b) in a case where notice has been given in accordance with subsection (3)(a), decide whether or not to approve the authorisation.
- (5) Subject to subsection (6), the Secretary of State shall not make an order under subsection (2)(c) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (6) Subsection (5) does not apply in the case of the order made on the first occasion on which the Secretary of State exercises his power to make an order under subsection (2) (c).
- (7) The order made on that occasion shall cease to have effect at the end of the period of forty days beginning with the day on which it was made unless, before the end of that period, it has been approved by a resolution of each House of Parliament.
- (8) For the purposes of subsection (7)—
- (a) the order's ceasing to have effect shall be without prejudice to anything previously done or to the making of a new order; and
 - (b) in reckoning the period of forty days no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (9) Any notice that is required by any provision of this section to be given in writing may be given, instead, by being transmitted by electronic means.
- (10) In this section references to a [^{F10}police, [^{F11}the National Crime Agency], [^{F12}Revenue and Customs [^{F13} immigration]]] [^{F14}or CMA] authorisation are references to an authorisation granted by—
- (a) a person who is a senior authorising officer by reference to a police force [^{F15}or the [^{F16}National Crime Agency]];
 - (b) a person who is a senior authorising officer by virtue of a designation [^{F17}under section 32(6)(m) or (ma)] ; ^{F18} . . .
 - [^{F19}(ba) the chair of the CMA; or]
 - (c) a person who for the purposes of section 34 is entitled to act for a person falling within paragraph (a) or for a person falling within paragraph (b) [^{F20}or for a person falling within paragraph (ba)].

Textual Amendments

- F1** Words in s. 35(1) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 139\(2\)](#); S.I. 2006/378, [art. 4\(1\)](#), [Sch. para. 10](#) (subject to [art. 4\(2\)-\(7\)](#))
- F2** Words in s. 35(1) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 85\(2\)](#); S.I. 2013/1682, [art. 3\(v\)](#)
- F3** Words in s. 35(1) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 13\(a\)](#); S.I. 2008/219, [art. 2\(b\)](#)
- F4** Word in s. 35(1) inserted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 21 para. 9\(2\)](#) (with [Sch. 21 para. 40](#)); S.I. 2013/1042, [art. 4\(i\)](#)
- F5** Words in s. 35(1) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), [art. 1\(1\)](#), [Sch. 1 para. 137\(2\)](#) (with [art. 3](#))
- F6** Words in s. 35(1) substituted (1.9.2017) by [Investigatory Powers Act 2016 \(c. 25\)](#), ss. [233\(3\)\(a\)](#), [272\(1\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); S.I. 2017/859, [reg. 2\(e\)](#)

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- F7** Words in s. 35(2)(b) substituted (1.9.2017) by Investigatory Powers Act 2016 (c. 25), **ss. 233(3)(b), 272(1)** (with Sch. 9 paras. 7, 8, 10); S.I. 2017/859, reg. 2(e)
- F8** Words in s. 35(3)(a) substituted (1.9.2017) by Investigatory Powers Act 2016 (c. 25), **ss. 233(3)(c), 272(1)** (with Sch. 9 paras. 7, 8, 10); S.I. 2017/859, reg. 2(e)
- F9** Words in s. 35(4) substituted (1.9.2017) by Investigatory Powers Act 2016 (c. 25), **ss. 233(3)(a), 272(1)** (with Sch. 9 paras. 7, 8, 10); S.I. 2017/859, reg. 2(e)
- F10** Words in s. 35(10) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 178, **Sch. 4 para. 139(3)(a)**; S.I. 2006/378, **art. 4(1)**, Sch. para. 10 (subject to art. 4(2)-(7))
- F11** Words in s. 35(10) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 85(3)(a)**; S.I. 2013/1682, art. 3(v)
- F12** Words in s. 35(10) substituted (15.2.2008) by Serious Crime Act 2007 (c. 27), ss. 88, 94, **Sch. 12 para. 13(b)**; S.I. 2008/219, **art. 2(b)**
- F13** Word in s. 35(10) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 9(3)(a)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(i)
- F14** Words in s. 35(10) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 137(3)(a)** (with art. 3)
- F15** Words in s. 35(10)(a) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 178, **Sch. 4 para. 139(3)(b)**; S.I. 2006/378, **art. 4(1)**, Sch. para. 10 (subject to art. 4(2)-(7))
- F16** Words in s. 35(10)(a) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 85(3)(b)**; S.I. 2013/1682, art. 3(v)
- F17** Words in s. 35(10)(b) substituted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 9(3)(b)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(i)
- F18** Word in s. 35(10)(b) repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 10)
- F19** S. 35(10)(ba) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 137(3)(b)** (with art. 3)
- F20** Words in s. 35(10)(c) inserted (20.6.2003) by 2002 c. 40, ss. 199(6)(c), 279; S.I. 2003/1397, **art. 2(1)**, Sch.

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