SCOTTISH STATUTORY INSTRUMENTS

2002 No. 206

INVESTIGATORY POWERS

The Regulation of Investigatory Powers (Juveniles) (Scotland) Order 2002

Made - - - -	*26th April 2002*
Laid before Parliament	*29th April 2002*
Coming into force - -	*20th May 2002*

The Scottish Ministers, in exercise of the powers conferred by sections 7(2)(c), (4)(a) and (b) and 19(8) of the Regulation of Investigatory Powers (Scotland) Act 2000(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Regulation of Investigatory Powers (Juveniles) (Scotland) Order 2002 and shall come into force on 20th May 2002.

Interpretation

2. In this Order–

"the 2000 Act" means the Regulation of Investigatory Powers (Scotland) Act 2000;

"guardian", in relation to a source, means a guardian appointed in accordance with the provisions of section 7 of the Children (Scotland) Act 1995(**2**);

"relative", in relation to a source, means a grandparent, parent, brother, sister, uncle or aunt (whether of the full blood or half blood or by affinity) or step parent;

"relevant investigating authority" has the meaning given by section 7(7) of the 2000 Act, and where the activities of a source are to be for the benefit of more than one public authority, each of those authorities is a relevant investigating authority;

"source" means covert human intelligence source.

Sources under 16: prohibition

3. No authorisation may be granted for the conduct or use of a source if–

(**1**) 2000 asp 11.
(**2**) 1995 c. 36.

(a) the source is under the age of 16; and

(b) the relationship to which the conduct or use would relate is between the source and the parent of, or any person who has parental responsibility for, the source.

Sources under 16: arrangements for meetings

4.—(1) Where a source is under the age of 16, the arrangements referred to in section 7(2)(c) of the 2000 Act must be such that there is at all times a person holding an office, rank or position with a relevant investigating authority who has responsibility for ensuring that an appropriate adult is present at meetings to which this article applies.

(2) This article applies to all meetings between the source and the person representing any relevant investigating authority that take place while the source remains under the age of 16.

(3) In paragraph (1), "appropriate adult" means–

(a) the parent or guardian of the source;

(b) any other person who has for the time being assumed responsibility for the welfare of the source; or

(c) where no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is neither a member of nor employed by any relevant investigating authority.

Sources under 18: risk assessments etc.

5. An authorisation for the conduct or use of a source may not be granted or renewed in any case where the source is under the age of 18 at the time of the grant or renewal, unless–

(a) a person holding an office, rank or position with the relevant investigating authority has made and, in the case of a renewal, updated a risk assessment sufficient to demonstrate that–

(i) the nature and magnitude of any risk of physical injury to the source arising in the course of, or as a result of, carrying out the conduct described in the authorisation have been identified and evaluated; and

(ii) the nature and magnitude of any risk of psychological distress to the source arising in the course of, or as a result of, carrying out the conduct described in the authorisation have been identified and evaluated;

(b) the person granting or renewing the authorisation has considered the risk assessment and is satisfied that any risks identified in it are justified and, if they are, that they have been properly explained to and understood by the source; and

(c) the person granting or renewing the authorisation knows whether the relationship to which the conduct or use would relate is between the source and a relative, guardian or person who has for the time being assumed responsibility for the source's welfare, and, if it is, has given particular consideration to whether the authorisation is justified in the light of that fact.

Sources under 18: duration of authorisations

6. In relation to an authorisation for the conduct or the use of a source who is under the age of 18 at the time the authorisation is granted or renewed, section 19(3) of the 2000 Act shall have effect as if the period specified in paragraph (b) of that subsection were 1 month instead of 12 months.