



Regulation of Investigatory Powers Act 2000

2000 CHAPTER 23

PART II

SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES

Scotland

46 Restrictions on authorisations extending to Scotland.

- (1) No person shall grant or renew an authorisation under this Part for the carrying out of any conduct if it appears to him—
 - (a) that the authorisation is not one for which this Part is the relevant statutory provision for all parts of the United Kingdom; and
 - (b) that all the conduct authorised by the grant or, as the case may be, renewal of the authorisation is likely to take place in Scotland.
- (2) In relation to any authorisation, this Part is the relevant statutory provision for all parts of the United Kingdom in so far as it—
 - (a) is granted or renewed on the grounds that it is necessary in the interests of national security or in the interests of the economic well-being of the United Kingdom;
 - (b) is granted or renewed by or on the application of a person holding any office, rank or position with any of the public authorities specified in subsection (3);
 - (c) authorises conduct of a person holding an office, rank or position with any of the public authorities so specified;
 - (d) authorises conduct of [^{F1}or in relation to] an individual acting as a covert human intelligence source for the benefit of any of the public authorities so specified; or
 - (e) authorises conduct that is surveillance by virtue of section 48(4).

Changes to legislation: Regulation of Investigatory Powers Act 2000, Section 46 is up to date with all changes known to be in force on or before 17 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F2}(ea) the department of the Secretary of State by whom functions relating to immigration are exercisable; and]
- (3) The public authorities mentioned in subsection (2) are—
- (a) each of the intelligence services;
 - (b) Her Majesty’s forces;
 - (c) the Ministry of Defence;
 - (d) the Ministry of Defence Police;
 - [^{F3}(dza) the Civil Nuclear Constabulary;]
 - [^{F4}(dzb) the Service Police Complaints Commissioner;]
 - [^{F5}(da) the CMA;]
 - [^{F6}(db) the National Crime Agency;]
 - [^{F7}(e) the Commissioners for Her Majesty’s Revenue ^{F8}... Customs;]
 - (f) the British Transport Police.
- (4) For the purposes of so much of this Part as has effect in relation to any other public authority by virtue of—
- (a) the fact that it is a public authority for the time being specified in Schedule 1, or
 - (b) an order under subsection (1)(d) of section 41 designating that authority for the purposes of that section,
- the authorities specified in subsection (3) of this section shall be treated as including that authority to the extent that the Secretary of State by order directs that the authority is a relevant public authority or, as the case may be, is a designated authority for all parts of the United Kingdom.
- [^{F9}(5) No person may grant or renew a section 29B(5)(b) authorisation if it appears to the person that all or some of the conduct authorised by the section 29B(5)(b) authorisation is likely to take place in Scotland.
- (6) But subsection (5) does not apply if the grant or renewal of the section 29B(5)(b) authorisation is for a purpose relating to a reserved matter (within the meaning of the Scotland Act 1998).
- (7) For the purposes of subsections (5) and (6), “a section 29B(5)(b) authorisation” means an authorisation under section 29B in so far as it is granted or, as the case may be, renewed on the grounds that it is necessary on grounds falling within section 29B(5)(b).]

Textual Amendments

- F1** Words in s. 46(2)(d) inserted (10.8.2021 for specified purposes, 15.9.2021 for specified purposes, 30.9.2021 in so far as not already in force) by [Covert Human Intelligence Sources \(Criminal Conduct\) Act 2021 \(c. 4\)](#), s. 9(2), **Sch. para. 8(a)**; S.I. 2021/605, reg. 2(a)(b)(c)
- F2** S. 46(3)(ea) inserted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 21 para. 13(b)** (with [Sch. 21 para. 40](#)); S.I. 2013/1042, art. 4(i)
- F3** S. 46(3)(dza) inserted (1.4.2005) by [Energy Act 2004 \(c. 20\)](#), ss. 69, 198(2), **Sch. 14 para. 8(1)**; S.I. 2005/877, **art. 2(1)**, [Sch. 1](#)
- F4** S. 46(3)(dzb) inserted (19.6.2023) by [The Service Police \(Complaints etc.\) Regulations 2023 \(S.I. 2023/624\)](#), reg. 1(1), **Sch. 1 para. 10(8)**

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- F5** S. 46(3)(da) 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. 141** (with art. 3)
- F6** S. 46(3)(db) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 89**; [S.I. 2013/1682](#), art. 3(v)
- F7** S. 46(3)(e) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, **Sch. 12 para. 17**; [S.I. 2008/219](#), **art. 2(b)**
- F8** Word in s. 46(3)(e) omitted (25.6.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 21 para. 13(a)** (with [Sch. 21 para. 40](#)); [S.I. 2013/1042](#), art. 4(i)
- F9** S. 46(5)-(7) inserted (10.8.2021 for specified purposes, 15.9.2021 for specified purposes, 30.9.2021 in so far as not already in force) by [Covert Human Intelligence Sources \(Criminal Conduct\) Act 2021 \(c. 4\)](#), s. 9(2), **Sch. para. 8(b)**; [S.I. 2021/605](#), reg. 2(a)(b)(c)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(6A)-(6D) inserted by [2016 anaw 6 s. 187\(2\)\(b\)](#)
- Sch. 1 para. 16A and cross-heading inserted by [2016 anaw 6 s. 187\(3\)](#)
- Sch. 1 Pt. 1 para. 20H inserted by [2013 c. 32 Sch. 12 para. 74](#)