Supersedes draft laid before Parliament on 29th January 2004 which has not been published.*Draft Order laid before Parliament under section 19(3) of the Police Reform Act 2002 for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2004 No.

POLICE, ENGLAND AND WALES

The Independent Police Complaints Commission (Investigatory Powers) Order 2004

Made - - - -	*2004*
Coming into force - -	*1st April 2004*

The Secretary of State, in exercise of the powers conferred on him by section 19(1) and (2) of the Police Reform Act 2002(**1**) hereby makes the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Independent Police Complaints Commission (Investigatory Powers) Order 2004 and shall come into force on 1st April 2004.

(2) In this Order—

"the 1997 Act" means the Police Act 1997(**2**);

"the 2000 Act" means the Regulation of Investigatory Powers Act 2000(**3**).

Modifications to the 1997 Act

2.—(1) For the purposes of the carrying out of the functions of the Independent Police Complaints Commission, Part 3 of the 1997 Act shall have effect with the following modifications.

(2) In section 93 (authorisations to interfere with property etc.)—

(a) after subsection (3)(aa)(**4**) insert the following paragraph—

"(ab) if the authorising officer is within subsection (5)(ef), by a member of staff of the Independent Police Complaints Commission who has been designated under paragraph 19(2) of Schedule 3 to the Police Reform Act 2002,";

(**1**) 2002 c. 30.
(**2**) 1997 c. 50.
(**3**) 2000 c. 23.
(**4**) Section 93(3)(aa) was amended by section 82(1) of, and paragraph 8(2)(b) of Schedule 4 to, the 2000 Act.

(b) after subsection (5)(ee)(**5**) insert the following paragraph—

"(ef) the Chairman of the Independent Police Complaints Commission;";

(c) in subsection (6)(e) after the words "in relation to" insert the words "the Chairman of the Independent Police Complaints Commission or".

(3) In section 94 (authorisations given in absence of authorising officer)—

(a) in subsection (1)(b)(**6**) after the words "paragraph (a), (c), (d)" insert ", (ef)";

(b) after subsection (2)(dd)(**7**) insert the following paragraph—

"(de) where the authorising person is within paragraph (ef) of that subsection, by any other member of the Independent Police Complaints Commission;";

(c) after subsection (4)(c)(**8**) insert the following paragraph—

"(d) in the case of an authorising officer within paragraph (ef) of section 93(5), means a person appointed as deputy chairman of the Independent Police Complaints Commission under paragraph 3(1) of Schedule 2 to the Police Reform Act 2002.".

(4) In section 95(7) (authorisations: form and duration etc.) after the words "paragraph (a), (c), (d)," insert "(ef),".

(5) In section 105(3) (appeals by authorising officer: supplementary) after the words "paragraph (a), (c), (d)," insert "(ef),".

(6) In section 107(4)(**9**) (supplementary provisions relating to Commissioners) after paragraph (a) insert the following paragraph—

"(aa) the functions of the Independent Police Complaints Commission,".

Modifications to the 2000 Act

3.—(1) For the purposes of the carrying out of the functions of the Independent Police Complaints Commission, Parts 2 and 4 of the 2000 Act shall have effect with the following modifications.

(2) After section 32(6)(j) (authorisation of intrusive surveillance) insert the following paragraph—

"(ja) the Chairman of the Independent Police Complaints Commission;".

(3) In section 33 (rules for grant of authorisations)—

(a) after subsection (1) insert the following subsection—

"(1A) A person who is a designated person for the purposes of section 28 or 29 by reference to his office or position with the Independent Police Complaints Commission shall not grant an authorisation under that section except on an application made by a member of staff of the Commission who has been designated under paragraph 19(2) of Schedule 3 to the Police Reform Act 2002.";

(b) after subsection (3) insert the following subsection—

"(3A) A person who is a senior authorising officer by reference to the Independent Police Complaints Commission shall not grant an authorisation for the carrying out of intrusive surveillance except—

(**5**) Section 93(5)(ee) was inserted by section 75(6)(a) of the 2000 Act.
(**6**) Section 94(1)(b) was amended by section 82(1) of, and paragraph 8(3) of Schedule 4 to, the 2000 Act.
(**7**) Section 94(2)(dd) was inserted by section 82(1) of, and paragraph 8(4)(a) of Schedule 4 to, the 2000 Act.
(**8**) Section 94(4)(c) was amended by section 82(2) of, and Schedule 5 to, the 2000 Act.
(**9**) Section 107(4) was amended by article 3 of, and paragraph 2(5)(c) of Schedule 6 to, the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747), and by section 82(1) of, and paragraph 8(10)(b) of Schedule 4 to, the 2000 Act.

(a) on an application made by a member of staff of the Commission who has been designated under paragraph 19(2) of Schedule 3 to the Police Reform Act 2002; and

(b) in the case of an authorisation for the carrying out of intrusive surveillance in relation to any residential premises, where those premises are in England and Wales.";

(c) in subsection (5)(a) after the words "National Crime Squad," insert "or who is a member of staff of the Independent Police Complaints Commission,".

(4) In section 34 (grant of authorisations in the senior officer's absence)—

(a) in subsection (1)(a) after the words "National Crime Squad," insert "or by a member of staff of the Independent Police Complaints Commission who has been designated under paragraph 19(2) of Schedule 3 to the Police Reform Act 2002";

(b) in subsection (2)(a) after the words "Squad in question" insert "or the Independent Police Complaints Commission";

(c) after subsection (4)(m)(**10**) insert the following paragraph—

"(n) a person is entitled to act for the Chairman of the Independent Police Complaints Commission if he is any other member of the Independent Police Complaints Commission.";

(d) after subsection (6)(c) insert the following paragraph—

"(d) in relation to the Chairman of the Independent Police Complaints Commission, means a person appointed as deputy chairman of the Independent Police Complaints Commission under paragraph 3(1) of Schedule 2 to the Police Reform Act 2002.".

(5) In section 35(10)(a) (notification of authorisations for intrusive surveillance) after "a police force," insert "the Independent Police Complaints Commission,".

(6) In section 36 (approval required for authorisations to take effect)—

(a) after subsection (1)(a) insert the following paragraph—

"(aa) a member of staff of the Independent Police Complaints Commission who has been designated under paragraph 19(2) of Schedule 3 to the Police Reform Act 2002;";

(b) after subsection (6)(b) insert the following paragraph—

"(ba) where the authorisation was granted by the Chairman of the Independent Police Complaints Commission, by the designated deputy of the Chairman of the Independent Police Complaints Commission or by another member of that Commission entitled to act for that Chairman by virtue of section 34(4)(m), that Chairman;".

(7) After section 37(1)(a) (quashing of police and customs authorisations etc.) insert the following paragraph—

"(aa) a member of staff of the Independent Police Complaints Commission who has been designated under paragraph 19(2) of Schedule 3 to the Police Reform Act 2002;".

(8) After section 40(a) (information to be provided to Surveillance Commissioners) insert the following paragraph—

"(aa) every member and every employee of the Independent Police Complaints Commission,".

(**10**) Section 34(4)(m) was inserted by section 199(5)(c) of the Enterprise Act 2002 (c. 40).