

## SCHEDULES

### SCHEDULE 9

#### CONSEQUENTIAL AMENDMENTS

#### PART 3

#### SAFEGUARDS FOR CERTAIN SURVEILLANCE UNDER RIPA

##### *Regulation of Investigatory Powers Act 2000*

- 6 The Regulation of Investigatory Powers Act 2000 is amended as follows.
- 7 In section 22(6) (duty of postal or telecommunications operator to comply with notice to obtain and disclose communications data) after “shall” insert “, subject to section 23A,”.
- 8 After section 23(2) (form and duration of authorisations and notices relating to communications data) insert—
- “(2A) The words in paragraph (a) of subsections (1) and (2) from “or” to the end of the paragraph do not apply in relation to—
- (a) an authorisation under section 22(3), (3B) or (3F) to which section 23A applies, or
- (b) a notice under section 22(4) to which section 23A applies.”
- 9 (1) Section 43 (general rules about grant, renewal and duration of authorisations relating to surveillance and human intelligence sources) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Subsection (1)(a) does not apply in relation to an authorisation under section 28 or 29 to which section 32A applies.”
- (3) In subsection (9)(c) after “section” insert “32A or”.
- 10 (1) Section 57 (Interception of Communications Commissioner) is amended as follows.
- (2) In subsection (2) for “subsection (4)” substitute “subsections (4) and (4A)”.
- (3) After subsection (4) insert—
- “(4A) It shall not be the function of the Interception of Communications Commissioner to keep under review the exercise by the relevant judicial authority (within the meaning of section 23A) of functions under that section or section 23B.”
- 11 After section 62(2) (functions of Chief Surveillance Commissioner) insert—

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*Status: This is the original version (as it was originally enacted).*

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“(2A) It shall not by virtue of this section be the function of the Chief Surveillance Commissioner to keep under review the exercise by a judicial authority of functions under section 32A or 32B.”

12 (1) Section 65 (the Tribunal) is amended as follows.

(2) In subsection (7) after “but” insert “, subject to subsection (7ZA),”.

(3) After subsection (7) insert—

“(7ZA) The exception in subsection (7) so far as conduct is authorised by, or takes place with the permission of, a judicial authority does not include conduct authorised by an approval given under section 23A or 32A.”

13 In section 67(7) (powers of the Tribunal), at the end of paragraph (a) (and before “and”), insert—

“(aa) an order quashing an order under section 23A or 32A by the relevant judicial authority (within the meaning of that section);”.

14 In section 71(2) (issue and revision of codes of practice) after “Commissioners” insert “or the relevant judicial authority (within the meaning of section 23A or 32A)”.

15 After section 77 (Ministerial expenditure etc.) insert—

**“77A Procedure for order of sheriff under section 23A or 32A: Scotland**

(1) This section applies to an application to the sheriff for an order under section 23A or 32A.

(2) Rules of court must make provision for the purposes of ensuring that an application to which this section applies is dealt with in private and must, in particular—

- (a) require the sheriff to determine an application in private,
- (b) secure that any hearing is to be held in private, and
- (c) ensure that notice of an application (or of any order being made) is not given to—
  - (i) the person to whom the authorisation or notice which is the subject of the application or order relates, or
  - (ii) such a person’s representatives.

(3) The Court of Session’s power under section 32 of the Sheriff Courts (Scotland) Act 1971 to regulate and prescribe the procedure and practice to be followed in relation to an application to which this section applies is subject to, but is not otherwise constrained by, sections 23B and 32B and this section.

**77B Procedure for order of district judge under section 23A or 32A: Northern Ireland**

(1) The Lord Chancellor may by order make further provision about the procedure and practice to be followed in relation to an application to a district judge (magistrates’ courts) in Northern Ireland for an order under section 23A or 32A.

(2) Such an order may, in particular, provide—

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

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- (a) for the manner in which, and time within which, an application may be made,
  - (b) that the district judge (magistrates' courts) is to determine an application—
    - (i) in chambers,
    - (ii) in the absence of the person to whom the authorisation or notice which is the subject of the application relates,
  - (c) that any hearing is to be held in private,
  - (d) that notice of an order given is not to be given to—
    - (i) the person to whom the authorisation or notice which is the subject of the order relates, or
    - (ii) such a person's legal representatives.
- (3) An order of the Lord Chancellor under this section may not make provision which, if it were contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Northern Ireland Assembly and would deal with a transferred matter (within the meaning of section 4(1) of the Northern Ireland Act 1998).
- (4) The power of the Magistrates' Courts Rules Committee under Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 ([S.I. 1981/1675 \(N.I. 26\)](#)) to regulate and prescribe the procedure and practice to be followed in relation to an application to a district judge (magistrates' courts) in Northern Ireland for an order under section 23A or 32A is subject to, but is not otherwise constrained by, sections 23B and 32B and any order made under this section.”
- 16 In section 78 (orders, regulations and rules)—
- (a) in subsection (1) after “the Secretary of State” insert “or the Lord Chancellor”,
  - (b) in subsection (3)(a)—
    - (i) after “22(9),” insert “23A(6),” and
    - (ii) after “30(7),” insert “32A(7),” and
  - (c) in subsection (5) after “the Secretary of State” insert “or (as the case may be) the Lord Chancellor”.
- 17 After section 81(8) (general interpretation) insert—
- “(9) References in this Act to provision which, if it were contained in an Act of the Northern Ireland Assembly, would deal with a Northern Ireland transferred matter or (as the case may be) a transferred matter (see sections 23A(7)(b), 32A(8)(c) and 77B(3)) do not include references to any such provision which would be ancillary to other provision (whether in the Act of the Northern Ireland Assembly or previously enacted) which deals with an excepted or reserved matter (within the meaning given by section 4(1) of the Northern Ireland Act 1998).”