

# Telephone tapping, intrusive surveillance and disclosure

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# Lawful surveillance

27. –

(1) Conduct to which this Part applies shall be lawful for all purposes if –

- (a) An authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and
- (b) His conduct is in accordance with the authorisation.

# Authorisation of intrusive surveillance

32. –

- (1) Subject to the following provisions of the Part, the Secretary of State and each of the **senior authorising officers** shall have **power** to grant authorisations for the carrying out of intrusive surveillance.

# Justifying Authorisation

- (2) Neither the Secretary of State nor any senior authorising officer shall grant an authorisation for the carrying out of intrusive surveillance **unless he believes** –
- (a) That the authorisation is **necessary** on grounds falling within subsection (3); and
  - (b) That the authorised surveillance is **proportionate** to what is sought to be achieved by carrying it out.

(3) An authorisation is necessary on grounds falling within this subsection if it is necessary –

(a) in the interests of national security;

(b) **for the purpose of preventing or detecting serious crime**; or

(c) in the interests of the economic well being of the United Kingdom.

(4) The **matters to be taken into account** in considering whether the requirements of subsection (2) are satisfied in the case of any authorisation shall **include** whether the **information** which it is thought necessary to obtain by the authorised conduct could **reasonably be obtained by other means**.

## Commissioner's Approval RIPA s.36(4)

- (a) A Surveillance Commissioner shall give his approval under this section to the authorisation **if, and only if**, he is satisfied that there are **reasonable grounds** for believing that the requirements of section 32(2)(a) and (b) are satisfied in the case of the authorisation; and
  
- (b) A Surveillance Commissioner who makes a decision as to whether or not the authorisation should be approved shall, as soon as reasonably practicable after making that decision, give **written notice** of his decision to the person who granted the authorisation.

# What is 'serious crime'?

- (4) For the purposes of subsection (2), conduct which constitutes one or more offences shall be regarded as serious crime if, and only if, -
- (a) It involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose, or
  - (b) The offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more.



## **Police Act 1997 Section 91 (10)**

The decisions of the Chief Commissioner or, subject to sections 104 and 106, any other Commissioner (including decisions as to his jurisdiction) shall not be subject to appeal or liable to be questioned in court.